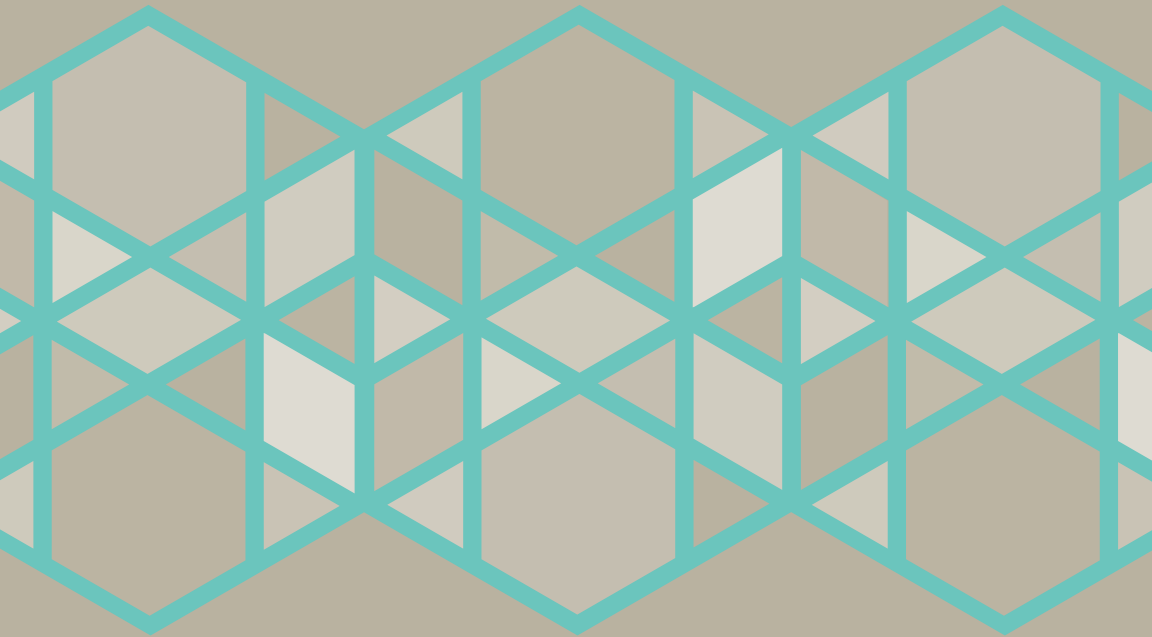




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The Priestly Gift in Mishnah

A Study of Tractate Terumot



ALAN J. AVERY-PECK

The Priestly Gift in Mishnah

**BROWN UNIVERSITY
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Scholars Press

**Priestly Gift of Mishnah
A Study of Tractate Terumot**

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Alan J. Avery-Peck

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For My
Parents

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PUBLISHERS' PREFACE

Brown Judaic Studies has been publishing scholarly books in all areas of Judaic studies for forty years. Our books, many of which contain groundbreaking scholarship, were typically printed in small runs and are not easily accessible outside of major research libraries. We are delighted that with the support of a grant from the National Endowment for the Humanities/Andrew W. Mellon Foundation Humanities Open Book Program, we are now able to make available, in digital, open-access, format, fifty titles from our backlist.

Alan J. Avery-Peck's, *The Priestly Gift in Mishnah: A Study of Tractate Terumot* (1981) is one of a series of studies that we published on individual tractates of the Mishnah (primarily in the order of *Zera'im*, which deals mainly with agriculture), a formative rabbinic document redacted around 200 CE. In this book, Avery-Peck examines mishnaic laws and discussions of the gifts that are supposed to be given to the priests.

This edition contains typographical corrections of the original text.

Michael L. Satlow
Managing Editor
October, 2019

PREFACE

This study systematically analyzes Tractate Terumot (heave-offering) in Mishnah and its corresponding document, Tosefta. My purpose is to investigate the nature of the world view revealed in these texts, that of nascent Rabbinic Judaism. This is accomplished through interpreting the laws which the framers of the tractate composed, and ultimately by ascertaining the meaning those rules had in the world in which they were promulgated. Study of Tractate Terumot thus is intended as basic in the work of interpreting Mishnah and the form of Judaism which that document richly represents.

My goals are reached through a fresh translation of and commentary to the tractate. This exegetical work aims at discerning how the men who produced the tractate understood the law of heave-offering. I claim to explain the meaning these laws conveyed to those who, in late-second-century Palestine, redacted them into the tractate before us. This goal excludes from consideration several possible questions. For example, while some of the tractate's rule might be older than their present redactional context, no attempt is made to identify such rules or to discover the sense they might have had prior to placement in that context. I likewise do not take into account the role which the laws of heave-offering played in the later history of Rabbinic Judaism. While valid in their own right, each of these tasks stands outside of the purpose of this study, discovery of the meaning of Tractate Terumot as an essay created in a particular historical setting, by a specific group of redactors.

My translation and exegesis are carefully designed to limit the meaning which I derive from the tractate's laws to that intended by their original framers. To do this, both translation and exegesis pay close attention to the disciplined mode of literary formulation which characterizes the tractate as a whole. My purpose in this is to show that the way in which the tractate's framers stated their laws offers an important key to the meaning they hoped those laws would convey. The translation, first, reproduces both the substance and the formal and syntactic traits of the Hebrew text. These features may then guide the actual interpretive work. The result is that I am able to specify the single legal point which each pericope is designed to emphasize. Careful literary analysis, combined with an understanding of the conceptual content of the law, thus leads us to the meaning of the pericope's rules.

A second step in interpretation is viewing as a whole the larger structure of laws to which the individual pericope contributes, and within which that pericope has its larger importance. This work is carried out in introductions to the individual chapters of the tractate. These introductions delineate the underlying principle expressed in each of the tractate's several thematic units, and indicate the role of individual pericopae in stating and investigating that principle.

With the tractate's pericopae fully explained, it is possible to identify the central issue addressed by the tractate as a whole. This is the particular aspect of the topic of heave-offering which generates the tractate's discussion. It therefore accounts for the formulation of specific questions to be addressed, as well as the selection and organization of particular themes. By identifying this issue we come to understand the chief concerns which motivated and guided the formulators of the tractate. These concerns, in turn, may be viewed in light of the historical context in which those redactors worked. This reveals the message which they wished to convey in their own day, to their immediate audience. This analysis, the result of my exegetical work, is found in the introduction to the tractate. In this way the reader may easily judge my larger conclusions against the data provided by the individual pericopae of the tractate. Within that same introduction, I provide a full account of the methods used in the translation and commentary, and of the theoretical considerations which determined those methods.

In addition to Mishnah, I have translated and discussed all of Tosefta Terumot. Tosefta is an important tool in interpreting Mishnah, for it is the only commentary which employs the tractate's own formal characteristics and conceptual framework in elucidating its individual rules. I therefore present the pertinent materials from Tosefta after the pericopae of Mishnah to which they relate, and indicate briefly how Tosefta's discussion deepens our comprehension of the central point or issue under discussion in the tractate.

I gratefully acknowledge my debt to teachers and colleagues who shared in the unfolding of this study. Foremost among these is Professor Jacob Neusner, Brown University, under whose direction this commentary was both conceived and written. Any merit this work may have is due to his constant attention, criticism and

support. For his guidance and friendship, offered both inside and outside of the classroom, I shall ever be thankful.

Fellow students in Professor Neusner's graduate seminar during the writing of this manuscript contributed important insights and improvements. As a result of their careful scrutiny of my work, this commentary is far better than it otherwise could have been. They are: Professor Martin S. Jaffee, University of Virginia; Professor Peter J. Haas, Vanderbilt University; Ms. Maggie Wenig-Rubenstein; Mr. Leonard D. Gordon; and Mr. Abraham Havivi. In 1977-79 Professor Richard S. Sarason, presently at Hebrew Union College, Cincinnati, Ohio, also participated in that seminar. I appreciate the suggestions he offered in that context, as well as his guidance as a graduate instructor at Brown University.

Ms. Lisa Joy Avery kindly assisted me both in preparing the original manuscript and in the arduous task of proofreading this book. For her help in this, and in other ways too numerous for me to count, I thank her.

Grants from the Max Richter Foundation and, in 1980-81, from the Memorial Foundation for Jewish Culture, allowed me to devote myself to the completion of this project. I appreciate these foundations' gracious support of my work.

Ms. Winifred Bell, Providence, Rhode Island, carefully typed this book for publication. I heartily thank her for her skill and effort in creating this volume.

This book is dedicated to my parents, Richard W. and Eileen S. Peck. Their constant love, understanding and support is the source of all that I ever have done, and ever shall.

Alan J. Peck

Providence, Rhode Island
22 September 1980
12 Tishre 5741
*A present for my
grandfather, on
his seventieth
birthday.*

ABBREVIATIONS AND BIBLIOGRAPHY

- Ah. = 'Ahi lot
- Albeck = H. Albeck, *The Six Orders of the Mishnah* (Jerusalem and Tel Aviv, 1957).
- Ar. = ^CArakhin
- Aruch = Alexander Kohut, ed., *Aruch Completum*, 8 vols. (Vienna, 1878-1892; second ed., 1926).
- A.Z. = 'Abodah Zarah
- B = Mishnah Zera^Cim, MS. Berlin 93; see Sacks-Hutner, pp. 43, 77-78.
- b. = *Babli*, Babylonian Talmud; *ben*, "son of."
- B.B. = Baba' Batra'
- Bek. = Bekhorot
- Ber. = Berakhot
- Bert = Obadiah b. Abraham of Bertinoro (fifteenth century), *Mishnah Commentary* in Romm ed. of *Mishnah* (Vilna, 1908, and reprints).
- Bes. = Beṣah
- Bik. = Bikkurim
- B.M. = Baba' Meṣi^Ca'
- B.Q. = Baba' Qamma'
- C = Mishnah, early printed edition of unknown origin, probably Constantinople or Pisaro, c. 1516; see Sacks-Hutner, pp. 64, 82-83.
- Ca = Mishnah, MS. Cambridge 470, 1, printed in W.H. Lowe, *The Mishnah On Which the Palestinian Talmud Rests* (Cambridge, 1883; reprint: Jerusalem, 1967); see Sacks-Hutner, pp. 63, 67.
- Dalman = Gustav Dalman, *Arbeit und Sitte in Palastina*, 8 vols. (Guttersloh, 1928-42).
- Danby = Herbert Danby, *The Mishnah, translated from the Hebrew with introduction and brief explanatory notes* (London, 1933).
- Dem. = Dema'i
- Donagan = Alan Donagan, *The Theory of Morality* (Chicago, 1977).
- Dt. = Deuteronomy
- E = Tosefta, MS. Erfurt; see Lieberman, TZ, pp. 8-11.
- Ed. = 'Eduyyot
- ed. princ. = Tosefta, *editio princeps* (Venice, 1521).

- Eissfeldt = Otto Eissfeldt, *Erstlings und Zehnten im Alten Testament* (Leipzig, 1917).
- Epstein = *Mekhilta d'Rabbi Šim'on bar Jochai*, ed., J.N. Epstein and E.Z. Melamed (Jerusalem, 1955).
- Epstein, *Mabo'* = Jacob Nahum Halevi Epstein, *Mabo' lenosaḥ hammišnaḥ* [Prolegomenon to the Text of the Mishnah], 2 vols. (Jerusalem and Tel Aviv, 1948; second edition, 1964).
- Epstein, *Mebo'ot* = Jacob Naḥum Halevi Epstein, *Mebo'ot lešifrut hattanna'im* [Prolegomena to the Tannaitic Literature], edited by Ezra Z. Melamed (Jerusalem and Tel Aviv, 1957).
- Erub. = 'Erubin
- Ex. = Exodus
- Feliks, *Agriculture* = Yehudah Feliks, *Agriculture in Palestine in the Period of the Mishna and Talmud* (Heb.) (Jerusalem and Tel Aviv, 1963).
- Feliks, *Plant World* = Yehudah Feliks, *The Plant World of the Bible* (Heb.) (Tel Aviv, 1957).
- G = Mishnah MS. fragments from the Cairo Genizah, listed and numbered in Sacks-Hutner, pp. 87-112.
- Gen. = Genesis
- Gereboff, *Tarfon* = Joel Gereboff, *Rabbi Tarfon: The Tradition, The Man, and Early Rabbinic Judaism* (Missoula, 1979).
- Git. = Gittin
- GRA = Elijah b. Solomon Zalman ("HaGa'on Rabbi 'Eliyahu," or "Vilna Gaon"; Lithuania, 1720-1797), Mishnah commentary, in Romm edition of Mishnah (Vilna, 1908, and numerous reprints); Tosefta emendations, in Romm edition of Babylonia Talmud (Vilna, 1886, and numerous reprints).
- Gray = George B. Gray, *A Critical and Exegetical Commentary on Numbers* (New York, 1906)
- Green, *Approaches* = William S. Green, ed., *Approaches to Ancient Judaism: Theory and Practice* (Missoula, 1978).
- Green, *Joshua* = William S. Green, *The Legal Traditions of Joshua ben Hananiah in Mishnah, Tosefta, and Related Literature*. Brown University doctoral dissertation. Dir. J. Neusner (1974).
- Green, "Techniques" = William S. Green, "Redactional Techniques in the Legal Traditions of Joshua B. Hananiah," in J. Neusner, ed., *Christianity, Judaism and Other Greco-Roman Cults* (Leiden, 1975), vol. 4, pp. 1-17.

- Güting = Beer, Georg, ed., *Die Mishna; Text, Übersetzung und ausführliche Erklärung mit eingehenden geschichtlichen und sprachlichen Einleitung*. [Vol. 1:6: Eberhard Güting, *Terumot*].
- Haas = Peter Haas, *A History of the Mishnaic Law of Agriculture: Tractate Maaser Sheni* (Chico, 1980).
- Hag. = Hagigah
- Hal. = Hallah
- HD = *Hasde David*. David Samuel b. Jacob Pardo (Italy, Austria, Palestine, 1718-1790), *Sefer Hasde David* [Tosefta commentary]. I. *Seder Zera'im* (Livorno, 1776; reprint: Jerusalem, 1970).
- Hor. = Horayot
- Hul. = Hullin
- HY = *Hazon Yehezqel*. Yehezqel Abramsky (1886-1976), *Hazon Yehezqel* [Tosefta Commentary]. *Sedar Zera'im* (Vilna, 1925; second ed.: Jerusalem, 1971).
- Jaffee = Martin Jaffee, *Mishnah's Law of Tithes: A Study of Tractate Maaserot*. Brown University doctoral dissertation. Dir. J. Neusner (1980).
- Jastrow = Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature*, 2 vols. (New York, 1895-1903; repr. New York, 1975).
- JĒ = *The Jewish Encyclopedia*, 12 vols. (New York and London, 1901-1906; repr. New York, 1975).
- K = Mishnah, MS. Kaufman A 50; photocopy: Georg Beer, *Faksimile-Ausgabe des Mischnacodex Kaufmann A 50* (The Hague, 1929; reprint: Jerusalem, 1969); see Sacks-Hutner, pp. 63, 65-66.
- Kasovsky, *Mishnah* = C.Y. Kasovsky, *Thesaurus Mishnae: Concordantiae verborum etc.*, 4 vols. (Tel Aviv, 1957, rev. 1967).
- Kasovsky, *Tosefta* = C.Y. Kasovsky, *Thesaurus Thosephthae: Concordantiae verborum etc.*, 6 vols. (Jerusalem, 1932-1961).
- Kel. = Kelim
- Ker. = Keritot
- Ket. = Ketubot
- Kil = Kila'yim
- KM = *Kesef Mishnah*. Joseph b. Ephraim Karo (1488-1575). Commentary to Maimonides' *Mishnah Torah*, in standard editions of the latter.

- L = Palestinian Talmud, MS. Leiden; see Sacks-Hutner, pp. 63, 72.
- Lehrman = Isadore Epstein, ed., *The Babylonian Talmud: Seder Zera^cim II* (London, 1948), "Terumoth," tr. with notes by S.M. Lehrman.
- Lev. = Leviticus
- Levinthal = Israel Levinthal, "The Jewish Law of Agency," in E.M. Gershfield, ed. *Studies in Jewish Jurisprudence* (New York, 1971).
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- Lieberman, TZ = Saul Lieberman, ed., *The Tosefta According to Codex Vienna with Variants from Codex Erfurt, Genizah MSS. and Editio Princeps, I. The Order of Zera^cim* (New York, 1955).
- Löw, *Flora* = Immanuel Löw, *Die Flora der Juden*, 4 vols. (Vienna and Leipzig, 1926).
- M = Babylonian Talmud, Codex Munich 95; photocopy: Hermann L. Strack, *Talmud Babylonicum Codicis Hebraica Monacensis 95* (Leiden, 1912; reprint: Jerusalem, 1971); see Sacks-Hutner, pp. 63, 69-70.
- M. = Mishnah
- Ma. = Ma^caserot
- Maimonides = (Moses b. Maimon, Spain and Egypt, 1135-1204), *Kitah es-Siraj* [Mishnah commentary]; in standard editions of the Mishnah.
- Maimonides, *Heave-offering* = *Hilkhot Terumot*, codification of laws of heave-offering in Maimonides' *Mishnah Torah*. This is the source of references to Maimonides, *Tithes, Second Tithe and Fourth Year Fruit, Seventh Year and Jubilee*.
- Mak. = Makkot
- Makh. = Makhshirin
- Mandelbaum = Irving Mandelbaum, *A History of the Mishnaic Law of Agriculture: Tractate Kilaim, Translation and Commentary*. Brown University doctoral dissertation. Dir. J. Neusner (1980).
- MB = *Minhat Bikkurim*. Samuel Avigdor b. Abraham Karlin (nineteenth century), *Tosefta commentary* (1842), in Romm edition of Babylonian Talmud.

- Me. = MeCilah
- Meg. = Megillah
- Men. = Menahot
- Mid. = Middot
- Miq. = Miqva'ot
- M.Q. = MoCed Qatan
- MR = *Mishnah Ri'sonah*. Ephraim Issac of Premysla (Poland, nineteenth century), *Mishnah commentary* (1882), in standard editions of *Mishnah*.
- M.S. = MaCaser Šeni
- MS = *Meleket Šelomoh*. Solomon b. Joshua Adeni (Yemen and Palestine, c. 1600), *Mishnah commentary*, in standard editions of *Mishnah*.
- MS. = manuscript
- Naz. = Nazir
- Ned. = Nedarim
- Neg. = NegaCim
- Neusner, *Appointed Times* = J. Neusner, *A History of the Mishnaic Law of Appointed Times*, 5 vols. (Leiden, 1981).
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- Nid. = Niddah
- Noth = Noth, Martin, *Leviticus* (Philadelphia, 1963).
- Num. = Numbers
- O¹ = Babylonian Talmud, MS. Oxford 366, Orders *Zera'im* and *Mo'ed*; see Sacks-Hutner, pp. 63, 68-69.
- O² = Mishnah *Zera'im*, MS. Oxford 393, with Maimonides' commentary, autograph; see Sacks-Hutner, pp. 63, 76-77.
- Oh. = 'Ohalot
- Or. = Orlah
- P = Mishnah, MS. Parma De Rossi 138 (photocopy: Jerusalem, 1970); see Sacks-Hutner, pp. 63, 66-67.
- Pa = Mishnah, MS. Paris 328-329 (photocopy: Jerusalem, 1970); see Sacks-Hutner, pp. 64, 79.
- Par. = Parah
- Pe. = Pe'ah
- Pes. = Pesahim
- Pliny = Pliny, *Natural History* [Loeb Classical Library], 10 vols. (London, 1938-63).
- PM = *Penei Moshe*. Moses Margolioth (eighteenth century), commentary to the Jerusalem Talmud, Zhitomir edition.
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- Primus, *Aqiva* = Charles Primus, *Aqiva's Contribution to the Law of Zera^cim* (Leiden, 1977).
- Qin. = Qinnim
- R = Jerusalem Talmud, MS. Vatican 133; Sacks-Hutner, pp. 63, 73.
- R. = Rabbi
- Rabad = Abraham b. David of Posquieres (ca. 1120-1198), glosses to Maimonides' *Mishnah Torah*, in standard editions of the latter.
- Rashi = Solomon b. Isaac of Troyes (France, 1040-1105), commentary to Babylonian Talmud, in standard editions of the latter.
- RDBZ = David ibn Zimra (1479-1589), super-commentary to Maimonides' *Mishnah Torah*, in standard editions of the latter.
- R.H. = Roš Haššanah
- Rosh = Asher b. Yehiel (Germany and Spain, c. 1250-1327), *Mishnah* commentary, in standard editions of Babylonian Talmud.
- S = Palestinian Talmud, MS. British Museum 403, *Zera^cim*, with commentary of Solomon of Sirillo (See Sirillo); see Sacks-Hutner, pp. 63, 73-75.
- Sa = *Mishnah Zera^cim*, MS. Sassoon 531; see Sacks-Hutner, pp. 63, 68.
- Sacks-Hutner = Nissan Sacks, ed., *The Mishnah with Variant Readings, Order Zera^cim*, 2 vols. (Institute for the Complete Israeli Talmud: Jerusalem, 1972-75).
- San. = Sanhedrin
- Sarason, *Demai* = Richard S. Sarason, *A History of the Mishnaic Law of Agriculture: A Study of Tractate Demai, Part One* (Leiden, 1979).
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- Sens = Samson b. Abraham of Sens (France, late twelfth-early thirteenth centuries), *Mishnah* commentary, in Romm edition of Babylonian Talmud.
- Shab. = Šabbat
- Shav. = Šabu^cot
- Sheb. = Šebi^cit
- Sheq. = Šeqalim

- Sifra = *Sifra debe Rab, hu' Sefer Torat Kohanim*, ed. I[saac] H[irsch] Weiss (Vienna, 1862; reprint: New York, 1946).
- Sifré Dt. = *Siphre ad Deuteronomium*, ed. L. Finkelstein, with H.S. Horovitz (Berlin, 1939).
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- Sot. = *Sotah*
- Strack = Hermann Strack, *Introduction to the Talmud and Midrash* (Philadelphia, reprint: 1959).
- Suk. = *Sukkah*
- T. = *Tosefta*
- Ta. = *Ta'anit*
- Tam. = *Tamid*
- Tem. = *Temurah*
- Ter. = *Terumot*
- Theophrastus, *Enquiry* = Theophrastus, *Enquiry into Plants*, tr. Sir Arthur Hart, 2 vols. [Loeb Classical Library] (London, 1916).
- TK = see Lieberman, TK.
- Toh. = *Tohorot*
- T.Y. = *Tebul Yom*
- TYT = *Tosepot Yom Tob*. Yom Tom Lippmann Heller (Austria, Bohemia, Poland, 1579-1654), Mishnah commentary, in Romm edition of Mishnah.
- TTY = *Tip'eret Yišra'el Yakin*. Israel b. Gedaliah Lipschutz (Germany, 1782-1860), Mishnah commentary, with supercommentary, *Tip'eret Yišra'el Bo'az*, by his son, Baruch Isaac b. Israel Lipschutz (1812-1877), in Romm edition of Mishnah.
- Uqs. = *'Uqšin*
- V = *Tosefta*, MS. Vienna Heb. 20; see Lieberman, pp. 11-12.
- Vc = Babylonian Talmud, *editio princeps*, Venice, 1520-23 (photocopy: Jerusalem, 1967-72); see Sacks-Hutner, pp. 64, 83-84.

- Weinfeld = Moshe Weinfeld, *Deuteronomy and the Deuteronomie School* (Oxford, 1972).
- White = K.D. White, *Roman Farming* (Ithaca, 1970).
- y. = *Yerušalmi*, Palestinian Talmud.
- Yad. = Yadayyim
- Yeb. = Yebamot
- Y.T. = Yom Tob
- Z = Mishnah, MS. Paris 362, with commentary of Sens; see Sacks-Hutner, pp. 64, 79-80.
- Zab. = Zabbim
- Zeb. = Zebaḥim
- Zuckerman del = Moses Samuel Zuckerman del, *Tosephta, based on the Erfurt and Vienna Codices, with parallels and variants* (Trier, 1881-82; revised edition with supplement by Saul Lieberman, Jerusalem, reprint: 1970).

TRANSLITERATIONS

| | |
|------|------------|
| א | = ' (alef) |
| ב | = b |
| ג | = g |
| ד | = d |
| ה | = h |
| ו | = w |
| ז | = z |
| ח | = ḥ |
| ט | = ṭ |
| י | = y |
| כ, ך | = k |

| | |
|------|-----|
| ל | = l |
| מ, ם | = m |
| נ, ן | = n |
| ס | = s |
| ע | = c |
| פ, ף | = p |
| צ, ץ | = ṣ |
| ק | = q |
| ר | = r |
| שׁ | = š |
| טׁ | = ś |

ת = t

Transliterations represent the consonantal structure of the Hebrew word, with no attempt made to vocalize. I do not distinguish between the spirantized and non-spirantized forms of *b*, *g*, *d*, *k*, *p*, and *t*. Verbal roots are indicated by capitalization, e.g., *TRM*. When, on occasion, a word is vocalized, the following notation is used:

| | |
|------------------------------|-------------------------|
| a = qamaṣ, pataḥ | i = ḥiriq |
| ei = šere-yod | o = ḥolem, ḥolem ḥuser, |
| e = šere, segol, vocal šewa' | qamaṣ qatan |
| u = suruq, qubbuṣ | |

Quiescent *šewa'* is not represented. Proper names and commonly used words are reproduced in their most frequent English usage, e.g., Eleazar, Mishnah, etc.

INTRODUCTION

I. *The Content of the Tractate*

The topic of Tractate Terumot is heave-offering, one of the several agricultural gifts which Mishnah requires Israelites to set aside from produce grown in the Land of Israel.¹ This particular offering is designated for the use of priests and their households. Yet as we shall see in a moment, Mishnah is little interested in the priests and their maintenance. Its interest in heave-offering, rather, is from the point of view of the Israelite householder who must give the offering. The tractate prescribes how Israelites are to designate a portion of their produce to be heave-offering, and outlines their responsibility to protect it from common use until they convey it to the priest. In short, Tractate Terumot describes what it believes all Israelites should know in order properly to pay one of their required agricultural dues.²

Mishnah's concept of the specific agricultural gift which it calls heave-offering derives from Scripture's priestly code. If we are to make sense of what Mishnah, for its part, says about this subject, we must begin with the passage on which it depends. This is Num. 18:8-13, which reads:

(8) Then the Lord said to Aaron, "And behold, I have given to you whatever is kept of the offerings made to me, all the consecrated things of the people of Israel; I have given them to you as a perpetual due.

" (9) This shall be yours of the most holy things, reserved from the fire; every offering of theirs, every cereal offering of theirs and every sin offering of theirs, and every guilt offering of theirs, which they render to me, shall be most holy to you and to your sons. (10) In a most holy place you shall eat of it; it is holy to you.

" (11) This also is yours, the offering of their gift (*trwmt mtm*), all the wave offerings of the people of Israel; I have given them to you, and to your sons and daughters with you, as a perpetual due; every one who is clean in your house may eat of it. (12) All the best of the oil, and all the best of the wine and of the grain, the first of them (*r'sytm*) which they give to the Lord, I give to you. (13) The first ripe fruits (*bkury*) of all that is in their land, which they bring to the Lord, shall be yours; every one who is clean in your house may eat of it."

The passage delineates those offerings which the people of Israel contribute to the support of the Aaronide priesthood. After discussing Temple-offerings, parts of which belong to the

priests, it turns to agricultural dues. It is difficult to determine the number and nature of the offerings listed in vs. 11-13.³ "The offering of their gift," vs. 11, appears to be a general term, referring to all agricultural gifts which are eaten by the priests, and including wave offerings (vs. 11), the best of the oil, wine and grain (vs. 12) and first fruits (vs. 13). People who stand behind Mishnah, however, have read "the offering of their gift" in conjunction with vs. 12's "best of the oil, wine and grain, the first of them." In this manner they identify a single agricultural gift, distinct from the "first fruits" of vs. 13.⁴ In Mishnaic parlance, this gift is called "heave-offering" (*terumah*), although it is also known by the term "first," suggested by vs. 12 (see M. 3:7).

The central facts which Mishnah knows about heave-offering are taken from this passage. These are that heave-offering is holy and the property of priests. In accordance with its sanctified status, it must be eaten in cultic cleanness and may be eaten only by the priest and members of his household. These facts, stated in Scripture, are basic to everything which Mishnah will say about heave-offering. The tractate moreover completes the priestly code's picture, by taking up specific questions which must be answered if the priests indeed are to be supported, as Scripture wishes. These are the issues which I stated at the outset, of how individual Israelites are to separate and care for the required offering, thereby assuring that the priest ultimately will receive and consume it.

Yet this judgment about the relationship between Tractate Terumot and Scripture is not entirely to the point. This is because at base the tractate uses the framework which I have described to discuss a question very different from the simple one left open by Scripture, that is, of how Israelites are to pay the priests their due. Mishnah's true interest, rather, must be expressed in terms of two separate, but related, issues. The first is the process of sanctification. This is to say that the tractate asks how a certain quantity of produce grown on the Land of Israel comes to be deemed holy. The second issue is the effect which this produce, the heave-offering, has upon common food with which it is mixed. This issue is expanded to include other situations in which heave-offering is used as if it were secular food, for instance, cases in which it is eaten by a non-priest. These problems must be dealt with, for they describe situations in which the barrier that normally separates the distinct realms of the holy

and the secular is broken. In all, then, the tractate does not dwell upon the priesthood and its needs, the issue so central in Scripture. Rather, it uses laws governing the separation and disposition of heave-offering as a context in which to provide a larger picture of its notion of sanctification and of the safe conduct of the holy through the profane world.⁵ In order to understand the tractate's notion of the holy, let us therefore detail the story of heave-offering as Mishnah Terumot tells it.

The first problem to be addressed is how a quantity of the householder's produce becomes consecrated as heave-offering. According to Tractate Terumot, this is accomplished by the thoughts and deeds of the Israelite householder. That is to say, it is the common Israelite -- the non-priest -- who, while forbidden to eat holy produce, has the power to cause produce to be deemed holy.⁶ He does this, first of all, by formulating the intention to consecrate produce as the priestly gift. Then he pronounces a formula by which he orally designates a portion of his produce to be heave-offering. Finally, he effects his intention by physically separating that portion from the rest of the batch. Through these thoughts and actions the householder determines what produce, and how much of it, is to be deemed holy.

The main point, then, is that the common Israelite is central in the process of sanctification. The holy heave-offering comes into being only if man properly formulates the intention to sanctify part of his produce, and indicates that intention through corresponding words and actions. The centrality of human intention in this process is illustrated by the fact that individuals deemed to have no understanding (e.g., imbeciles and minors; M. 1:1), and therefore no power of intention, may not validly designate heave-offering. It further is clear that by his actions the householder is not simply removing from the batch produce which already has a sanctified status. That no produce is intrinsically holy is easily shown. An Israelite who has two distinct batches of produce can designate and set aside from one of them the heave-offering required of both.⁷ The result is that the liability of both batches to the separation of heave-offering is fulfilled. This could not be the case if each batch contained a quantity of already-holy produce which had to be removed. If that were so, what the householder did with one batch could have no effect upon a different batch. According to Tractate Terumot, therefore, it is the common Israelite who imposes a status of sanctification on produce. This notion of

the centrality of the Israelite householder is further developed in cases in which heave-offering is mixed with secular food, or is used in some other way not fitting its sanctified status. To such cases we now turn.

Once heave-offering has been designated and separated, a new set of problems is encountered. These problems concern the protection of heave-offering from misuse. For as long as the consecrated priestly gift remains in the Israelite's domain, it is liable to be used to some purpose other than its proper one, the benefit of the priest. For example, the heave-offering might be mixed or cooked with the Israelite's own common food. Again, it might be eaten by the non-priest, or even planted as seed. These are central points of danger in the passage of the holy produce from the domain of the householder to that of the priest. Tractate Terumot assumes that these problems will occur and takes measures to correct them. It therefore asks of the culpability of the non-priest for the mistreatment of the holy offering. As we should expect on the basis of what we already have seen, the answer to this question depends very much upon the intentions and perceptions of the householder who allows the heave-offering to become confused with his own food, or to be eaten or planted.

Two brief examples will illustrate my point. The first is the case in which heave-offering is cooked with an Israelite's own common produce.⁸ Through the cooking, the heave-offering and profane produce are turned into a single dish. We might therefore expect the tractate to rule that the whole dish, including the common produce, must thereafter be treated as if it had absorbed the holiness of the heave-offering and is forbidden to the Israelite. Otherwise the non-priest would use the consecrated produce to his own benefit. According to the tractate, however, this is the case only if the Israelite perceives the heave-offering to have improved his food. If so, he must refrain from eating any of the produce, even if he succeeds in removing the heave-offering from the dish. For even if the householder removed the heave-offering from the dish, he still would view himself as having benefitted from the flavor it imparted to his food. What, on the other hand, if the householder does not desire the flavor which the heave-offering imparted to his food? Now he may simply remove the heave-offering from that food and thereafter ignore the fact that heave-offering was cooked in it. The actual flavoring-power of the heave-offering is not at issue,

but only the Israelite's personal likes and desires.⁹ As long as he does not perceive himself to benefit from the heave-offering, he has maintained intact the barrier between the holy and profane. As we saw above, therefore, sanctification is not a physical trait, but depends upon the intentions of the Israelite.¹⁰

The case in which an Israelite plants heave-offering as seed illustrates this same point.¹¹ We know that the Israelite should not do this, for heave-offering is set aside for the use of the priest alone. If the non-priest anyway plants the heave-offering, there are two possible outcomes. If he does so deliberately, that is, with the full intention of using the priest's due as his own, he is compelled both to allow the seed to grow and to treat the crop which results as holy heave-offering. This constitutes a substantial loss to the Israelite. He both loses the use of his field and may not eat the produce which grows from it. If, however, the individual unintentionally plants the heave-offering, he may plow it up. To be sure, he may not make personal use of what is designated for the priest. But by the same token, he is not held culpable for what he did unintentionally.¹² Only by his intention does man encroach upon the holy, just as it is only by his intention that he sanctifies produce in the first place.

If we now recall Num. 18:8-13, upon which the tractate depends, we may make two important observations. As I originally said, Tractate Terumot indeed is indebted to Scripture for its facts. Yet we also see that the tractate investigates a range of questions which, while pertinent to the concerns of Num. 18:8-13, is quite different from what we might expect on the basis of the priestly code. The central concern of Num. 18:8-13 is the maintenance of the priesthood. The tractate, for its part, ignores questions which should be central in that context. It does not ask how priests are to assure that Israelites in fact pay the offering. Nor does it detail how the offering is collected from those Israelites who do set it aside, or deal with the question of which priests should receive it. In shifting from the focus of the priestly code and speaking at length about the centrality of the Israelite in calling into being and protecting the holy offering, the framers of Tractate Terumot have made fundamental choices. The reasons for these choices must now be specified.

An explanation is possible when we turn to the historical context in which the Mishnah came into being. The Mishnah was completed in Palestine in the late second century. Its central authorities span the time period from immediately after the destruction (in C.E. 70) of the Temple in Jerusalem,¹³ to approximately two generations after the failed Bar Kokhba revolt of C.E. 132-5. As a part of the Mishnah as a whole, Tractate Terumot thus speaks to a time at which the Temple, the visible sign of God's presence and dominion, was gone. The cult, through which the people of Israel acknowledged God's Lordship and appealed to his mercies, had long ceased. The Land of Israel was now under the hand of foreigners. There was little hope for its return to Israelite sovereignty. For these reasons, Israelites living during this time had good reason to believe that God's lordship over and concern for the people and Land of Israel indeed had come to an end. By speaking in this context of the requirement to pay the priestly due, Tractate Terumot makes the powerful statement that things have not changed so much as the concrete events of history seemed to indicate.¹⁴ With the Temple in ruins, the priests no longer can function in cultic service to God. Just as when the Temple stood, however, the priestly due is to be separated and given to the priests. Things go on as if, on the stage of history, nothing has happened.

The people who stand behind Tractate Terumot thus affirm that the priests retain their special privileges. Despite the loss of their cultic function, the priests remain God's representatives on earth. For this reason they still must receive the share which God mandated for them. This statement, however, masks a deeper claim which the tractate's framers make. Through their acknowledgment of the status of the priests, they affirm that God still is owner of the Land and Lord over the people of Israel. For these reasons alone the priests retain their status and consequent claim upon produce of the Land of Israel.

For the framers of Tractate Terumot, the priesthood thus serves as a symbol evoking God's Lordship and dominion. By recognizing the privileges of the priesthood, the people acknowledge God's continued presence over the Land and people of Israel. At the same time, for those who stand behind the tractate, the priestly station can be nothing more than a symbol. This is because, with the Temple and cult destroyed, the priests no longer play a concrete role in the sanctification of Israelite life. In focusing upon a specific locus and means of

sanctification to be operative in their day, the authorities of the tractate must turn their attention away from the priests. Accordingly, they concentrate upon the hopes and desires of the Israelite people as a whole.

Let me explain what I mean. According to the priestly source upon which Tractate Terumot depends, the earthly representation of God's power is in the cult of the priests. This power is seen in their capacity to lay on hands and designate sacrificial beasts as holy, in their service in God's Temple, and in their consumption of those parts of God's Holy Things which are not burnt on the altar. For the framers of Tractate Terumot these things are no more. Now there is no altar or sacrifice. The priests no longer eat sacrificial meat. Only one offering remains as a concrete reality. This is heave-offering, which the priests indeed still may eat. Yet in this offering the tractate's framers recognize an even stronger expression of God's continued power on earth. This expression lies in the fact that common Israelites designate heave-offering to be holy. In doing so, they exercise God's powers here on earth.¹⁵ This is so even with the Temple in ruins. To make the claims of God's continuing presence, the tractate therefore focuses upon the actions and responsibilities of the Israelite who sets aside and protects the priestly due. By describing these actions and responsibilities, it makes the powerful point that even with the Temple gone, cultic sanctification remains. This means that God himself still rules over the people and Land of Israel. He moves in response to the intentions and perceptions of Israelites who separate the offering which he mandated. This message is poignant. For as is clear, with the Temple destroyed and the Land defiled, these intentions and perceptions were all that remained to deny the events of history and affirm God's Lordship.

II. The Structure of the Tractate

The preceding analysis depended on the claim that a single unifying principle underlies all of the diverse laws of Tractate Terumot. This principle, I argued, is that the intentions and perceptions of the common Israelite are central in the process of sanctification and in the maintenance of the holy in the profane world. The principle has been illustrated through several examples, referring specifically to the way in which heave-offering is designated, and to particular problems in the

maintenance of the priestly gift in the Israelite's domain. Let us now go forward to prove that the tractate as a whole was intended by its framers to convey and explain this idea. Only if we can show that this is the case, may we claim correctly to have understood what those framers wished to say through their work on the subject of heave-offering. To this end I now offer an outline of the topics of Tractate Terumot. By describing these topics as they unfold in the tractate as a whole, the outline will show that the tractate is a sustained and cogent essay. From beginning to end its topics have been chosen and organized logically to develop the single idea which I argue is fundamental.

The tractate is in three parts. Each describes one stage in the continuum through which heave-offering is 1) designated and separated, 2) guarded in the Israelite's domain, and 3) conveyed to the priest. In each of these units, the tractate is concerned with the actions and responsibilities of the Israelite householder. It opens with Unit I, which is a discussion of how produce comes to be deemed holy. The practical question is how heave-offering is designated and separated by the Israelite householder. Unit II turns to those mishaps which might occur after the heave-offering is separated, but before it is conveyed to the priest. Since it remains in the Israelite's domain, it might be mixed or cooked with common food, or even eaten by a non-priest. As in Unit I, the tractate here focuses upon the importance of the actions and intentions of the Israelite. It asks of the role these actions and intentions play in determining the effect which the heave-offering has upon common produce with which it is mixed or cooked. It further questions the parts these intentions play in determining the culpability of the householder who allowed the heave-offering to be misused. The final issue, Unit III, is that of the proper disposal of heave-offering. This material clearly addresses the priest, for it indicates what he may and may not do with heave-offering. Yet closer examination reveals that even here the tractate concentrates chiefly upon the Israelite. At issue in the greater part of Unit III is the Israelite's responsibility to convey to the priest the heave-offering which he has separated. The unit rules that small quantities of produce which the householder himself perceives to be insignificant need not be given to the priest. They may be eaten by the Israelite. Unit III thus completes the picture drawn by Units I and II. It does so by indicating circumstances in which the Israelite's responsibility to keep heave-offering in holiness has ended. As in the

previous units, these circumstances are determined on the basis of the Israelite's own perceptions.

In all, Tractate Terumot unfolds in a straightforward and logical manner. It tells the story of heave-offering, beginning, middle and end. At each point it focuses upon the importance of the actions and intentions of the Israelite householder who must separate the priestly gift. The following outline depicts in detail the structure of the tractate as I just have summarized it. The comments at the end of each unit explain both what subjects have been covered, and why they have been redacted in their present order.

I. *How heave-offering is designated and separated. 1:1-4:6.*

A. *Improper ways of separating heave-offering. 1:1-3:4.*

1. *Improper ways of separating heave-offering which yield heave-offering that is not valid. 1:1-5.*

1:1 Five sorts of people may not separate heave-offering; if they do so, it is not valid heave-offering.

1:2-3 Expansion of two entries of 1:1's list.

1:4 They may not separate olives as heave-offering for wine, nor grapes for oil; if they do so: Shammaites, It is valid; Hillelites, Not valid.

1:5 They may not separate heave-offering + list of ten categories of produce; if they do so, it is not valid.

2. *Proper ways of separating heave-offering which nevertheless yield valid heave-offering. 1:6-2:3.*

1:6 Five sorts of people may not separate heave-offering; if they do so, it is valid heave-offering.

1:7 They may not separate heave-offering by measure, weight or count (+ complementary rules).

1:8-9 They may not separate oil as heave-offering for crushed olives, nor wine for crushed grapes; if he did so, it is valid heave-offering (+ rule for preserved-olives and raisins.)

1:10 Principle governing 1:8-9.

2:1 They may not separate heave-offering from clean produce for unclean produce; if they do so, it is valid heave-offering (Eliezer: they may do so in the first place).

- 2:2 They may not separate heave-offering from unclean produce for clean produce; if he did so unintentionally, it is valid (intentionally, he has done nothing).
- 2:3 Two more examples of principle of 2:2.
3. *Special problems: Heave-offering separated from one kind of produce for produce of a different kind. 2:4-6.*
- 2:4A-E They do not separate heave-offering from produce of one kind for produce of a different kind; if he did so, it is not valid.
- 2:4F-G The priest should be given a type of produce he will be able to eat; Judah: he should be given produce of the highest quality, even if it will spoil.
- 2:5 Application of positions of 2:4F-G to concrete cases.
- 2:6M-P Expansion of Judah's view (stated anonymously).
- 2:6Z-X General principle coordinating 2:4A-E with Judah.
4. *Special problems: Cases of doubt whether or not heave-offering was validly separated. 3:1-4.*
- 3:1-2 In cases of doubt the heave-offering is valid, but heave-offering must be separated a second time.
- 3:3 Partners who both separated heave-offering from the same commonly owned batch of produce: Aqiba, sages and Yose dispute.
- 3:4 Qualification of Aqiba, 3:2.
- B. *The rite of the separation of heave-offering. 3:5-4:6.*
1. *The oral designation. 3:5-9.*
- 3:5 Dispute over proper language for designation: Simeon, sages, Eleazar Hisma, Eliezer b. Jacob.
- 3:6-7 Proper sequence for designation of heave-offering, first fruits, first tithe, second tithe (+ biblical proof text).
- 3:8 One who intends to say "Heave-offering," but says "Tithe" has not designated the offering.
- (3:9 Heave-offering separated by gentiles and Samaritans is valid (+ cognate rules).)
2. *The percentage of a batch of produce which is to be designated and separated as heave-offering. 4:1-5.*
- 4:1 One who separates a portion of the heave-offering required for a batch of produce may not thereafter

- take heave-offering from that batch for a different batch; Meir: he may.
- 4:2 Similar case--Meir: he may eat an amount of produce commensurate with the quantity of tithes he has separated; sages: he may not.
- 4:3 Statement of required measure of heave-offering (Shammaites dispute, Judah glosses).
- 4:4 An agent separates the quantity of heave-offering normally separated by the householder.
- 4:5 Dispute over how much of a batch of produce may be designated heave-offering: Eliezer, Ishmael, Tarfon and Aqiba.
3. *When the rite of separating heave-offering takes place.*
- 4:6.
- 4:6 At three times in the year they calculate the quantity of produce in the storage basket in order to separate heave-offering (+ three methods of calculation).

The problem of Unit I is how the heave-offering required of the householder's produce is designated within that produce and then separated from it so that it can be given to a priest. These are the first human actions involved with heave-offering and therefore constitute the logical starting point for the tractate. The central point which the unit makes is that, on the basis of thoughts and deeds, the Israelite householder determines both what produce, and how much of it, is to be deemed heave-offering. The discussion takes place in two main parts. We begin by establishing who may separate heave-offering and what produce may be used for that offering (Part A). This material is redacted first because it contains the facts which the householder will need to know when he undertakes the actual designation and separation of the offering. This is the subject matter of Part B. Let us now examine the internal organization of each of these parts of Unit I.

The main proposition of Part A is stated at Al-2. This is that there are circumstances in which produce separated as heave-offering in an improper fashion or by unfit individuals nonetheless may be considered valid heave-offering. In light of this fact there are two possible outcomes of an improper separation of heave-offering. These are that the produce which is separated may not take on the status of heave-offering, the topic of Al, or

that it may, A2. In substance, these two sub-units are well balanced with each other. Each is introduced with a list of five individuals who should not separate heave-offering, and moves on to improper methods of doing so. Only 1:7 is out of place, lacking a statement of whether or not heave-offering separated in the way it describes is valid *post facto*. Topically it belongs in B2, on the quantity of heave-offering to be separated. I assume that it is placed here because of its use of the formulaic, "They may not separate heave-offering..." This is characteristic of all of the materials at A1-2, and is not used at Part B. With the basic facts established at A1-2, A3-4 turns to special problems, concluding Part A with cases of doubt. Such cases commonly close topical segments within this tractate.

The order of sub-units in Part B presents no problem. B1 details how one designates heave-offering. B2 treats a question secondary to that of B1. This is how much one should designate. B3, finally, states when during the year one does so. This issue is of relatively minor importance to the redactor, as is indicated by the fact that it takes up only a single pericope. The larger progression of ideas in Part B thus is from major concerns to minor ones, a fine redactional technique.

Among individual pericopae in Part B, only the placement of 4:3 requires discussion. This is the rule specifying the quantity of heave-offering which normally is separated. At first glance it appears that this rule would be better situated at the beginning of B2. There it would introduce the essentially secondary rules of 4:1-2 and 4:4-5 by providing the principle which is basic to them. This is that a set quantity of produce normally is taken as heave-offering. Closer consideration reveals the logic of the redactor's organization. He begins with the case of an individual who separates too little heave-offering (4:1-2), follows with a statement addressed to householders who separate the proper quantity (4:3-4) and concludes with rules for those who wish to separate more than is usual (4:5). The ordering of pericopae thus shows a clear internal logic and evidences careful redaction.

II. *The proper handling of heave-offering which has been separated but not yet given to the priest. 4:7-10:12.*

A. *Heave-offering which is mixed with unconsecrated produce: Neutralization. 4:7-5:9.*

1. *How heave-offering is neutralized. 4:7-13.*

- 4:7 Heave-offering is neutralized in one hundred and one parts of unconsecrated produce, so Eliezer; Joshua: slightly more; Yose b. Meshullam glosses.
- 4:8-9 Joshua: Black figs neutralize white ones and *vice versa* (+ two more examples); Eliezer: they do not; Aqiba offers mediating position.
- 4:10-11 Expansion of 4:8-9; further concrete cases under dispute.
- 4:12 Two bins of unconsecrated produce into one of which heave-offering fell--the unconsecrated produce joins together to neutralize the heave-offering (Simeon glosses).
- 4:13 Legal precedent involving Aqiba and Yose; Yose invokes principle of 4:12.
2. *Rules regarding the batch in which heave-offering was neutralized and the produce taken to replace the heave-offering. 5:1-9.*
- 5:1 Triplet: A *se'ah* of unclean heave-offering which fell into less than a hundred of unconsecrated produce--let it all rot. If the heave-offering was clean--sell the mixture to a priest. If the unconsecrated produce was unclean, the priest eats the mixture in small bits.
- 5:2-4 Triplet: A *se'ah* of unclean heave-offering which fell into a hundred of clean unconsecrated produce--let a *se'ah* be raised up and burned, so Eliezer; sages: let it be eaten in small bits. A *se'ah* of clean heave-offering which fell into a hundred of unclean unconsecrated produce--raise up the *se'ah* and eat it in small bits. A *se'ah* of unclean heave-offering which fell into a hundred of clean heave-offering--Houses dispute.
- 5:5 Heave-offering which was neutralized and raised up and fell into other unconsecrated produce--Eliezer: it imparts the status of heave-offering like true heave-offering; sages: it does not.
- 5:6 A *se'ah* of heave-offering which fell into less than a hundred of unconsecrated produce and some of the mixture fell into other unconsecrated produce--same dispute as at 5:5.
- 5:7 A *se'ah* of heave-offering which fell into a

hundred of unconsecrated produce and one lifted it out and more heave-offering fell into the same unconsecrated produce--the unconsecrated produce remains permitted.

5:8 A *se'ah* of heave-offering which fell into a hundred of unconsecrated produce and was not lifted out before more heave-offering fell in--the batch now has the status of heave-offering; Simeon: it does not.

5:9 A mixture of heave-offering and unconsecrated food that is ground and the quantity of which increases or diminishes--the proportion of heave-offering to unconsecrated produce remains the same.

B. *Heave-offering which is eaten by a non-priest. 6:1-8:3.*

1. *Unintentional consumption: payment of the principal and added fifth. 6:1-6.*

6:1 A non-priest who unintentionally eats heave-offering pays the priest the value of the heave-offering (principal) and an added fifth.

6:2 The daughter of an Israelite who unintentionally ate heave-offering and afterwards married a priest--to whom does she pay the principal and added fifth?

6:3 One who unintentionally gives his workers or guests heave-offering to eat--who pays the principal and added fifth? (Meir and sages dispute).

6:4 Triplet: One who steals heave-offering and does not eat it, etc., if he unintentionally ate it, etc., if it was heave-offering dedicated to the Temple, etc.

6:5 They do not pay the principal and added fifth with + list of six categories of produce, so Meir; sages dispute.

6:6 They pay the principal and added fifth for heave-offering of one kind with produce of a different kind, so Eliezer; Meir: only with the same kind (+ scriptural proof for each view).

2. *Intentional consumption: payment of the principal but not the added fifth. 7:1-4.*

7:1 A non-priest who intentionally eats heave-offering pays the principal but does not pay the added fifth.

- 7:2 The daughter of a priest who married an Israelite and afterwards ate heave-offering pays the principal but not the added fifth, so Meir; sages: she pays both.
- 7:3 Triplet of cases in which individual pays the principal but not the added fifth.
- 7:4 General rule summarizing rules for cases in which non-priests pay both principal and added fifth and those in which they pay only the principal.
3. *Cases of doubt concerning non-priest's liability for eating heave-offering. 7:5-8:3.*
- 7:5-7 Two bins, one filled with heave-offering and one filled with unconsecrated produce--if heave-offering falls into one of them, but it is not known which, we hold that it fell into heave-offering. Triplet: If a non-priest ate the produce in one of the bins, etc.; if produce from one of the bins fell into unconsecrated produce, etc.; if produce from one of the bins was sown as seed, etc.
- 8:1-3 The wife of a priest who was eating heave-offering and was told, "Your husband has died"--Eliezer: she is culpable; Joshua exempts (+ five formally and substantively parallel disputes).
- C. *The cultic contamination of heave-offering. 8:4-12.*
- 8:4 Wine in the status of heave-offering which if left uncovered is poured out, for fear that a snake deposited in it venom.
- (8:5-7 Rules governing produce which might contain snake venom; irrelevant to Tractate Terumot, redacted here to complete 8:4's discussion.)
- 8:8 A jug of wine concerning which there arose a suspicion of uncleanness--Eliezer: one must still protect it in cleanness. Joshua: let him make it certainly unclean.
- 8:9 A jug of wine in the status of heave-offering which broke in the upper vat and the lower vat is unclean: Joshua and Eliezer, same positions as at 8:8.
- 8:10 Expansion of 8:9.
- 8:11 Restatement of Joshua's position + expansion of 8:9-10.

8:12 Women to whom gentiles said, "Give us one of your number so that we may rape her, or we will rape all of you," let them all be raped (= position of Eliezer, 8:8-9).

D. Heave-offering which is planted as seed. 9:1-7.

- 9:1 The householder may not plow up heave-offering which he intentionally planted; unintentionally, he may plow it up.
- 9:2 Expansion of 9:1: a field planted with heave-offering is subject to offerings left for the poor.
- 9:3 Expansion of 9:1: the crop is subject to tithes.
- 9:4 What grows from heave-offering has the status of heave-offering (+ laws for the crops of seed in the status of seven other agricultural offerings).
- 9:5 Case of doubt concerning whether or not a field is planted with heave-offering: we rule according to whether or not the seed disintegrates.
- 9:6-7A-J Crop grown from untithed produce is subject to principle of 9:5 (+ other rules for untithed produce, and list of types of seed which disintegrate).
- 9:7K-N Status of fruit produced by saplings grown from seed in the status of heave offering (Judah glosses).

E. Heave-offering which is cooked or otherwise prepared with unconsecrated produce. 10:1-12.

- 10:1 That which is flavored by heave-offering takes on the status of heave-offering (Judah glosses).
- 10:2A-C Dough leavened with heave-offering takes on the status of heave-offering.
- 10:2D-F Water tainted by barley in the status of heave-offering does not take on the status of heave-offering.
- 10:3 Unconsecrated bread which absorbs vapors from heave-offering-wine--Meir: it has the status of heave-offering; Judah: it does not; Yose: mediating position.
- 10:4 Bread baked in an oven fired with heave-offering-cumin remains unconsecrated.
- 10:5-6 Rules regarding produce flavored with fenugreek in the status of heave-offering; other rules for fenugreek.

- 10:7 Unconsecrated olives which are pickled with olives in the status of heave-offering--if they are flavored, they are forbidden.
- 10:8 Expansion of M. 10:7 for case of clean and unclean fish.
- 10:9 Expansion of M. 10:7 for case of locusts.
- 10:10 Only that which is pickled with leeks in the status of heave-offering is forbidden (vs. M. 10:7).
- 10:11 Yose: only that which is boiled with beets is forbidden; Simeon: rule for cabbage; Aqiba: only that which is flavored by forbidden meat is forbidden (vs. 10:1-7); Yoḥanan b. Nuri: rules for liver.
- 10:12A An egg spiced with forbidden spices is forbidden.
- 10:12B-D Liquid in which heave-offering is cooked is forbidden.

Unit II discusses the householder's responsibility to protect from loss the heave-offering which he has separated but not yet given to the priest. Since this heave-offering remains in the Israelite's domain, it is in danger of being used as if it were his own common produce. It might, for instance, be mixed or cooked with common food, or eaten by the non-priest. Such cases are of central interest to the tractate, for they offer a context in which to explore what happens when a sanctified offering is used as if it were common produce. This constitutes the major anomaly possible within the topic of heave-offering, because it is the point at which the barrier between the holy and profane is broken. Its adjudication, accordingly, takes up the longest unit of the tractate. The unit endeavors to establish the effect which holy produce has upon common produce with which it is mixed. Does the mixture become holy because of the presence of heave-offering in it? It further outlines the householder's own culpability and concomitant responsibility to replace heave-offering which, through his fault, is lost. The discussion takes place in five parts. Each details rules for a particular hazard which might befall heave-offering in an Israelite's domain. These parts have been ordered so as to form logical transitions with the materials of Unit I which precedes, and Unit III which follows. The unit opens with the first problem the householder might encounter after he designates and separates heave-offering.

It progresses through other problems and ends, finally, with cases which introduce the specific concerns of Unit III.

Part A presents the first problem which might arise after the heave-offering has been designated and separated. The householder has just separated the offering, and it falls back into the batch from which it was taken, or into other produce on the threshing floor. At issue is the status of the resultant mixture of heave-offering and common produce. Is it to be deemed heave-offering or secular food? As we might expect, this is determined not only by the quantity of heave-offering in the mixture, but also by the householder's ability to distinguish the heave-offering from the common produce.

IIB-D present three other mishaps which might occur while the priestly gift is in the Israelite's domain. The heave-offering might be eaten by the non-priest (B), its cultic cleanness might be endangered (C), or it might be planted as seed (D). These cases belong together because, in each, the householder's culpability is determined by whether or not he intentionally allows the heave-offering to be misused. I find, however, no larger reason for the sequence of their presentation. This is not the case as regards Part E, which concludes Unit II. Its topic is cases in which heave-offering is cooked or otherwise prepared with unconsecrated produce. It has been redacted at the end of the unit in order to form a transition to Unit III which follows. The topic of that unit is the priest's own preparation of heave-offering.

The internal structure of Unit II's constituent parts is straightforward. Part A begins with simple rules governing mixtures of heave-offering and common produce (A1). A2 moves to derivative problems. Through these a theory of neutralization is delineated. Part B likewise unfolds logically. It is organized according to the restitution non-priests are required to pay for eating heave-offering unintentionally (B1), intentionally (B2) and in cases of doubt (B3).

At IIC, the placement of 8:4-7 must be explained. These pericopae fall outside of the specific topic of the unit to which they belong. The unit is on the householder's responsibility to protect heave-offering in cultic cleanness. 8:4-7, however, gives rules for produce which may contain snake venom. Their point is at 8:4, which states that heave-offering suspected of containing snake venom is destroyed. It need not be given to a priest. This rule has its present redactional setting in order

to signal the larger problem of 8:4-12. This is whether or not the householder need preserve for the priest heave-offering which is unclean. Such heave-offering is like that which contains snake venom in that the priest may not eat it. In light of this commonality of situations addressed, the two units clearly belong together. Despite initial appearances, Part C thus evidences careful organization and a clear redactional structure.

Part D discusses grain in the status of heave-offering which a non-priest plants as seed. It addresses problems created by such a situation in the same order as they will be encountered by the Israelite householder. The first practical problem is what the Israelite may and may not do with the field in which the heave-offering is growing (9:1-3). As I noted above, this depends on whether or not he intentionally planted the field. 9:4 proceeds to the next logical question, the status of a crop grown and harvested from such a field. At issue is whether or not this crop is deemed to be heave-offering, like the seed from which it grew. 9:5-6, finally, turn to cases of doubt and other special problems, the usual concluding topics of discussion. While simple in structure, Part E shows equal redactional care. It begins with the principle which is central to the sub-unit as a whole (10:1) and then presents cases which illustrate that principle (10:2-12).

*III. The preparation and use of heave-offering by the priest.
11:1-10.*

A. The proper preparation of produce in the status of heave-offering. 11:1-3.

- 11:1 Produce in the status of heave-offering must be prepared in the way that unconsecrated produce of its type normally is prepared.
- 11:2 Expansion of 11:1: culpability of non-priest who eats heave-offering which was improperly prepared.
- 11:3 Expansion of theory of 11:1 (+ four rules on liquids made from agricultural offerings).

*B. Refuse from produce in the status of heave-offering.
11:4-8.*

- 11:4-5 Refuse which has food value or which the priest wishes to eat retains the status of heave-offering.
- 11:6 A storage bin from which one emptied heave-offering --he need not sit and pick up every last kernel of grain.

11:7 Expansion of 11:6 for case of a jug of oil in the status of heave-offering.

11:8 Expansion of 11:7.

C. Heave-offering which is not fit as human food, but has some other use. 11:9-10.

11:9 Vetches in the status of heave-offering are used to feed the priest's cattle.

11:10 Unclean oil in the status of heave-offering may be kindled in the priest's lamp.

The tractate concludes with rules for the final disposition of heave-offering. These rules make the point that the offering should be used to the end for which it was designated. That is, it must be eaten by a priest. This is the case as long as the priestly due is considered food. If it is not, it no longer is deemed to have a consecrated status. Then it may also be used by non-priests, just like common produce. In light of these facts, the unit asks when produce is or is not deemed to be food. It is tightly organized logically to expound this problem. It first discusses the normal preparation of food in the status of heave-offering (IIIA). The next topic is refuse from such food (IIIB). The final issue is the status of what is not deemed food, but which has some other customary use (IIIC). The unit as a whole thus shows careful organization. It plays out a single line of inquiry from beginning to end.

Part A rules that heave-offering should be prepared in a way in which as little as possible will be wasted. The priest thus will eat almost all that was designated for his use. Parts B and C turn to special problems. Part B, first, considers refuse left from the normal preparation of heave-offering. It rules that whether or not the refuse must be treated as food depends on the attitude of the priest (11:5), or, importantly, the perceptions of the Israelite householder himself (11:6-8). Just as the Israelite consecrates heave-offering in the first place, so he determines the point at which it no longer has a sanctified status.

The produce at Part C cannot be used as food, but has some other use. In order to allow the priest to use all that was designated for him, the heave-offering may be put to its other use. In such a case, further, it is of no concern that an Israelite also benefits. This could occur, for example, if a non-priest enjoys the light of a lamp kindled with heave-offering.

As at Part B, the unit thus describes situations in which heave-offering becomes available for the use of Israelites. This is an excellent conclusion to the tractate. It completes the circle of events which began in Unit I, when the householder first designated and set aside produce for the use of the priest.

The topics of the tractate reveal the point which its framers wish to make through their discussion of heave-offering. These topics are, first, the role of the Israelite in the designation and separation of heave-offering; second, his responsibility to protect the priestly due for the priest; and, third, the part he plays in the ultimate disposition of the offering. The tractate as a whole thus speaks about common Israelites. It proposes to delineate their responsibility as regards all aspects of the designation and disposition of the priestly gift. Its particular rules, moreover, make clear the centrality of the Israelite's own intentions and perceptions. At each point these determine the status of sanctification of produce which the Israelite sets aside as the priest's share. Through the Israelite's powers of intention, produce first comes to be deemed holy. Later, the holiness of the priest's gift may be encroached upon only through actions which the Israelite performs purposefully. Finally, the offering no longer is considered holy when the Israelite himself does not deem it to be edible. Through these claims, the tractate argues that, even with the Temple in ruins, the people of Israel continue to maintain the channels of holiness between heaven and earth. When the Temple stood, these channels had been maintained both by the people, who paid agricultural dues, and through the work of the priests at the altar. Now they are manifest only in the actions of the people of Israel. They are seen in the people's labor on God's land, and in their preparation of food for consumption in accordance with God's principles of sanctity. The larger message is that things hardly have changed from the time that the Temple stood. Holiness has not disappeared from the earth. This is because God still is owner of the Land and Lord over the people of Israel.

III. The Task of Translation and Exegesis

Conclusions about the larger meaning of Tractate Terumot depend upon the interpretation of its individual laws. This work occupies the translation and exegesis which follow. In order to explain the specific goals and methods of this commentary, I must

now outline the central literary characteristics which have shaped my approach to the tractate.

Tractate Terumot, with Mishnah as a whole, phrases all of its laws in a small number of highly formalized and stylized linguistic patterns. These literary conventions occur both in anonymous rules, and in the mouths of the tractate's named authorities, early and late. This means that while the tractate cites masters who lived over a period of almost two hundred years, the form in which those citations appear is the work of a single group of people, working at a single time. These are the final framers of the tractate who, standing at the end of the law's development, cast antecedent material into the form in which we now have it.¹⁶ By doing this they obscured the signs of literary and legal development which would have occurred during the period of the tractate's named authorities. While individual laws are attributed to several generations of masters, Tractate Terumot as we have it is a unitary creation of a single time and group of people.

Two conclusions follow from these facts. The first is that the meaning which we must discern in the laws of Tractate Terumot is that imputed to them by their formulators and redactors.¹⁷ These individuals provided both the form and context in which those rules make sense. The second conclusion, logically, is that the very form and context of individual laws constitutes the fundamental key to the meaning their formulators intended them to convey. The redactors of the tractate used their talents to create a cogent and pointed essay. They accomplished this by employing literary conventions in a self-conscious and purposeful manner.¹⁸ The translation and commentary which follow are designed to prove this fact. Each of these components of the exegesis works toward uncovering the meaning of the tractate's laws on the basis of the patterned language through which those laws are expressed.

The goal of the translation, first, is to make available to the English reader the formulaic character of the Hebrew text. For this reason I do not aim at simplicity of English style, but at close adherence to the linguistic structure of the Hebrew. In cases in which the Hebrew is overly abstruse or otherwise difficult, I interpolate clarifying language or explanatory phrases. These are placed in brackets to distinguish them from the content of the Hebrew. Idiomatic Hebrew terms or phrases which elude literal translation are transliterated in parentheses. This

provides access to the original text in cases in which comprehensibility of English precludes the accurate rendering of that text. In cases of textual problems, parentheses also are used to indicate the reading I have chosen, as well as other extant MS. variants.¹⁹ Throughout, then, the purpose of the translation is to give the reader a clear picture of the substance and form of the Hebrew text.²⁰ On the basis of both of these, sense is to be made of the laws of the tractate.

The translation plays a further role in allowing for interpretation of the tractate's laws. In it each pericope is divided into its primary parts.²¹ I identify these as the smallest syntactic units of the pericope. Since these comprise the building blocks of each pericope, delineating them allows us to discern the formal traits of that pericope.²² These traits are indicated by the repetition of a single syntactic pattern in several building blocks, or in the occurrence of an otherwise stereotyped sequence of such blocks. Once these formal characteristics of the pericope are established, elements which are secondary also can be identified. These are syntactic units which break the formal pattern established in the pericope as a whole. Only when seen as separate may these secondary elements be properly interpreted. They may be discrete rules, with their own particular point, or glosses intended in some way to impose meaning upon the rest of the pericope.

We see that it is the task of the translation to highlight those literary features which are central in the work of interpretation. Let me now indicate exactly how these traits guide my exegesis. This will be illustrated for the forms most commonly found in Tractate Terumot, the dispute and the list.²³ Then we may turn to the importance of formulaic language.

Disputes most usually are formed of a statement of case (superscription) followed by two or more opposing legal positions. By using this form, the redactor provides several types of information. The most obvious is that suggested by the superscription itself. We must establish why the problem stated in the superscription should be an issue for the redactor. Second is the assumption shared by the several parties in the dispute. This common assumption most likely is that of the framer of the dispute himself. Finally we come to what perhaps is the most interesting information as regards the redactor's own notions and concerns. This is revealed by the two or more positions given to resolve the problem stated in the superscription. This range of

choices, like the problem itself, is a key to the conceptions of the redactor. For, we must assume that the solutions he offers us are conceivable within, and therefore illustrate, the limits of his own thinking.

The second form commonly found in the tractate is the list. This consists of a series of entries brought together under a single superscription. The superscription claims that all of the items are subject to a single principle. The interpretative task, accordingly, is to discern that principle. Yet the exegete must also pay careful attention to the syntactic structure of individual entries in the list. A break in the formal structure of these items indicates that the list juxtaposes materials which do not necessarily belong together. They might, for instance, illustrate diverse principles.²⁴ Ability to understand the point made by a list thus depends upon careful attention both to the use of this form in general, and to the formulaic character of each list's individual entries.

Not all of Mishnaic discourse is cast in such forms as the dispute and the list. Other large blocks of material simply make use of a common and repeated syntactic pattern. In other words several laws are stated within the bounds of a single linguistic structure.²⁵ Like the dispute and list, the use of such a formulaic pattern offers a key to the larger point the redactor hopes to make. By formulating a series of laws in a single syntactic pattern, for instance, he indicates that those laws must be viewed as a group, illustrating the same underlying principle. As with the list, the exegete must discern this principle. A similar exegetical problem is presented by the case in which there is a break in the formal patterning of individual rules. A series of syntactically parallel protases may, for instance, yield contrasting apodoses. Interpretation emerges from the contrast between the several rules. Only by noticing the parallel construction does the interpreter see that the point is not made by each rule alone. The rules together, rather, provide the parameters of a single larger principle of law.

An understanding of the meaning of individual pericopae is only the first step in interpretation. As we have seen in the outline of the tractate, pericopae do not stand in isolation, but have a larger context provided by the thematic units of which they are a part. A second step in interpretation, therefore, is to view these thematic units as cogent wholes. We must identify the issue they address, and point out the role of individual

pericopae in delineating, and, possibly, resolving, that issue. Only when this is done do we fully understand the meaning which the individual pericope has within the tractate. At this point we likewise begin to discern the larger issue, or set of issues, which the framers of the tractate address through discussion of their topic.

Descriptions of thematic units are found in my introductions to the chapters of the tractate. These chapters represent divisions made by copyists and printers and therefore do not invariably correspond to thematic units. Yet they offer convenient stopping points at which to draw an overview of the material about to be discussed. I therefore use introductions to the chapters of the tractate as a context in which to describe the issue and content of the thematic unit(s) contained in the chapter. If the chapter divides or encompasses more than one thematic unit, I indicate this and describe the relationship between the materials of the chapter under discussion and the one preceding or following it. By placing these introductions before the translation and commentary to the discrete pericopae of each unit I give the reader the information necessary to discern the full range of meaning contained in those pericopae. This, as I said, is possible only when the pericopae are viewed in their larger context.

Analysis of the thematic units of the tractate provides the basis for the final step in interpretation. This is the work of viewing the tractate as a cogent whole. My goal is to discern the central issue which generated the tractate's discussion and which, therefore, accounts for and ties together its several themes. By doing this, we gain a clear perspective on exactly what the framers of Tractate Terumot wished to say through their discussion of the topic of heave-offering. This goal is reached through an outline of the tractate as a whole. The outline intends to uncover the single theme which encompasses all of the questions addressed in the tractate's several thematic units. When we have identified this theme, and the theory expressed through it, we know the chief concern which motivated the framers of the tractate in their work on the topic of heave-offering. This concern, in turn, may be examined against the historical context in which those redactors worked. At issue is how the specific claims of the tractate relate to the human situation of those who created it. Discerning that relationship allows us to see clearly the message which the tractate's framers had for

their own day and audience. These issues already have been discussed in the first sections of this introduction. This introductory overview treats the tractate as a whole, and therefore allows the reader to follow with understanding the exegetical work which takes up the rest of the volume.

We see that the method of this commentary is to interpret the tractate as an essay which, through its own stylistic conventions and within the boundaries of its own chapters, provides important insight into the thought-world of its framers. In selecting this approach, I believe that I have corrected the principal shortcoming of previous interpretations of the tractate. These commentaries, almost exclusively products of the rabbinic tradition of exegesis,²⁶ consistently fail to read the tractate as the product of a specific time and social context. They read it, rather, as homogeneous with the entire corpus of rabbinic documents, early and late.²⁷ All rules within this corpus are read without regard to their origin and provenance, under the assumption that together they comprise a single, transcendent, Jewish law. The rules of individual documents are interpreted within the framework of this artificial legal construct, and not as components of the essays in which they have their redactional, and therefore historical, meaning. In practical terms, this means that the established rabbinic exegesis of the tractate is atomistic, proceeding one rule at a time. Its goal is to discern encompassing legal principles which link the tractate's discrete rules with laws found elsewhere in Mishnah and in the rest of the rabbinic literature.

The approach I have just described is antithetical to my own. The rabbinic interest in the diverse laws of Tractate Terumot ignores the intellectual framework within which those laws have their historical meaning. While my use of rabbinic exegetes accordingly is selective, the reader will find that their insights appear often in this work. The reason is that for them, as for me, exegesis of Mishnah consists of identifying and solving acute problems of logic. Each statement of law has a number of interpretations possible within the bounds of its conceptual content. This is the function of the nature of Mishnah itself.²⁸ Through its language and substance Mishnah detaches its rules from any concrete place or time. It therefore claims on the surface to have no historical meaning, but rather to set out a diverse set of interpretive potentials. These must be delineated in accordance with the exegete's own sense of logic and reason. It

therefore often happens that rabbinic exegetes already have delineated the full range of interpretations plausible for a given rule. I may claim to advance their work only in that I use the formal and thematic traits of the tractate itself as guides in selecting the meaning most probably intended by the framers of the tractate. In this way I discern the original meaning of the rule, and not the sense which it had in the later history of Judaism.

One commentary to the tractate, *Tosefta Terumot*, deserves special attention. Of the several tools which we have for the interpretation of Mishnah, *Tosefta* is certainly the most important. It is the only commentary which takes seriously the tractate's own formal characteristics and conceptual framework. Indeed, it is phrased within the same linguistic patterns found in Mishnah. *Tosefta Terumot* moreover cites the same authorities found in Mishnah *Terumot*. For these reasons it constitutes an especially important source for possible meanings of Mishnah's laws. I therefore translate and comment on the whole of *Tosefta Terumot*. My purpose is to discover the point which *Tosefta* wishes to make about Mishnah's law and, of course, to use that point to deepen our own insight into the law.

The methods which I use in translating and commenting on *Tosefta* are the same as those applied to Mishnah. What differs is that, in light of the specific importance of *Tosefta*, comments on it are brief and have a narrow purpose. This is to state the relationship between *Tosefta* and the relevant pericope of Mishnah, and to describe the point which *Tosefta* makes about that pericope. Where *Tosefta* supplements Mishnah, I indicate how the supplement clarifies Mishnah's law. When *Tosefta* contradicts a rule of Mishnah, I state the grounds for the disagreement. These frequently arise from some unclarity in Mishnah's own reasoning or in the relationships among several of Mishnah's rules. In either case, understanding *Tosefta* advances our comprehension of Mishnah's laws, and therefore constitutes an important element in interpretation of the tractate.

IV. Texts and Versions

The translation of Mishnah *Terumot* is based on the text found in standard editions of the Mishnah. In preparing the translation I have referred also to the text published by H. Albeck and pointed by H. Yalon, and to all MS. variants cited in Sacks-Hutner. I indicate in parentheses all places in which I

diverge from the reading of the standard edition. The reasons for my choices of reading are found in the body of the commentary or in the footnotes, as appropriate to the particular case. The English translations of Blackman, Lehrman and Danby have been of benefit to me. Points at which my translation depends on their work are indicated in brackets in the translation.

For Tosefta Terumot I translate MS. Vienna, as reproduced in Lieberman, TZ. Full consideration is given to variants found in MS. Erfurt, and to the textual emendations suggested by Lieberman in the notes to TZ and in TK.

CHAPTER ONE

TERUMOT CHAPTER ONE

M.'s first chapter presents rulings on two distinct issues: 1) individuals who are not fit to separate heave-offering (M. 1:1-3, 6), and 2) ways in which heave-offering may not be separated (M. 1:4, 5E-L, 7, 8-9, 10).¹ These two legal themes articulate a single proposition, which will occupy the first two chapters of M. This proposition is that there are circumstances in which produce separated in an improper fashion, or by one who is unfit, is nevertheless considered valid heave-offering. Given this proposition, there are two possible outcomes to any improper separation of heave-offering. On the one hand, even though a separation of heave-offering is made improperly, or by one who is unfit, it may be considered valid. In this case, the produce which was separated as heave-offering will have the status of a consecrated priestly gift. Alternatively, such an improper separation of heave-offering may not be considered valid, even *post facto*. In such a case, the fruit which was separated as heave-offering retains the status of unconsecrated, untithed produce, as does the produce from which it was separated. It is in light of these two possibilities that the redactor has organized the discrete pericopae within the chapter. At M. 1:1-5 we have examples in which a separation of heave-offering is not considered valid even *post facto*.² In contrast, M. 1:6-10³ present cases in which produce separated improperly is considered valid heave-offering *post facto*.⁴

T. to this chapter is exceptionally long, offering material supplementary to each of M.'s pericopae, and contributing several essays of its own. These are on points only tangentially related to M.'s issues. While M. contains few attributed lemmae (Judah and Yose at M. 1:2, the Houses at M. 1:4), T.'s several attributions offer valuable attestations to specific pericopae in M. and, moreover, to the chapter's larger legal concerns. These attestations indicate moreover that not all of the tractate's attributions may be trusted. While the Houses are said to dispute several problems related to improper manners of separating heave-offering (M. 1:4, T. 3:14, 16), it appears that this issue, as well as that of individuals who are not fit to separate heave-offering, was still a topic of debate at Usha. It therefore is unlikely to be authentic in the mouths of the Houses.

Specifically, Judah, T. 1:1A-B, and Simeon b. Gamaliel, T. 1:1G-I, relate to the issue of M. 1:1C1. Judah, T. 1:14A (as well as at M. 1:2), attests M. 1:1E-F. Simeon b. Gamaliel and Isaac, T. 1:15, attest M. 1:1E-F. M. 1:5G-H is attested to Usha by Eliezer b. Jacob, T. 2:8X. Judah, Yose and Simeon b. Eleazar, T. 3:4, attest M. 1:7. Simeon b. Gamaliel and Rabbi, T. 3:15, dispute an issue secondary to M. 1:19.

1:1-3

- A. Five [sorts of people] may not separate heave-offering,
 B. and if they separated heave-offering, that which they have separated is not [valid] heave-offering:
 C. (1) a *heresh* (*hrš*), (2) an imbecile, (3) a minor,⁵
 D. and (4) one who separates heave-offering from [produce] which is not his own.
 E. (5) A gentile (*nkry*)⁶ who separated heave-offering from [the produce of] an Israelite,
 F. even with permission--
 G. that which he has separated is not [valid] heave-offering.⁷

M. 1:1 (b. Shab. 153b, b. Yeb. 113a; D: b. Git. 52a)

- H. A *heresh*
 I. who speaks but does not hear
 J. may not separate heave-offering,
 K. but if he separated heave-offering, that which he has separated is [valid] heave-offering.

L. The *heresh* of which the sages spoke under all circumstances is one who neither hears nor speaks.

M. 1:2 (H-I: b. Ber. 15a; H+J: y. Hag. 1:1, y. Yeb. 12:4; J: b. Hag. 2b, b. Nid. 13b)

- M. A minor who has not produced two [pubic] hairs--
 N. R. Judah says, "That which he separates is [valid] heave-offering."⁸

O. R. Yose says, "If [he separated heave-offering] before he reached the age of vows (*wnt ndrym*), that which he has separated is not [valid] heave-offering.

P. "But [if he separated heave-offering] after he reached the age of vows, that which he has separated is

[valid] heave-offering."

M. 1:3 (b. Nid. 46b; M-N: y. Yeb. 12:2)

The main point of the pericope is made by the repetition at B of the claim stated at A. A notes that certain individuals may not separate heave-offering. From this, B, which states that if they do so anyway, their heave-offering is not valid, should be obvious. This apparent redundancy introduces a distinction central throughout the first two chapters of the tractate. M. claims that the validity of heave-offering *post facto* (B) is not in all cases controlled by the validity of the separation of heave-offering *de jure* (A). The fact that certain individuals should not separate heave-offering does not necessarily affect the validity of heave-offering they have nevertheless separated. As we shall see, M. 1:6, for instance, lists cases in which heave-offering separated by unfit individuals is valid. A-B thus constitute an acute, and important, introduction to the present thematic unit.

The next problem is to explain the list's five entries. We note, first, that the form of the items at C is distinct from that of the entries at D and E-G. Whereas the items at C are substantives without modifiers, D and E are each composed of a noun and relative clause. This means that C and D-G probably elicit distinct principles of law. They must therefore be treated separately from each other.

The *heresh*, imbecile and minor, C, are distinguished from other individuals in that they are not believed to understand the implications of their actions (MR).⁹ The injunction against their separating heave-offering therefore indicates that this separation is to be distinguished from the many other occasions on which an individual takes a portion of produce for his own or someone else's use. More is required than the simple setting aside of an amount of food. The reason is that, in separating produce to be heave-offering, the individual designates that produce to be holy. He accomplishes this only if he is conscious of being engaged in a sacred activity. The deaf mute, imbecile and minor, unable to understand the implications of their actions, can not successfully do this.¹⁰

I already have noted that the form of the items at D and E-G differs from that of the entries at C. It further is clear that D and E-G belong together since G, which specifically glosses F,

also implies an important qualification of D. Yet D likewise must be read with A-C, upon which it depends for sense. D thus is a transitional step, a bridge between C and E-G. The importance in establishing this formal disjuncture is apparent when we turn to interpret D and E-G. We immediately see that, unlike C, these rules do not respond to the superscription at A. These are not examples of individuals who may not separate heave-offering (TYY). (M. 3:9 explicitly states that a gentile may separate heave-offering.) It is only in the present circumstance--when they separate heave-offering from produce which is not their own--that the heave-offering they separate is not valid. D-G thus makes a point different from that of C. This point is that, as M. Kil. 7:4-5 states, a person does not have the power to sanctify property belonging to another. For this reason, an individual may not separate heave-offering from produce which does not belong to him (D, E). F introduces an important qualification of this rule. Heave-offering separated from produce which is not one's own will in fact be valid if the owner of the produce previously has given permission. By making another his agent the owner of the produce gives that person the power to designate heave-offering on his behalf.¹¹ E-G's point, then, is that a gentile may not act as the agent of an Israelite (Bert, MR).¹² While we thus see that D-G makes a point quite different from C, we also can discern the reason it is juxtaposed to C. This is because, with C, it illustrates the central claim that produce separated as heave-offering must achieve a status of sanctity.

M. 1:2H-K continues M. 1:1's discussion of individuals who may not separate heave-offering. It describes an individual, the *heresh* who speaks but does not hear, whose heave-offering is valid *post facto*.¹³ By referring to a specific type of *heresh*, H-K implies a distinction between that individual and other *hereshim*. L underscores this distinction. It informs us that the term *heresh* without further qualification, as at M. 1:1C, always refers to a deaf-mute.

My explanation so far depends on the assumption that H-K is a unitary construction. This may not be the case. The question which must be addressed is whether I in fact is integral to H-K or, alternatively, whether it is an interpolation. If the former is the case, there is no contradiction between the law of the *heresh* at M. 1:1 and that of M. 1:2. The pericopae, rather, refer to different individuals. If the latter is the case, both

pericopae originally referred to the same *heresh*, but disagreed concerning the validity of heave-offering he separates. The interpolation of I at the time the pericopae were juxtaposed will have harmonized this contradiction. The fact that the items at M. 1:1C are substantives without modifiers, while H-I consists of a substantive + relative clause, constitutes formal grounds for considering I an interpolation. This alone, however, is not conclusive evidence that I is interpolated. The individuals at M. 1:1D-E also are described by substantives + relative clauses. We have no reason to believe that the modifiers in those cases are glosses. Formal evidence therefore is not conclusive evidence of the character of I.

Assuming, then, that I is not interpolated, the claim that the pericopae were not originally contradictory still depends on the assumption that, as L states, the term *heresh* without qualification indicates a deaf-mute. There is unfortunately little evidence in M. or T. that may be used to ascertain the exact sense of the term *heresh*. In all of M. and T., M. 1:2L stands alone in alleging that a *heresh* is a deaf-mute. T. 1:2 on the other hand defines a *heresh* as an individual who speaks but does not hear. Since these statements are contradictory, they provide no evidence as to the usual meaning of this term. The only other evidence for the sense of the term *heresh* is at M. Meg. 2:4.¹⁴ The issue there is the fitness of the *heresh* to read in public the scroll of Esther. That pericope therefore must refer to an individual who can speak. Yet this single usage is not strong evidence that the term *heresh* mentioned without qualification in other contexts is not a deaf-mute. Like the formal evidence referred to above, the contextual evidence for the meaning of the term *heresh* is inconclusive.¹⁵

In all, then, the evidence adduced does not offer a basis for positing a state in redaction at which M. 1:1C and M. 1:2H+J-K --contradictory statements of law--were harmonized by the interpolation of M. 1:2I. Whereas the distinction between the *heresh* who is a deaf-mute and the one who is deaf is not made explicit elsewhere in M. or T., there are no formal or contextual grounds on which to conclude that it is artificial here. Let us now turn to the substance of M. 1:2's rule.

Heave-offering separated by M. 1:2's deaf person is valid. It thus appears that that individual is deemed to have the powers of intention required in the designation of produce to be holy. Why, then, may he not separate heave-offering *de jure*?

B. Ber. 15a¹⁶ states that the reason is his inability to hear the blessing one must recite upon separating heave-offering. B.'s reasoning, which establishes proper recitation of a blessing as the *sine qua non* for separating heave-offering *de jure*, follows the viewpoint of T. 3:1-2, which states that inability to recite a blessing is the reason that a person who has had a nocturnal emission, a mute, and a naked person, all mentioned in M. 1:6, may not separate heave-offering *de jure*.¹⁷ The deaf person's blessing is disqualified since he cannot hear it; a person who has had a nocturnal emission and a naked person are not allowed to recite a blessing (M. Ber. 3:4, T. Ber. 2:14); the mute obviously is incapable of reciting a blessing. In holding that these individuals may not separate heave-offering *de jure*, M. distinguishes between actions correlary to the separation of heave-offering, and the more important requirement of proper consciousness of the sacred character of the act. Individuals, like the deaf person, who cannot perform the proper actions, should not separate heave-offering. Yet if they do so anyway, since they do so with proper understanding and commensurate intention, that which they separate is valid heave-offering.

Like M. 1:1C3, M. 1:3 deals with the status of heave-offering separated by a minor. The pericope does not, however, refer to M. 1:1, or depend on it for its sense. This is important since, as we shall see, Judah, M. 1:3N, cannot agree to the law of M. 1:1C3.¹⁸ M provides a topic sentence for both Judah's and Yose's opinion. Its own interpretation, however, is problematic. The growth of two pubic hairs is itself a sign of majority (M. Nid. 6:11). The clause "who has not produced two pubic hairs" therefore does not qualify the term "minor" in any way. By definition a minor is someone who has not produced two pubic hairs. This is a difficulty which the extant sources do not allow us to solve.¹⁹ Judah, N, states that even *de jure* a minor may separate heave-offering. He would clearly disagree with the rule of M. 1:1C2, which holds that heave-offering separated by a minor is in no event valid.²⁰ Yose distinguishes between two different types of minors, one who has reached the age of vows, and one who has not. The age of vows is one year before the age of majority.²¹ At this age, the minor is considered capable of understanding the nature of the rite of separating heave-offering (MR). Once he has this understanding, even though he is a full year from majority, the minor may validly separate heave-offering.

Yose's larger perspective on the requirements of the separation of heave-offering thus is fully in line with that of M. 1:1C and M. 1:2.

A. R. Judah says, "A deaf-mute who separated heave-offering--

that which he has separated is [valid] heave-offering."

B. Said R. Judah, "M^ešh b- The sons of R. Yohanan b. Gudgada were deaf-mutes, and in Jerusalem all of the foods requiring preparation in purity were prepared under their supervision (n^ešyn e^l gbn)."

C. They said to him, "Is that evidence [that a deaf-mute may separate heave-offering]?"

"For foods requiring preparation in purity do not require intention (mḥšbh) and [therefore] may be prepared under the supervision of a deaf-mute, imbecile or minor. [But] heave-offering and tithes require intention [and therefore may not be separated by such individuals]."

D. R. Isaac says in the name of R. Eleazar, "The heave-offering of a deaf-mute does not enter the status of unconsecrated food (l' ts' lḥwlyn) [even though it is not valid heave-offering] because [there is] a doubt whether or not he has understanding (d^et)."

E. What do they do for him?

[Since his understanding is in doubt, he may not separate his own heave-offering. Yet since he may have understanding, executors may not separate heave-offering for him (Lieberman).]

F. The court appoints him executors and he separates heave-offering and they validate it (mqyymyn 'wtw)²² at his side.

[If the deaf-mute has understanding, the sanctity of the heave-offering depends on him alone. If not, the action of the executors is sufficient to make the heave-offering valid.]

G. Rabban Simeon b. Gamaliel says, "Who is the deaf-mute [whose heave-offering is not valid, as at M. 1:1]?"

H. "Anyone who was a deaf-mute from birth (mthyltw).

I. "But if he was of sound mind and became a deaf-mute (pqh wnthrš),²³ he may write [indicating his intention to separate heave-offering], and they validate [the document] for him (mqyymyn e^l ydyw)²⁴ [but the sanctity of the

heave-offering depends solely on the deaf-mute]."

T. 1:1 (A-C+F: y. Ter. 1:1; D:
b. Shab. 153a, b. Yeb. 113a; G-H:
b. Git. 71a, y. Git. 7:1)

The pericope is composed of three autonomous units, A-C, D-F, G-I. A introduces the debate at B-C. D is glossed by E-F. The material presented complements M. 1:1C1's discussion of the deaf-mute's separation of heave-offering.²⁵

Judah, A, states that heave-offering separated by a deaf-mute is valid, contrary to the rule of M. 1:1C1. B gives the basis for his opinion, a precedent which is actually irrelevant to the issue of heave-offering.²⁶ Sages, C, point this out. They distinguish between foods requiring preparation in purity and heave-offering. The preparation of foods in purity requires only supervision, so that the foods do not come into contact with a source of impurity. The separation of heave-offering, on the other hand, requires understanding. Sages take for granted that the deaf-mute, imbecile and minor, although perfectly capable of supervising, do not have the understanding required in the separation of heave-offering.²⁷

Isaac (D-F) offers a middle ground between Judah and the law of M. 1:1C1. He states that heave-offering separated by a deaf-mute is in a status of doubt. Such heave-offering therefore may not be eaten as unconsecrated food, although the produce from which it was taken is still deemed untithed. According to F, the sanctity of heave-offering may depend on an individual other than the one who physically separates it.²⁸ This takes to an extreme the distinction made in M. between the ritualistic aspects of separating heave-offering (e.g., reciting a blessing) and the required consciousness of the sacred character of the act. Human intention alone is the critical factor in the valid separation of heave-offering.

Simeon b. Gamaliel's point, G-I, is that only an individual born a deaf-mute is not deemed to have the understanding required to separate heave-offering. An individual who once possessed all of his faculties, but later became a deaf-mute, remains in the category of one who has understanding. Executors are needed only to witness his document, thereby verifying the fact that produce he is about to separate is intended as heave-offering.²⁹

A. [One who] hears but does not speak-- that is a mute.

B. [One who] speaks but does not hear-- that is a *heresh*.

C. And each of these is equivalent to a person of sound mind in every respect.

T. 1:2 (b. Hag. 2b, b. Git. 71s)

The pericope presents definitions of the mute and the *heresh* in balanced declarative sentences. A is pertinent below, at M. 1:6C1. The definition of the *heresh*, B, is complementary to M. 1:2H-I, yet contradicts M. 1:2L, as I have noted above. B+C thus strengthens the distinction between the deaf-mute "of which the sages spoke," M. 1:1C1, and the deaf person, M. 1:2H-K. As already stated, the distinction is between the individual who does not have the understanding required to separate heave-offering, and one who is "equivalent to a person of sound mind," that is, who has the required understanding.

A. Who is an imbecile?

B. (1) One who goes out alone at night, (2) who sleeps in a graveyard, (3) who rips his clothing and (4) who loses what is given him.

C. [What if he is] at times an imbecile [and] at times lucid (*h'lw*)?

D. This is the general principle:³⁰

E. Whenever he is an imbecile, he is [deemed] an imbecile in every respect.

But [whenever he is] sane, his is equivalent to a person of sound mind in every respect.

T. 1:3 (y. Ter. 1:1, y. Git. 7:1;

A: b. Hag. 3b; C+E: b. R.H.

28a)

T.'s two parts, A-B and C-E, complement M. 1:1C2. Yet like T. 1:2, they do not relate specifically to the issue of heave-offering, or depend on M. in any way for sense. They simply provide a definition of the imbecile mentioned anywhere in M. or T.³¹

A. R. Judah says, "[As regards] a minor whose father placed him in a cucumber field--

"he [i.e., the minor] separates heave-offering (*hw' twrm*)³² and his father speaks (*mdbv*)³³ at his side [indicating approval]. That which he separates is [valid] heave-offering."

B. They said [to him], "It is not he [i.e., the minor] who separated heave-offering, but rather his father who confirmed [it] after him (š'y^{mn} 'hryw)³⁴."

T. 1:4 (y. Ter. 1:1)

T. has Judah defend his position of M. 1:3N. He does this by providing an example in which a minor validly separates heave-offering. Sages, B, claim that the example does not prove Judah's point. They differentiate between the one who physically separates the heave-offering, and the one who, through his intention, validates the separation. They state that here the sanctity of the heave-offering depends on the father. The minor therefore cannot be said himself to have separated it.

A. How does one separate heave-offering from [produce] which is not his own [as at M. 1:1D]?

B. [If one] went down to his fellow's field and picked [produce] and separated heave-offering [from it] without permission--

C. if he [i.e., the fellow, the householder] is apprehensive of robbery, that which [the other] has separated is not [valid] heave-offering;

D. but if he is not apprehensive of robbery, that which he has separated is [valid] heave-offering.

E. How does one know whether or not he is apprehensive of robbery?

F. When (hry š-) the householder came and found him and said to him, "Go to the fine [produce to pick]"--

G. if there was fine [produce], [the householder meant what he said (Lieberman) and thus] he is not apprehensive of robbery;

H. but if not [i.e., if there was no fine produce]-- lo, this one is apprehensive of robbery [and his comment was a cynical one (Lieberman)].

I. If the householder should pick and add to them [i.e., to what the other already has picked], either way [i.e., whether or not there was fine produce], he is not apprehensive of robbery.

T. 1:5 (y. Ter. 1:1, b. Qid. 52b,
b. B.M. 22a)

T. augments M. 1:1D by claiming that the validity of heave-offering separated from produce belonging to someone else does not depend on the owner's having given permission prior to the actual separation. The owner's granting or withholding of

permission may be established after the fact, on the basis of his attitude towards the individual found in his field. This being the case, B-I ignores the question stated at A and explores the problem of how to discern that attitude. The criterion offered is whether or not the owner objects to the other person's taking control of some of his produce. If he is "apprehensive of robbery," the owner clearly would not have given the intruder permission to take heave-offering from the produce.³⁵ Since he does not agree to what the other has done, that individual's separation of heave-offering is not considered valid. On the other hand, the owner may show through words (D, G) or actions (I) that he does not mind the other individual's taking some of his produce. If this is the case, it may be assumed that, if asked, the owner would have given the other person permission to separate heave-offering from the produce. For this reason, that which the other has separated is considered valid heave-offering.³⁶

A. [As regards] a thief, an extortionist ('ns)³⁷ and a robber--

B. heave-offering they separate is [valid] heave-offering, tithes [they give] are [valid] tithes, and that which they dedicate [to the Temple] is [validly] dedicated.

C. [But] if the [original] owners chased them [in order to recover their property]--

D. heave-offering they separate is not [valid] heave-offering, tithes [they give] are not [valid] tithes, and that which they dedicate is not [validly] dedicated.

E. Individuals who possess property confiscated from the original owners by the government (b^oly bty syqryqwn)--

F. heave-offering they separate is [valid] heave-offering, tithes [they give] are [valid] tithes, and that which they dedicate is [validly] dedicated.

G. A son, a hired man, a slave and a wife ('yšh) separate heave-offering from that which they eat, but may not separate heave-offering from everything [i.e., from anything which is not specifically theirs to eat],

H. since a person does not separate heave-offering from that which is not his own [see M. 1:1D].

I. A son, from his father's [produce], and a wife from her dough, [even though they will not eat it all themselves]-- these may separate heave-offering,

J. for they separate heave-offering with permission.

T. 1:6 (A-D: y. Bik. 1:2;

A-B: b. B.Q. 67a, 114a-b)

The pericope complements M. 1:1D by carrying forward the issue introduced at T. 1:5, that of implied permission to separate heave-offering. Each of its two parts, A-F and G-J,³⁸ is carefully formulated. A-F's three rules are marked by the apodosis which repeats at B, D and F. G-J's two rules, G-H and I-J, bear their own exegetical glosses, H and J.

The individuals at A have taken property by force. Only on the assumption that the original owners have given up hope of recovering the property may these individuals separate heave-offering. In such a case the property is deemed to belong to the thieves. If the original owners protest (C), they show that they still consider the property their own and do not consent to anyone else's making use of it. In this case, heave-offering separated by the thief, extortionist or robber is not valid. An individual who holds property confiscated by the government (E) is considered its legal owner (T. Git. 5:1).³⁹ For this reason even if the original owner protests, heave-offering separated by the present owner is valid (Lieberman).

G-H and I-J contradict each other. Each refers to a *son* and *wife*, yet they do not agree as regards the right of these individuals to separate heave-offering. Still, the contrasting glosses at H and J indicate that the rules are to be read as a unit. The point which emerges is that individuals assumed to have permission to separate heave-offering may do so, even if the permission has not been made explicit. This works as follows. The individuals at G-H have no reason to separate heave-offering from anything but what they eat, and therefore may not do so. They are not presumed to have the householder's permission. The individuals at I-J, on the other hand, must separate heave-offering in order to complete tasks they are performing for the householder. The wife must separate dough-offering before completing work on the dough. The son is helping his father harvest (Lieberman), or is doing some other task that requires him to separate heave-offering. Since it may be assumed that the householder expects the individuals concerned to separate heave-offering and complete the tasks assigned to them, heave-offering they separate is valid.

T. 1:7-8 are found below, after M. 3:4.

A. A householder is permitted to set aside (*lhqpyd*)⁴⁰ [from his produce] a tithe which is liable to the separation of agricultural offerings (*m^csr t^bl*), in the quantity of the heave-offering of the tithe which is in the first tithe [required from the same produce].

B. R. Yose says, "[As regards] a householder who separated the heave-offering of the tithe (*štrm 't hm^csr*)⁴¹-- "that which he has done is done [and valid]."

T. 1:9 (B: y. Ter. 1:1, see
b. Git. 30b-31a)

At issue is the householder's right to separate heave-offering of the tithe. This offering usually is given to the priest by the Levite, from the Levite's own first tithe. The problem is addressed in two autonomous statements of law. While set in the semblance of a dispute, each has its own operative language. B further does not depend on A for sense. We therefore must turn to each rule separately.⁴²

A assumes that the householder may not separate heave-offering of the tithe in place of the Levite. By doing so he would arrogate to himself the exclusive right of the Levite. The householder may, however, set aside an amount of produce for the Levite to designate as heave-offering of the tithe. Lieberman (TK, I, p. 300) gives the reason that the householder would wish to do this. As its name implies, heave-offering of the tithe is of the same high order of sanctity as heave-offering. It must be consumed by the priest in purity. Since such stringency does not apply to first tithe, however, the Levite is likely to receive his portion--from which he must separate heave-offering of the tithe--from unclean produce (see T. 3:12). Heave-offering of the tithe separated by the Levite from this unclean produce would not be usable. In order to alleviate this problem, the householder sets aside a quantity of produce in a state of cleanness for the Levite later to designate as heave-offering of the tithe for the unclean first tithe he receives.⁴³ Thus the priest will receive heave-offering of the tithe in a state of cleanness.

Yose's concern is the householder who actually separates (that is, designates as holy) heave-offering of the tithe. He states that heave-offering of the tithe separated by the householder is valid. Yet this opinion implies that he, like A, holds that, in general, the householder should not separate heave-offering of the tithe and thereby arrogate to himself the right

of the Levite to do so.⁴⁴ This shared, but unstated, assumption of A and B most likely accounts for their redactional juxtaposition.

A. Executors ('*pytrwpy*m) separate heave-offering and give tithes [required of] the property of orphans.⁴⁵

B. They sell houses, fields and vineyards, cattle [and] male and female slaves,

C. in order to provide food for orphans [and] to prepare for them a *sukkah*, *lulab* and show-fringes,

D. and [to to perform for them] every obligation (*mswwh*) which is stated in the Torah--

E. to purchase for them a scroll of the Torah and Prophets (ed. princ. adds: and Hagiographa),

F. [that is,] a duty the scope of which is clearly defined in the Torah (Jastrow, p. 1404, for *dbr hqswb mn htwrh*).⁴⁶

G. But they may not redeem captives on their account [i.e., with funds from these sales], nor, in the synagogue, levy upon them charity to the poor,

H. [that is, any] duty the scope of which is not clearly defined in the Torah.

I. (*w*) They are not permitted to set [the orphan's] slaves free [by letting the slave pay his value], but they may sell them to others in order that they set them free.

J. Rabbi says, "I say that [the slave] may give him [i.e., the executor] his value and redeem himself."

T. 1:10 (T. B.B. 8:14, b. Git.

52a; G: B.B. 8a; A: see

M. Git. 5:4)

K. [Executors] may not sell [property of orphans] that is at a distance in order to purchase⁴⁷ [property] that is near; [nor may they sell] that which is of low quality in order to purchase that which is of high quality.

L. They may not litigate for the orphans [neither in cases in which the orphans stand] to incur a liability nor [in cases in which the orphans stand] to receive a benefit, either to make a claim [against others] or [in cases of] a claim being made [against the orphans] (*lhnys wlnwsy'*; Lieberman, TK, I, p. 302), unless they have received permission from a court.

M. "Executors must make account with the orphans [of all business dealings they have engaged in] at the end [of

their tenure as executors]," the words of Rabbi.

N. Rabban Simeon b. Gamaliel says, "Orphans have nothing other than that which the executors left them [i.e., no accounting need be made]."

O. [Executors] may sell slaves in order to purchase landed property, but they may not sell landed property in order to purchase slaves.

P. Rabban Simeon b. Gamaliel says, "[They may] not even [sell] slaves in order to purchase landed property."

Q. A court may not make executors of woman and slaves in the beginning [i.e., of its own accord].

R. But if their [i.e., the orphans'] father appointed them during his lifetime, they may make them executors.

T. 1:11 (T. B.B. 8:14, b. Git. 52a; M-N: see M. Git. 5:4)

Only the superscription, A, relates T. 1:10-11 to the issue of heave-offering, specifically, to the problem of separating heave-offering from produce which belongs to someone else, M. 1:1D. The term *executors*, at A, provides the antecedent of the pronoun *they* throughout the well articulated essay which follows. The construction is otherwise independent of that stich and autonomous of M. Terumot.

A. R. Simeon b. Menasia⁴⁸ says, "Orphans who were supported (*šsmkw*) by a householder--whether their father [before his death], or a court [after the father's death] made them dependent [on him]--

"he tithes [produce] and provides food for them [from both the unconsecrated food and the tithe of the poor (Lieberman)], for the sake of the social order (*mpny tyqwn h^cwlm*, Jastrow, p. 1666; Danby (M. Git. 4:2): as a precaution for the general good)."

B. And thus would R. Simeon b. Menasia say, "An orphan, the son of a Levite, who was growing up under the care of (*'sl*) a householder--

"he tithes [produce] and provides food for him [from both the unconsecrated food and the first tithe (HD, Lieberman)], for the sake of the social order."

C. If the son of his [i.e., the householder's] wife [who the householder is not required to maintain] was a priest or a Levite--

lo, this one [i.e., the householder] provides food for

him from his [i.e., the child's] portion (adding *mhlqw*, as at F) [i.e., feeds him tithe or heave-offering, alone].

T. 1:12 (A: see M. Git. 5:4)

D. A minor who said to someone in the market place, "Provide me tithe [of the poor] to eat"--

he provides him [tithe], for the sake of the social order.

E. If he [i.e., the householder] was raising (read *mgdl* for *lgdl*; see Lieberman, TK, I, p. 305), a priest or a Levite or a poor child [and is therefore responsible for the child's maintenance]⁴⁹--

lo, this one provides food for them from his [i.e., the householder's] own [tithed, unconsecrated produce].

F.⁵⁰ If the son of his wife was a priest, a Levite or a poor child--

lo, this one provides food for him from his [i.e., the child's] portion [alone] [=C].

G. If [the householder] owed him [i.e., the child of F] sustenance, or if [the child] worked with him for his sustenance--

lo, this one [i.e., the householder] provides food for him from his own [i.e., the householder's own tithed, unconsecrated food, but not from heave-offering or tithe, the case being like that of E].

H. And he makes for him [i.e., the child] an investment of his portion [i.e., the householder may sell the heave-offering or tithes he separates and save the money to be given to the child at a time that the householder no longer is in debt to him].

T. 1:13 (G-H: See b. B.M. 87b,

b. B.B. 52a)

The discussion of the proper treatment of orphans continues. The issue now is the circumstances under which a householder may use heave-offering or tithe to maintain orphans. T. distinguishes between children whom the householder is legally required to maintain (E, G) and children who eat at the householder's table, but who are not legally dependent on him (C, F).⁵¹ The householder may not support the former with heave-offering or tithe. By doing so, he escapes providing for them at his own expense and therefore uses heave-offering or tithes to his own benefit. In the case of children he is not required to feed, however, the

householder gains nothing by feeding them heave-offering or tithe. It is as if he gave these things to any priest, Levite, or poor person.

Simeon b. Menasia (A, B) disagrees with the rules of E and G. He states that the householder may separate tithe and give it, along with the now-tithed produce, to a Levite or poor child for whom he is responsible. Lieberman suggests that this is for the "general good" in that it assures that householders will not refrain from taking in and maintaining orphans, who otherwise would be supported solely from tithe.

D, finally, does not involve the householder's right to give tithe to a child who eats at his table. It is redacted here because it is a rule "for the sake of the social order," and, moreover, because, like the rest of the pericope, it deals with the proper distribution of tithe. Normally poorman's tithe is not distributed in the market place. The case of the poor child is an exception, legislated in order that a child might not go hungry (Lieberman, TK, I, p. 304).

A. A householder may not separate [first] tithe (*l' ytrwm 't hm^osr*)⁵² [in order to make use of it himself and later pay the Levite its value] and [only afterwards] ask permission of a Levite.

B. Nor [may he take] the shoulder, two cheeks and maw [referred to in Dt. 18:3] and [only afterwards] ask permission of a priest.

C. But he may make them [either the Levite or priest] a loan, in order [later] to take (*lhywt mpryš*: ed. princ., HD, HY)⁵³ [repayment] for them from their portion.

D. Friends [of a householder] among the priesthood or Levites (*mkry khwnh wlyyh*, reading with Rashi, b. Git. 30a, Lieberman and HY; HD reads: friends of a particular priest or Levite) are not permitted to do this [i.e., to borrow money and allow the lender to collect from their portion (Lieberman)].

E. But [in the case of] lost things [i.e., lost heave-offering or tithe], it is permitted [i.e., either the householder at A may take them for his own use and only afterwards ask permission (HY, HD), or a priest or Levite who has taken a loan from a friend may allow that friend to use them as repayment of the loan (MB)],

F. since [the finder] is equivalent to one who returns a lost thing.

T. 1:14a (see M. Git. 3:7,

b. Git. 30a, T. Dem. 8:15)

T. 1:14a refers to individuals who wish to make personal use of priestly gifts or the Levites' tithe. For this reason it refers to items that are not holy, and which may be used by non-priests. Still, a non-priest may not generally take such things for his own use (A, B), thereby arrogating the rights of the priest or Levite. Matters are different, C, when a prior arrangement with the priest or Levite exists.⁵⁴ Lieberman (TK, I, p. 305-6) provides the reasoning behind D's qualification of this rule. He states that by borrowing money and arranging for the lender to take repayment from priestly gifts or tithe, priests and Levites assure themselves of receiving a portion (or the value thereof). Priests or Levites who always receive priestly gifts or tithe from a particular householder gain no benefit from borrowing on their portion and for this reason may not do so.⁵⁵

If E-F refers back to A-B, the point is that an individual who finds lost priestly gifts or tithe may use them himself and pay their value at his convenience. This is the dispensation given to an individual who finds a lost thing (F). Alternatively, E qualifies D, and the point is that since the finder of lost priestly gifts or tithe normally is required to give them to the first priest or Levite he encounters, there are no "friends among the priests or Levites" as regards their distribution (Lieberman). For this reason, even the individual who has made a loan to a friend who is a priest or Levite may take them for his own use, as repayment of that loan.

T. 1:14b is below, after M. 8:8-12.

A. *A gentile who separated heave-offering from [the produce of] an Israelite, even with permission--that which he has separated is not [valid] heave-offering [= M. 1:1E-G].*

B. *M^cSh b-* In Pegah,⁵⁶ an Israelite said to a gentile, "Separate the heave-offering [required] of [the produce on] my threshing floor," and he separated it, and [afterwards] the heave-offering fell back [into the unconsecrated food still] on the threshing floor. (w) The case came before Rabban Simeon b. Gamaliel [for judgement], and he ruled, "Since a gentile separated the heave-offering [as an agent], it is not [valid] heave-offering [which was mixed with the

produce on the threshing floor. Therefore all of the produce remains in an untithed, unconsecrated status]."

C. R. Isaac says, "A gentile who separated heave-offering from [the produce of] an Israelite, and the owner validated [it] at his side--

that which he has separated is [valid] heave-offering."

T. 1:15 (A: b. Shab. 153b,

b. Yev. 113a, b. Git. 23b; C:

see y. Ter. 1:1, y. Dem 6:1)

A-B illustrates M. 1:1E-G's rule that a gentile acting as the agent of an Israelite may not separate heave-offering. The gentile's offering is not valid and therefore does not impart the status of heave-offering to unconsecrated produce with which it is mixed.⁵⁷ Isaac, C, applies to the case of the gentile the principle of T. 1:1E-F and T. 1:4B. The validity of heave-offering depends on the one who designates it, not on the one who physically separates it.

A. (1) One who sells produce to this fellow and says to him [afterwards], "The produce I sold you is not tithed,"

(2) "The meat [I sold you] is meat of a firstling,"

(3) "The wine [I sold you] is wine for libations"--

B. [in accordance with] the measure of the law (*šwrt hdy*n), he is not believed [since he thereby shows himself purposely to have acted wrongly in making the sale].

C. R. Judah says, "Israelites are not held suspect of doing that [i.e., of lying about the status of produce they have sold]. Rather, it is all [i.e., each case is judged] in accordance with the character of the [particular] individual [and only a known liar is not believed]."

T. 2:1 (T. M.S. 3:12)

D. [If] one was offering sacrifices with him [i.e., his fellow] and said to him, "They have been made refuse [by my improper intention]," [or if] he was preparing with him foods requiring preparation in cleanness and said, "They have become unclean"--

E. Israelites are not held suspect of doing that [i.e., of lying about the validity of Temple service, and therefore he is believed].

F. But [if] he said to him, "Sacrifices which I offered with you on that [particular] day [in the past] were made (Lieberman adds: refuse,) ["Foods requiring preparation in

cleanness which I prepared with you on that [particular] day [in the past became] unclean"--

G. [in accordance with] the measure of the law, he is not believed [since by admitting that he did not immediately inform the other individual, he shows himself to have acted wrongly].

H. R. Judah says, "Israelites are not held suspect of doing that. Rather, it is all [i.e., each case is judged] in accordance with the character of the [particular] individual."

T. 2:2 (b. Git. 54b)

I. One who sacrificed the paschal lamb for the fellows of his group (*bny hbwrah*; Jastrow, p. 416: "Those united for eating the Passover lamb in company." See, e.g., M. Pes. 7:3) and said (that), "I did not sacrifice it for its own name [i.e., with proper intention]"--

J. [in accordance with] the measure of the law, he is (Lieberman adds with ed. princ. and T. Pes. 4:7: not) believed.

K. R. Judah says, "[If it was] before they began [to eat] it [that he made the statement], he is believed.

L. "But [if it was] after they began [to eat] it [that he made the statement], he is not believed."

T. 2:3 (T. Pes. 4:3)

The pericopae are autonomous of M. and the topic of heave-offering, marking the conclusion of T.'s unit of materials pertinent to M. 1:1-3.⁵⁸ The principle at A-B,⁵⁹ F-G and I-J is that an individual's own testimony may not be accepted as evidence that he is a wrongdoer.⁶⁰ Judah, at C and H, rejects this principle. He says that, in general, an individual may be believed concerning his own actions, even if he claims to have acted wrongly. Only in cases in which the individual is a known wrongdoer may we assume that he has some motive and therefore is lying.⁶¹

D-G distinguishes between a case in which the individual in question acknowledges an error or mishap immediately (D-E), and one in which he says nothing until, by his own words, he has caused the cult to be profaned (F-G). In the former case, there is no wrongdoing involved. Since he simply states that some mishap has occurred, there is no reason not to believe him. In the latter circumstance (F-G), even if the individual were telling the truth, his not having stated the facts immediately is incriminating.

His own words may not be taken as evidence that he is a wrongdoer, and so he is not believed.

The individual at I states that, through his own misdeed, the paschal lamb was improperly sacrificed (see M. Zeb. 1:1). According to J, even if he admits this at once, he shows himself to be a wrongdoer and cannot be believed. Judah now makes a distinction such as the one made between the cases of D-E and F-G. If the individual makes his admission immediately, Judah holds that the case is like that of D-E. He simply acknowledges an error, and there is no reason not to believe him. If, however, the individual waits until the others have begun to eat before making his statement, he claims to have allowed them to eat of an unfit paschal lamb. Since the individual thus shows himself to be an evil doer, he may not be believed. In making this distinction, Judah is inconsistent with his previously held opinion. He should be expected to hold here, as he does at C and H, that each case is judged in accordance with the character of the particular individual involved.

1:4

A. They may not separate olives as heave-offering for [olive-] oil, nor grapes [as heave-offering] for wine.

B. And if they separated [either olives as heave-offering for both olives and oil, or grapes as heave-offering for both grapes and wine (Maimonides, *et. al.*)]--

C. The House of Shammai say, "Their [i.e., the grapes' or olives'] own heave-offering is in it [i.e., in that which they have separated; but that which they separated for the wine or oil is not valid heave-offering]."

D. And the House of Hillel say, "That which they have separated is not [valid] heave-offering [in any respect]."

M. 1:4 (y. Ter. 1:4, 5, 8; see also: T. Ter. 3:14, M. Ed. 5:2, y. Ma. 2:3, y. Git. 4:2; C: see y. Ter. 3:3, 4:4, Sifré Bammidbar #122, Horovitz, p. 147-48)

M. 1:10 states that the heave-offerings of processed foodstuffs may not be separated from their unprocessed ingredients. From this follows the rule at M. 1:4A, that heave-offering may not be separated from olives or grapes for oil or wine (y. Ter.

1:4, Bert, TYY, Sens, Albeck).⁶² At B-D the Houses dispute the

status of heave-offering separated in contradiction to this rule.⁶³ On formal and, concomitantly, substantive grounds, the opinion of the Shamaites is difficult. In light of the language operative in the present thematic unit of the tractate, we would expect them to state the logical opposite of the Hillelite opinion, viz., "that which they have separated is valid heave-offering."⁶⁴ In order to make sense of the Shammaite opinion as it stands, we must posit a case such as the one I have interpolated (following all of the exegetes) at B. The individual separates grapes as heave-offering for both grapes and wine, or olives as heave-offering for both olives and olive-oil. The House of Shammai state that even *post facto*, that which was separated for the oil or wine is not valid heave-offering. Yet what about the grapes which were separated as heave-offering for grapes, or the olives which were separated as heave-offering for olives? The Shamaites see no reason that these should not be valid heave-offering. They do not deem probative the individual's original intention to separate heave-offering for both grapes and wine, or olives and oil. That which was separated for its own kind therefore may be considered as valid heave-offering.

When understood apart from the context provided by the opinion of the House of Shammai--which requires the interpolation at B--the House of Hillel state simply that, even *post facto*, heave-offering separated in contradiction to A's rule is not valid.⁶⁵ In light of the Shammaite view--and the interpolation at B--the opinion of the House of Hillel takes on a second level of meaning. Unlike the Shamaites, the Hillelites take seriously the individual's original intention. He intended to separate heave-offering from olives for both olives and oil, or from grapes for both grapes and wine. Since this cannot be accomplished, the heave-offering he separates is in no way valid.⁶⁶

1:5

- A. They do not separate heave-offering
 - I. B. (1) from gleanings, or (2) from forgotten sheaves, or (3) from [produce growing in the] corner of a field, [which is left for the poor], or (4) from ownerless property;
 - II. C. and (5) not from first tithe from which heave-offering [of the tithe] has been removed;
 - D. and (6) not from second tithe or [produce] dedicated [to the Temple] which have been redeemed;
 - III. E. and⁶⁷ (7) not from that which is liable [to the

separation of heave-offering] for that which is exempt [from the separation of heave-offering];

F. and not from that which is exempt for that which is liable;

G. and⁶⁸ (8) not from that which is picked for that which is not picked (*mhwbr*);

H. and not from that which is not picked for that which is picked;

I. and (9) not from that which is new [viz., produce of the present year] for that which is old [viz., produce left over from a previous year (T. 2:6)];

J. and not from that which is old for that which is new;

K. and (10) not from produce of the Land [of Israel] for produce from outside of the Land [of Israel];

L. and not from produce from outside of the Land [of Israel] for produce of the Land [of Israel].

M. And if they separated heave-offering [from any of the types of produce listed at B-D, or in any of the fashions described at E-L]--

N. that which they have separated is not [valid] heave-offering.

M. 1:5 (A-B: y. Ter. 1:5; A-D:
M. Hal. 1:3; G: b. Qid. 72a,
y. Qid. 3:5; G-J: M. M.S. 5:11;
I-J: T. R.H. 1:9, T. Bik. 7:1,
Sifré Debarim 105 [Finkelstein,
p. 164, ls. 1-3]; G-L: Sifré
Bamidbar 120 [Horovitz, p. 147,
ls. 4-9])

The list of ten entries is divisible into three formally distinct units of material, B, C-D and E-L. The items at B are described by unmodified substantives. C-D is slightly different, substantives modified by relative clauses. Yet it is clear that C-D belongs with B. This is indicated by the use of this same series of items at M. Ter. 6:5 and M. Hal. 1:3. A major shift in formulation occurs at E-L, which presents four balanced doublets (E-F, G-H, I-J, K-L). Since it is likely that this shift in formal pattern indicates a change in issue, the pericope will here be treated in its two major parts, B-D and then E-L.⁶⁹

Gleanings, forgotten sheaves and produce which grows in the corners of a field are left by the householder for the poor. As gifts which the householder is required to give up from his

produce, they are not liable to the separation of heave-offering.⁷⁰ These things are like other types of sanctified offerings, which stand outside of the system in which produce normally becomes liable to the separation of heave-offering and tithes. Produce which grows wild, or which is abandoned by its owner (B4) likewise remains outside of this system. M. Ma. 1:1 stipulates that in order to become subject to the separation of tithes, produce must be owned.⁷¹ Like the items at B1-3, first tithe and second tithe (C-D) are agricultural offerings, and therefore not liable to the separation of heave-offering. Even if they are redeemed, such that they revert to an unconsecrated status, they do not take on liability.⁷² Since at the point at which liability normally is incurred they stood outside of the system of tithes, they never enter that system.⁷³

At E-L, M.'s interest turns to unacceptable methods of separating heave-offering. According to E-F, if a quantity of fruit is to be separated from one batch of produce as heave-offering on behalf of another batch, each of the batches must be liable to the separation of heave-offering. On the one hand, produce intended as heave-offering for produce which is not liable may not be considered valid heave-offering. It is as if the heave-offering was taken from the exempt produce itself. On the other hand, heave-offering separated from produce which is not liable (F) in no event may be deemed valid heave-offering. G-H and K-L are examples of these rules. Produce which is not yet picked, G-H, is not liable to the separation of heave-offering, for it is not food. Only produce of the Land of Israel, K-L, is subject to the separation of heave-offering and tithes.⁷⁴ The issue at I-J is separate. Produce of all years of the sabbatical cycle is liable to the separation of heave-offering. Yet M. takes seriously the change of years in that cycle, and holds that produce of one year is not homogeneous with produce of a different year. For this reason, heave-offering may not be separated from the fruit of one year of the sabbatical cycle on behalf of fruit of a different year.

- A. *They may not separate heave-offering from new [produce] for that which is old [= M. 1:5H]. How so?*
- B. *They may not separate heave-offering from produce of the present year for produce of the past year;*
- C. *and not from produce of the past year for produce of the present year.*

D. But [in the case of] a field [of trees (HD, Lieberman; see b. R.H. 15b)] which produces two crops (*brykwt*; E: *grnwt*) in one year.

E. and so (*wkn*; E: *kgwn*)⁷⁵ an irrigated field [which gives produce continually throughout the year, M. B.B. 3:1]--

F. they may separate heave-offering and give tithes from one [crop] for the other [within the same year (HY, Lieberman)].

G. [If] he picked a vegetable on the evening of the new year before the sun set, and picked again after the sun set-- they (sic) may not separate heave-offering or give tithes from one for the other,

H. since one is new, and the other is old.

I. [If] it was the second [year of the sabbatical cycle when he picked the first vegetable] and the third [year] began [before he picked the second vegetable]--

the first [picked] is subject to second tithe [as required in the second year of the cycle] and the second [picked] is subject to tithe of the poor [as required in the third year of the cycle].

J. [If] he picked an ethrog [which is like the fruit of a tree in all respects except that it is tithed in accordance with the year in which it is picked, M. Bik. 2:6] on the fifteenth of Shevat [the new year of trees, M. R.H. 1:1] before the sun set and picked again after the sun set--

they may not separate heave-offering or give tithes from one for the other,

K. since one is new and the other is old.

L. [If] it was the third [year of the sabbatical cycle when he picked the first ethrog] and the fourth [year] began [before he picked the second ethrog]--

the first [picked] is subject to tithe of the poor and the second [picked] is subject to second tithe.

T. 2:6 (T. R.H. 1:9, b. R.H. 15b)

M. *They may not separate heave-offering from picked [produce] for unpicked [produce] [= M. 1:5F]. How so?*

N. [If] he said, "This picked produce is designated heave-offering and tithes for this [other] unpicked produce,"

O. or, "This unpicked produce is designated heave-offering and tithes for this [other] picked produce"--

P. he has not said anything.

Q. But [if] he said, "This picked produce is designated heave-offering and tithes for this [other] unpicked produce as of the time that it will be picked"--

R. he may eat of it [i.e., of the picked produce] as a random meal, and he may designate it heave-offering and tithes for [produce of] another place [in his field] until [the unpicked produce] is picked.

S. [When] it is picked--

his designation becomes valid (*dbryw qyymyn*) [and the picked produce becomes heave-offering or tithes for what was originally unpicked produce].

T. 2:7 (b. Kid. 62b, y. Hal. 4:5)

T. In the same way:

U. [As regards] someone who was coming along the way, and a basket of untithed produce (*prwt š'yinn mtwqnym*) was in his hand, and he said, "Lo, this [basket of produce] is designated heave-offering and tithes for produce which I have in my home, as of the time I will reach the city"--

lo, this one eats from it [i.e., the basket] as a random meal, and designates it heave-offering or tithes for [produce of] another place [in his field] until he reaches the city.

V. [When] he reached the city--

his designation becomes valid [and the produce in the basket becomes heave-offering or tithes for the produce in his home].

W. [If] the produce [in his home] was eaten, stolen or lost--

[if this occurred] before he reached the city, the basket [remains] in its untithed, unconsecrated status;

[and if it occurred] after he reached the city, his designation is valid [since the produce in the basket became heave-offering or tithes before the other produce was eaten, stolen or lost].

X. Moreover, said R. Eleazar b. Jacob, "[If he said,] 'The produce of this garden bed--as of the time that it will become one third grown and be picked--is designated heave-offering and tithes for the produce of this [other] garden bed--as of the time that it will become a third grown and be picked,'

(HD adds with b. Qid. 62b: "and [each garden bed] became a third grown and was picked--

"his designation becomes valid.")

T. 2:8 (b. Kid. 62b)

Y. *They may not separate heave-offering from produce of the Land [of Israel] for produce from outside of the Land [of Israel]* [= M. 1:5J]. How so?

Z. They do not separate heave-offering from produce of the Land of Israel on behalf of produce of Syria,

AA. and not from produce of Syria on behalf of produce of the Land is Israel.

T. 2:9

As indicated by my use of italics, T. systematically cites and enriches M. 1:5F-K. A-C, first, points out that the injunction against separating heave-offering from new for old, or old for new, produce applies only to produce of differing years of the sabbatical cycle. If a field produces two crops in the same year (D-F) heave-offering may be separated from one on behalf of the other. G-H now illustrates M. 1:5H-I's rule for the case of vegetables, which become subject to the separation of heave-offering at the time they are harvested. If the new year intervenes during a harvest, the produce is deemed to be of different years. The rule of the ethrog is the same. Like a vegetable the ethrog is subject to tithing as of the time it is picked (M. Bik. 2:6). Yet since it grows on a tree, its new year is the fifteenth of Shevat (M. R.H. 1:1). I and L follow logically from G-H and J-K respectively. The point again is that a vegetable or ethrog is subject to tithing in accordance with the year of the sabbatical cycle in which it is harvested, not, for instance, the year in which it is planted.

N-P restates M. 1:5F-G, cited at M. Q-S develops this theme, noting that a designation of heave-offering may include a stipulation. Only when the terms of the stipulation are met does the designation take effect. The rule of U-W is no different, except that now the stipulation covers both the produce to be tithed and that which is to be designated heave-offering.

Produce from Syria, Y-AA, is presumed to be from the field of a gentile, and therefore not liable to the separation of heave-offering and tithes (see M. Dem. 6:11). For this reason heave-offering may not be separated from it for produce of Israel, which, of course, is liable.⁷⁶

A. An Israelite who purchased a field in Syria--

lo, he is like one who purchased [a field] in a suburb of Jerusalem;

B. he separates heave-offering and gives tithes for [the produce which grows from] it.

C. "An Israelite and a gentile who purchased together a field in Syria--

D. "lo, it [i.e., the produce they grow] is like untithed (*tbl*) and tithed (*m^owśr*, see Lieberman, TK, I, p. 315; b. Git. 47b reads: *hwlyn*) [produce] which are mixed together"--the words of Rabbi.

E. Rabban Simeon b. Gamaliel says, "The Israelite's portion [of the produce] is liable [to tithes and heave-offering]; the gentile's portion is not liable."

T. 2:10 (A-B: M. Hal. 4:11,

T. B.Q. 1:5, b. Git. 8a;

C-E: y. Dem. 6:10, b. Git. 47a,

b. Hul. 135b, T. Ma. 2:22)

F. An Israelite who purchased a field in Syria, even if he sold it again to a gentile--

it [remains] subject to tithes and [to the law of] the seventh [year],

G. since it once has been made subject.

H. But [in the case of] sharecroppers, tenant farmers, hereditary land-tenants (Jastrow: *bty 'bwt*), or a gentile who mortgaged his land to an Israelite, even though the Israelite gave him final notice (E: *śh lw yśr'l nymwswt*) [that he was foreclosing on the loan and taking the field]--

[the field] is exempt from tithes and is exempt from the sabbatical year [since it has never been the possession of an Israelite].

T. 2:11 (A: b. Git. 47a; B:

b. Git 43b)

T. 2:10-11 continues the discussion of the laws of Syria, begun in T. 2:9. Property owned by an Israelite in Syria is liable to the separation of heave-offering and tithes (A); that owned by a gentile is not. From this stems the dispute at C-E. Rabbi (D) holds that the Israelite and gentile share in each piece of produce. According to Simeon (E), we distinguish between the portion of produce which the Israelite will eventually receive, and that of the gentile. Only the former is liable to the separation of heave-offering and tithes. The point at F-H is that once property in Syria is owned by an Israelite, even if it reverts to gentile ownership, it remains liable to the laws of tithes

and the sabbatical year. The farming of property in Syria without actual ownership is not sufficient to make it liable to these things (H). Unless the Israelite actually owns the property, it remains in the status of property owned--and farmed--by a gentile.

A. What is [considered] the Land [of Israel] and what is [deemed] outside of the Land [of Israel]?

B. All that slopes down from the Mountains of Amanah (*twry smnyn*; E reads *twrws 'mnws*; for other readings see Lieberman, TK, II, p. 316, and Jastrow, s.v., *'mnh*, p. 78) and onward is the Land of Israel; from the Mountains of Amanah and to the outside (E, T. Hal. 2:11, and parallels in y. and b. read *wlhl'n*; V, ed. princ. read *wlpnym*) is outside of the Land [of Israel].

C. Islands which are in the sea--
they view them as if there was a thread stretched from the Mountains of Amanah to the Brook of Egypt.

From the thread and inwards is the Land of Israel;
from the thread and to the outside is outside of the Land [of Israel].

D. R. Judah says, "All that is opposite the Land of Israel, lo, it is like the Land of Israel,

E. as it is written [in Scripture], "For the western boundary, you shall have the Great Sea and its coast" (Num. 34:6).

F. Islands which are on the borders (*sddyn*)--
they view them as if there was a thread [stretched] from Kiflaria to the ocean, [and another] from the Brook of Egypt to the ocean.

From the thread and inwards is the Land of Israel;
from the thread and to the outside is outside of the Land [of Israel].

T. 2:2 (T. Hal. 2:11, y. Sheb. 6:1, y. Hal. 4:8, b. Git. 8a)

G. A ship which is coming from outside of the Land [of Israel] to the Land [of Israel], and within it is produce [the processing of which has not been completed (Lieberman)]--

H. from the [imagined] thread and to the inside, if it touches [shore, the produce which is in] it is liable [to heave-offering and tithes] according to a calculation [of how much it grew from the time that it entered the territory of the Land of Israel (MB, Lieberman)].

I. But [a ship with produce in it] which is leaving the Land [of Israel] is not liable⁷⁷ according to a calculation [of how much the produce had grown in the Land of Israel, since its processing will ultimately be completed outside the Land of Israel (Lieberman)].

J. R. Eleazar (E, ed. princ.: Eliezer) says, "Dirt (E, ed. princ. add: of the Land of Israel) [with produce growing in it (Lieberman), which was taken] outside of the Land [of Israel] is liable according to a calculation [of how much the produce had grown in the Land of Israel (MB)]."

T. 2:13a (G-J: see M. Hal. 2:1-2,
b. Git. 7b)

T. continues to deal with issues tangentially related to M. 1:5H-J. A-F gives an exact description of the borders of the Land of Israel. This is required by M. 1:5H-J's statement that heave-offering may not be separated from produce of the Land of Israel for produce from outside of the Land of Israel, or *vice versa*. G-J deals with the liability to tithing of produce which is brought across these borders before its processing is completed. Since produce becomes liable to the removal of tithes at the time its processing is completed, the important factor here is where processing takes place. If processing takes place in the Land of Israel, tithes must be removed for that portion of growth which actually occurred in the Land of Israel (G-H). If processing takes place outside of the Land of Israel, there is no liability to tithes, even on that portion of produce which grew in the Land of Israel (I). Eleazar qualifies this latter point. He states that if produce is taken outside of the Land of Israel, but continues to grow in soil from the Land, tithes must be removed for that amount of produce which grew in the Land of Israel.

T. 2:13b is found below, after M. 3:9.

A. They may not separate heave-offering from produce which has not reached one third [of its growth].

B. How does one know whether or not it has reached one third [of its growth]?

C. If one plants it [i.e., plants a seed from the produce in question] and it sprouts (following E, ed. princ.: *wmsmht*; V reads *wms̄smht*), it is known that it has reached one third [of its growth].

D. But if one plants it [i.e., plants a seed] and it

does not sprout, it is known that it has not reached one third [of its growth].

T. 2:14 (A: see M. Hal. 1:3 and
T. Hal. 2:5)

At issue is the point in its growth at which produce becomes liable to the separation of heave-offering, a fitting conclusion to T.'s unit of materials pertinent to M. 1:5.

1:6

A. Five [sorts of people] may not separate heave-offering,

B. but if they separated heave-offering, that which they have separated is [valid] heave-offering:

C. (1) a mute, (2) a drunkard, (3) a naked person, (4) a blind person, and (5) a person who has had a nocturnal emission

D. may not separate heave-offering.

E. But if [any of these individuals] separated heave-offering, that which they have separated is [valid] heave-offering.

M. 1:6 (see: y. Ber. 2:4, y. Ter.
1:1, y. Meg. 2:5)

By repeating the formal pattern of M. 1:1, the redactor introduces Chapter One's second set of materials. These deal with cases in which heave-offering is improperly separated, yet is considered valid. Through repetition of form the redactor also indicates that M. 1:1 and 1:6 must be read in conjunction with each other. As we shall see, the point here, as at M. 1:1, is that the validity of heave-offering depends on its having been separated by an individual with requisite powers of intention. The five individuals listed here have those powers, and therefore heave-offering they separate is valid. There are, however, other factors, in light of which they should not separate heave-offering in the first place. A mute, naked person, or an individual who has had a nocturnal emission may not recite the blessing which accompanies the separation of heave-offering (see M. Ber. 3:4-5 and T. Ter. 3:1-2). A person who cannot see or who is drunk is not capable of choosing the most choice produce to be designated as heave-offering (see M. 2:4, 6, and T. 3:1-2). The inability of these individuals to carry out these aspects of the separation of heave-offering restricts them from separating heave-offering *de jure*.

Since they have the required understanding, however, heave-offering which they anyway separate is valid.⁷⁸

A. For what reason did they say [that] a mute does not separate heave-offering (V: *twrm*; E, ed. princ.: *ytrwm* [as at M. 1:6C1])?

B. [They said it] because he may not recite the blessing.⁷⁹

C. For what reason did they say [that] a blind person may not separate heave-offering [as at M. 1:6C4])?

D. [They said it] because he cannot distinguish [produce which is of] good quality from that which is of bad quality [in order to separate heave-offering from the more choice, as required by M. 2:6].

E. For what reason did they say [that] a drunkard may not separate heave-offering [as at M. 1:6C2])?

F. [They said it] because he has no understanding (*d^ct*) [to separate heave-offering from the best of his produce (y. Ter. 1:6, HY, Lieberman)].

G. Even though he is drunk, (1) that which he buys is [validly] bought, (2) that which he sells is [validly] sold, (3) vows he makes are [valid] vows, (4) that which he dedicates [to the Temple] is [validly] dedicated, and (5) that which he gives as a present is a [valid] present.

H. [If] he committed a transgression for which he is obligated [to bring] a sin-offering, they require him [to bring] (E adds: a sin offering).

I. [If he committed a transgression for which he is liable] to execution by stoning, they require that he be executed by stoning.

J. The general principle in this matter [is that] a drunk person, lo, he is equivalent to a person of sound mind in every respect.

T. 3:1 (A-F: y. Ter. 1:6; G-J:
b. Erub. 65a)

K. For what reason did they say [that] a person who has had a nocturnal emission may not separate heave-offering [as at M. 1:6C5])?

L. [They said it] because he may not recite the blessing [see M. Ber. 3:4].

M. For what reason did they say [that] a naked person may not separate heave-offering [as at M. 1:6C3])?

N. [They said it] because he may not recite the blessing [see M. Ber. 3:5, T. Ber. 2:15].

O. But he covers himself with straw or with stubble or with anything and recites the blessing.

T. 3:2 (E: T. Ber. 2:14)

T. cites each of the items at M. 1:6C and explains why the individual in question may not separate heave-offering.⁸⁰ G-I+J is autonomous, and, in fact, contradicts E-F. While F states that the drunkard has no understanding (*d^et*), G-I+J holds that he is like a person of sound mind. y. Ter. 1:6, followed by HY and Lieberman, resolves the contradiction by stating that at issue in F is only the drunkard's ability to select choice produce, not full soundness of mind. This interpretation does not take into account the usual usage of the term *d^et* (see above, T. 1:1D-F). It does however explain why heave-offering separated by a drunkard may be considered valid. He has no understanding, but his powers of intention equal those of an individual of sound mind.

A. [If] he was going to remove heave-offering, first tithe or second tithe, at what point does he recite the blessing?

B. [He recites it] once he has [actually] removed them [T. Ber. 6:14: at the time he removes them].

C. [When] he has removed them--

D. if he is going to designate them [heave-offering, first or second tithe by making an oral pronouncement (HY)], [the status of] sanctity does not pertain to them until he designates them.

E. But if he is not going to designate them [by making such a pronouncement], when he has removed them, they have become sanctified.

T. 3:3 (A-B: T. Ber. 6:14; C-E:
T. M.S. 4:14)

T. is autonomous of M., continuing the discussion of the recitation of the blessing over heave-offering, T. 3:1A-B, 3:2K-O. A-B states simply that the blessing over heave-offering is recited after the heave-offering has been separated. The alternatives would be that the householder recite the blessing either before he actually separates the heave-offering, or, possibly, when he gives the heave-offering he has separated to the priest (HY).⁸¹ Whereas C-E is dependent on A-B for its sense, its issue is separate.⁸² The problem is no longer that of reciting the blessing. Rather,

T. now asks, When does produce separated as heave-offering take on the holy status of heave-offering? The controlling factor is whether or not the householder plans to make an oral pronouncement declaring that which he separates to be heave-offering.⁸³ If he does not plan to do so, his actions in physically separating the heave-offering from the rest of his produce are sufficient to mark the sanctification of that which he separates (E). If, however, the householder removes a portion of his produce, planning to declare it heave-offering at a later time, that which he separates is not considered heave-offering until such time as he actually makes the declaration (D).⁸⁴

1:7

A. They do not separate heave-offering by (1) a measure [of volume], by (2) weight, or by (3) a count [of the number of pieces of fruit being separated as heave-offering].

B. But he separates the heave-offering of (1) [produce] which has been measured, of (2) that which has been weighed, and of (3) that which has been counted.

C. They do not separate heave-offering in a basket (*sl*) or in a vessel (*qph*) which [hold a known] measure.

D. But he separates heave-offering in them [if they are] one half or one third part [filled].

E. He may not separate heave-offering in [a basket which holds one] *se'ah*, [if it is] one half part [filled],

F. since the half thereof is a [known] measure (Danby, p. 52).

M. 1:7

The point is made through the carefully balanced but opposing rules of A and B. As its verbal root (*RWM*) indicates, heave-offering is a quantity of produce which literally is "heaved" up from the householder's produce. This being the case, the householder may not designate as heave-offering a predetermined and measured quantity of produce (A).⁸⁵ He may however use one of several possible methods in order accurately to estimate the quantity of produce he wishes to designate for the priest (B). C-F refers to secondary problems. By using a basket which holds a known measure, the individual ascertains the quantity of produce he separates, even if he does not mean to. He may however use such a basket without filling it completely, for then he has no way of knowing how much produce he has taken. A basket which holds exactly one *se'ah* is an exception to this rule (E-F). Since

one half *se'ah* is an easily calculable and commonly used measure, the individual may not separate heave-offering by filling such a vessel half way.⁸⁶

A. R. Judah says, (1) "A man measures [the volume of] his untithed produce and brings it into his house, provided that he does not separate heave-offering according to a [fixed] measurement.

(2) "A man weighs his untithed produce and brings it into his house, provided that he does not separate heave-offering according to [a fixed] weight.

(3) "A man counts his untithed produce and brings it into his house, provided that he does not separate heave-offering, according to a [fixed] count" [see M. 1:7A-B].

B. R. Yose b. R. Judah says, (1) "[He does] not [separate heave-offering] according to a measure [of volume], nor from that which has been measured.

(2) "Not according to weight, nor from that which has been weighed.

(3) "Not according to a count, nor from that which has been counted."

C. They said to him, "*M^cšh w-* We were gathering figs behind your father, and he said to us, 'Count them.'"

D. Said R. Simeon b. Eleazar, "*M^cšh b-* A certain old man in ^CArdascus⁸⁷ would weigh his basket when it was full and then weigh it again when it was empty [in order to ascertain the exact weight of his produce], and R. Meir would praise him."

E. One who separates the heave-offering of a basket [of product] and [afterwards] produce is discovered [hidden] in the sides, lo, the heave-offering of this [produce] has [also] been separated (*'lw trwmwt*),

F. since it was his intention to separate heave-offering for all [that was in the basket].

T. 3:4 (A: y. Ter. 1:7)

According to T., the rule of M. 1:7A-B is under debate in Ushan times. It is attributed to Judah, T. 3:4A.⁸⁸ Yose disputes, holding that heave-offering must be separated wholly by estimation. C and D offer legal precedents which support M. 1:7A-B as against Yose. The named sages are clearly in favor of having heave-offering separated from produce the quantity of which previously has been ascertained.⁸⁹

E turns to a separate issue, redacted here only because it refers to a basket. The individual separates heave-offering from a basket of produce which contains pieces of fruit of which he is not aware. The individual's purpose, however, is to separate heave-offering for all of the produce, and therefore his intention is effective even over the fruit of which he is not specifically cognizant (HD).⁹⁰

A. [If] there were figs or pomegranates [lying in a pile] before him, they do not require him to sit and calculate (V, E, ed. princ. read *mš^cr*; other printings: *m^cśr*) [the difference in size] between the small and large [pieces of fruit] (*byn bdqh byn bgsh*).

B. Rather, he separates heave-offering [for all of the produce at once,] as is his way [*viz.*, according to the quantity he normally separates; see M. 4:3], by [separating produce of] average size (*bbynwny*).

T. 3:5

A householder who counts his produce in order to separate heave-offering by an estimation of number need not distinguish among variously sized pieces of fruit (A). By using medium sized pieces of fruit as heave-offering (B), he compensates for the presence of both larger and smaller produce.⁹¹

A. One who separates the heave-offering [required] of the [produce on the] threshing floor must direct his intention (*ykwyn 't lbw*) towards that [edible produce] which is in the (1) chaff, and upon that which is in the (2) straw, and towards that which is on the sides [of the threshing floor] (E, GRA delete: and towards that which is on the (4) threshing floor [itself]).

B. One who separates the heave-offering [required] of the [wine in the] tank (*bwr*; ed. princ.: *gt*) must direct his intention towards that which is in the (1) seeds (*hṛṣnym*) and towards that which is in the (2) pomace.

C. One who separates the heave-offering [required] of the [oil in the] vat (*gt*; ed. princ.: *bwr*)⁹² must direct his intention towards that which is in the peels.

D. And if he did not direct his intention [towards these things]--

E. it is a condition imposed by the court that he [in all events] will have separated heave-offering for all [of the produce].

T. 3:6

T. is autonomous of M., presenting three closely formulated rules (A, B, C) all of which are glossed by D-E. The point in each case is that when an individual separates heave-offering, he must focus his intention upon all of his produce, even that which normally is considered refuse. In this way, he insures that heave-offering is separated on behalf of all that is edible. D-F states that, as at T. 3:4E-F, even if he fails in this regard, his separation of heave-offering is effective for all of the produce.

A. R. Yose (so E, Serilio; HD reads: Judah) says, "All [of the wine in] a wine-press room (E: *byt hgtwt*; see Jastrow, p. 1686) constitutes a single batch (*tpysh*) [and therefore heave-offering may be separated from discrete quantities of wine within the room]."

B. How so?

C. [If there was] one press for two tanks, two presses for one tank, two presses for two tanks--

D. when [the wine in] all of them constitutes a single batch, they separate heave-offering and remove tithes from [the wine in] one [tank] for [the wine in] another [tank].

E. [If] one of them [i.e., one of the tanks] became unclean, he separates heave-offering from the clean [wine] which is in it [i.e., which is in the wine-press room] for the unclean [wine] which is in it.

F. [If] all [of the wine] does not constitute a single batch, they do not separate heave-offering or remove tithes from [the wine in] one [tank] for [the wine in] another [tank].

G. [If] one of them [i.e., one of the tanks] became unclean, he may not separate heave-offering or remove tithes from the clean [wine] which is in it [i.e., in the wine-press room] for the unclean [wine] which is in it.

H. And so would R. Judah say, "All [of the oil in] an olive-press room constitutes a single batch (E: *tpysh 'ht*; V: *qwrh 'ht*)."

I. How so?

J. [If there was] a single beam [used for pressing] for two tanks, two beams for one tank, two beams for two tanks--

K. when all [of the oil] constitutes a single batch, they separate heave-offering and remove tithes from [the oil in] one [tank] for [the oil in] another [tank].

L. [If] one of them [i.e., one of the tanks] became unclean, he separates heave-offering from the clean [oil] which is in it [i.e., in the olive-press room] for the unclean [oil] which is in it.

M. [If] all [of the oil] does not constitute a single batch, they do not separate heave-offering or remove tithes from [the oil in] one [tank] for [the oil in] another [tank].

N. [If] one of them [i.e., one of the tanks] became unclean, he may not separate heave-offering from the clean [oil] which is in it [i.e., in the olive-press room] for the unclean [oil] which is in it.

T. 3:7 (A: y. Ter. 2:1)

T. complements M. 1:5's discussion of valid and invalid methods of separating heave-offering. Its two units, A-G and H-N, are formally identical. They differ only in that A-G refers to a wine-press and its apparatus, and H-N to an olive-press. The point in each case is that produce may not be separated from one batch of produce as heave-offering for a different batch, unless both batches are contained in a single, circumscribed area (see M. Bik 2:5). A and H state that a wine- or oil-press room always constitutes such an area. The press-room therefore imputes the status of a single batch upon all of the tanks of wine or oil contained within it. C-G and J-N now take away what A and H have granted. They hold that enclosure within a single press-room does not necessarily meld discrete vats of wine or oil in a single batch.⁹³ In some cases, possibly those in which the press-room itself is divided into distinct parts, heave-offering may not be separated from one tank on behalf of all of the tanks. In these cases it must be separated individually from each tank. As regards E+G and L+N, see M. 2:1-2. Heave-offering is not ordinarily separated from clean produce for that which is unclean, or *vice versa*. As M. 1:1B-C states, this is permitted in the case of a single batch of produce.

A. [If] he was gathering bunches of greens (ed. princ.: 'gdy yrq; V: gpy yrq) and placing them in a garden, he separates heave-offering from one [bunch] for [the produce contained in] all [of them].

B. [If] he placed a different kind (*myn 'hr*; see Lieberman, TK, I, p. 326) [of greens] among them, he separates heave-offering from each [bunch] individually.

C. [If] he placed many [different] kinds in a vessel--

D. [if there was] cabbage on top and cabbage on the bottom and a different kind [of produce] in the middle,

E. he may not separate heave-offering from that which is on top (E, ed. princ.: *h^clywn*; V reads *h^clyh*) for that which is on the bottom, unless he [first] brought them together.

T. 3:8 (C-E: y. Ter. 1:1)

F. [If there were] five heaps [of produce] on a threshing floor, he separates heave-offering from one [of them] for [the produce contained in] all [of them].

G. Said R. Judah, "When [is this the case]?"

"When most of [the produce of] the threshing floor (*^cyqr hgwrn*) is still present [on the threshing floor].

"[If] most of [the produce of] the threshing floor is not present, he separates heave-offering from each [heap] individually."

T. 3:9

H. One who places his produce inside of his house,

I. even though it is scattered about,

J. separates heave-offering from one [amount of produce] for all [of the produce].

K. [If there were] two bins in one attic, he separates heave-offering from each one individually [Maimonides, *Heave-offering* 3:18, GRA, HY, MB: he separates heave-offering from the one (bin) for (the produce in) both].

L. (1) Bags of produce, and (2) circles of pressed figs, and (3) jugs of dried figs--

[if they are] all in one area (*hqph*), he separates heave-offering and removes tithes from [the produce in] one [individual container] for [the produce in] another.

T. 3:10

T. 3:8-10 carry forward the topic of T. 3:7, exploring several cases in which separate bunches, heaps or containers of produce may or may not be deemed to comprise single batches for purposes of separating heave-offering. A-E presents a single formal unit, consisting of two cases, A+B and C-E. In the first, an individual places in the open produce he has picked. As long as only one type of produce is in the area, all of the produce is held to comprise a single batch. This being the case, heave-offering is separated from one bunch of produce for all of the produce. As soon as a different kind of produce is placed alongside the other bunches, the produce no longer comprises a

single homogeneous batch, for heave-offering may not be separated from produce of one kind on behalf of produce of a different kind (M. 2:4-6). The individual now must separate heave-offering separately from each bunch. The case at C-E is different, in that the vessel itself acts to unify into a single body of produce that which it contains. As long as all of the produce of a single kind is together within the basket, heave-offering may be separated from it, as from a single batch of produce. The fact that there are other kinds of produce in the same basket is of no concern. Like the basket, the threshing floor (F) acts for purposes of separating heave-offering to conglomerate into a single batch all of the produce piled on it. According to Judah (G), this is the case only at the beginning of the threshing, when all of the produce of the harvest is present. Later, when most of the produce has been removed from the threshing floor and the rest has been divided into distinct piles, the threshing floor does not have this same effect. Like the basket (C) and the threshing floor (F), a house melds into a single batch the produce scattered in it (H-J). K states that an attic does not have the effect of combining into a single batch produce contained in two separate bins. Unable to explain the reason for the difference in law between a house and an attic, the commentators cited "correct" T. to read that the attic does have that effect. The rule of L is no different from those rules which precede.

A. As of when may they separate the heave-offering [required] of [the produce on] the threshing floor?

B. From the time that the fork [used for sifting the grain] is taken away.

C. [If] he sifted some [of the produce], he separates heave-offering from that [portion] which has been sifted for that which has not [yet] been sifted.

T. 3:11 (y. Ma. 1:6)

D. As of when may they separate the heave-offering of the [wine in the] vat?

E. From the time that they have trampled [the grapes] warp and woof.

F. As of when may they render it [i.e., the vat] unclean?

G. The House of Shammai say, "After the first tithe has been removed."

H. The House of Hillel say, "After second tithe has been removed."

I. Said R. Judah (y. Ter. 3:4: R. Yose), "The law is according to the words of the House of Shammai, but the majority behave according to the words of the House of Hillel."

J. And sages say, "They take out heave-offering and tithes (y. Ter. 3:4: heave-offering and heave-offering of the tithe) and forthwith render the vat unclean."

T. 3:12 (y. Ter. 3:4; see T. Toh. 11:4)

K. As of when may they separate the heave-offering [required] of olives?

L. From the time that they have pressed them (*mšyt^enw*).

M. And R. Simeon says, "From the time that they have been ground (*mšy^thⁿw*)."

N. R. Yose b. R. Judah says, "He brings olives in a basket and places them in the press (*ltwk h^mml*; y. Ter. 3:4 reads: *t^ht h^mml*) and presses them warp and woof [and then separates heave-offering from them]."

O. They said to him, "[The law of] grapes is not like [that of] olives.

P. "Grapes are soft and let their wine ooze out easily (*nwtqwt*).

"Olives are hard and do not let their oil ooze out easily."

T. 3:13 (y. Ter. 3:4; see T. Toh. 11:4)

T. is a singleton, marking the conclusion of T.'s unit of material on the separation of heave-offering from discrete batches of produce. It sets out to determine the point at which heave-offering may be separated from produce on the threshing floor, and from wine and oil in the press. The underlying principle is that heave-offering may not be separated from produce the production of which is not completed (M. 1:10). Thus, in each case, T. establishes the earliest point in the processing of the produce at which its preparation is considered completed. As regards produce on the threshing floor, this is when the fork used to sift the produce has been taken away (B).⁹⁴ C contradicts M. 1:10, which states that heave-offering may not be separated from produce the preparation of which has been completed for produce the preparation of which has not been completed. T. next turns to the question of when grapes being pressed for wine may

have their heave-offering separated. According to E, a single trampling is sufficient.⁹⁵ G-J brings into play a secondary issue, that of purity. Since many individuals are found in the vicinity of the wine vat, it is likely that the wine accidentally will be made unclean. In order to avoid a situation of doubt in this regard, the vat is purposely made unclean. At issue is the point at which this may be done. Heave-offering will obviously have first to be separated. The House of Shammai⁹⁶ state that beyond this, first tithe alone need be separated in cleanness. This is because heave-offering of the tithe will later be separated from the first tithe. The House of Shammai thus hold that second tithe may be separated from unclean produce. Its owner will redeem it and take the money to Jerusalem, and there purchase clean produce for consumption as second tithe. The House of Hillel disagree, stating that second tithe must be removed in a state of cleanness. The opinion of sages (J), as recorded in the several MSS. and editions of T., is no different from that of the House of Hillel.

While K-L begins by asking about olives, the dispute which follows is clearly interested in the oil which results from their processing. The disputing opinions are well balanced, $T^C N$ vs. $T^H N$. The anonymous opinion (L) states that the initial pressing of olives signifies the completion of the olives' processing.⁹⁷ Simeon (M) chooses a later time. Yose (N) reverts to the schema established for the separation of heave-offering from wine (D-E). In intent, his opinion is the same as that of L. O-P disputes, holding that, for the reason given, a single pressing does not draw sufficient oil to allow the olives' processing to be deemed complete.

1:8-9

A. They may not separate oil as heave-offering for olives which have been crushed (*hnktšyn*) [but the processing of which has not yet been completed (Albeck, TYT)],

B. nor wine [as heave-offering] for grapes which have been trampled [but the processing of which has not yet been completed].

C. But if he (*sic*) separated heave-offering [in either of these fashions]--

D. that which he has separated is [valid] heave-offering (*trwmtw trwmh*; seventeen MSS. and editions lack the word *trwmh*).

E. But he must separate heave-offering again (*yhšwr*

wytrwm) [from the wine or oil which the grapes or olives eventually produce (Albeck, Bert)].

F. The first [produce separated as heave-offering] imposes the status of heave-offering [upon other produce with which it is mixed (*mdm^ct*)], by itself [i.e., even if it falls into other produce apart from the second produce separated as heave-offering; cf., M. 3:1].

G. And [non-priests who accidentally eat it] are liable to the [added] fifth on its account.

H. But this is not the case as regards the second [produce separated as heave-offering].

M. 1:8

I. But (S, Z, T³ lack: *w*) they may separate oil as heave-offering for olives which have been preserved (*hnkbšyn*),

J. and wine [as heave-offering] for grapes which are being made into raisins (*l^cšwtⁿ smwqyn*).

K. Lo (*hry*; fifteen MSS. and versions read: *my*), if (š) he separated oil as heave-offering for olives intended for eating (*l'kylh*) [i.e., olives the preparation of which has been completed],

L. or olives [as heave-offering] for olives intended for eating,

M. or wine [as heave-offering] for grapes intended for eating,

N. or grapes [as heave-offering] for grapes intended for eating,

O. and [afterwards] decided [instead] to press them [i.e., any of the produce which he originally intended for consumption as foods],

P. he need not separate heave-offering [a second time].

M. 1:9 (y. Ter. 1:8)

The processing of olives or grapes is not considered complete until they have been pressed or crushed several times (see T. 3:12-13). Since, as we recall, heave-offering may not be separated from produce the preparation of which has been completed for produce the preparation of which has not been completed, wine or oil may not be separated as heave-offering for olives or grapes which have undergone only an initial pressing (A-B). Heave-offering separated from produce the processing of which is not completed for produce the preparation of which is completed is however valid *post facto* (M. 1:10). Thus, heave-offering

separated in either of the ways described at A-B is valid (C-D). E concludes the declarative sentence begun at C-D with a somewhat unexpected qualification of that rule. E's point is that in his first separation of heave-offering, the individual will have set aside as heave-offering wine or oil sufficient only for the quantity of wine or oil which initially exuded from the grapes or olives. In order to ensure that the priest receives the required percentage of all of the produce, E therefore rules that the householder must separate heave-offering a second time, when he has finished pressing the grapes or olives.⁹⁸ Only when he has separated heave-offering for all of the produce has he fulfilled his obligation. F-H is a secondary expansion of E. It distinguishes between the status of the two quantities of produce which the individual will have separated as heave-offering. It holds that by his first actions, the householder indeed separated all of the heave-offering required of his produce. This heave-offering is subject to the stringencies normally accorded a priestly gift. If it is mixed with unconsecrated produce in a ratio of more than one part to one hundred, it imposes the status of heave-offering upon that produce (see M. 4:7).⁹⁹ The second stringency is given at D. As Lev. 22:10-14 states,¹⁰⁰ a non-priest who eats a holy thing must repay its value and an additional fifth (see M. 6:1). The second quantity of produce, H, was taken from food from which heave-offering already was separated. It therefore does not have the status of consecrated heave-offering. While it is given to a priest as part of his share, it does not impose the status of heave-offering upon other produce with which it is mixed, and a non-priest who eats it is not required to pay the added fifth of its value paid by one who unintentionally eats a holy thing.

I-J continues A-B's thought. Since neither olives which are being preserved (I), nor grapes which are being made into raisins (J) require further processing, heave-offering may be separated for these things from oil and wine. K-P concludes the unit with the usual ambiguous case. An individual has separated heave-offering for either preserved olives or for grapes intended for eating. Now he decides to press these things for oil or wine, that is, to continue their processing. At issue is whether or not his changed intention alters the grapes' or olives' liability to the separation of heave-offering. P rules that his original intention is probative. Since he separated heave-offering validly *de jure*, unlike at A-E, he need not separate heave-offering a second time.

A. They do not separate oil as heave-offering for olives which have been crushed [but the processing of which has not yet been completed],

B. nor wine [as heave-offering] for grapes which have been trampled [but the processing of which has not yet been completed].

C. [But] if he separated heave-offering [in either of these fashions]--

D. that which he has separated is [valid] heave-offering.

E. But he must separate heave-offering again.

F. The first [produce separated as heave-offering] imposes the status of heave-offering [upon other produce with which it is mixed], by itself.

G. And [non-priests who unintentionally eat it] are liable to the [added] fifth on its account.

H. But this is not the case as regards the second [produce separated as heave-offering] [= M. 1:8A-H].

I. And he must remove from it (E: *mhm*; V: ^c*lyhn*) [i.e., from the second produce separated as heave-offering] tithes (so E; V reads: *trwmwt*; ed. princ. reads: *trwmh*; Sens, HY read: *trwmt m^cśr*).

J. R. Yose says, "The House of Shammai say, 'They may separate heave-offering [in the ways described at A-B].'"

K. "And the House of Hillel say, 'They may not separate heave-offering [in either of those ways].'"

L. "[But] they agree that if he separated heave-offering [in either of these fashions], that he must separate heave-offering a second time."

M. One who separates olives as heave-offering for olives which are going to be crushed,

N. or grapes [as heave-offering] for grapes which are going to be trampled--

O. that which he has separated is [valid] heave-offering,

P. but he must separate heave-offering again [when the processing of the grapes or olives is completed].

Q. The first [produce separated as heave-offering] imposes the status of heave-offering [upon other produce with which it is mixed].

R. The second [produce separated as heave-offering] does not impose the status of heave-offering [upon other produce with which it is mixed].

S. The first [produce separated as heave-offering]-- [non-priests who eat it accidentally] are liable to the [added] fifth on its account.

T. The second [produce separated as heave-offering]-- [non-priests who eat it accidentally] are not liable to the [added] fifth on its account.

U. And he must designate it [heave-offering, by making an oral proclamation].

V. [If] he went and made the original olives [i.e., the ones that he had separated as heave-offering (MB, HY, PM)] into oil,

W. or the original grapes [i.e., the ones that he had separated as heave-offering] into wine--

X. that which he has separated is [valid] heave-offering,

Y. and he does not have to separate heave-offering a second time.

T. 3:14 (J-L: y. Ter. 1:8; M-P:
y. Ter. 1:9)

T.'s several units cite and expand M. 1:8, drawing out the implications of M.'s rules and adding correlary material. As M. 1:8 stated, first, heave-offering taken from produce from which heave-offering already has been separated does not have the status of true heave-offering (H). For this reason, tithes must be separated from that heave-offering, just as from all untithed, unconsecrated produce (I).¹⁰¹ According to Yose, J-K, the rule of M. 1:8A-B follows the opinion of the House of Hillel. The Shammaites, to the contrary, hold that oil or wine may be separated as heave-offering for olives which have been crushed or from grapes which have been pressed. The Shammaites thus should further reject the rule of M. 1:10, which states that heave-offering may not be separated from produce the processing of which has been completed for produce the preparation of which has not been completed.¹⁰² According to L, both of the Houses agree to the rule of E. Yet just as the anonymous rule of M. 1:8A-B is represented as following the Hillelite position, so this lemma is consistent only with the Hillelite point of view. The House of Hillel hold that the individual's separation of heave-offering was

not valid *de jure*. It is not at all surprising, therefore, that they should require the individual to separate heave-offering a second time. The Shammaites, on the other hand, hold that the individual separated heave-offering validly from the start. This being the case, they should have no reason to require that he separate heave-offering a second time. The fact that the Shammaites are made to concede to the Hillelite view indicates that the unit derives from pro-Hillelite sources.

M-P makes the same point as M. 1:9J-P, that the householder's intention at the time he separates heave-offering is probative. Unlike in M.'s case, the householder here intends already at the time he separates heave-offering to continue the processing of the produce. His designation of heave-offering, therefore, is not valid *de jure*, and he must separate heave-offering a second time, once he completes the processing (see y. Ter. 1:9, followed by MB and Lieberman). The rules of Q-T are the same as those at M. 1:8F-H. U holds that since the second heave-offering is not true heave-offering, the individual who separates it must designate it by making an oral proclamation. Y-Z notes that if the householder himself presses the olives or grapes he separated as heave-offering, they retain their consecrated status. Further, since he now will give the priest produce the processing of which is completed, he need not separate heave-offering a second time (HY, MB).¹⁰³

A. "One who separates olive-oil (so E, ed. princ., HD, HY, Lieberman; V reads: olives) as heave-offering for olives intended to be eaten [= M. 1:9K],

B. "lo, this one separates as heave-offering [a quantity of oil proper] for the [amount of] oil the olives are fit to produce"--the words of Rabbi.

C. Rabban Simeon b. Gamaliel says, "They separate as heave-offering [a quantity of oil proper] for the edible produce which is in them, but not for the pits."

D. And they agree that in the case of hard olives (*qwlpsyn*) [which are not fit to be pressed (HD)] that they separate heave-offering for the edible produce which is in them, but not for the pits.

T. 3:15 (y. Ter. 1:9)

T. explores an ambiguity in the rule of M. 1:9K, cited here at A. The problem is how the householder is to determine the amount of oil required as heave-offering for his olives. Rabbi,

B, and Simeon, C, give the two logical possibilities. Since the heave-offering is to be given in oil, Rabbi, first, wants the householder to treat the produce for which it is given as if it too were oil. He does this by calculating the quantity of oil the olives are capable of producing. Simeon b. Gamaliel, to the contrary, takes into account the intended use of the olives. They will be eaten, and therefore the householder must separate heave-offering from them in accordance with the quantity of food they contain. Since the pits are not edible, he subtracts their volume from the total. The case of hard olives, which yield no oil, is problematic for Rabbi. The individual who has such olives cannot separate heave-offering for them by the method suggested at B. For this reason, in the case of hard olives, Rabbi must concede to Simeon's point of view and so reject his own theory.

A. One who separates the heave-offering [required] of grapes (ed. princ., HY, Sens and Rosh to M. 1:10 lack: "[which are being brought] to the market place," found in V) which he is going to make into raisins,

B. figs, which he is going to make dried figs (*grwgrwt*),

C. pomegranates, which he is going to make split and dried pomegranates (*prd*),

D. [that which he has separated is valid] heave-offering,

E. and he does not need to separate heave-offering a second time [after he completes the preparation of the produce].

F. R. Eliezer says, "The House of Shammai¹⁰⁴ say, 'He does not need to separate heave-offering a second time.'

G. "And the House of Hillel say, 'He must separate heave-offering a second time.'

H. "Said the House of Hillel to the House of Shammai, 'Lo, it [i.e., Scripture] says [*And your offering shall be reckoned to you as though it were the grain of the threshing floor and] as the fulness of the wine press (Num. 18:27).*

This one has not separated heave-offering from the wine press.'

I. "Said to them the House of Shammai, 'Lo, it [i.e., Scripture] says *All the tithe [of the land, whether of the seed of the land or of the fruit of the trees is the Lord's; it is holy to the Lord] (Lev. 27:30).* If you say that he needs to separate heave-offering a second time, this one

still has not carried out *it is holy to the Lord.*"

T. 3:16

T. supplements M. with yet another example in which heave-offering is separated from produce the processing of which is not completed. A-E contradicts M. 1:8A-E and T. 3:14M-P. We should expect that the individual will have to separate heave-offering a second time, after he completes the processing of his produce. Eliezer, F-G, has the Houses dispute this very issue.¹⁰⁵ The view of A-E is shown to be the opinion of the House of Shammai. As we might expect, the Hillelites disagree and are consistent both with M. 1:8A-E and T. 3:14M-P. They hold that the individual must separate heave-offering again, when he finishes processing the produce. In the debate which follows, H-I, the Houses argue from Scripture about the requirements of the proper separation of heave-offering. According to the House of Hillel, the householder here has not yet separated heave-offering *from the wine press*, that is, from produce the processing of which has been completed (HY). Therefore he has not fulfilled his obligation and must separate heave-offering again. In response, the House of Shammai takes note of the statement in Leviticus that *all tithe is holy to the Lord*. Their point seems to be that since *all tithe is holy to the Lord*, the individual's first separation of heave-offering was valid, and he need not separate heave-offering a second time. Yet, since both of the Houses agree that the original separation of heave-offering was valid, the Shammaite's statement *this one still has not carried out it is holy to the Lord* does not seem to be the point. I find no satisfactory way to interpret it.¹⁰⁶

1:10

- A. They may not separate heave-offering
 - B. from (1) produce (*db'r*) the preparation [for consumption] of which is completed for produce the preparation of which is not completed;
 - C. nor from (2) produce the preparation of which is not completed for produce the preparation of which is completed;
 - D. (O^2 , G^5 , M, Z, T^3 lack:) nor from (3) produce the preparation of which is not completed for produce the preparation of which is not completed.
 - E. But if he separated heave-offering [in any of these ways]--
 - F. that which he has separated is [valid] heave-offering.
- M. 1:10 (y. Ter. 1:2)

The central notion of this tripartite construction is that of M. 1:5E-F. Heave-offering may not be separated from produce which is not liable to the separation of heave-offering. Produce the processing of which is not completed is not deemed food and therefore is not liable to the separation of heave-offering or tithes (M. Ma. 1:1). The present laws follow from this fact. As E-F states, however, heave-offering separated from such produce is deemed valid *post facto*. This is because the produce ultimately will be made liable, when it is ready to be eaten. Prior to that point it has an ambiguous status. While heave-offering should not be separated from it, A-D, if it is, E-F, that heave-offering is deemed valid.

A. They separate heave-offering from [the produce in] a heap (^c*rymh*; E: *hmws*) on behalf of [the produce in] a pile (*kry*);

B. but not from [the produce in] a pile for [the produce in] a heap.

T. 3:17

T. is autonomous of M, for the preparation both of produce in a heap and in a pile is considered complete. The produce in a pile, however, has had a longer time to dry out and therefore is of higher quality (MB, HY, Lieberman). Since heave-offering should be separated from produce of better quality for produce of worse quality (M. 2:4), heave-offering may be separated from the produce in the heap for the produce in the pile (A), but not *vice versa* (B).

A. One who brings kernels of grain into his house in order to make them parched kernels of grain (*mlylwt*), lo, this one separates [unparched] kernels of grain as heave-offering [for all of the produce].

B. A Levite who was assigned [as first tithe] (1) kernels of grain, and plans to thresh them (^c*šwtm gwrn*), (2) grapes, and plans to press them for wine, (3) olives, and plans to press them for oil--

C. just as (*škšm š-*)¹⁰⁷ the first heave-offering [i.e., the heave-offering which the householder separates from his produce] is derived from the threshing floor and from the wine press,

D. so heave-offering of the tithe [which the Levite separates must be taken] from the threshing floor and from

the wine press.

T. 3:18a (C-D: see b. Bes 13a-b)

T.'s two separate parts, A and B+C-D, ask of the applicability of M. 1:10's rule to cases involving the processing of specific kinds of food. According to A, parching is not an intrinsic step in the preparation for consumption of kernels of grain. Even unparched, the kernels are ready to be eaten and so are liable to the separation of heave-offering. The householder therefore may separate unparched kernels as heave-offering for parched ones.

B asks the same question regarding the threshing of grain and the making of wine and oil from grapes and olives. It holds that these are intrinsic steps in the processing of these foods. A Levite who receives grapes, olives or kernels of grain as first tithe and who plans to continue their preparation in any of these ways therefore may not separate heave-offering of the tithe until he has carried out these steps in processing. This is because, as C-D explains, the rules for the separation of heave-offering of the tithe are like those for the separation of heave-offering.

CHAPTER TWO

TERUMOT CHAPTER TWO

The chapter's two sections, M. 2:1-3 and M. 2:4-6, detail rules governing the designation of produce found in one batch as heave-offering on behalf of produce located in a different batch. This is to say that M. does not expect the householder to separate heave-offering individually from each discrete quantity of produce in his possession. Within certain limitations he may, rather, use a single batch of produce as a source for the heave-offering required of all of his produce. These limitations are articulated at M. 2:4A-B, F-G+H, and are repeated as a "general principle" at M. 2:6Q+R-T. They are: 1) heave-offering may not be separated from one genus of produce on behalf of produce of a different genus, e.g., from olives for grapes; and 2) if the householder owns different species within the same genus of produce, heave-offering should be separated from the species which is of higher quality. These statements, found at M. 2:4-6, are prefaced, at M. 2:1-3, with essentially derivative materials dealing with the separation of heave-offering from clean produce on behalf of unclean produce and *vice versa*. By placing these secondary materials first, the redactor is able to leave M. 2:6Q-T's well articulated general principle as a fitting conclusion to this chapter and to M.'s first larger thematic unit. Let us now examine the significance of the two central notions of this chapter.

The rule that heave-offering may not be separated from produce of one genus on behalf of another is an expression of M.'s insistence that distinct kinds of produce be kept apart from one another. In separating heave-offering, man may not violate the taxonomic categories established by God at the time of creation. Even *post facto*, heave-offering separated from produce of one genus on behalf of produce of a different genus is not valid. Both the produce for which heave-offering was separated and that which was designated heave-offering retain the status of untithed, unconsecrated food.

The rule that heave-offering is separated from the choicest of the individual's produce is first expressed by Judah, M. 2:4H. This view prevails at M. 2:4K-L and M. 2:5-6, in opposition to the anonymous opinion of M. 2:4F-G. That rule distinguishes between cases in which produce separated as heave-offering will immediately be given to a priest, and those in which it will be some time

before the priest will receive his portion. The claim is that only in the former case must heave-offering be separated from produce of the highest quality. If, however, it will be some time before the heave-offering will be given to the priest, it should be separated from whichever produce is not likely to spoil. This ensures that the priest will be able to eat his offering. Since it is clear from Judah's opinion that he does not share this concern, it follows that before us are two different notions of the obligation to separate heave-offering. Judah's concern seems to be that the individual designate as heave-offering that portion of the produce which is most susceptible to sanctification. This is the part of the produce which is of the highest quality. Without regard to the priest, therefore, the householder separates heave-offering from the best of his produce. The anonymous opinion, on the other hand, regards consumption of heave-offering by the priest as an integral facet of the valid separation of heave-offering. While this opinion agrees that if possible the priest should be given quality produce,¹ it holds that this is secondary to the more important consideration of the priest's receiving heave-offering which he will, in fact, be able to eat.

As in Chapter One, M. supplies few attributions. While Eliezer (b. Hyrcanus)² (M. 2:1J) attests to Yavneh the law of the separation of clean produce as heave-offering for unclean produce, it is clear that this issue, as well as the others in Chapter Two, were still under debate in Ushan times. As I have noted, for instance, the rule regarding the separation of heave-offering from produce of better quality on behalf of produce of worse quality is attributed to Judah (M. 2:4H). T. adds further evidence that this chapter's issues were still under debate at Usha. Specific attributions are to 'Ila'i (in dispute with sages, T. 3:18H-L), and Nehemiah (T. 3:19E), who disputes the rules of M. 2:2K-L. While Isaac (T. 2:5) cites a Houses dispute on an issue secondary to the separation of heave-offering from different species of a single genus of produce, this same issue is raised by Simeon b. Gamaliel (and Ishmael), T. 4:1b-2, and by Judah and Simeon b. Gamaliel, T. 4:3-4. It therefore appears that while the major issues under discussion here may date back to Eliezer, it is unlikely that they originate with the Houses. In all events the bulk of the law was still being worked out at Usha.

2:1-3

A. They may not separate heave-offering from that [produce] which is clean for that which is unclean.

B. But if they separated heave-offering [in that manner], that which they have separated is [valid] heave-offering.

C. However, (O¹, B, G¹, G³, G⁴, G⁵, G⁷, Ca, C, Pa, L, M, O², S, P, Z, K, Sa read *b'mt*; printed edition: *b'mt 'mrw*):

D. [as regards] a circle of pressed figs, a portion of which became unclean--

E. he separates heave-offering from the clean [produce] which is in it for the unclean [produce] which is in it;

F. and so [in the case of] a bunch of greens;

G. and so [in the case of] a heap [of produce].

H. [If] there were two circles [of pressed figs], two bunches [of greens], two heaps [of produce], one of which was unclean and one of which was clean--

I. he may not separate heave-offering from one for the other.

J. R. Eliezer says, "They separate heave-offering from that which is clean for that which is unclean."

M. 2:1 (See M. Hal. 1:9, T. Bik.

1:6; C-D: see T. T.Y. 2:12)

K. They do not separate heave-offering from that [produce] which is unclean for that which is clean.

L. And if he separated heave-offering [in that manner]--

M. [if he did it] unintentionally, that which he has separated is [valid] heave-offering;

N. [but if he did it] intentionally, he has not done anything (*l' c'sh klwm*).

O. And so [in the case of] a Levite (*bn lwy*) who had [unclean (TYY, MR, Albeck) first] tithe from which heave-offering [of the tithe] had not been separated. [If he] was removing from it [heave-offering of the tithe for other clean first tithe which he possessed (TYY, MR, Albeck)] (*hyh mpryš c'lyw whwlk*)--

P. [if he did this] unintentionally, that which he has done is done [and valid];

Q. [but if he did it] intentionally, he has not done anything.

R. R. Judah says, "If he knew about it [i.e., knew that the produce was unclean] from the beginning, even though [he forgot and his later actions were] unintentional, he has not done anything.

M. 2:2 (K: y. Ter. 6:1; K-M:
b. Pes. 33a; K-N: b. Yeb. 89a,
b. Men. 25b)

I. S. One who immerses [unclean] utensils on the Sabbath--
T. [if he does so] unintentionally, he may use them;
U. [but if he does so] intentionally, he may not use
them.

II. V. One who tithes [his produce], or who cooks on the
Sabbath--

W. [if he does so] unintentionally, he may eat [the
food he has prepared];

X. [but if he does so] intentionally, he may not eat
[the food].

III. Y. One who plants [a tree] on the Sabbath--

Z. [if he does so] unintentionally, he may leave it
[to grow] (*yqyyym*);

AA. [but if he does so] intentionally, he must uproot
[it].

BB. But in the seventh year [of the sabbatical cycle],
whether [he has planted the tree] unintentionally or in-
tentionally, he must uproot it.

M. 2:3 (S-AA: see T. Shab 3:9-11;
S-X: b. Git. 54a; V-X: b. Bes.
17b, b. Shab. 38a, b. Ket. 34a,
y. Shab. 3:1, y. Erub. 4:1; Y-AA:
b. Git. 53b)

The central issue here is the validity of heave-offering separated from clean produce on behalf of unclean produce and *vice versa*. The pericope's primary elements are the contrasting rules M. 2:1A-B and M. 2:2K-N. C-I is interpolated. This is clear since *however*, C, is formulaic joining language, indicating a case which does not follow a foregoing general rule.³ D-I, moreover, separates Eliezer's opinion, J, from A-B, with which Eliezer disputes. O-Q, likewise, is secondary to K-N. Both of these cases are glossed by Judah, R. M. 2:3, finally, is substantively autonomous of this tractate, redacted here because its three cases make the same point as is made by M-N and O-P.

We begin by concentrating on those elements of the pericope which I have judged to be primary, A-B and K-N. They state that heave-offering may not be separated from clean produce for that which is unclean (A), or from unclean produce for that which is

clean (K). As regards the validity of heave-offering separated in these ways, B holds that *post facto* clean produce separated as heave-offering for what is unclean is valid. M-N holds that produce separated as heave-offering from unclean produce on behalf of clean produce may or may not be valid, depending on the prior intention of the individual who separated it. As we presently shall see, with one exception, these laws may fully be understood on the basis of the general principle offered at M. 2:6S-T for the separation of heave-offering from one species of produce for produce of a different species within its same genus. According to this paradigm a householder who has more than one species within the same genus should separate heave-offering from the species which is the choicest. If he separates heave-offering from produce which is less choice for produce which is more choice, however, the separation is considered valid. It is clear, first, that clean produce is comparable to produce of better quality. When designated heave-offering and given to a priest, such produce may be eaten by the priest. This is not the case for unclean produce, which the priest may not use. He must, rather, let it rot.⁴ In light of these facts, A, which states that clean produce may not be separated as heave-offering for unclean produce is problematic. It contradicts the paradigmatic rule I just have outlined and is not, of itself, logical.⁵ Contrary to A, we should expect that a householder who has both clean and unclean produce *should* separate heave-offering from that produce which is clean, thereby providing the priest with heave-offering which he may eat. This, in fact, is exactly the point which Eliezer makes at J. I therefore find it impossible to determine either the reason for the rule of A, or its force within M.'s larger corpus of law. That A is anomalous is further emphasized by the rule at B, which gives the ruling which our understanding of the laws of the separation of heave-offering leads us to expect. In stating that *post facto* a separation of clean produce as heave-offering for unclean produce is valid, it follows the expected paradigm for the separation of heave-offering from one batch of produce on behalf of another.

K is consistent with the rule that heave-offering should not be separated from produce of worse quality for produce of better quality. *De jure* heave-offering should not be separated from produce which is unclean for produce which is clean. The status of such a separation of heave-offering *post facto* is complicated by the fact that, as I have stated, a priest may not eat unclean

heave-offering. The householder who separates heave-offering from unclean produce for clean produce does not simply give the priest produce which is of low quality. Rather, he prevents him from eating his portion altogether. Accordingly M. does not rule, as it normally does in cases in which heave-offering is separated from produce of low quality for produce of better quality, that *post facto* the separation is valid. Instead it holds that each case is judged in light of the original intention of the person who separated the heave-offering. If he purposely separated heave-offering in such a way as to prevent the priest from receiving edible produce, his separation is not valid (N).⁶ By separating heave-offering from produce which is of no use to the priest, the householder indicates that he did not perform the separation with proper intention. If, on the other hand, the householder was not aware that the produce from which he separated heave-offering was unclean, we cannot argue that he performed the separation with improper intention. In such a case the separation, performed with proper intention, is deemed valid (M).

We may now turn to the interpolation at C-I and to J, Eliezer's dispute with A. According to C-I the injunction against separating clean produce as heave-offering for unclean produce applies only in a case in which the clean and unclean produce are located in different batches. If, however, there is both clean and unclean produce in a single batch,⁷ even *de jure*, clean produce may be separated as heave-offering for all of the food. This rule takes into account the fact that heave-offering normally is separated from a single batch of produce for that same batch. A householder who separates heave-offering in that way need not divide the produce into individual portions. As long as he separates heave-offering from that which is clean and which, therefore, may be eaten by a priest, his separation is considered valid *de jure* (D-G). H-I is obvious. It restates A, using as examples the specific kinds of produce mentioned at D-G. Eliezer, J, rejects completely the notion that clean produce may not be separated as heave-offering for unclean produce. He would hold that clean and unclean produce simply should be categorized as produce of better and worse quality, and so follows the general principle which states that heave-offering should be separated from the better of the householder's produce.

The Levite's responsibility in separating heave-offering of the tithe, O-Q, is the same as that of the householder who separates heave-offering. Like the individual at K-N, the Levite may not purposely separate unclean first tithe as heave-offering of

the tithe for clean first tithe (Q). If he does so unintentionally, however, his separation is deemed valid (P). Judah, R, holds that only if the householder or Levite had no prior knowledge that the produce was unclean may that produce be considered valid heave-offering for clean produce. The point is that once the individual is aware that his produce is unclean, even if he claims to have forgotten, his subsequent actions in separating heave-offering from that produce cannot be considered unintentional.

In each of M. 2:3's cases, the householder infringes upon the restrictions of the Sabbath by performing a forbidden type of work. As at L-M and P-Q we rule that if he has acted unintentionally, he may derive benefit from his actions.⁸ This rule is qualified only in the case in which the individual simultaneously breaks the law of the Sabbath and of the seventh year of the sabbatical cycle. Since in that case the continued growth of the tree impinges upon the restrictions of the seventh year, the householder is required to uproot it (BB).

E. R. Eliezer says, "They separate heave-offering from that which is clean for that which is unclean" [= M. 2:1J].

F. Said R. Eliezer, "M^cśh w- There was a fire on the threshing floors of Kepar Signa', and [afterwards] they separated heave-offering from that which was clean for that which was unclean."

G. They said to him, "Is that evidence?"

"Rather, they separated heave-offering from each [type, clean or unclean] for its own [type] (*trmw mhn^c lyhn*)."

H. R. 'Il^ca'i says in the name of R. Eliezer, "They separate heave-offering from that which is clean for that which is unclean even in [the case of] wet [produce]."

I. "How so?"

J. "One who pickled his olives in a state of uncleanness and wished to separate heave-offering from them in cleanness, brings a funnel the [smaller] opening of which does not hold an egg's bulk, and rests it in the opening of the jug [of pickled olives]. (w-) He brings [clean] olives and places them in it [i.e., in the funnel] and separates heave-offering [from these clean olives for the unclean olives in the jug]."

K. "The result (*nms'*) is that he separates heave-offering from that which is clean for that which is unclean, and separates from a single batch (*mn hmwqp*) [as required by M. 2:1D-E]."

L. They said to him, "Only in the case of wine and oil is the term *wet* applicable [and since the method you suggest will not work in the case of either of these things, you have not offered support for the rule of H]."

T. 3:18b (H-L: y. Hal. 4:1)

Eliezer, F, adduces a precedent in support of this opinion of M. 2:1J. In the course of a fire at Kepar Signa' most of the wheat on the threshing floor was made unclean. Eliezer claims that in the aftermath of that fire clean produce was separated as heave-offering for the rest of the unclean produce. Sages, G, reply that this is not what occurred. They state that heave-offering was separated from unclean produce for unclean produce and from clean produce for clean produce (MB, HY). Such separations of heave-offering are valid.⁹

'Il^Ca'i, J-K, understands Eliezer's view to be simply that heave-offering may be separated from clean produce for unclean produce within a single batch (= M. 2:1C-I). He offers in Eliezer's name a means by which produce which is wet, and therefore susceptible to uncleanness, can be made into a single batch with unclean produce. Under normal circumstances such a procedure would cause the clean produce itself to be contaminated. Eliezer suggests using a funnel to avoid this problem. Keeping the point of contact between the clean and unclean produce to less than an egg's bulk prevents the transfer of uncleanness,¹⁰ yet creates a single batch within which clean produce may be separated as heave-offering for unclean produce. Sages (I) hold that the term *wet* applies only to liquids, wine and oil. Since the procedure outlined at J will not facilitate the creation of a single batch from clean and unclean quantities of these things, the example, they hold, does not support the rule of H.

A. R. Yose says, "One who separates heave-offering from that which is unclean for that which is clean [see M. 2:2K], whether [he does so] unintentionally or intentionally--

"that which he has separated is [valid] heave-offering."

B. Said R. Yose, "How is this one different from (add with E through *tithe* at C:) one who separates heave-offering from that which is of low quality for that which is of high quality [a separation which M. 2:6T holds is valid *post facto*]?"

C. They remove heave-offering of the tithe (so V, E;

ed. princ. reads: *trmwṭ wm^ošrwṭ* (1) from that which is unclean for that which is unclean,

(2) and from that which is clean for that which is clean,

(3) and from that which is clean for that which is unclean (so y. Ter. 2:1, b. B.Q. 115b, GRA, HY, Lieberman; V, ed. princ., E read: *mn ḥtm' ^ol ḥthwr*).

D. But [they do] not [remove it] from that which is unclean for that which is clean (so y. Ter. 2:1, b. B.Q. 115b, GRA, HY, Lieberman; V, ed. princ., E. read: *mn ḥthwr ^ol ḥtm'*) [see M. 2:20-Q].

E. R. Nehemia says, "They do not remove [heave-offering of the tithe] from that which is unclean for that which is unclean except in the case of produce about which there is a doubt whether it already was tithed ('l' bdm'y bld)." *[So shall you also present an offering of the Lord from all your tithes, which you receive from the people of Israel;] and from it, you shall give the Lord's offering to Aaron the priest (Num. 18:28)."*

F. They said to him, "Lo, it [i.e., Scripture] says, *[So shall you also present an offering of the Lord from all your tithes, which you receive from the people of Israel;] and from it, you shall give the Lord's offering to Aaron the priest (Num. 18:28)."*

T. 3:19 (y. Ter. 2:1; C-E

b. B.Q. 115b)

T. is composed of two autonomous units, A-B, supplementary to M. 2:2K-N, and C-D+E-F, which complements M. 2:2/O-Q. Yose, A, rejects M.'s claim that if a householder intentionally separates unclean produce as heave-offering for clean produce, his separation is not valid. Like Eliezer, M. 2:1J, he holds that clean and unclean produce are equivalent to produce of better and worse quality (B). Just as a separation of produce which is less choice as heave-offering for better produce is valid, so heave-offering separated from unclean produce on behalf of clean produce must be considered valid.

The point of C-D is straightforward. The Levite may not unnecessarily give the priest unclean heave-offering of the tithe (D). This agrees with M. 2:2/O. Nehemiah (E) rejects the notion of C1, that heave-offering of the tithe normally may be separated from unclean first tithe on behalf of other unclean first tithe. He claims that this may be done only in the case of produce which may already have been tithed. Nehemiah, then, holds that except in a case in which the priest may already have received his share, he must be given as heave-offering of the tithe clean, and therefore edible, produce. Sages, F, quote Scripture as evidence

against this view. The offering *to the Lord*--heave-offering of the tithe--is to be separated *from it*, that is, from any produce which the Levite comes to possess, even if it is unclean.

A. One who separates heave-offering, and one who removes tithes on the Sabbath, whether [he does so] unintentionally or intentionally--

B. (T. Shab. 3:9 adds:) that which he has separated is [valid] heave-offering and

C. the tithes he has removed are [valid] tithes.

D. One who immerses [unclean] utensils on the Sabbath, whether [he does so] unintentionally or intentionally--

E. [the utensils] are counted to him as having been immersed (*ʿlw lw ydy tbylh*) [cf., M. 2:3].

T. 4:1a (T. Shab. 3:9-10)

T. supplements the law of M. 2:3, which states that an individual who purposely transgresses the laws of the Sabbath may not derive benefit from his actions. T. states that however this may be, his actions in removing the tithes from his produce or in purifying unclean utensils are effective. The individual's actions in performing these rituals are viewed as autonomous of the context in which he performed them. His intentions to perform the rituals alone is central.

2:4-6

A. They may not separate heave-offering from [produce of one] kind for [produce] which is not of its same kind.

B. And if he separated heave-offering [in this way]-- that which he has separated is not [valid] heave-offering.

C. All kinds of wheat are [considered] one [species];

D. all kinds of figs, dried figs and [circles of] pressed figs are [considered] one [species]--

E. so (*w*) he separates heave-offering from one [kind of wheat, or figs] for another [kind].

F. Wherever (*kʿl mqwm*) there is a priest [to receive the heave-offering at once],

[the householder] separates heave-offering from the choicest [produce] (*hyph*).

G. Wherever there is not a priest [to receive the heave-offering immediately],

he separates heave-offering from that which keeps (*hmtqyym*).

H. R. Judah says, "He always should separate heave-offering from the choicest [produce]."

M. 2:4 (A-B: b. Bek. 53b, b. Tem. 5a, see M. M.S. 5:11, Sifré Bammidbar 120, Sifré Zutta, Qorah, 18:26; F-H: b. Ber. 39b; F-G: b. Men. 55a)

I. They separate a whole small onion as heave-offering [for other produce], but not half of a large onion.

J. R. Judah says, "No, rather, they separate half of a large onion as heave-offering [for other produce]."

K. And so would R. Judah say, "They separate onions from large towns (*mbny hmdynh*) as heave-offering for [onions] from villages, but not [onions] from villages [as heave-offering] for [onions] from large towns,

L. "since they [i.e., the onions grown in large towns (TYT)] are the food of city-people (*pwlytyqyn*, Jastrow, p. 1140) [and therefore of higher quality]."

M. 2:5 (I-J: b. Ber. 39b)

M. And (B, G¹, Ca, Z, Sa, M, O², lack *w*) they separate olives for oil as heave-offering for olives for pickling;

N. but not olives for pickling [as heave-offering] for olives for oil.

O. And [they separate] wine which has not been boiled [as heave-offering] for that which has been boiled;

P. but not that which has been boiled [as heave-offering] for that which has not been boiled.

Q. This is the general principle:

R. [in the case of] any [produce] which is a distinct kind (*kL'ym*) in relation to another [type of produce]--

he may not separate heave-offering from one for the other, even from the choicer [as heave-offering] for the less choice.

S. But [in the case of] any [produce] which is not a distinct kind in relation to other [produce]--

he separates heave-offering from the choicer for the less choice, but not from the less choice for the choicer.

T. But if he separated heave-offering from the less choice for the choicer--

that which he has separated is [valid] heave-offering.

U. Except in the case of rye-grass (*znwnyn*) [separated as heave-offering] for wheat,

V. since it [i.e., rye-grass] is not a food.

W. And (O², G³, K, R lack: *w*) cucumber (*qšwt*) and squash (*młppwn*) are a single kind.

X. R. Judah says, "[They are] two [different] kinds."

M. 2:6 (O-P: see M. Ter. 11:1;

S-T: see b. Yeb. 89b; W-X, see

M. Kil. 1:2, T. Kil. 1:1)

In the pericopae before us, two distinct legal issues are introduced and, at Q+R-T, assimilated into a single statement of law. The first of these issues involves the separation of heave-offering from one genus of produce for another, distinct genus (A-B). The second deals with the separation of heave-offering from produce of one type on behalf of produce of a different type, but within the same genus. This problem is introduced at C-E, and is further articulated in the dispute between Judah and sages, G+H (+I-J). It is Judah's view which dominates at K-L and which is expressed in the general principle at R-T.

Heave-offering may not be separated from produce of one kind on behalf of produce of a distinct kind (A). Doing so would violate the taxonomic categories established by God himself at the time of creation (Gen. 1:11-12). Even *post facto* such a separation of heave-offering is not valid. The distinct kinds of produce do not combine with one another to form a single batch, but remain discrete entities. Produce taken from one kind therefore may not be considered the heave-offering required of a different kind. The householder's actions in separating such heave-offering are null (B).¹¹

C-E carries matters forward with the next logical point. Different species within a single genus are not regarded as distinct kinds. Heave-offering therefore may be separated from one species for another. The problem in such a case is to establish which species should be the source of the heave-offering required of both. This issue is addressed in the dispute of F-G+H. On the one hand it seems clear that, if possible, the priest should be given the best of the householder's produce (see Num. 18:12, 29). At the same time, however, we must take into account the possibility that produce separated as heave-offering will spoil before it is given to the priest. In such a case he would lose his share completely. The anonymous rule of A-G therefore distinguishes between cases in which the householder will be able immediately to present a priest his portion, and cases in which it

will be some time before the heave-offering will reach the hands of a priest. In the former case, heave-offering is separated from that produce which is of the best quality (F). If, on the other hand, the heave-offering will not be given to a priest for some time, it is separated from the produce which is least likely to spoil (G). Judah, H, rejects the distinction made at F-G. He holds that heave-offering must always be separated from the best of the produce, as required by Num. 18:12. The priest's being able to consume the heave-offering accordingly is not an issue for Judah.

I-J instantiates the dispute between Judah and G, referring to a case in which it will be some time before the householder will give to a priest heave-offering he has separated (TYY, MS).¹² While large onions are of better quality, if they are cut in half --to allow the householder to designate as heave-offering the required quantity of produce--they will spoil quickly. The anonymous opinion, I, therefore, holds that heave-offering is separated from small onions which, although of lower quality, are not liable to spoil. Judah, of course, disagrees. He holds, as at H, that heave-offering must be separated from the more choice of the householder's produce. K+L provides a further example of Judah's view. Onions grown in large towns are of better quality than onions grown in villages.¹³ The individual who possesses both of these types of produce must therefore separate heave-offering from the onions grown in large towns. As far as I can tell, however, neither of these types of produce is less subject to spoiling than the other. It is clear therefore that while this case is interesting from Judah's point of view, it stands outside of the framework of Judah's dispute with the rule of F-G.¹⁴ M-N and O-P likewise do not know this dispute, but simply exemplify Judah's opinion. Olives used for oil, and wine which has not been boiled, are of better quality than olives intended for pickling, and boiled wine.¹⁵ Heave-offering therefore is separated from the former for the latter, but not *vice versa*.

R-T now correlates the rule of A-B with Judah's opinion of H. The only addition it makes to those rules is at T, which states that if heave-offering is separated from less choice produce for better produce, it is deemed valid heave-offering. This is because the two types of produce are homogeneous and therefore combine to form a single batch. V-W+X glosses. Since rye-grass is not a food, it is not liable to the separation of heave-offering for other produce, even of its same kind (see M. 1:5F). The issue of W+X is clear.¹⁶

A. *They do not separate heave-offering from [produce] of one kind for [produce] which is not of its same kind [= M. 2:4A].*

B. *But they said, "All kinds of (1) wheat are [considered] one [kind] [= M. 2:4C];*

C. *"all kinds of (2) beans ('ypwlyn), (3) walnuts ('gwayn),¹⁷ (4) almonds (šqdyṃ)¹⁸ and (5) pomegranates are [considered respectively] a single [kind],*

D. *"[and therefore] they separate heave-offering and remove tithes from one [type of any of these things] for another [type] [see M. 2:4E]."*

T. 2:4

E. *[If] there were [both] black and white figs in his house,*

F. *and so two species of wheat--*

G. *they¹⁹ separate heave-offering and remove tithes from one for the other.*

H. *R. Isaac says in the name of R. Eleazar (b. Hul. 136b reads: 'Il^Ca'i),²⁰ "The House of Shammai say, 'They may not separate heave-offering [from one for the other].'*

I. *"And the House of Hillel say, 'They separate heave-offering [from one for the other].'"*

T. 2:5 (b. Hul. 136b)

A-D cites the rule of M. 2:4A+C+E and adds four further examples of kinds of produce various species of which are considered homogeneous for purposes of separating heave-offering. E-G is formally autonomous of what precedes, repeating the rule that all kinds of wheat (F=M. 2:4C) and different types of figs (E=M. 2:4D) are considered single kinds. This unit acts as a superscription for the Houses dispute cited by Isaac, H-I. As is standard, the anonymously stated rules, E-G, agree with the opinion of the House of Hillel, I.²¹

E. *They separate wheat as heave-offering for bread;*

F. *but not bread [as heave-offering] for wheat, except according to a calculation [of how much wheat the bread contains].*

G. *They separate figs as heave-offering for dried figs according to number;²²*

H. *and dried figs [as heave-offering] for figs according to volume.*

I. But [they do] not [separate] figs [as heave-offering for dried figs according to volume;

J. nor dried figs [as heave-offering] for figs according to number.

K. Rabban Simeon b. Gamaliel says, "Baskets of figs and baskets of dried figs are all [of] equal [status].

L. "They separate heave-offering and remove tithes from one for the other [without regard to differences in size and number]."

T. 4:1b (y. Ter. 2:4; G: b. Men. 54b)

M. Said R. Ishmael b. R. Yose, "Father would take ten dried figs from the drying place (*mwqsh*) [as heave-offering and tithes] for ninety figs which were in the basket [ready for consumption]."

T. 4:2 (y. Ter. 2:4, b. Men. 54b)

T. is informed by M. 2:4's statement that heave-offering may be separated from produce of one type for produce of another type, as long as all of the produce is of a single species. At issue here is the method by which a householder who separates heave-offering in this way assures that the priest will receive the proper percentage of the produce. Both bread and wheat (E-F) are a single kind and, therefore, heave-offering may be separated from one for the other. Yet since bread contains less wheat per volume than unbaked wheat, a householder who separates bread as heave-offering for wheat must do so in accordance with the actual quantity of wheat contained in the bread. We do not take into account the higher value of the bread, or the amount of work the householder invested in its preparation.²³ The problem at H-J is equivalent. When figs are dried they shrivel and become smaller than figs which have not been dried. If a householder separates by count dried figs as heave-offering for other figs (J), the priest will receive a much smaller volume of produce than would otherwise be his share. For this reason, a householder who wishes to separate dried figs as heave-offering for other figs must do so by giving a percentage of the volume of all of the produce (H). Conversely, figs which are not dried are separated by number as heave-offering for dried figs (G), thereby providing the priest with an enhanced volume of produce. If, in such a case, heave-offering were separated by volume (I), the priest would receive fewer pieces of fruit than he would otherwise receive. Simeon,

K-L, rejects the notion that heave-offering must be separated in such fashion that the priest receive the greatest possible amount of produce both in volume and number (HY). Since figs and dried figs are regarded as a single kind, the householder may separate heave-offering from one for the other by whatever method of calculation he prefers.

According to Ishmael, M, his father would separate heave-offering and tithes from dried figs for other figs by counting the produce. This places Yose in opposition to the rule stated at H, and in agreement with Simeon, K-L (HY, MB).

I. A. They separate hard olives (*qwlpsyn*) as heave-offering for olives for oil (*zyty šmn*);

B. but not olives for oil [as heave-offering] for hard olives.

C. R. Judah says, "[They] even [separate] olives for oil [as heave-offering] for hard olives."

II. D. They separate wine which has been clarified (*yyn šlwł*) as heave-offering for [wine] which has not been clarified;

E. but not [wine] which has not been clarified [as heave-offering] for [wine] which has been clarified.

F. R. Judah says, "[He] even [separates wine] which has not been clarified [as heave-offering] for [wine] which has been clarified,

G. "provided that he separates [the heave-offering] from that which is the choicest."

T. 4:3

III. H. *They separate wine which has not been boiled as heave-offering for that which has been boiled;*

I. *but not that which has been boiled [as heave-offering] for that which has not been boiled [= M. 2:6/O-P].*

J. Rabban Simeon b. Gamaliel says, "[They] even [separate wine] which has been boiled [as heave-offering] for that which has not been boiled."

K. And so would Rabban Simeon b. Gamaliel say, "Also, (E, ed. princ. lack: *also*),²⁴ the laws of uncovered [liquids] [see M. 8:4] and of wine used for libations are not applicable in the case of wine which has been boiled (*yyn mbwšl 'yn bw mšwm glwy w'yn bw mšwm yyn nsk*)."

T. 4:4 (K: see y. Ter. 8:5,

b. A.Z. 3a)

A-B+C and D-E+F-G provide two further disputes illustrating the positions of Judah, M. 2:4H, and the anonymous opinion of M. 2:4G. Wine which has been purified of all natural elements and hard olives keep longer than wine which has not been clarified and olives which are used to make oil. The anonymous opinion of A-B and D-E holds that in a case in which heave-offering the householder is going to separate will not be given to a priest for some time, he should separate it from that produce which keeps, in this case, from hard olives and wine which has been clarified. Judah rejects this ruling. His principle is as stated at G. The householder must separate heave-offering from the best of his produce, regardless of the amount of time that will pass before the heave-offering will be turned over to a priest.²⁵

The case of H-I+J is formally parallel to the two cases just reviewed, giving us a triplet. Simeon, J, rejects the rule of M. 2:6/O-P, cited at H-I. He holds that heave-offering may be separated from produce of lower quality--wine which has been boiled--for produce which is of better quality--wine which has not been boiled. Alternatively, we may follow HD and Lieberman, who interpret Simeon's position in light of K, which is, however, formally autonomous. According to this view, Simeon holds that since wine which has been boiled cannot be rendered inedible by being left uncovered or by coming into contact with a gentile, it is choicer than wine which has not been boiled and is subject to these stringencies.²⁶ This being the case, the householder may use wine which has been boiled as heave-offering for wine which has not been boiled.

A. A [type of] vegetable which normally keeps for one day (*šdrkw lhštmr ywm 'hd*) [from the time it is picked]-- they use it as heave-offering [for other produce] (*twrmyn clyw*)²⁷ for one day.

B. A [type of] vegetable which normally keeps for two days-- they use it as heave-offering [for other produce] for two days.

C. A [type of] vegetable which normally keeps for three days-- they use it as heave-offering [for other produce] for three days.

D. Chate-melons (*hqšw'yn*),²⁸ musk-melons (*hdlw^cyn*),²⁹ endives (*trwqsymwn*)³⁰ and spinach (*htrdyn*), which normally keep for one day--

they use them as heave-offering [for other produce] for one day.

E. Lettuce (*hhzryn*),³¹ vetches (*hqršyn*),³² turnips (*hlpt*)³³ and cauliflower (*hkrwb*), which normally keep for two days--

they use them as heave-offering [for other produce] for two days.

F. Leeks (*hqplwtwt*)³⁴ and cucumbers (*hmlppwnwt*),³⁵ which normally keep for three days--

they use them as heave-offering [for other produce] for three days.

G. This is the general principle:

H. [in the case of] anything which keeps [for a set length of time]--

they use it as heave-offering [for other produce for that same length of time].

I. R. Nehemiah says, "He may not separate heave-offering from strawberries (*twty*) which he picked in the morning for strawberries which he picked in the evening."

T. 4:5a

T. continues to supplement M. with rules on the separation of heave-offering from one batch of produce for another.³⁶ According to T. produce may be separated as heave-offering for other produce only during that period of time in which it is at its freshest and, therefore, best quality. Nehemiah (H) treats strawberries as a special case. Since they spoil quickly, strawberries picked in the morning may not be used as heave-offering for strawberries picked in the afternoon, even of that same day.

CHAPTER THREE

TERUMOT CHAPTER THREE

The chapter carries forward several topics already familiar from the tractate's first two chapters. M. 3:1-2 take up the issue introduced by M. 1:5 and 2:1. M. 3:3-4 similarly develop M. 1:1D-G. Only at M. 3:5-9 do we have fresh problems, which, together with M. 4:1-5, bring to a close the issues of M.'s first large thematic unit. While topically diverse, the chapter is formally unitary. M. 3:1, 5, 6 and 8 all commence *h* + singular participle. Only M. 3:3 and 3:9 differ slightly, beginning *h* + noun.

M has been clear up to this point that produce may be separated from one batch as heave-offering for produce of a different batch. M. 1:5 and M. 2:1, however, have stated that such means of separating heave-offering may not be employed in cases in which the batches are comprised of produce of different kinds, or, for instance, if one of the batches is not liable to the separation of heave-offering. M. 3:1-2 now asks how we adjudicate cases in which there is a doubt whether or not a separation of heave-offering from one batch of produce on behalf of another batch meets these requirements. M. 3:1 rules that in such cases of doubt, that which has been separated as heave-offering must be considered valid heave-offering. Since, however, there is a possibility that this heave-offering does not comprise the priestly share required of the produce at hand, the householder must separate heave-offering a second time. This done, we take into account the fact that both of the quantities of heave-offering which were separated cannot be the true heave-offering required of the produce. Therefore neither of these quantities of heave-offering alone is subject to the stringencies normally accorded heave-offering (M. 3:1J-3:2/O). If either by itself falls into a batch of unconsecrated produce, for instance, it does not impose the status of heave-offering on that produce. This occurs only if both quantities of heave-offering together fall into unconsecrated produce.

The chapter's second substantive unit depends on the rule of M. 1:1D-G, which states that only the owner of a batch of produce may separate heave-offering from that produce. M. 3:3-4 questions the implications of this rule for cases of joint ownership of produce. Specifically, Aqiba and sages dispute whether each partner

is to be considered a part-owner in all of the produce--such that he may separate the heave-offering required of all of the produce --or whether he has full ownership of a determinate share of the produce. According to this latter view, each of the partners may separate the heave-offering required of his share of the produce alone. Yose (M. 3:4D-E) glosses, bringing into play the consideration of the proper percentage of the produce which should be separated as heave-offering (see M. 4:3). A redactional gloss at M. 3:4 introduces the consideration of agency, and with it the rule that in cases in which their work requires it, laborers may separate heave-offering on behalf of their employer (M. 3:4N-P).

M. 3:5 introduces a new topic of discussion, the oral designation by which a householder localizes within his produce the agricultural gift--heave-offering, or tithes--which he wishes to separate. Simeon, sages, Eleazar Hisma' and Eliezer b. Jacob dispute whether in his designation the householder must declare a specific portion of the batch to be the offering or, alternatively, whether he need simply state that the offering is located within the produce, as opposed to within some different batch. Simeon, Eleazar Hisma' and Eliezer b. Jacob are in agreement against sages that the latter is the case. Thus they hold that only in the physical separation of the heave-offering from the batch of produce does a specific portion of the batch take on the status of a priestly gift. M. 3:6-7 carries forward the issue of the oral designation. The issue here is the order in which first fruits, heave-offering, first tithe and second tithe should be designated and separated. M. 3:8 concludes the unit with special problems, specifically, cases in which a householder wishes to separate one offering--e.g., heave-offering--but, in his designation, states that he wishes to separate a different offering--e.g., first tithe. The point is that unless the householder both has proper intention and correctly announces that intention, his actions in separating agricultural offerings are not effective.

M. 3:9 concludes the chapter, asking who has the ability to designate and separate agricultural offerings. All parties agree that non-Israelites have the right to separate from their produce heave-offering and tithes and to give these things to Levite or priest. Simeon, however, claims that heave-offering separated by a gentile does not have the status of a sanctified priestly gift.

Attributions are for the most part to Ushans. They are as follows: Aqiba and Yose in M. 3:3; Simeon, Eleazar Hisma and Eliezer b. Jacob at M. 3:5; Judah and Simeon in M. 3:9. T.

supports the conclusion that the issues before us are still salient at Usha. Specifically, we have Yose, T. 4:5J, and Ishmael b. R. Yose, T. 4:6E (both supplement M. 3:1). T. 4:7 assigns M. 3:1E-I to Rabbi. T. 4:9 cites Rabbi and Simeon b. Gamaliel in dispute over the issue of M. 3:5. T. 4:11 assigns to Yose a secondary gloss of the issue of M. 3:8. The issues of M. 3:9 are disputed at T. 4:12-14 by Simeon b. Gamaliel, Rabbi and Simeon b. Eleazar.

3:1-2

- A. One who separates a chate-melon¹ as heave-offering [for other chate-melons] and it is found to be bitter,
- B. [or who separates] a watermelon² [as heave-offering for other watermelons] and it is found to be rotten (*srvh*)--
- C. [that which he has separated is valid] heave-offering.
- D. But he must separate heave-offering again.
- E. One who separates a keg of wine as heave-offering [for other wine] and it is found to be vinegar--
- F. if it was known before he separated it as heave-offering [for the other wine] that it was vinegar, [that which he has separated is] not [valid] heave-offering.
- G. (O¹, B, Ca, L, M, O², S, P, Z add: But) if it turned into vinegar after he separated it as heave-offering, lo, this is [valid] heave-offering.
- H. (O¹, B, Ca, L, O², S, Z add: And) if there is a doubt [as to whether it was vinegar when it was separated as heave-offering], [that which he has separated is valid] heave-offering.
- I. But he must separate heave-offering again.
- J. The first [produce separated as heave-offering at A-D and E+H-I] does not impose the status of heave-offering [on other unconsecrated produce with which it is mixed] by itself [i.e., if it alone is mixed with other such produce].
- K. And [non-priests who unintentionally eat it] are not required to pay back [its value and] the [added] fifth.
- L. And so [is the case regarding] the second [produce separated as heave-offering].
- M. 3:1 (A-C: b. Yeb. 89a, b. Qid. 46b)
- M. [If] one of them [i.e., one of the quantities of

produce separated as heave-offering at A-D or E+H-I] fell into unconsecrated produce--

it does not impose the status of heave-offering [upon the mixture].

N. [If] the second [produce separated as heave-offering] fell elsewhere [i.e., into a different batch of unconsecrated produce]--

it does not impose the status of heave-offering [upon the mixture].

O. [But if] the two [quantities of produce separated as heave-offering] fell into the same place [i.e., into the same batch of unconsecrated produce]--

they impose the status of heave-offering [on that produce] in accordance with [the bulk of] the smaller of the two [quantities of produce separated as heave-offering].

M. 3:2

M. turns to the disposition of cases of doubt concerning the validity of a designation of heave-offering. It is uncertain, A-D and E+H-I, whether or not at the time produce was separated as heave-offering it was fit to be used as such. The produce is found to be inedible, A-D, and so not liable to the separation of heave-offering (see M. 1:5F). In a parallel case, E-I, what was thought to be wine turns out to be vinegar, which may not be used as heave-offering for wine (T. 4:7G). The problem is to determine the validity of such separations of heave-offering in cases in which it is not known whether the produce actually was ineligible for use as heave-offering at the time it was so designated. According to C-D and H-I, we take into account both the possibility that the designation was valid and that it was invalid. The wine may have turned to vinegar, or the produce become inedible, only after it was designated heave-offering. The original separation of heave-offering therefore is deemed to have been valid. The fact that the produce later will have spoiled does not affect this. We must however take into account the possibility that the produce or wine was spoiled from the start, such that the first separation of heave-offering was not valid. In light of this possibility, the householder is required to separate heave-offering a second time (D, I), thereby assuring that his produce is properly prepared for consumption.³

In the case of wine, E-I, there is a further possibility. The householder, or some other individual, may have known the

condition of the wine at the time it was designated heave-offering on behalf of other wine. If it is known that the wine already had become vinegar at the time it was designated heave-offering (F), there is no element of doubt, and the designation is not valid. If, however, it is clear that it was wine which was separated as heave-offering for wine, the designation is declared valid, and there is no need for the householder to separate heave-offering a second time. The householder has fulfilled his obligation. It is not his concern that the produce he separated as heave-offering spoiled.⁴

J-L and M-O (which simply restates J-L) draw out the implications of the fact that neither of the quantities of produce separated as heave-offering at C-D and H-I may be considered true heave-offering. As I noted, the status of the first produce separated as heave-offering is in doubt. Yet since it is possible that the first heave-offering is valid, the status of the second produce separated as heave-offering is likewise in doubt. This being the case, neither of these batches of heave-offering is subject to the stringencies applicable to a true priestly gift. If either alone is mixed with unconsecrated produce, it does not impose the status of heave-offering upon that produce (J, M-N). We simply assume that it was not true heave-offering in the mixture.⁵ Likewise, a non-priest who unintentionally eats either of these quantities of produce is not required to pay back the added fifth, normally paid by a commoner who eats a holy thing (Lev. 22:10-14; see M. 1:8-9). The situation is different if both of the quantities of heave-offering are mixed into a single batch of unconsecrated produce (O). In such a case it is certain that true heave-offering has been mixed with unconsecrated produce. Still, only one of the quantities of produce in fact is true heave-offering, and it is not known which. At issue therefore is the method by which the householder determines whether or not the mixture contains sufficient heave-offering to impose a status of sanctity upon all of the produce (see M. 4:7). According to O, we assume that the smaller of the quantities of designated produce comprised the true heave-offering.⁶ This rule is lenient, making it likely that the mixture will contain more than the one hundred parts unconsecrated produce to one part heave-offering needed to neutralize the heave-offering (M. 4:7). Notably, as A-D has made clear, this same leniency does not apply in cases of doubt about the actual separation of heave-offering. The central concern here, then, is that the required heave-offering be removed from the

householder's produce. The ultimate disposition of the priestly gift is secondary, and therefore subject to less stringent rules. This is essentially the position of Judah, M. 2:4H.

J. And so would R. Yose say,⁷ "You find nothing bitter in a chate-melon except its inner part ('yn lk mr bqšwt 'l' pnymy šbw [see M. 3:1A]).

K. "Lo this one [i.e., a householder who separated a bitter chate-melon as heave-offering for other chate melons] adds [other produce] to its outer part [to compensate for the bitter inner part] and separates [this additional produce as heave-offering for the chate-melons]."

T. 4:5b (y. Ter. 3:1; b. B.B. 143a)

Yose disagrees with M. 3:1A+C-D, holding that a householder who has separated a bitter chate-melon as heave-offering for other chate-melons need not separate heave-offering a second time. Since only the inner part of the bitter chate-melon is not edible (A), even a bitter chate-melon has the status of food and may be considered valid heave-offering for other chate-melons. In order to make up for the loss the priest will incur by receiving with his portion produce which is inedible, Yose holds that the householder simply declares an additional quantity of produce to be heave-offering.⁸ In this, Yose is consistent with views cited in his name at T. 4:2 and, as we shall see, at T. 4:6. In those pericopae he likewise is concerned that the priest be given his full share of heave-offering.

A. One who separates a keg of wine as heave-offering [for other wine] (E, y. Ter. 3:1, Maimonides, *Heave-offering*, 5:22: *htwrm hbyt šlyyn*; V: *htwrm 't hbwr*) and it is found to have been left uncovered [and is therefore not fit for consumption (M. 8:4)],

B. [or who separates] a watermelon [as heave-offering for other watermelons] and it is found to be punctured [with the teeth marks of a snake, and is therefore unfit for consumption (M. 8:6)]--

C. that which he has separated is [valid] heave-offering.

D. [But] he must separate heave-offering again [cf., M. 3:1A-D].

E. R. Ishmael b. R. Yose says in the name of his father, "They separate wine as heave-offering for vinegar, but they

do not separate vinegar as heave-offering for wine [see M. 3:1E-I],

F. "(E, ed. princ. lack: 'pylw twrmyn 'yn twrmyn)⁹

G. "except according to a calculation [of the relative values of the two types of produce]."

T. 4:6 (A-D: y. Ter. 3:1; E:

y. Kil. 1:1)

The case at A-D is formally and substantively parallel to that at M. 3:1A-D. Here, as there, it is unclear whether at the time produce was separated as heave-offering for other produce it was fit to be used as such. Since the separation may have been proper, the produce separated as heave-offering is considered valid heave-offering (C). Yet since the original separation may not have been valid, the householder is required to separate heave-offering a second time (D).

According to Ishmael, E-G, his father rejects M. 3:1's assumption that wine and vinegar are distinct kinds such that heave-offering may not be separated from one for the other. He holds that they are a single kind, but that wine is of better quality. *De jure* wine may therefore be separated as heave-offering for vinegar, but not vinegar for wine (E). At G, Yose departs from this expected paradigm for the separation of heave-offering from one batch of produce for another. He holds that even *de jure* the householder may separate vinegar as heave-offering for wine, providing that in doing so he is careful to give the priest enough vinegar to compensate for its low value. As in the preceding pericope, then, Yose considers the most basic element of the proper separation of heave-offering to be that the priest receive a sufficient percentage of the householder's produce.

A. "*One who separates a keg of wine as heave-offering [for other wine] and it is found to be vinegar--*

B. "*if it was known before he separated it as heave-offering that it was vinegar,*

"[that which he has separated is] not [valid] heave-offering.

C. "*But if it turned into vinegar after he separated it as heave-offering,*

"lo, this is [valid] heave-offering.

"[And if] there is a doubt [as to whether it was already vinegar when it was separated as heave-offering],

"[that which he has separated is valid] heave-offering.

E. "But he must separate heave-offering again [= M. 3:1E-I]"--

F. the words of Rabbi.

G. For Rabbi says, "Wine and vinegar are two [distinct] kinds."

H. But sages say, "[They are] one kind."

T. 4:7 (G: y. Ter. 2:5, b. B.B. 84b)

T. attributes M. 3:1E-I to Rabbi, and, at F, offers his reason for holding that a separation of vinegar as heave-offering for wine is not valid. Sages, H, disagree. Like Yose, T. 4:6E-G, they claim that wine and vinegar are a single kind, such that heave-offering may be separated from one for the other. Sages therefore reject the rule of M. 3:1E-I.¹⁰

A. [If] it was his intention (*hyh blbw*) to separate wine as heave-offering for wine--

B. [if] that which [comes up] in his hand is vinegar, that which he has separated is not [valid] heave-offering.

C. [But if] that which [comes up] in his hand is wine, the heave-offering of the wine has been separated (*hyyn twrm*).¹¹

D. And he must separate heave-offering again for the vinegar.¹²

E. [If it was his intention to separate vinegar as heave-offering for vinegar]¹³--

F. [if] that which [comes up] in his hand is vinegar, the heave-offering of the vinegar has been separated.

G. And he must separate heave-offering again for the wine.¹⁴

H. [If] he was checking a keg of wine [from time to time] in order to use it as heave-offering for other wine [which came into his possession] and it was found to be vinegar--

I. for the preceding three days it is certain [that it had already become vinegar];

J. from this time and back, there is a doubt [as to whether or not the wine had already become vinegar].

K. But [in the case of] wine from his tank--

L. they use it as heave-offering [for other produce] for a full forty days [without checking it], on the assumption

that it still is wine.

T. 4:8 (H-J: y. B.B. 6:1; b. Qid.
79a, b. B.B. 96a; K-L: y. Git.
3:8; see also M. Git. 3:8)

T.'s rules depend on M. 3:1E-I's understanding that wine and vinegar are distinct kinds, such that heave-offering may not be separated from one for the other (=Rabbi, T. 4:7G). In the cases at A-D and E-G the individual has an assortment of kegs and does not know which contain wine and which contain vinegar. If he decides to separate heave-offering for the wine (A), his separation is valid only in the case that he actually selects as heave-offering a keg of wine (C). If he accidentally picks vinegar instead, his separation is not valid. The vinegar may not be considered heave-offering for the wine. Further, since his original intention was to separate heave-offering for wine, we do not regard the vinegar he separated to comprise the heave-offering required of the kegs of vinegar. E-G reverses the case. Now the individual intends to separate heave-offering for vinegar. If he actually takes vinegar as heave-offering, his separation is valid (F). He must of course perform an additional separation of heave-offering for the wine (G).

The individual at H-L has set aside a keg of wine, the contents of which he designates heave-offering for other wine which comes into his possession. When all of the wine in the keg will have been designated heave-offering, he will give the whole keg to a priest. In the meantime he must occasionally examine the wine in the keg to make sure that it has not turned into vinegar and become unfit for use as heave-offering for wine. At issue is the status of separations of heave-offering performed between the time at which there certainly was wine in the keg and the point at which the householder finds that the wine has turned to vinegar. According to I, we assume that for three days prior to the final examination, the wine already has become vinegar.¹⁵ Produce for which wine in the keg was used as heave-offering during this time will have the status of produce from which heave-offering never has been separated (cf. M. 3:1F). Prior to these three days, until the point at which it is known that there was wine in the keg, separations of heave-offering which were performed relying on the wine in the keg are in a status of doubt (cf. M. 3:1H). The householder must separate heave-offering a second time to assure that heave-offering is properly removed from this produce.

Yet since it is possible that the original separation of heave-offering was valid, that portion of vinegar in the jug which was declared heave-offering during this time is regarded as valid heave-offering. L distinguishes between wine which already has been transferred into kegs and that which is still in the tank. Since wine in the tank is newer and not likely to spoil (MB), the householder may assume that it did not turn to vinegar for a full forty days from the last time he examined it.

3:3-4

A. Partners who separated heave-offering [from the same commonly owned produce] one after the other--

B. R. Aqiba says, "That which was separated by both of them is [valid] heave-offering."

C. But sages say, "[Only] that which was separated by the first is [valid] heave-offering."

D. R. Yose says, "If the first [partner] separated the required measure [of heave-offering] (*kšy^cr*) [see M. 4:3], that which was separated by the second [partner] is not [valid] heave-offering."

E. "But if the first [partner] did not separate the required measure [of heave-offering], that which was separated by the second [partner] is [also valid] heave-offering."

M. 3:3 (see b. Tem. 13a, y. Ter.

1:1, y. Git. 5:4)

F. In what [case] does the opinion [of Aqiba, A (Bert, TYY, Sens, MR)] apply (*bmh dbrym 'mwrym*)?

G. [To the case] in which neither [of the partners] conferred (*dbv*) [with the other].

H. But:

I. [In a case in which one] gave permission to a member of his household, to his slave, or to his maid-servant to separate heave-offering--

J. that which that individual separates is [valid] heave-offering.

K. [If he] retracted [the permission]--

L. if he retracted [it] before [the other individual] separated heave-offering--

that which [that individual] has separated is not [valid] heave-offering.

M. But if he retracted [it] after [the other individual] separated heave-offering--

that which [that individual] has separated is [valid] heave-offering.

N. Workers do not [automatically] have permission to separate heave-offering [from the produce with which they are working],

O. except for those who tread [the grapes or olives in the tank] (*h_{drwkw}t*),

P. for they at once impart to the tank [susceptability to] uncleanness [so Albeck].

M. 3:4 (K-M: y. Ter. 1:1; K-L:

b. Qid 59a)

The issue expressed in the dispute between Aqiba and sages (A-B+C) is how the character of joint ownership affects the separation of heave-offering. Since heave-offering may be separated only once from a batch of produce, we cannot simply assume that each of the part-owners individually may separate heave-offering. Yet as we recall from M. 1:1D, only the owner of a batch of produce may separate heave-offering from that batch. It therefore is not clear that one of the joint owners of a batch of produce may alone effect the separation of the heave-offering required of the collectively owned batch. In light of these considerations, the problem is to establish the rights and responsibilities of individual owners of a crop.¹⁶ There are two ways in which logically to view the problem. On the one hand, we may hold that each partner--autonomous of the others--owns a specific portion of the produce. In this case each partner individually must separate heave-offering from his portion. On the other hand, ownership may be understood to be collective, such that any one of the partners may separate heave-offering for all of the produce. If this is the case, once one of the partners has separated heave-offering, the produce no longer will be liable. Heave-offering separated later by any of the other partners will not be valid heave-offering.

Aqiba, B, takes the position that each of the individuals owns a determinate share of the produce. By his actions the first partner exempts from liability to the separation of heave-offering only that portion of the produce which he owns. The separation performed by the second partner--who now separates heave-offering from his own portion of the produce--likewise is valid.¹⁷ Sages, C, take the opposite point of view, holding that the partners collectively own all the produce. By his actions either of these

individuals exempts the entire batch from further liability to the separation of heave-offering. Once the first partner separates heave-offering, that which the second partner separates cannot have the status of a sanctified priestly gift.

On formal grounds Yose's opinion (D), like the statements at B and C, may respond directly to A. It is clear on substantive grounds, however, that in its present redactional setting, Yose's view responds to and qualifies the position of sages, C.¹⁸ Yose agrees with sages' view that either of the partners can, by his actions, exempt all of the produce from further liability to the separation of heave-offering (as at D). He takes seriously, however, M.'s notion that a set percentage of each batch of produce should be separated as heave-offering (M. 4:3). According to Yose, only if the first partner actually separates the required amount of heave-offering does he exempt the produce from further liability to the separation of heave-offering. In this case heave-offering separated by the second partner is not valid. If, on the other hand, the first partner separates less than the required quantity of heave-offering (E), Yose holds that the produce remains subject to the separation of heave-offering.¹⁹ Produce separated as heave-offering by the second partner will in this case also have the status of valid heave-offering.²⁰

F-H+I-J+K-M qualifies the opinion of Aqiba, B, making use of the standard *bmh dbrym 'mwrym* formulation. Since I-J+K-M is clearly autonomous of F-H and its present redactional context,²¹ let us begin by examining its meaning as an independent unit of law. When viewed thus, I-J makes a rather simple point. This is that a householder may assign an agent to separate heave-offering for him. We know as much from M. 1:1D-E. While K-M is somewhat more interesting, its point likewise is hardly surprising. It holds that a householder who has authorized another individual to separate heave-offering for him may nullify the permission he has granted. This is the case until such time as that other individual actually has separated heave-offering. Once the agent has separated heave-offering, the produce retains its consecrated status regardless of the householder's change of mind. The process by which produce is designated heave-offering is not reversible.

When viewed through the eyes of the redactor who joined I-J to F-H, the point of I-J is somewhat more subtle. F-G, first, claims that Aqiba's view--that each of the partners separates heave-offering for his own portion--is operative only in a case in which the joint owners did not previously discuss the way in which

they would separate heave-offering. I-J now indicates the ruling for the opposite case. What if the partners did confer, and decided that one of them would separate heave-offering for both? According to I-J, in such a case the separation of heave-offering performed by the one partner exempts from liability both his portion and that of his co-owner, just as in a case in which a householder assigns an agent to separate heave-offering for him. If the second partner later separates heave-offering, that which he separates cannot be considered valid heave-offering.

While formally autonomous, N-P is related to I-J in substance, offering a further problem in the separation of heave-offering by an agent. Workers whose task does not require it may not separate heave-offering from the produce with which they are working. If, however, the completion of their work presupposes their separating heave-offering, we assume that the householder considers these workers his agents, and they may separate heave-offering for him. This is the rule, O-P states, in the case of workers who tread grapes or olives. Once the treading has begun it is impossible to protect the liquid in the vat in a state of cleanness. It therefore is standard procedure immediately to separate heave-offering, thereby assuring that the priest will receive as his portion produce which he may eat. In light of this consideration, while the workers have not explicitly received permission to separate heave-offering, this is considered part of their task, and they are permitted to do so.

I. A. A sharecropper who separated heave-offering [both from his share and from the portion of the produce which belongs to the householder], and the householder came and intervened--

B. if he intervened before [the sharecropper] separated heave-offering, that which he has separated is not [valid] heave-offering.

C. But if he intervened after he separated heave-offering, that which he has separated is [valid] heave-offering.

D. But [the sharecropper] is not permitted to set aside (*lhwisy*) tithes, except for his own share.

II. E. A worker who separated the heave-offering of the threshing floor--

that which he has separated is not [valid] heave-offering.

F. But if the householder had said to him, "Gather in (*knws*) the threshing floor for me," that which he has separated is [valid] heave-offering,

G. for the threshing floor may not be gathered in unless heave-offering is separated from it.

T. 1:7

III. H. Workers who separated the heave-offering of the tank [of wine or oil]--

that which they have separated is not [valid] heave-offering.

I. But if it was a small tank and others also used it²²--

that which they have separated is [valid] heave-offering.

T. 1:8 (y. Ter. 3:4)

T. supplements M. 3:4. In their redactional context within the first chapter of T., these materials form part of a larger unit of materials dealing with a householder's implicit authorization of another individual to separate heave-offering for him. This develops M. 1:1D-E's statement that, unless permission has been granted, heave-offering may be separated only by the owner of the produce. By placing T. 1:7-8 within that unit, T. indicates that M. 3:4's several rules are to be read in light of M. 1:1D-E, as I have done.

A-C+D reads the concerns of M. 3:4K-M into a case such as that of M. 3:4N-P. Like the workers who tread the grapes or olives in the vat (M. 3:4/O-P), a sharecropper--who must complete the processing of all of the produce--is viewed as an agent of the householder. He therefore may separate heave-offering. As in the case of any agent, the sharecropper's right, however, may be rescinded, so long as the householder does this before heave-offering has been separated (B-C). I assume that the sharecropper may not remove tithes for the householder (D) because these gifts need not be maintained in cultic cleanness. This being the case there is no reason for the sharecropper to separate them for the householder before the wine or oil is rendered unclean.²³

E-G and H-I simply repeat the point of M. 3:4N-P. Workers may not normally separate heave-offering from produce belonging to their employer. If the task to which they have been assigned requires their doing so, they are considered agents and heave-offering they separate is valid.

3:5

I. A. One who says, "The heave-offering of this heap is within it," or "Its tithes are within it," [or] "Its heave-offering of the tithe is within it"--

B. R. Simeon says, "He has [validly] designated [these agricultural gifts]."

C. But sages say, "[He has not validly designated these things] unless he will say, '[They are] in its [i.e., the heap's] northern portion,' or '[They are] in its southern portion.'"

II. D. R. Eleazar Hisma' says, "One who says, 'The heave-offering of this heap [is separated] from it, for it,' has [validly] designated [the heave-offering]."

III. E. R. Eliezer b. Jacob says, "One who says, 'A tenth of this [first] tithe is made heave-offering of the tithe for it [i.e., for all of the first tithe],' has [validly] designated it."

M. 3:5 (A-B: b. Erub. 37b; A-C:
see T. M. S. 3:17)

In order to separate agricultural gifts, the householder must perform two distinct procedures. He first must make an oral declaration of his intention to separate a particular offering from some batch of produce. Through his declaration the householder localizes within the produce the gift which he desires to separate. Only after the offering has been so designated may he actually separate it from the batch of produce and give it to its proper recipient, priest or Levite.²⁴ Under debate in M. 3:5 is the proper procedure for the designation of heave-offering, first tithe and heave-offering of the tithe. The pericope is formulated as a triplet, giving us three different formulas for the designation of agricultural gifts, A+B (disputed by sages, C), D and E. While A-C refers to heave-offering, tithe and heave-offering of the tithe, D speaks specifically only of heave-offering, and E, only of heave-offering of the tithe. Still, that the pericope is unitary in nature is evidenced by the fact that each of its sections exhibits parallel formulation, viz., *h'wmxr* + statement of designation + *qr' šm*. Thus while we cannot claim that the several statements of law found here have a common source, it is clear that their final linguistic formulation was for use as a unit.

Simeon, B, states that to designate an agricultural gift, the householder need only indicate in what produce the gift is located.

Simeon's notion is that the designation of agricultural offerings is intended only to demarcate one particular batch of produce from other batches. The purpose of the designation is not to impart the status of an agricultural gift to any specific produce within the batch. By his designation, rather, the householder simply restricts himself to separating the offering from a particular batch of produce and not from a different one (Maimonides, *Commentary and Heave-offering* 3:8). If the householder does not at this point impose the status of an agricultural gift upon any specific portion of the produce, we must ask when, according to Simeon, does he do this. It appears that in Simeon's view, this is in the householder's actual separation of the offering from the produce. Only at this point does the particular produce which he separates take on a consecrated status. For Simeon, thus, even after the householder has designated the offering within the batch of produce, he still may choose which produce, and how much of it, he actually will separate as the offering.

Sages, C, have a fundamentally different understanding of the purpose of the designation of agricultural gifts. They hold that the designation must indicate which specific portion of the householder's produce is to be considered the offering. In order for the designation to accomplish this, it must include a statement of the exact place within the produce from which the householder intends to separate the priest's or Levite's share, e.g., the north or south side of the batch. The householder thereby differentiates between that which is to be considered the offering and the rest of the produce (y. Ter. 3:5).

Eleazar Hisma' and Eliezer b. Jacob both agree with the method and purpose of the designation suggested by Simeon.²⁵ Eleazar Hisma' holds that to designate heave-offering, the householder simply states that he intends to separate the offering from a particular batch of produce for that same batch. Eliezer b. Jacob (E) repeats the same statement in reference to heave-offering of the tithe. Like Simeon, each of these authorities must hold that it is in the actual separation of the offering that a specific quantity of produce takes on the status of the desired gift. This conception is quite different from that held by sages.

A. "One who says, 'The heave-offering of this heap [of produce] is in its northern portion [see M. 3:5C]--

B. "the half of it [i.e., of the heap] facing north is [in the status of] a mixture of heave-offering and unconsecrated produce (*mdwm^c*)"--the words of Rabbi.

C. But sages say, "He marks it [i.e., the heap] out (*ᵘ wśy 'wtw*) in the form of [the Greek letter] *Chi*."

D. Rabban Simeon b. Gamaliel says, "He takes the heave-offering from its [i.e., the heap's] most northern part (*spwn spwnw*)."

T. 4:9 (y. Ter. 3:5)

T. develops the statement of sages, M. 3:5C, that a householder designates heave-offering or other agricultural gifts by indicating in which portion of the produce he deems the gift to be located. At issue now is the actual effect of a householder's statement that the heave-offering required of a batch of produce is located in the batch's northern part (A). According to Rabbi, B, such a statement is sufficiently ambiguous as to require that we deem the heave-offering to be dispersed throughout the northern half of the heap of produce. The householder therefore must treat as a mixture of heave-offering and unconsecrated produce a full half of the batch. All of the produce in this mixture goes to the priest, as if it were heave-offering.²⁶ Rabbi's statement thus is striking. According to it, the method of designation suggested by sages, M. 3:5C, will impose the status of heave-offering upon fifty percent of the produce. Sages, C, disagree with Rabbi. They state that in a case such as is described at A, the householder does, in fact, localize the heave-offering in a specific portion of the produce, such that the status of *dm^c* does not apply to any portion of the heap. We simply imagine a cross drawn over the batch, and consider the produce which is in the quadrant facing north to be heave-offering. While this statement is less radical than Rabbi's, it still is notable, requiring that the householder separate as heave-offering a full quarter of his produce. It therefore is not likely that T.'s sages are the same as those cited at M. 3:5C. Simeon b. Gamaliel, D, states that only that produce which is in the most northern portion of the heap, a small percentage of the whole, need be considered heave-offering.²⁷ According to Simeon, then, by his statement the householder will have designated the proper quantity of heave-offering. While it appears that all three of T.'s authorities would agree that sages, M. 3:5C, have the correct notion of the purpose of the designation of agricultural gifts, Simeon b. Gamaliel alone considers the

specific language they offer to be a practical means of effecting the designation.

3:6-7

- A. One who separates (1) heave-offering before first fruits (*hmqdym trwmh l'bkurym*),
 (2) first tithe before heave-offering,
 (3) or second tithe before first [tithe],
 B. even though he transgresses a negative commandment (*l' t'šh*),
 C. that which he has done is done [and valid];
 D. as it is written, *You shall not delay to offer from the fulness of your harvest and from the outflow of your presses* (Ex. 22:29).

M. 3:6 (Mekhilta D'Rabbi Ishmael, Mishpatim #17, Horovitz, p. 318 l. 9 - p. 319 l. 4; cf. Mekhilta D'Rabbi Simeon b. Yohai 22:28, Epstein, p. 213 ls. 8-11, b. Tem. 4a, 5b)

- E. And from where [do we know] that first fruits should be separated before heave-offering,
 F. for this [i.e., heave-offering] is called heave-offering (*trwmh*) [Num. 18:11] and first (*r'šyt*) [Num. 18:12],
 G. and this [i.e., first fruits] is called heave-offering (*trwmh*) [Dt. 12:6]²⁸ and first (*r'šyt*) [Ex. 23:19].
 H. Still (*'l'*) first fruits should be separated first, since they are the first fruits of all [produce].
 I. And [they should separate] heave-offering before first [tithe],
 J. since it [i.e., heave-offering] is [called] "first."
 K. And [they should separate] first tithe before second [tithe],
 L. since it has in it [an offering called] "first" [i.e., heave-offering of the tithe (Albeck)].

M. 3:7 (H: y. Pe. 1:5)

Having discussed the proper formula for the designation of the various agricultural gifts, we turn to the order in which these gifts are separated, a logical progression of ideas. The main point is made at A+C, which assumes the proper order for the separation of agricultural offerings to be first fruits, heave-offering, first tithe, second tithe. As T. 4:10 will observe, it

is important for the householder to remove the offerings in this order. If instead he separates first tithe before heave-offering, for instance, the produce he designates first tithe still will be liable to the separation of heave-offering, and, therefore, not yet fit for consumption by a Levite. What if the householder disregards the correct order? According to C, his offerings are in all events valid. Despite the difficulty raised by T, such validity depends upon the proper separation of each individual gift, not on the order in which they are separated.

On formal grounds we would expect D to provide biblical support for the rule of C. Substantively, however, it can refer only to B, specifying the 'negative commandment'--that is, the biblical prohibition--which an individual who changes the order of the offerings transgresses (Maimonides, *Commentary and Heave-offering* 3:23). The prohibition is *You shall not delay to offer* (Ex. 22:29). In the present context, this means that the householder should not "delay" offering the various agricultural gifts in their appointed order (Albeck).

E-L now supplements A, providing the reasoning which stands behind the order of the offerings assumed there. Let us begin by recalling those verses which are understood to refer to heave-offering (F) and first fruits (G). M.'s understanding of the terms *trwmh* and *r'syt* at Num. 18:11-12 as referring to heave-offering already has been explained (above, p. 2). As regards first fruits, Dt. 12:6 includes the phrase *trwmt ydkm* (*the offering of your hand*) among a list of offerings which are brought to "the place which the Lord your God will choose" (Dt. 12:5), that is, the temple in Jerusalem. These offerings are to be eaten there by the individual who brings them. Since M.'s first fruits are also brought to the temple in Jerusalem and eaten there by the householder, the term *trwmt ydkm* (= *trwmh*) in this context is taken to refer to first fruits and not to heave-offering, which, for M., is eaten anywhere, by priests. The term *r'syt* understood by M. to indicate first fruits is at Ex. 23:19. This verse reads, *The first of the first fruits of your ground (r'syt bkwry 'dmtk) you shall bring into the house of the Lord, your God.* The juxtaposition of the term *r'syt* to the term *bkwrym*, M.'s standard name for first fruits, indicates that the term *r'syt* itself is a designation for first fruits.

As F-G states, then, the terms *trwmh* and *r'syt* are used both in contexts in which they can be understood to refer to heave-offering, and in contexts in which they may refer to first fruits.

From these usages we thus cannot deduce which of these offerings takes precedence and should be separated first. According to H, it is only in light of the term *bkwrym* itself that we may infer the correct order for these two offerings. *Bkwrym*, the first ripe produce of the householder's field, must be separated before heave-offering and the rest of the agricultural gifts.

This much established I-L turns to the correct order for the separation of heave-offering, first tithe and second tithe. Heave-offering, it notes, may be distinguished from the other two offerings in that, as we have seen, it has the title "first." It therefore must be separated before first tithe, M.'s parlanche for the Levitical tithe of Num. 18:21 (*To the Levites I have given every tithe in Israel for an inheritance...*).²⁹ This Levitical tithe is nowhere referred to as "first." What of the order for the separation of first tithe and second tithe? M. derives its notion of the latter offering from Dt. 14:22-29, which refers both to a tithe eaten by each Israelite in Jerusalem, and to a tithe which is separated at the end of every three year period and given to the poor of the community of Israel.³⁰ As regards the Levitical tithe, Scripture states that the Levite himself must separate from it *a tithe of the tithe* (Num. 18:26), referred to one verse later as *an offering to the Lord from all of your tithes* (*trwmt ywhw mkl m^csrwtykm*). Described by the term *trwmh*, this offering, M.'s heave-offering of the tithe, is the agricultural gift called 'first' which is contained in M.'s first tithe. No such tithe of the tithe is prescribed for removal from the tithe mentioned at Dt. 14:22-29. This offering, M.'s second tithe, therefore is separated only after first tithe (1).

A. *One who separates (1) heave-offering before first fruits, (2) first tithe before heave-offering, (3) or second tithe before first [tithe]*

B. *even though he transgresses a negative commandment*

C. *that which he has done is done [and valid] [=M.*

3:6A-C].

D. *The second [tithe] may not be eaten until he removes from it first [tithe].*

E. *And the first [tithe] may not be eaten until he removes from it heave-offering.*

F. *For [the separation of] heave-offering does not hinder [the offering of] first fruits.*

G. *In the same way:*

H. *One who makes dough from untithed produce,*

I. whether he separated dough-offering before heave-offering, or separated heave-offering before dough-offering,

J. that which he has done is done [and valid].

K. The dough-offering may not be eaten until he will separate from it heave-offering.

L. And the heave-offering may not be eaten until he will remove from it dough-offering.

T. 4:10 (F: y. Ter. 3:5; H-L:
y. Dem. 5:1)

T. provides the consideration which is basic to M.'s concern for the correct order of the separation of agricultural gifts. The designation of produce as one of the agricultural offerings does not exempt that produce from liability to other gifts which should already have been separated from it. If produce from which first tithe has not been taken is designated second tithe, it retains liability to the removal of first tithe. It may not be eaten until such time as first tithe is removed from it (D). The same is the case as regards produce which is designated first tithe before heave-offering is separated from it (E). A Levite may not eat such first tithe unless heave-offering first is separated from it. F is formally out of phase with D-E, referring back to A1 and explaining why a householder may validly separate heave-offering before first fruits (HY). Since the separation of heave-offering does not prevent the subsequent separation of first fruits, by separating heave-offering first, the householder will not have escaped his responsibility to separate all of the required offerings. We declare the separation of heave-offering valid and require him afterwards to offer first fruits.

G+H-L exemplifies the same point. Heave-offering normally is separated from flour before that flour is made into dough, which is subject to the removal of dough-offering. If dough is made from untithed produce it is liable at the same time to the separation of heave-offering and dough-offering. The householder must be careful to separate both of these gifts from all of the produce, even from that which already has been designated as one or the other of the offerings (K-L).

3:8

A. (1) One who [in designating agricultural gifts] intends to say, "Heave-offering," but says, "Tithe," "Tithe," but says "Heave-offering,"

B. (2) [or who, in designating a sacrifice, intends to say,] "Burnt-offering," but says, "Peace-offering," "Peace-offering," but says, "Burnt-offering;"

C. (3) [or who, in making a vow, intends to say], "That I will not enter this house," but says, "That house," "That I will not derive benefit from this one," but says, "From that one"

D. has not said anything,

E. until his mouth and heart agree.

M. 3:8 (A-B: y. Naz. 5:1; A+C:

b. Pes. 63a)

The point is at D+E. In cases in which an oral declaration is required, neither unexpressed intention nor an unwitting designation alone is of legal weight. As each of the three parallel examples shows, the individual must both have proper intention and correctly state that intention if he is to impose a special status upon produce (A), an animal (B), or restrict himself to a vow (C).³¹

I. A. [If] he was going to separate heave-offering

B. [but] at the time of his separation said, "Lo, this is first tithe,

C. [Lieberman supplies, following E and ed. princ.:] lo, it is first tithe.

II. D. [If] he was going to separate first tithe,

E. [but] at the time of his separation said, "Lo, this is second tithe,"

F. lo, it is second tithe.

III. G. [If] he was going to separate second tithe,

H. [but] at the time of his separation said, "Lo, this is poor man's tithe,"

I. lo, it is poor man's tithe.

I. J. [If] he intended to say, "Second tithe," but said, "Poor man's tithe," "Second tithe," but said, "First tithe"--

K. he did not say anything.

II. L. [If he intended to say] "Poor man's tithe,"³² but said, "Second tithe"--

M. his words are valid.³³

III. N. R. Yose says, "If he intended [to separate] poor man's tithe [but said, 'Second tithe'], he did not say anything.

O. "[But] if he intended [to separate] the tithe [which is] second to first [tithe in that year, i.e., poor man's tithe, but said 'Second tithe'], his words are valid."

T. 4:11

T. is formed of two formally autonomous units, A-I and J-M+N-O, each of which supplements M.'s discussion of the requirements of intention and oral declaration for the valid designation of agricultural offerings (M. 3:8A). A-E, first, contradicts M. 3:8. It holds that if a householder intends to separate one agricultural gift, but designates the produce as a different gift, the designation is valid. Unlike M., T. thus claims that we rule on the basis of what the individual says, not what he thinks.³⁴

J-O reverts to M.'s conception of the matter. The householder desires to designate second tithe, but says first tithe or poor man's tithe. His designation is not valid (K). L-M suggests a slight twist. The individual says second tithe instead of poor man's tithe. Since in the third and sixth years of the sabbatical cycle poor man's tithe takes the place of second tithe, we need not assume that the individual has said anything other than what he intended. We therefore declare his designation as poor man's tithe valid (Lieberman, TK, I, p. 348). Yose, N-O, rejects the contention that the individual's reference to second tithe automatically may be taken to represent the intention to separate poor man's tithe. This is the case, he states, only in the circumstance described at O. Like M. 3:8 Yose thus wants to be sure that the individual has said exactly what he means.

3:9

A. A gentile³⁵ and a Samaritan--

B. (1) that which they separate is [valid] heave-offering,

(2) and that which they take as tithes is [valid] tithes,

(3) and that which they dedicate [to the Temple] is [validly] dedicated.

C. R. Judah says, "A gentile's vineyard is not subject to ('yn lnkry) [the restrictions] of the fourth year (Lev. 19:24)."

D. But sages say, "It is (yš lw)."

E. Heave-offering separated by a gentile imposes the status of heave-offering [upon unconsecrated produce with which it is mixed] and [non-priests who unintentionally eat

it] are liable on its account to [pay back its value and] the [added] fifth (Lev. 22:10-14).

F. But R. Simeon exempts [heave-offering separated by a gentile from these stringencies].

M. 3:9 (A-B(1): b. Git. 23b,
b. Qid. 41b; C-D: y. Pe. 7:5,
y. M.S. 5:2; E-F: b. Qid. 41b)

The pericope is in three formally autonomous parts, A-B, and the disputes at C-D and E-F.³⁶ Their redaction as a unit is, however, on solid substantive grounds. A single question prevails throughout the pericope, that of the status of a non-Israelite as regards the agricultural laws. According to A, both a gentile and a Samaritan may validly separate agricultural offerings and, in like manner, may dedicate that which they wish to the Temple. This rule, then, holds that non-Israelites have the same power to impose a status of sanctity on portions of their produce and on other objects as do Israelites, a striking claim. At E-F Simeon disputes this notion. E states that heave-offering separated by a gentile is just like that separated by an Israelite. It is subject to all of the stringencies accorded a holy thing. It is subject to the law of the added fifth, which requires that a non-priest who unintentionally eats a holy thing pay back its value plus an additional fifth (M. 6:1). If mixed with unconsecrated produce in a ratio of more than one part to one hundred, it imparts the status of heave-offering to the mixture (M. 4:7). Simeon, F, rejects E's notion that a gentile is equivalent to an Israelite as regards the agricultural laws. He holds that, while heave-offering separated by a gentile may be given to a priest, for which reason it has the name heave-offering, it does not have the status of a holy thing. It is not subject to the law of the added fifth and does not impart the status of heave-offering to unconsecrated produce with which it is mixed.³⁷ It is notable that the status which Simeon accords to heave-offering separated by a gentile is that of produce about which there is doubt whether or not it was properly separated as heave-offering (see M. 3:1-2). In a case in which a householder has separated heave-offering in such a status, he must separate heave-offering a second time, in order to assure that heave-offering is properly removed from his produce. We can only assume that Simeon, in like manner, would require that an Israelite who wishes to eat produce which has been tithed by a gentile, himself separate heave-offering from that

produce. It thus is clear that according to Simeon, a gentile who separates heave-offering does nothing more than give a gift of produce to a priest. A gentile does not have the ability to remove the true heave-offering required of produce grown in the Land of Israel. This can be accomplished by Israelites alone.

C-D refers to the distinct question of whether or not produce grown on land owned by a gentile in the Land of Israel is subject to the restrictions of the fourth year of growth (Lev. 19:24). According to Scripture the crop of an orchard or vineyard in its fourth year of growth is consecrated as a thanksgiving to the Lord (*h'lwlym lyhwh*; RSV: *an offering of praise to the Lord*). M. M.S. 5:1-4 states that, like second tithe, the produce must be brought to Jerusalem and eaten there in cultic cleanness. According to Judah, these restrictions do not apply to produce grown in a gentile-owned field in the Land of Israel. Judah holds that the stringency of the fourth year falls only upon Israelites, who received the Land of Israel from God. Land owned by a gentile is not subsumed under the category of land given by God to the people of Israel and therefore is not subject to the law of the fourth year (see y. Dem. 5:9). Sages, D, disagree, holding that like the other agricultural laws, the law of the fourth year applies to produce grown by a gentile in the Land of Israel. That is, they hold that even though a gentile presently owns the land, as part of the original inheritance given by God to the Israelites, that land still is subject to all of the agricultural stringencies, including the restrictions of the fourth year.

K. Truly ('bl) [the laws of] *orlah* and mixed seeds in a vineyard (*kl'y hkrm*) are the same for [the field of] a gentile in the Land of Israel, in Syria and outside of the Land [of Israel].

L. But ('l' š) R. Judah says, "A gentile's vineyard in Syria is not subject (*yn lnkry*) to [the laws] of the fourth year."

M. [E and ed. princ. add:] *But sages say, "It is (yš lw)"* [= M. 3:9C-D].

N. Said R. Judah, "*M^ošh b*: Segabion (E: *sgbywn*; V: *sbwn*), the head of the synagogue (reading with E, ed. princ.: *byt hknst*; V reads *knst*) at Achziv purchased a vineyard in its fourth year [of growth] from a gentile in Syria, and gave him payment. Then he came and asked Rabban Gamaliel, who was passing from place to place [whether the produce of that field

is liable to the restriction of the fourth year and should not have been purchased]. (w) [Gamaliel] said to him, "Wait until we can dwell upon (*nhh*) the law."

[Since the story does not conclude with Gamaliel's passing judgment, Judah assumes that the field was not held liable to the law of the fourth year (Lieberman).]

O. They said to him [i.e., to Judah], "Is that evidence? [Gamaliel] also sent a messenger to him [i.e., to Segabion] secretly (*bydy šlyh hrš*; see Lieberman, TK, I, p. 318) [so as not to embarrass him, and said,] "That which you have done is done, but do not do it again."

[From this it is obvious that Gamaliel held the field to be liable to the restrictions of the fourth year.]

T. 2:13b (L-M: y. Pe. 7:6,
y. M.S. 5:3)

K introduces a citation, at L-M, of M. 3:9C-D's dispute between Judah and sages. This is followed by the debate at N-O. The pericope, therefore, clearly is supplementary to M. 3:9. Its redaction in the second chapter of T. is, however, on solid substantive grounds. It appears there within a group of rules dealing with the liability of produce grown in Syria (mentioned here at K, L and N) to the separation of heave-offering and tithes. T. thus has its own theory of the context in which M.'s materials are best explored.

We recall from T. 2:12 that while produce grown by a gentile in the Land of Israel is liable to the separation of heave-offering and tithes, that grown by the gentile in Syria is not. K now states that this is not the case as regards the laws of ^c*orlah* (which prohibit consumption of the fruit of an orchard or vineyard in its first three years of growth; Lev. 19:23), and of mixed seeds (Lev. 19:19, Dt. 22:9-11). It states that these laws apply equally to fields owned by gentiles within and outside of the Land of Israel. According to K, then, as regards these laws, the produce of a gentile is like that of an Israelite, and liable wherever it is grown. The practical result is that even outside of the Land of Israel, an Israelite may not without reservation eat produce grown in a gentile-owned orchard or vineyard.

As redacted in T., Judah's statement, L, qualifies K. T. has made this statement pertinent to its present context by adding the words *in Syria*, lacking in M.³⁸ Thus Judah is made to state that unlike the laws of ^c*orlah* and mixed seeds, the stringencies of the

fourth year to not apply to the field of a gentile in Syria. Sages' claim (N) is that just as the laws of *orlah* and mixed seeds in a vineyard apply to the field of a gentile in Syria, so those of the fourth year apply. The position of each party in the debate is clear on the basis of Lieberman's explanation, which I have interpolated.

A. A gentile who separated heave-offering--
that which he has separated is [valid] heave-offering
[cf. M. 3:9A-B].

B. In what case does this statement apply?

C. [It applies if the gentile separated heave-offering]
on the threshing floor.

D. [If he] separated heave-offering [on the threshing
floor] and [immediately] gave it to a priest, [or if he re-
moved] first tithe and [immediately] gave it to a Levite,
[or if he removed] poor man's tithe and [immediately] gave
it to a poor person--

his [i.e., the gentile's] produce has been set right
[and may be eaten by an Israelite].

E. [If he] brought (E: *hknys*) his produce into his
house, it has been spoiled (*prwttyw mqlqlym*) [and no longer
may be consumed by an Israelite who does not himself tithe it
(Lieberman)].

F. An Israelite who is suspect [as regards his obser-
vance of tithing laws who tithed his produce as at D and]
who [then] brought his produce into his house--

his produce has been set right [reading with E; V reads
mqlqlym].

G. "A Samaritan is [treated] like a gentile"--the words
of Rabbi.

H. Rabban Simeon b. Gamaliel says, "A Samaritan is
[treated] like an Israelite."

T. 4:12 (G-H: y. Ber. 7:1 and
parallels, see T. Pes. 1:15)

A-F cites and qualifies the rule of M. 3:9A-B1. The point is that only if a gentile publicly separates agricultural gifts and immediately gives them to their proper recipient may the gifts be assumed properly to have been separated. E states that even after the gentile properly separates the various offerings, if he takes the produce out of public view, it is forbidden for consumption by an Israelite. We assume that the gentile will mix untithed

produce with that which he already has already prepared for consumption. According to F, this is not the case for an Israelite who is suspect as regards his observance of the agricultural laws. While we require that such an individual publicly separate heave-offering and tithes, if he later brings his produce out of the public eye, we do not assume that he will mix it with untithed produce.

When interpreted within their present redactional context, the opinions of Rabbi and Simeon b. Gamaliel, at G-H, hardly require comment. Rabbi holds that like a gentile, a Samaritan (M. 3:9A) may not be trusted at all as regards the proper tithing of his produce. Simeon disagrees. He holds that like an Israelite, once a Samaritan tithes his produce, it is deemed fit for consumption, even if the Samaritan brings it into his home and out of public view.

A. A gentile who set apart the (1) first-born [of a clean animal (Lieberman, TK, I, p. 349)], (2) the first-born of an ass (*p̄r ḥmwr*), (3) or dough-offering--

B. they notify him that he is not obligated [to offer these things];

C. they put it [i.e., the animal the gentile set aside] to work and shear it [in order to show that the animal does not have the status of a first-born];

D. but then they accept from him [the animal, or the dough-offering].

E. And the dough-offering may be eaten by commoners.

I. F. "[If the gentile] took heave-offering from within his house--

G. "they treat it like untithed produce [mixed] with heave-offering"--the words of Rabbi.

H. Rabban Simeon b. Gamaliel says, "They treat it like great heave-offering alone."

II. I. "[If the gentile] took first tithe from within his house--

J. "they treat it like untithed produce [mixed] with first tithe"--the words of Rabbi.

K. Rabban Simeon b. Gamaliel says, "They treat it like first tithe alone."

III. L. "[If] he took second tithe from within his house--

"[if] he said, 'It has been redeemed [by coins, and therefore no longer is consecrated as second tithe],'

"he has not said anything.

M. "[But if he said,] 'Redeem it for yourselves,'

N. "they treat it like untithed produce [mixed with] second tithe"--the words of Rabbi.

O. Rabban Simeon b. Gamaliel says, "They treat it like second tithe alone."

T. 4:13 (A-E: b. Men. 67a, see

T. Hal. 2:6; F-K: y. Ter. 3:8)

P. An Israelite who is suspect [as regards his observance of the tithing laws] who took second tithe from within his house and said, "It has been redeemed (reading with E: *p̄dwy hw'*)"--

he has not said anything.

Q. [But if he said,] "Redeem it for me," [or] "Redeem it for yourselves"--

his words are valid.

R. "And a Samaritan is [treated] like a gentile"--the words of Rabbi.

S. Rabban Simeon b. Gamaliel says, "A Samaritan is [treated] like an Israelite."

T. A Samaritan who separated heave-offering and gave it to a [Samaritan-] priest [so Lieberman, TK, I, p. 35]-- that which he has separated is [valid] heave-offering.

U. R. Simeon b. Eleazar says, "[It is] heave-offering, but he must separate heave-offering again."

V. They [i.e., sages of T] said to him, "How is this case [i.e., that of the Samaritan] different from [that of] a priest who separated heave-offering [from unclean produce] and placed it [i.e., the heave-offering] before his cattle?"

W. He said to them, "The difference is this: that [i.e., the heave-offering separated by the priest] was separated in sanctity, and this [i.e., the heave-offering separated by the Samaritan] was [add with E, ed. princ.: not] separated in sanctity."

T. 4:14 (R-S: T. Ter. 4:12G-H)

T. concludes its discussion of the status of the gentile as regards the agricultural laws and the cult. T. 4:13, first, is in two parts, A-E and the triplet at F-O. A-E is in agreement with Simeon, M. 3:9F. It holds that offerings set apart by gentiles do not have the consecrated status of offerings given by Israelites, but that the priest in all events accepts them. A-E

thus states that the restrictions which Num. 18:15-18 places on the first born of clean and unclean animals are not applicable to animals owned by gentiles. Likewise, dough made by a gentile is not subject to the separation of dough-offering, referred to at Num. 15:17-21. If a gentile anyway attempts to present the first born of one of his animals at the Temple, he is notified that he is not liable to this offering (B). In order graphically to illustrate that his offering does not have the status of a first-born, the priest uses the beast in such a way as to derive secular benefit from it (C). This is forbidden in the case of sanctified animals. Still, as D states, the animal ultimately is accepted by the priest. This same paradox is emphasized at E, for the case of dough-offering. While the dough is accepted by the priest, it may be eaten by commoners, which is forbidden of true dough offerings. The gentile thus does not have the same status under the law as does an Israelite. A gentile who wishes to take part in Israelite cult activities, however, is not excluded from doing so.

F-H, I-K and L-O return to T. 4:12's question of the extent to which a gentile may be trusted to take proper care of produce which he has designated heave-offering or tithes. The gentile here separates agricultural offerings in his home, unobserved. All parties agree with M. 3:9A-B, that the gentile's separation of the offerings is valid. Rabbi (G, J and N), however, holds that we do not trust the gentile to keep the gifts he has separated from becoming mixed with produce which has not yet been tithed. Heave-offering, first or second tithe he takes from his house therefore is deemed to be a mixture of the offering and untithed produce. Not knowing the quantities of the constituent elements of the mixture, we cannot judge whether or not the offering actually has the status of heave-offering or tithe (see M. 4:7). Unlike Rabbi and T. 4:12, Simeon b. Gamaliel holds that we trust the gentile both properly to tithe his produce and not to mix with untithed produce heave-offering or tithes he separates (H, K, O).

L+M-O makes the additional point that according to Rabbi we in no case believe a gentile who claims to have redeemed second tithe which he separated. As before, however, if he claims to have produce in the status of second tithe, Rabbi states that we assume it is a mixture of second tithe and untithed produce. Again Simeon b. Gamaliel disagrees, holding that what the gentile claims to be second tithe may in fact be regarded as such.

T. 4:14 continues T. 4:13's discussion, referring to Israelites who are not trusted to observe the agricultural laws. P-Q introduces R-S and T-U+V-W, which itself follows upon the issue of R-S. According to P-Q, like a gentile, an Israelite who is not trusted as regards his observance of the agricultural restrictions may not be trusted properly to have redeemed second tithe. If, however, he claims to have separated second tithe and simply requests that others redeem it for him, that which he has separated is held to have the status of second tithe. This is the same view Simeon b. Gamaliel, O, took as regards the gentile. R-S repeats T. 4:12G-H. T-U+V-W, which is formally autonomous of R-S, follows, disputing the status of heave-offering separated by a Samaritan. Like M. 3:9A-B, both the anonymous rule at T and Simeon b. Eleazar, U, hold that what is separated by a Samaritan is valid heave-offering. At issue is whether or not giving the heave-offering to a priest who is a Samaritan fulfills the requirement to give heave-offering to a priest (Lieberman, TK, I, p. 352). According to T, it does. Simeon b. Eleazar holds that this is not the case. He states that the Samaritan must separate heave-offering a second time, in order to give an Israelite priest his share. In the debate which follows, sages of T agree with Simeon that one who gives heave-offering to a Samaritan priest does not give it to its proper recipient. They argue however that this is not grounds on which to rule that heave-offering must be separated a second time. They adduce the case of a priest who separates heave-offering from unclean produce, planning to give the heave-offering, which he himself cannot eat, to his cattle. While in such a case the heave-offering is not given to a priest--but, rather, to cattle--we do not require that heave-offering be separated a second time. Why then, V asks, should we require the Samaritan to separate heave-offering a second time? Simeon b. Eleazar states that the case of the priest is not comparable to that of the Samaritan. It is not, first of all, forbidden for the priest to give unclean heave-offering to his cattle (M. 11:9). Further, as a priest, he has the right to keep for himself heave-offering which he separates. We cannot rule that his separation did not fulfill the requirement that heave-offering be given to a priest. This is not the case, Simeon holds, for the Samaritan, who, by intending to give the heave-offering to a Samaritan priest, did not fulfill the requirements of the valid separation of heave-offering. For this reason, that individual must separate heave-offering a second time.

CHAPTER FOUR

TERUMOT CHAPTER FOUR

The chapter is in two parts, M. 4:1-6, which concludes M.'s first thematic unit, and M. 4:7-13, which opens the long shank of the tractate. The first part of the chapter concerns the percentage of his produce an individual should separate as heave-offering (M. 4:3-5), and cases in which he separates only a portion of this required amount (M. 4:1-2, M. 4:3S-T). The main point is that the quantity of heave-offering contained in a batch of produce depends on the owner of the produce. The more generous the owner, the greater the quantity of heave-offering he should separate. There is, however, a minimum acceptable percentage of the batch, one sixtieth, which even the most miserly individual must separate and give to the priest. M. 4:6 is a singleton which concludes this section of the chapter. The householder should separate heave-offering at three set times during the harvest months. This prevents him from separating produce of low quality from the beginning and end of the harvest as heave-offering for the high quality produce picked in the middle of the summer (cf., M. 2:4-6).

The second part of the chapter discusses mixtures of heave-offering and unconsecrated produce. This topic will occupy M. through Chapter Five. The basic principle is that when heave-offering is mixed with unconsecrated produce such that it constitutes a minute proportion of the mixture (approximately one percent or less), it loses its integrity within the other produce and therefore becomes permitted for consumption by a non-priest (M. 4:7). M. 4:8-13 develop this principle. Joshua and Eliezer (M. 4:8-11) dispute whether or not heave-offering which can be distinguished from the unconsecrated produce with which it is mixed simply should be recovered and given to a priest. While formally independent of each other, M. 4:12 and 13 relate to a single problem, doubts involving mixtures of heave-offering and unconsecrated produce. They rule that if it is not known into which of several batches of unconsecrated produce heave-offering has fallen, all of the produce is deemed to join together as a single batch to neutralize the heave-offering.

The main issues of both parts of the chapter are attributed to Yavnean authorities, and, in the case of the question of the percentage of a batch of produce which should be separated as

heave-offering, to the Houses. Secondary discussion of that same issue is attributed to Ishmael and Simeon Shezuri (T. 5:6b). The quantity of produce needed to neutralize heave-offering is disputed by Eliezer, Ishmael, Tarfon and Aqiba (M. 4:7); Joshua and Eliezer (M. 4:8-11) dispute other questions related to neutralization, as does Yose (M. 4:13). Ushans appear in discussion of derivative issues. Specifically, we have Meir, M. 4:1-2, and Judah, M. 4:3M. Ushans cited in T. are as follows: Rabbi, T. 5:1; Rabbi and Judah, T. 5:6a; Judah and Simeon b. Judah, T. 5:10a; Meir and Judah, T. 5:10b-11.

4:1-2

A. One who separates (*hmpryš*) part of the heave-offering and tithes [required of a batch of produce]

B. [subsequently] removes [more] heave-offering from that [same] batch for that [same] batch.

C. But [he may] not [separate heave-offering] from that batch [from which he already has separated some heave-offering and tithes] for a different batch.

D. R. Meir says, "Also: he removes heave-offering and tithes [from that batch from which he already has removed some heave-offering and tithes] for a different batch."

M. 4:1

E. "One whose produce was in a store-room and gave a *se'ah* [of produce] to a Levite [as first tithe] and a *se'ah* [of produce] to a poor person [as poor man's tithe]

F. "takes another eight *se'ahs* [of produce] and eats them [without further tithing]"--the words of R. Meir.

G. But sages say, "He does not take produce [to eat] except in accordance with a calculation [of the percentage of tithes which remain to be separated from the batch as a whole]."

M. 4:2 (y. Ma. 3:1)

While these two pericope are formally autonomous of each other, the recurrence in each of Meir in dispute with anonymous authorities indicates that they are to be read as a unit. Together, as we shall see, the pericopae illustrate a single legal problem. This is the effect upon a batch of produce of the separation of a portion of the heave-offering and tithes required from that same batch. There are two possible positions, one taken by sages, A-C and G, and the other by Meir, D and E-F. According to sages, a batch of produce is not divisible. Any agricultural

offerings separated from the batch apply to that batch as a whole. This means that if a householder separates less than the tenth of the batch required in the case of tithes, or fortieth required for heave-offering (M. 4:3), all of the produce in the batch is left partially exempt from the separation of these offerings. Since the batch is partially exempt, the individual may not later use it as a source of heave-offering or tithes for other, fully liable, produce (A-C). Further, if the householder wishes to eat some of the produce, he must set that food apart from the rest of the batch and separate from it the remainder of the heave-offering and tithes for which it is liable (G).¹ Meir's view is that the batch is divisible. Heave-offering or tithes separated from it release for consumption a commensurate quantity of produce, while leaving the rest of the batch fully untithed (E-F). The householder therefore may take produce from the partially tithed batch as heave-offering or tithes for a wholly untithed batch. He simply declares that the produce he is separating is yet untithed. He likewise may eat without further tithing the quantity of produce for which he already has separated sufficient heave-offering and tithes (E-F).²

A. [If] one had a pile [of produce] which had been evened over (*mwrht*)³ [and therefore is liable to the separation of heave-offering and tithes]--

B. [if] he wished to declare it heave-offering for a different batch,
he does so.

C. [If] its [i.e., the pile's] heave-offering was removed--

D. [if] he wished to designate it [i.e., the pile] first tithe for a different batch,
he does so.

E. [If] its [i.e., the pile's] first tithe was removed--

F. [if] he wished to designate it [i.e., the pile] second tithe for a different batch,
he does so.

G. (G-H are lacking in E) [If] its [i.e., the pile's] second tithe was removed--

H. [if] he wished to designate it [i.e., the pile] poor man's tithe for a different batch,
he does so.

T. supplements the view of sages, M. 4:1A-C, that once heave-offering is separated from a batch of produce, that batch no longer may be used as a source of heave-offering for other produce. T. adds that even so, as long as first tithe, for instance, has not been separated from the batch, the householder may declare the produce to be the first tithe required of other produce. The point is that the separation of the various offerings is carried out in fully independent processes. The demarcation of a batch for the purposes of the separation of heave-offering does not require that tithes also be separated within that same batch. Notably, since M. 4:1A refers to both heave-offering and tithes, it is likely that T. here offers a fine clarification of M.'s point, and is not simply reading into M. its own views.

G-H is difficult, since second tithe and poor man's tithe are separated in different years of the sabbatical cycle, and therefore never are separated from the same batch of produce. This being the case E's reading, which omits G-H, is preferable.

A. "One who picks (reading with E: *hlwqt*) a chate-melon [in order to keep it] for designation as heave-offering [for other produce] (*lhywt mpryš^š ^šlyh whwlk*),

B. "makes a mark [on the melon itself] (E: *rwšm*) and says, 'Up to this point it [i.e., the chate-melon] has the status of heave-offering,' [or,] 'Up to this point it has the status of heave-offering' "--the words of Rabbi.

C. Rabban Simeon b. Gamaliel says, "He separates heave-offering and calculates the quantity he is used to separating [without actually making a mark on the chate-melon or designating a specific portion of the chate-melon to be heave-offering]."

D. "[If] he needed to raise up ten or fifteen (E: *k^šśr 'w khmš^š ^šśrh*) kegs of wine [as heave-offering for a vat of wine],

E. "he raises the first [keg he fills] and says, 'Lo, this is heave-offering,' and [raises] the second [and] says, 'Lo, this is heave-offering' [and so on with all of the kegs] "--the words of Rabbi [reading with E; V and ed. princ. read: Rabban Simeon b. Gamaliel).

F. Rabban Simeon b. Gamaliel (reading with E; V and ed. princ. read: Rabbi) says, "He [fills and] raises all of them to the edge of the tank and [then] says, 'Lo, this is heave-offering.'"

T.'s two disputes bring together the issues of M. 3:5 and M. 4:1-2 by asking how heave-offering is designated in a case in which the householder separates only a portion of the priestly gift required of his produce. In both cases Rabbi holds that each separation of heave-offering must be accompanied by an oral designation. Simeon b. Gamaliel prefers to have the individual wait until all of the required heave-offering has been separated before he designates it.

At A the householder sets aside a piece of produce, portions of which he deems heave-offering for other produce he wishes to eat. Only when all of the piece of produce has been designated as heave-offering will he give it to a priest. Rabbi (B) claims that at each separation of heave-offering, the householder marks off the portion of the chate-melon which he deems to be heave-offering and orally designates it as such. By specifying exactly which part of the chate-melon has the status of heave-offering, the householder prevents the whole of the piece of produce from taking on the status of a mixture of heave-offering and untithed produce. This is Rabbi's same concern above, T. 4:9B.⁴ Simeon b. Gamaliel, C, does not share this concern. He holds that without actually making a mark on the produce or designating a specific portion as heave-offering, the individual keeps track of the percentage of the chate-melon which has been used as heave-offering. Only later, when all of the chate-melon is heave-offering, does he actually designate the produce to be a priestly gift and give it to a priest. It appears that Simeon b. Gamaliel's position is close to that of Simeon, M. 3:5B, who allows the householder to declare the heave-offering required of a batch of produce to be contained within that produce, without stating its exact location within the batch. Thus neither he nor Simeon b. Gamaliel is concerned that produce take on the status of a mixture of heave-offering and untithed produce.

For reasons of logistics, D-F, a householder has no choice but to separate heave-offering a small quantity at a time. In order to separate heave-offering from a large vat of wine, he must fill, one at a time, a number of kegs. As before, Rabbi wants him to designate each keg as he fills it (cf., HD). Neither Meir nor the anonymous authority of M. 4:1-2 should object to the individual's subsequent separation of heave-offering from the partially tithed batch on behalf of that same batch. Like Rabbi, Simeon b. Gamaliel has the same position he holds above. He states that the householder should wait until he can designate at once all of the required heave-offering.

A. *"One whose produce is in a store-room gives a se'ah to a Levite [as first tithe] and a se'ah to a poor person [as poor man's tithe], [and] takes another eight se'ahs [of produce] and eats them [without further tithing] [= M. 4:2D-E, with slight changes].*

B. *"Whether or not that se'ah [which he gave to the Levite or poor person] still exists [i.e., whether or not it has been eaten],*

C. *"he takes [other produce] through its agency and eats [that other produce, without further tithing]"--the words of R. Meir.*

D. *But sages say, "If that same se'ah [which he separated as first tithe or poor man's tithe] still exists, he takes other produce through its agency [and eats that other produce, without further tithing] (mptyš^clyh whwlk) [see M. 4:2E].*

E. *"But if not, he does not take produce [to eat] except in accordance with a calculation [of the percentage of tithes which remain to be separated from the batch as a whole] [= M. 4:2F]."*

T. 5:2 (y. Ter. 4:1)

T. restates the dispute between Meir and sages, M. 4:2, interpolating, at B-D, a concern unknown to M. This is whether or not at the time the householder decides to consume produce from which a percentage of the required offerings has been separated, those offerings have been eaten by their recipients. Meir's position is the same as at M. 4:2A-B.⁵ Whether or not the offerings he has separated have been consumed, the householder may eat a commensurate quantity of produce.⁶ Sages, however, distinguish between cases in which the offerings already have been eaten, and those in which they have not. According to T., the position sages hold in M. applies only in a case in which the agricultural offerings separated from the larger batch of produce have not been eaten by the time that the householder decides to consume a portion of that same batch (E).⁷ If, however, the offerings have not yet been eaten, D, sages concur with Meir that the householder may deem them to comprise the full quantity of agricultural gifts required of a portion of the larger batch. Sages' reasoning is apparent in light of the larger issue salient here. This issue is the householder's power to deem agricultural offerings to apply to a specific portion of a batch. Sages' view is that the

householder has the power to do this if the offerings have not yet been eaten by Levite or poor person. In such cases the offerings still are available as objects of his intention, such that he may designate them to be what he wishes. Once they have been consumed, their disposition is set. They must be considered agricultural offerings for the whole batch of produce from which they were separated.

M. 4:3

A. [This is] the [required] measure of heave-offering:
 B. [If a man is] generous (*ʿyn yph*), [he separates] one-fortieth [of his produce].

C. The House of Shammai say, "One-thirtieth."

D. And [if he is] average (*hbynwynt*), [he separates] one-fiftieth [of his produce].

E. And [if he is] miserly (*hrʿh*), [he separates] one-sixtieth [of his produce].

F. [If] he separated heave-offering and there came up in his hand one-sixtieth [of the produce]--

[that which he has separated is valid] heave-offering,

G. and he need not separate heave-offering again.

H. If he [anyway separated] more [heave-offering] (*hxr whwsyp*),

[the additional produce separated as heave-offering] is liable to the separation of tithes [i.e., it is not true heave-offering].

I. [If he separated heave-offering and] there came up in his hand one sixty-first [of the produce]--

[that which he has separated is valid] heave-offering,

J. but he must separate heave-offering again,

K. [in order to derive] the quantity [of heave-offering he is used [to separating].

L. [And he may separate the additional heave-offering] by measure [of volume], by weight, or by a count [of the number of pieces of produce being separated as heave-offering].

M. R. Judah says, "Also: [he may separate the additional quantity of heave-offering] from [produce] which is not nearby (*ʕl' mn hmqp*) [i.e., from a different batch]."

M. 4:3 (B+E: see b. Hul. 137b)

We turn to the question of the percentage of his produce a householder is expected to separate as heave-offering. The

pericope is in two parts, A-E (in which C disputes B) and F-M. According to A-E, the quantity of produce an individual should separate as heave-offering depends on his particular disposition. The more generous the person by nature, the larger the percentage of his produce he is expected to separate as heave-offering. A more miserly person separates less.⁸ In all, then, the amount of heave-offering contained in a batch of produce is determined by the householder himself. By his actions in designating and separating heave-offering, he sets aside either a large or small portion of his produce to be holy. The fixed percentages established here serve as guidelines for the separation of heave-offering. This seems to be a function of M.'s concern for the observance of the tithing laws by the community as a whole.⁹

F-H+L-M clearly knows A-E, making use of the figure given there as the smallest quantity of heave-offering separated by any householder. It holds that without regard to the disposition of the householder, a separation of this amount fulfills the requirement to separate heave-offering from a batch of produce. Thus, if a householder separates one-sixtieth of his produce, he need not separate heave-offering a second time, even if in general he is a generous person. While he may, if he so desires, give to the priest an extra quantity of produce, since the produce from which this share is separated no longer is liable to the separation of heave-offering, the extra share does not have the status of a priestly gift (H). The householder therefore must separate from it tithes, as he does from all untithed, unconsecrated produce.¹⁰ What if the individual separates less than the required one-sixtieth? I-K's point is that the produce still is liable to the separation of heave-offering, such that the householder may separate as much additional heave-offering as he wishes.¹¹ That is, we do not rule that he may make up only the minimum required amount (one-sixtieth). Rather, we allow him to separate the quantity which is usual for him. While the householder need separate only one-sixtieth of his produce, as long as this percentage has not been separated, the produce is liable and the householder may separate as much heave-offering as he desires.

Let us now turn to the glosses of J-K at L and M. L holds that the householder may separate by measure any additional heave-offering he needs to designate. This method of separating heave-offering is expressly forbidden by M. 1:7. Here it is permitted, in order to allow the householder accurately to separate the small quantity of heave-offering he needs to give to the

priest. Judah, M, refers to the issue of M. 4:1. Like sages, M. 4:1C, he assumes that normally, if some heave-offering has been separated from a batch of produce, additional heave-offering must be taken from that batch for that same batch. In the present case, Judah waives this restriction. As T. 5:6L will make clear, Judah's point is that here the first separation of heave-offering left the batch fully exempt from the further separation of that offering. The additional produce which the householder designates is not true heave-offering, and, therefore is not subject to the restrictions which usually apply to that gift.¹²

I. But if (E lacks *w*; HD deletes *w'm*) he said, "Lo, I am going to separate heave-offering and [afterwards] calculate [the percentage of my produce which I separated]. If there will arise in my hand one-sixtieth [of the produce], that which I separate shall be [valid] heave-offering [following Lieberman's emendation: *trwmtv trwmh*], but if not, that which I separate shall not be [valid] heave-offering,"

J. [if] he separated heave-offering and there arose in his hand one-sixtieth [of the produce], that which he has separated is [valid] heave-offering,

K. although he has separated heave-offering by a [fixed] measure.

T. 4:15b

T. supplements M. 4:3 with a case in which a householder stipulates that his separation of heave-offering will be valid only if he separates one-sixtieth of his produce. This is the percentage set by M. 4:3 as the minimum acceptable measure for the priest's share. J-K rules that although the householder who separates heave-offering in such a manner in effect separates heave-offering by a fixed measure (forbidden by M. 1:7) the separation is valid. This is because in the actual separation of the heave-offering, the householder in no way measured out the heave-offering.¹³

Despite the disjunctive *but if*, at A, the pericope has no commonality of issue with T. 4:15a (above, p. 133). HD's deletion of these words, supported by the reading of E, is therefore on solid substantive grounds. I find no redactional grounds for the juxtaposition of the two pericopae.¹⁴

A. [*This is*] the [required] measure of heave-offering
[= M. 4:3A]:

B. The House of Shammai say, "[If a man is] generous [he separates] one-thirtieth [of his produce] [see M. 4:3C].

"And [if he is] average [he separates] one-fortieth [of his produce].

"And [if he is] miserly [he separates] one-fiftieth [of his produce]."

C. The House of Hillel say, "*[If a man is] generous, [he separates] one-fortieth [of his produce] [= M. 4:3B].*

"And [if he is] average [he separates] one-fiftieth [of his produce] [= M. 4:3D].

"And [if he is] miserly [he separates] one-sixtieth [of his produce] [= M. 4:3E]."

T. 5:3a

According to C, the opinion cited anonymously at M. 4:3A-E is that of the House of Hillel. B cites the opinion of the House of Shammai, M. 4:3C, and supplies the Shammaites' view on the quantity of produce average and miserly individuals should separate as heave-offering. While the balanced numerical progression formed by the opinions of the two Houses (thirty, forty, fifty : forty, fifty, sixty) is notable, I see no particular importance to the figures given.

A. [If] he intended to separate as heave-offering one-tenth [of his produce] and there came up in his hand (1) one-twentieth, (2) one-thirtieth, (3) one-fortieth, (4) one-fiftieth, (5) one sixtieth [of the produce]--

that which he has separated is [valid] heave-offering.

T. 5:5

B. [If] he intended to separate as heave-offering one-sixtieth [of his produce] and there came up in his hand (1) one-fiftieth, (2) one-fortieth, (3) one-thirtieth, (4) one-twentieth, (5) one-tenth--

that which he has separated is not [valid] heave-offering.

C. But if he said, "Lo, I will separate heave-offering" [and did not specify how much he wished to separate],

D. he separates heave-offering and [afterwards] calculates [what percentage of the produce he actually separated as heave-offering].¹⁵

E. *If [in a case like that of C-D] he separated heave-offering and there came up in his hand one-sixtieth [of the produce]--*

that which he has separated is [valid] heave-offering, and he need not add to it [other produce separated as heave-offering] [= M. 4:3F-G].

F. [If he separated heave-offering and there came up in his hand] one sixty-first [of the produce]--

G. he must add [to that which he already has separated other produce separated as heave-offering] [= M. 4:3I-J, with slight variations].

H. Rabbi says, "The greater part of a *se'ah* is like a *se'ah* itself."

I. How much may he add [to produce already separated as heave-offering]?

J. Even one to one [i.e., as much again as he already has separated].

K. Rabban Simeon b. Gamaliel says, "[As much as to derive] the amount which he is used to separating" [= M. 4:3K].

L. R. Judah says, "The additional heave-offering is (1) taken from clean [produce] for unclean [produce], and (2) does not impart the status of heave-offering [to unconsecrated food with which it is mixed], and (3) [non-priests who accidentally eat it] are not liable on its account to pay back the [added] fifth."

M. To which case does this apply?

N. [To the case] in which he intended to separate one-sixtieth and there came up in his hand one sixty-first.

O. But if he said, "Lo, I will separate heave-offering and [afterwards] calculate [whether or not I have separated the required one-sixtieth of the produce]"--

this [i.e., additional heave-offering he later separates] is true heave-offering.

T. 5:6a (see y. Ter. 4:3)

T. comments on and qualifies M. 4:3, asking how the householder's intention to separate a specific amount of heave-offering affects the validity of his actions when he separates other than this amount. Do we rule that the separation is valid, or, alternatively, that since the householder has not carried out his intention, that his actions are of no weight? According to A-B we distinguish between cases in which the householder separates more than he intended and cases in which he separates less. If he separates less, the separation is valid (A). All of the

produce which was separated as heave-offering was intended as such.¹⁶ If, on the other hand, he separates more heave-offering than he stated that he would, the separation is not valid (B). In such a case the householder has taken as heave-offering produce which was not intended to be heave-offering. We rule that the separation was performed in error and require that the householder begin again.

I follow Lieberman (TK, I, p. 358) in reading C-D+E-F as a unit.¹⁷ The point is that the minimum acceptable percentage, one-sixtieth, is applied in cases, unlike those of A-B, in which the householder does not state beforehand that he intends to separate some other quantity. This hardly seems to be the point M. 4:3 wished to make, although it is in line with the general theory of the offering we have seen so far. H glosses G. Rabbi's point is that we may round off to a full *se'ah* the amount of heave-offering the householder separates. This is to the advantage of the householder, who thus may be relieved of the obligation to separate heave-offering a second time. I-J+K turns to M. 4:3's question of how much additional heave-offering the householder may separate in a case in which he needs to do so. J claims that he may separate only as much as he already has separated. If he separates more than this, the householder is viewed not simply to be taking additional heave-offering, but, to be performing a second, autonomous, separation of that offering. We already know that heave-offering may not be separated twice from the same batch of produce. K assigns M. 4:3K to Simeon b. Gamaliel. His point is clear, as I have explained it in M.

L supplements Judah's statement, M. 4:3M, making explicit that in Judah's view, heave-offering separated in a householder's additional separation does not have the status of a true priestly gift. For this reason it does not impose the status of heave-offering upon unconsecrated produce with which it is mixed, and non-priests who accidentally eat it are not required to pay back both its values and the additional fifth, required in the case of holy things. For Judah, then, the quantity of heave-offering contained in a batch of produce depends solely on the householder and is established in that individual's first separation of the offering, no matter how much he separates. Any additional heave-offering he separates does not have the status of a priestly gift. Judah thus rejects M. 4:3F-K's view of the nature of the obligation to separate heave-offering. The meaning of M+N-O, which glosses Judah's statement, is clear on the basis of the language

I have interpolated into the translation (following HY and Lieberman, TK, I, p. 358). If the householder makes explicit from the start that he intends to separate as heave-offering a full one-sixtieth of his produce (O), he may continue to separate valid heave-offering until he attains this quantity. Otherwise (N) his first separation of heave-offering leaves the produce exempt from the further separation of heave-offering, and any additional heave-offering the householder separates (in order to give the priest his proper share) does not have the status of a true priestly gift.

P. R. Ishmael and R. Simeon Shezuri (reading with E; V reads R. Ishmael Shezuri and R. Simeon; see Lieberman, TK, I, p. 359) say, "All heave-offering [which is separated from a type of produce] which priests are not careful [to keep in a state of cleanness],

Q. "such as the heave-offering of pods (*klysyn*; Jastrow, p. 643, s.v., *klys*; Lieberman, *loc. cit.*: *prosopis stephaniana*) and carobs,

R. "is taken [in a ratio of] one [part heave-offering] to sixty [parts produce].

S. "And the heave-offering of unclean produce is taken [in a ratio of] one [part heave-offering] to sixty [parts produce]."

T. 5:6b (y. Bik. 3:1)

A. These are taken (*ntlyn*) [as heave-offering] in [a ratio of] one [part heave-offering] to sixty [parts produce]:

B. (1) that which grows from [the seeds of produce which is] heave-offering, (2) mixtures of heave-offering [and unconsecrated produce], (3) heave-offering [separated from produce] which became unclean either accidentally or intentionally, (4) heave-offering [separated from produce] which was [already liable to the separation of heave-offering and was] dedicated [to the Temple], and (5) heave-offering [separated from produce grown] outside of the Land [of Israel],

C. (6) black cumin (*qsh*), (7) pods (*klysyn*), (8) carobs, (9) fruits ripened through caprificatioin (*hgmzywt*; Jastrow, p. 252), (10) lupines (*trmwsyn*), and (6) Idumean barley,

D. and (11) the heave-offering of produce grown in an earthen vessel and (13) heave-offering separated by executors [of the estate of orphans].

T. 5:7

T. accepts M. 4:3F-K's notion that one-sixtieth of a batch is the minimum acceptable percentage to be separated as heave-offering. It lists various types of produce from which *only* this percentage need be separated, even by a householder who normally separates a greater amount. While M. 5:6b and 5:7 are formally autonomous of each other, they are juxtaposed because they share this common theme.

Ishmael and Simeon Shezuri's point, T. 5:6P-S, is that in the case of produce which will not be eaten by the priest (unclean produce; undesirable types of produce), the householder need separate only the minimum amount.¹⁸ This is so because that which the householder separates in all events will go to waste. T. 5:7 continues by listing various categories of produce from which heave-offering is separated in a ratio of one part heave-offering to sixty parts produce. The reasons for the specific entries are as follows. Produce which grows from seeds in the status of heave-offering (T. 5:7B1) is itself considered heave-offering. Unlike a true priestly gift, however, heave-offering and tithes must be separated from it (M. 9:3), and the remainder of the produce is sold to the priest. Since the market value of heave-offering is low,¹⁹ the householder is permitted actually to give to the priest a minimal quantity of the offering, thereby reducing his loss. The case of mixtures of heave-offering and unconsecrated produce (B2) is the same. Although such mixtures have the status of heave-offering (M. 4:7), the priest's share must be separated from them and given to a priest. The remainder of the mixture is sold to that same individual. Since all of the produce will become the property of the priest, we allow the householder to separate the minimum percentage of heave-offering. Unclean heave-offering, B3 (mentioned also at T. 5:6S), may not be consumed by a priest but, rather, is left to rot. Since all that he separates goes to waste, we allow the householder to separate the minimum amount. B4 refers to produce which already is liable to the separation of agricultural gifts at the time it is dedicated to the Temple. While the required offerings must be separated, only the minimum percentage of heave-offering is taken for a particular priest. This is because all of the produce already is the property of the cult. I do not understand the reference at B5 to heave-offering separated from produce grown outside of the Land of Israel, nor that of D11 to the separation of heave-offering from produce grown in a vessel (which is not punctured to allow the growth of a single root in the ground). M. elsewhere states

explicitly that neither of these sorts of produce is liable to the separation of heave-offering.²⁰ If T. here simply does not share that view, its point is that such produce has an ambiguous status under the law. While not comparable to produce grown in the soil of the Land of Israel, produce grown outside of the Land or in a vessel still is subject to the separation of heave-offering. In light of this ambiguous status, we separate the smallest acceptable quantity of the offering. The items at C all are types of produce which generally are not kept for consumption (see T. 5:6Q). Only the minimum percentage need be separated from these things. Executors of the estates of orphans likewise separate only the minimum quantity (D13). This is in the best interests of the orphans.

A. Said R. Yose, "How [do we know] that heave-offering is separated [in a ratio of] one [part heave-offering] to fifty (reading with ed. princ.; V. reads: sixty) [parts produce]?"

B. *"As it is written, And from the people of Israel's half you shall take one drawn out of every fifty [of the persons, of the oxen, of the asses, and of the flocks, of all the cattle, and give them to the Levites who have charge of the tabernacle of the Lord] (Num. 31:30).*

C. "The same percentage which I took in a different context (*mqum 'hr*), 10, such is the proper percentage here.

D. "Just as the percentage stated there [i.e., in Num. 31:30] is one-fiftieth, so the percentage here is one-fiftieth.

E. "How do we know that if he separated heave-offering and there arose in his hand one-sixtieth [of the produce] that that which he has separated is [in all events valid] heave-offering?"

F. *"As it is written, This is the offering which you shall make: one-sixth of a ephah from each homer of wheat and one-sixth of a ephah from each homer of barley (Ez. 45:13)."*

G. R. Ishmael b. R. Yose says, "[We know it from an analogy to] the cities of the Levites."

T. 5:8a (y. Ter. 4:3)

Yose offers scriptural basis for the percentages set in M. 4:3 for the separation of heave-offering. A-D, first, proves that one-fiftieth of a batch is the proper percentage for the

average separation of heave-offering. After the war against the Midianites (Num. 31), God told Moses that one half of the booty was to be given to the warriors who actually participated in the battle, and the other half was to be divided among the people of Israel. As stated in Num. 31:30, the people of Israel gave from their share two percent (one in fifty) to the Levites in charge of the tabernacle. Yose's claim is that this same percentage is the proper one for the separation of heave-offering. At E Yose offers scriptural proof that a separation of one-sixtieth of the produce is in all events sufficient. Ez. 45:13 states that the people of Israel are to give as an offering to God one-sixth of an *ephah* out of each *homer* of wheat and barley. Since, as Ez. 45:11 states, there are ten *ephahs* in a *homer*, this offering equals one-sixtieth of the produce. Ishmael b. R. Yose suggests a different method of deriving the figure one-sixtieth. "Cites of the Levites" refers to Dt. 4:43, which describes Moses' designation of three cities of refuge beyond the Jordan. One of the three, Golan in Bashan, is set apart for the Manassites. The same place name, Bashan, appears in Dt. 3:4's description of the sixty cities taken by the Israelites from Og in Bashan (*And we took all his cities at that time...sixty cities, the whole region of Argob, the kingdom of Og in Bashan*). Ishmael, then, understands the setting apart of the single city to have been equal to an offering of one in sixty, a solid basis for the claim that heave-offering is separated in this same percentage (so HD, cited by HY and Lieberman, TK, I, p. 362).

T. 5:8b is found after M. 5:1

4:4

A. One who says to his agent, "Go and separate heave-offering [for me]"--

B. [the agent] separates heave-offering in accordance with the disposition (*d^ot*) of the householder.

C. [And] if he does not know the disposition of the householder,

D. he separates the average amount,

E. one-fiftieth.

F. [If the agent at A-B or C-D unintentionally] separated one-tenth less or more [than the percentage he needed to separate]--

that which he separates [still] is [valid] heave-offering.

G. [Six MSS. add: But) if he purposely added even one-hundredth--

that which he has separated is not [valid] heave-offering.

M. 4:4 (A-F: b. Ket. 99b, 100a,
b. Qid. 41a, b. Bik. 61a)

M. 4:4 advances M. 4:3's theme of the percentage of a batch which should be taken as heave-offering. The point of the unitary pericope is that it is the responsibility of an agent to separate as heave-offering that percentage of the produce which would be separated by the owner of the batch himself (A-B).²¹ Since the agent acts on behalf of the householder, this notion is hardly surprising. What if the agent does not know what percentage of the produce the householder normally separates? He simply separates one-fiftieth of the batch (D-E), the percentage which M. 4:3 holds is separated by the average person. We assume that if the householder has not stated otherwise, he falls into this category. What is interesting here follows at F and G, which relate to the case in which the agent separates some quantity other than that required by the terms of his agency.²² According to F, as long as the agent's intention is to carry out the will of the householder, his mis-estimation in the physical separation of the heave-offering is not of concern. The separation was performed with proper intention and is considered valid. If, however, the agent purposely separates as heave-offering more than he should, G, his separation is not valid. By purposely taking as heave-offering produce which the householder did not wish to be such, he has voided his appointment as agent. His separation of heave-offering from produce which belongs to someone else therefore is invalid (M. 1:1D3).²³

A. *One who says to his agent, "Go and separate heave-offering [for me]" [= M. 4:4A]--*

B. *[the agent] separates the average amount, one-fiftieth [= M. 4:4D-E].*

C. *[If he said to his agent], "Go and separate [for me] one-fiftieth [of my produce]"--*

D. *[if the agent] added or deducted one-tenth, that which he has separated is [valid heave-offering] [= M. 4:4F].*

E. *But if he purposely added even one-[hundredth]--that which he has separated is not [valid] heave-offering [= M. 4:4G].*

By interpolating C, T. provides the ruling for a case not referred to by M. An agent specifically is told what percentage of the householder's produce he should separate as heave-offering. As in a case in which the agent has not been told the percentage of the produce to take as heave-offering, the validity of the separation depends on his intention in performing it. If the agent wished to separate the required percentage of the produce, whether or not he actually removes that amount, the separation is valid. If he purposely separates more heave-offering than the householder desires, his separation is not valid.

4:5

A. One who separates much heave-offering (*hmrbbh btrwmh*):

B. R. Eliezer says, "[He may separate as much as] one-tenth,

C. "[an amount] equal to [that separated as] heave-offering of the tithe.

D. "[If he wishes to separate] more than this, let him designate it [i.e., the surplus] heave-offering of the tithe²⁴ for a different batch."²⁵

E. R. Ishmael says, "[He may separate so much as to render] half [of the batch] unconsecrated produce and half [of the batch] heave-offering."

F. R. Tarfon and R. Aqiba say, "[He may separate as much heave-offering as he wishes] provided that he leaves there [some] unconsecrated produce."

M. 4:5 (F: Sifré Bammidbar #5,
Horovitz, p. 8, ll. 6-9)

At issue is what percentage of a batch of produce has the potential, upon the designation of the householder, of taking on the status of heave-offering. The issue is treated in a tripartite dispute composed of the superscription at A, followed by the opinions at B (glossed by C-D), E and F. Eliezer (B) claims that only one-tenth of a batch of produce may be designated a priestly gift. This is the same as the percentage of first tithe which the Levite gives to a priest, as heave-offering of the tithe (C). Eliezer thus claims that the two different types of heave-offering are analogous. Just as heave-offering of the tithe, the biblical tithe of the tithe (Num. 18:25), is one-tenth of the Levite's share, so only one-tenth of the householder's produce potentially is heave-offering. This analogy is sound in light of the fact that Scripture offers no paradigm for the rabbinic

heave-offering, but only for heave-offering of the tithe. The gloss at D makes further use of this analogy. A householder who wishes to separate as heave-offering more than the allowed one-tenth may designate an additional quantity of produce to be heave-offering of the tithe for a different batch.²⁶ Although the first batch no longer is liable to the separation of heave-offering, it still may be used as a source for this other offering. The householder thus succeeds in giving to a priest as much produce as he wishes, and all in the sanctified status of a priestly gift.

Both Ishmael, E, and Tarfon and Aqiba, F, hold that a much greater portion of a batch of produce potentially is heave-offering. Ishmael, first, says that up to one half of the batch validly may be designated as a priestly gift. He simply requires that at least half of the product of man's labors remains fully in the possession of man, as unconsecrated food. Aqiba and Tarfon go still further than does Ishmael. They state that the householder validly may designate to be heave-offering all but a small portion of his produce. Basic to their understanding is a conception of heave-offering fundamentally different from that of Ishmael and Eliezer. They claim that heave-offering is comparable to that which a householder dedicates for the use of a priest (*h'rm kw'hnym*; see, e.g., M. Ar. 8:6). Through such a dedication a householder may sanctify for a priest anything he wishes. In the case of heave-offering there is only a slight qualification. Tarfon and Aqiba state that the householder must leave aside some small quantity of unconsecrated produce. By doing this the householder actually separates the offering from his own food and thereby distinguishes the offering as holy.

D. R. *Ishmael says, "[He may separate so much as to render] half [of the batch] unconsecrated produce and half [of the batch] heave-offering [= M. 4:5E],*

E. "provided that the unconsecrated produce is greater in quantity than the heave-offering."

T. 5:3b

T. glosses Ishmael's opinion. Man must take for himself the greater part of the produce he grows.²⁷

4:6

A. At three times [in the year] do they calculate [the quantity of untithed produce in] the [storage] basket [in order to allow the separation of the proper quantity of heave-offering]:

B. (1) at [the time of] the first ripe fruits, (2) [at the time of] the late summer fruits, and (3) in the middle of the summer.

C. (1) One who counts [the produce] is praiseworthy, and (2) one who measures [the volume of the produce] is more praiseworthy than he; but (3) one who weighs [the produce] is the most praiseworthy of the three.

M. 4:6

The pericope is in two parts, A-B and the gloss at C. The point is a simple one. At three set times in the harvest months the householder should calculate the quantity of produce he has on hand and separate heave-offering from that produce. In this way he is sure not to separate low quality produce such as is picked at the beginning and end of the harvest as heave-offering for the high quality produce picked in the middle of the summer (see M. 2:6S).²⁸ C's point already has been made at M. 1:7. While the householder may not measure out as heave-offering a set quantity of produce, he may calculate the quantity of produce he has, in order to facilitate the accurate estimation of the amount of heave-offering he needs to separate. It is preferred that the householder weigh the produce. This is more accurate than counting or calculating volume, methods which do not take into account differences in size and weight among individual pieces of fruit. The concern here thus is the same as that of A-B. The householder should not separate heave-offering in a way which provides the priest with produce of poor quality or with less than the proper share.

4:7

A. R. Eliezer says, "Heave-offering is neutralized [i.e., takes on the status of unconsecrated produce] (*ewlh*) [when one part of heave-offering is mixed] in [a total of] a hundred and one [parts of produce]."

B. R. Joshua says, "[It is neutralized when there is one part of heave-offering] in a hundred [parts of produce] plus [a bit] more.

C. "And this *more* has no [fixed] measure."

D. R. Yose b. Meshullam says, "[This *more* is] an additional *qab* per hundred *se'ahs*,

E. "[which equals] one-sixth of [the quantity of] heave-offering in the mixture (*štwl lmdm^e*)."

M. 4:7 (y. Or. 2:1; see M. Hal. 1:9, M. Or. 2:1, Sifré Bammidbar #121, Horovitz, p. 149, ll. 3-4)

M. 4:7 introduces the notion that, under certain circumstances, heave-offering mixed with unconsecrated produce loses its sanctified status and may be eaten as unconsecrated food by the householder himself. This process, designated by the Hebrew root $^C_{LH}$, occurs when the heave-offering constitutes less than approximately one percent of a mixture with unconsecrated produce. When this happens, the householder simply takes from the mixture and gives to a priest a quantity of produce equal to that of the heave-offering which was lost (M. Or. 2:1; see also M. 5:2-3, 5, 7-8 and T. 5:9). The priest thus does not lose his share. If the heave-offering is more than approximately one percent of the mixture, all of that mixture must be treated as heave-offering and given to a priest. M. 4:7 itself is a dispute over what appears to be a matter of minutiae. This is the exact proportions in which heave-offering mixed with unconsecrated produce is neutralized. I find no particular significance to the specific figures cited.

Eliezer, A, holds that heave-offering is neutralized when one part of that offering is mixed with a hundred parts of unconsecrated produce. Joshua and Yose b. Meshullam deem heave-offering to be neutralized in a slightly smaller quantity of unconsecrated food. Joshua says that heave-offering is neutralized if there is in a mixture as a whole slightly more than a hundred parts of produce, i.e., one part heave-offering and a bit over ninety nine parts unconsecrated produce. Yose b. Meshullam states that this extra bit of unconsecrated produce must be a *qab* in quantity. Since there are six *qabs* in a *se'ah*, his statement that this extra *qab* is equal to one-sixth of the quantity of heave-offering in the mixture (E) applies only in a case in which there is in the mixture a *se'ah* of heave-offering and a hundred *se'ahs* plus an additional *qab* of unconsecrated produce. In such a case the extra *qab* of unconsecrated produce indeed is equal in quantity to one sixth of the *se'ah* of heave-offering in the mixture.

A. $^C_{Orlah}$ and [produce grown in] a vineyard in which were grown diverse kinds of seeds are neutralized [when one part of either of these is mixed] in [a total of] two hundred and one [parts of produce].

B. R. Simeon says, "[They are neutralized when there is one part of these in] two hundred [parts of produce]."

C. One does not need to remove (*lhwsy'*, following the emendation of GRA and HD; see Lieberman, TK, I, p. 356) [the forbidden produce from the mixture].

D. And so would R. Simeon say, "Any heave-offering [separated from a kind of produce] that priests are not careful [to keep in a state of cleanness which is neutralized in unconsecrated produce]--

E. "(V lacks this stich; I follow E and ed. princ., as emended by GRA and HD; see Lieberman, *loc. cit.*:) one does not need to remove it [from the mixture]."

F. (Deleting *kgwn* with E and ed. princ.) Heave-offering, *orlah* (reading with E and ed. princ.; V reads: *trwmt orlth*) or [produce grown in] a vineyard in which were grown diverse kinds of seeds, [which became mixed with unconsecrated produce]--

G. [in cases of] doubts concerning their status, they are [deemed to be] permitted [for consumption] (*spqn mwtr*).

H. [If there is] a doubt (1) [whether or not] they were eaten by a non-priest, a doubt (2) [whether or not] they were stolen, a doubt (3) [whether or not] they were lost, [or] a doubt (4) [whether or not] they fell into unconsecrated produce--

[in such cases of] doubt concerning their status, they are [deemed to be] permitted [for consumption].

T. 5:9 (A: see M. Or. 2:1)

A-C+D-E supplements M., applying the concept of neutralization to the cases of *orlah* and produce grown in a vineyard or orchard in which were grown diverse kinds of seeds. F-H likewise supplements M. 4:7, giving the rule for cases of doubt involving mixtures.

The term *orlah* refers to the crop of the first three years of growth of a vineyard or orchard. Such produce may not be consumed (Lev. 19:23). Produce from a vineyard in which were grown seeds of diverse kinds likewise may not be eaten (Dt. 22:9). According to A produce in either of these categories becomes permitted for consumption when mixed with two hundred parts of permitted produce.²⁹ Simeon, B, permits a slightly greater proportion of forbidden produce, specifically, one part to a hundred and ninety-nine parts of unconsecrated produce (such that there are in the mixture as a whole two hundred parts).³⁰ I already have stated (above, p. 151) that when heave-offering is

neutralized, the householder takes from the mixture for the priest a quantity of produce equal to that of the heave-offering which was lost. C states that in the case in which *orlah* or produce grown in a field in which were grown diverse kinds of seeds is neutralized, the householder may consume all of the produce in the mixture, without separating from it a quantity of produce equal to the forbidden produce which fell in. Since, unlike heave-offering, that which was neutralized in the mixture is not an offering which is the property of a particular individual (priest, Levite or poor person), there is no reason for the householder to recover it from the mixture (HD). Simeon, D, states that the same is the case when heave-offering of an undesirable kind of produce is neutralized. Since the priest is not expected to eat such produce, the householder need not give it to him. It is clear then that unconsecrated produce in which heave-offering is neutralized has the status of fully unconsecrated produce. It may be eaten without the further separation of heave-offering.

F-G+H refers to cases in which it is not clear whether or not *orlah*, produce grown in a field in which were grown diverse kinds of seeds, or heave-offering have been mixed with a quantity of unconsecrated produce sufficient to neutralize them. In cases in which produce from such mixtures *may* have been used in an improper manner, we assume that the original mixture contained enough permitted produce to neutralize the forbidden food.³¹ The individual involved incurs none of the penalties associated with the improper use of such types of produce.³²

A. R. Judah says, "Sweet pomegranates [in the status of heave-offering] are forbidden [for consumption as unconsecrated produce] whatever [the ratio in which they are mixed with other pomegranates; i.e., they never are neutralized].

B. "How so?

C. "[If] one of them [i.e., a sweet pomegranate which is heave-offering] fell into ten thousand [pomegranates]--
"all of them [i.e., all of the pomegranates] are forbidden [i.e., they all take on the status of heave-offering].

D. "[If a pomegranate] fell from [this] ten thousand into a (E, ed. princ. add: different) ten thousand [pomegranates]--

"all of them are forbidden."

E. R. Simeon b. Judah says in the name of R. Simeon, "[If] one of them [i.e., a sweet pomegranate which is heave-offering] fell into ten thousand [pomegranates]--

"all of them are forbidden.

F. "[If, afterwards, a pomegranate] fell from [this] ten thousand into a third [batch],

G. "[and] from this third [batch] into a different batch--

H. "[in cases of] doubts [concerning the status of the pomegranates in the final batch], they are [deemed] permitted (reading with E; V reads: *forbidden*) [for consumption as unconsecrated produce],

I. "since there is a doubt [whether or not] there is [in this case] a mixture of heave-offering and unconsecrated produce."

J. Said R. Judah b. Baba', "I am one of those who is fit to instruct.

K. "For if there come before me shoots of beets (*hylypy trdyn*) [which are heave-offering], I say that they are neutralized [in a mixture of one part heave-offering in a total of] a hundred and one [parts of produce].

L. "And not only this, but a court should rule that every [kind of produce which is heave-offering] is neutralized [in a mixture of one part heave-offering in a total of] a hundred and one [parts of produce]."

M. [If] (1) nuts (*'gzyn*) [which are ^corlah] are split open, (2) pomegranates [which are ^corlah] are cut open, (3) jugs [containing wine which is ^corlah] are opened, (4) cucumbers [which are ^corlah] are cut into, or (5) loaves [of pressed figs which are ^corlah] are broken into pieces

they are neutralized [when mixed with unconsecrated produce of this same type to create a total of] two hundred and one [parts of produce] [= M. Or. 3:8].

N. "[If jugs containing wine which is ^corlah] fell [among jugs of permitted wine] and [afterwards] were opened,

O. "whether [they were opened] intentionally or unintentionally--

P. "lo, they are not neutralized"--the words of R. Meir.

Q. But R. Judah and R. Simeon say, "Whether [they were opened] intentionally or unintentionally, they are neutralized."

R. R. Yose says, "[If they were opened] unintentionally, they are neutralized.

"[But if they were opened] intentionally, they are not neutralized."

S. And so would R. Yose say, "(1) A sealed [jug of wine in the status of] heave-offering which became mixed among open [jugs of unconsecrated wine] and [then] was [itself] opened,

"[or] (2) a sealed [jug containing wine in the status of heave-offering which was mixed] among sealed [jugs of unconsecrated wine] which [then] were opened,

"or (3) an open [jug of wine in the status of heave-offering which became mixed] among open [jugs of unconsecrated wine] which [later] were sealed (following Lieberman, TK, I, p. 367)--

"lo, these are neutralized.

T. "For they did not deem [a mixture to remain] forbidden [for consumption as unconsecrated food] except [in a case in which] a sealed [container of heave-offering is mixed] among sealed [containers of unconsecrated produce]."

T. 5:10a (A-H: b. Zeb. 74a, see
M. Kel. 17:5; J-M: see M. Or.
3:7-8)

T. continues to provide rules on the neutralization of heave-offering and other forbidden produce, supplementing M. 4:7. The pericope is in two parts, A-D+E-I, glossed by J-L, and M, a verbatim citation of M. Or. 3:8, glossed by N-P+Q-R, a dispute which is itself augmented at S-T.

I can interpret A only by assuming that sweet pomegranates are a highly desirable and valuable type of produce.³³ Judah states for this reason that if sweet pomegranates in the status of heave-offering are mixed with other, less valuable, pomegranates, the heave-offering is not neutralized. In this way a householder cannot purposely cause the priest to lose his share of such desirable produce. Judah's view is exemplified at C-D. A single sweet pomegranate imparts the status of heave-offering to ten thousand unconsecrated pomegranates with which it is mixed (C). As D states, further, pomegranates from the batch in which this first mixture occurred have the same status as the original sweet pomegranates which were heave-offering. They impart the status of heave-offering to any quantity of pomegranates with which they are mixed. Simeon b. Judah, E-H, rejects the notion that derivative batches have the same ability to impart the status of heave-offering as had the original sweet pomegranates. It is not, after all, known whether there actually is in one of these batches a

sweet pomegranate in the status of heave-offering. Thus he states that at two removes from the original heave-offering, we rule leniently regarding the status of the mixture. This is the same as in other cases of neutralization in which there are two elements of doubt (cf., T. 5:9F-H).³⁴ Judah b. Baba', J-L, rejects the notion that, because of their value, certain types of produce are not neutralized. He states that all heave-offering is neutralized when mixed with a hundred parts of unconsecrated produce, in accordance with the position of Eliezer, M. 4:7A.³⁵

M+N-R cites and glosses M. Or. 3:8. Except for its interest in the rules governing neutralization, it therefore is out of place in the present context. M. Or. 3:7 holds that if any of the five kinds of produce listed at M. are *orlah*, they are not neutralized, no matter how large the quantity of permitted produce with which they are mixed. As is the case with sweet pomegranates, this prevents the householder purposely from mixing these particularly valuable types of produce with other food in order to recover them for his own use. M. Or. 3:8, cited here at M, states that if the produce is in some way damaged or loses its value, it is neutralized when mixed with two hundred parts permitted produce, as is the case for all produce in the status of *orlah* (T. 3:8A). N-R glosses, referring to jars containing wine made from grapes in the status of *orlah*. If closed jars are mixed in any proportion among other jars, all of the wine takes on the status of *orlah* and may not be consumed. What if after such a mixture occurs, the jar containing the wine which is *orlah* is opened? Meir, P, states that, since all of the wine already had taken on the status of *orlah*, it remains forbidden. The rule of M3 is not invoked. Judah and Simeon, Q, disagree, holding that even if the householder intentionally opens the jars of wine, the rule of M3 is applied, and the *orlah* is neutralized. Yose, R, offers a mediating position. If the householder purposely opens the jars, his actions are of no effect, and all of the wine retains the status of *orlah*. If, however, the jars unintentionally are opened, the *orlah* is neutralized in the usual two hundred parts of permitted produce.

S-W carries out an exercise like that of N-R, now for the case of heave-offering. The claim is that, as in the case of *orlah*, if a closed jug of wine in the status of heave-offering is misplaced among other jars containing unconsecrated wine, the heave-offering is not neutralized. Since the jugs are sealed, we deem there to have been no mixing of heave-offering and

unconsecrated produce. Yose states that whether or not the heave-offering is neutralized depends on the ultimate condition of the jars, sealed or opened. If any of the jars finally are left open, there is deemed to be a mixing of heave-offering and the other produce, and the heave-offering is neutralized. Although attributed to Yose, S-T, thus appears to agree with the position of Judah and Simeon, Q, who likewise are concerned only with the final condition of the jars. This surely should not be agreeable to Yose, who, at R, is concerned with the intention of the householder who opened or sealed the vessels.

4:8-11

A. R. Joshua says, "Black figs neutralize white ones, and white ones neutralize black ones.

B. "[And in the case of] cakes of pressed figs--

(1) "large ones neutralize small ones, and small ones neutralize large ones;

(2) "round ones neutralize square ones, and square ones neutralize round ones."

C. R. Eliezer deems [heave-offering mixed with such different types of its same genus of produce to remain] forbidden [for consumption as common produce].

D. And R. Aqiba says, "When it is known which [type of produce in the status of heave-offering] fell [into the unconsecrated produce, the two different types] do not neutralize one another.

E. "But when it is not known which [type of produce in the status of heave-offering] fell [into the unconsecrated produce, the two different types of produce] neutralize one another."

M. 4:8 (A-B: M. Or. 3:1)

F. "How so?

G. "[If there were] fifty [unconsecrated] white figs and fifty [unconsecrated] black figs [together in a basket]--

H. "[if] a black fig [which was heave-offering] fell into the basket, the black figs are forbidden [for consumption as unconsecrated produce], and the white figs are permitted [for consumption as unconsecrated produce].

I. "[If] a white fig [which was heave-offering] fell [into the basket], the white figs are forbidden [for consumption as unconsecrated produce], and the black figs are permitted [for consumption as unconsecrated produce].

J. "But if he does not know what [color fig] fell [into the basket, white and black figs] neutralize one another [and all of the figs in the basket are permitted for consumption as unconsecrated produce]."

K. And in this [i.e., the rules of A-C], R. Eliezer is stringent and R. Joshua is lenient.

M. 4:9

L. But in this [case] R. Eliezer is lenient and R. Joshua is stringent:

M. In [a case in which] one stuffed a *litra* of dried figs [in the status of heave-offering] into the mouth of a jar [filled] with [a hundred *litras* of] unconsecrated [dried figs], but does not know which [jar]--

N. R. Eliezer says, "They regard them as if they were loose figs, and the bottom ones neutralize the top ones."

O. R. Joshua says, "[The heave-offering] will not be neutralized unless a hundred jars are there."

M. 4:10

P. A *se'ah* of heave-offering which fell into the mouth of a store-jar,

Q. and one skimmed it off--

R. R. Eliezer says, "If in the layer removed were a hundred *se'ahs*,

S. "[the heave-offering] is neutralized in a hundred and one [parts of produce]."

T. But R. Joshua says, "[The heave-offering] is not neutralized."

U. A *se'ah* of heave-offering which fell into the mouth of a store-jar--

he should skim it off.

V. But if so, why did they say heave-offering is neutralized in a hundred and one [parts of unconsecrated produce]?

[That is the case only] if one does not know whether or not it [i.e., the produce which is heave-offering] is mixed up [with the unconsecrated produce] or where [in the unconsecrated produce] it fell.

M. 4:11 (y. Ter. 4:8)

At issue again is under what circumstances heave-offering mixed with unconsecrated produce is neutralized. Three Eliezer-Joshua disputes (M. 4:8A-C, M. 4:10 and M. 4:11P-T) illustrate

two distinct theories of neutralization. Aqiba's statement, M. 4:8D-E, along with the long explanation following it, M. 4:9F-J, intervene with essentially secondary material. This separates K from its referent at M. 4:8A-C.³⁶ Joshua's position of M. 4:11T is carried forward by the anonymous case at M. 4:11U-V.

According to Joshua, A, distinguishing features such as color and size of produce are irrelevant in determining whether or not heave-offering is neutralized.³⁷ This is in keeping with the law of M. 2:6S, which states in regard to the initial separation of heave-offering that different types of the same genus of produce are homogeneous.³⁸ Eliezer disagrees. He holds, for example, that white figs in the status of heave-offering are not neutralized by black figs. In such a mixture the heave-offering can be distinguished and may, therefore, be recovered. This being the case there is no reason to deem the heave-offering to be neutralized. Joshua and Eliezer thus have very different understandings of the mechanics of neutralization. For Joshua neutralization may occur whenever heave-offering and unconsecrated produce are combined. Eliezer, on the other hand, holds that heave-offering is neutralized only if it actually is lost within the unconsecrated produce, such that the status of each individual piece of produce in the mixture is in doubt. Aqiba's position, D-E, is most easily explained on the basis of the example given at G-K. A householder has a basket containing both black and white figs. If it is known what color figs in the status of heave-offering fall into the basket, only figs of that same color are deemed to be part of the mixture. If, on the other hand, it is not known whether black or white figs in the status of heave-offering fell into the basket, each black and white fig in the basket is in a status of doubt whether or not it is heave-offering. All the figs therefore join together to neutralize the heave-offering with which they were mixed. Aqiba's view thus is in essential agreement with Eliezer.³⁹ This view holds that if heave-offering can be recovered, leaving no doubt as to the status of the produce with which it had been mixed, the heave-offering is not neutralized.

At L+M-O the positions of Joshua and Eliezer are reversed.⁴⁰ Eliezer claims that even though the figs in the status of heave-offering can be recovered from the mouth of the jar, they are neutralized by the other produce in the vessel. Joshua says that since the heave-offering in the mouth of the jar remains distinct from the unconsecrated produce under it, it is not neutralized. Only if the jar containing the heave-offering is mixed among a

hundred other jars of figs, such that the heave-offering may be considered lost among the unconsecrated produce in the mouths of the other jars, is that heave-offering neutralized.⁴¹

M. 4:11P-T provides a further case in which Eliezer and Joshua dispute the status of heave-offering which has been placed on the surface of a batch of unconsecrated produce. Neusner already has shown at some length that the superscription, at Q, and Eliezer's position, R, have been contaminated by the words *he should skim it off*, at U.⁴² Accepting Neusner's conclusion and omitting Q and the words cited in Eliezer's name at R, the dispute here simply is a replay of M. 4:10. Eliezer states that even though the heave-offering may be recovered from the surface of the store-jar, it is deemed mixed with the unconsecrated produce. If sufficient unconsecrated produce is present it is neutralized. Joshua, T, as at O, disagrees. As long as the heave-offering is not actually mixed with the unconsecrated produce, it is not neutralized. U-V, then, explains and supports Joshua's position. If the heave-offering is not actually lost within the unconsecrated produce, it is recovered and retains the status of a priestly gift. The rules of neutralization apply only in a case in which heave-offering actually is lost in a mixture with unconsecrated produce.

U. "When you reason, [you can] state a general rule (*kštms' 'wmr kll*; see Lieberman, TK, I, p. 368):

V. "that R. Eliezer says, 'If it is known [what type of heave-offering] fell [into unconsecrated produce, the heave-offering] is not neutralized, and if it is not known, it is neutralized;'

W. "R. Joshua says, 'Whether or not it is known [what type of heave-offering] fell [into unconsecrated produce] it is not (V lacks: *not*; it is supplied by Lieberman on the basis of E and ed. princ.) neutralized'"--the words of R. Meir (*dbry r m'yr* is supplied by Lieberman, following E and ed. princ.).

X. R. Judah says, "R. Eliezer says, 'Whether or not it is known [what type of heave-offering] fell [into the unconsecrated produce], it is not neutralized.'

Y. "R. Joshua says, 'Whether or not it is known [what type of heave-offering] fell [into the unconsecrated produce], it is (Lieberman omits *not*, following E and ed. princ.) neutralized.'

Z. "R. Aqiba says, 'If it is known [what type of heave-offering] fell [into the unconsecrated produce], it is not neutralized,

"But if it is not known [what type of heave-offering] fell [into the unconsecrated produce], it is neutralized'" [X-Z: see M. 4:8].

T. 5:10b (y. Ter. 4:9)

Meir attributes to Eliezer, V, the position held by Aqiba at M. 4:8D-E. In light of what we have seen, this is quite logical, making explicit the fundamental agreement between the views of the two authorities. At W Meir cites in Joshua's name the opposite of the opinion that authority holds in M. This is a confused state of affairs, for which I can offer no solution.⁴³ Judah, X-Z, simply repeats the substance of the opinions of each of M. 4:8's authorities.

A. "(1) *A litra of dried figs [in the status of heave-offering] which one stuffed into the mouth of a jar [filled with dried figs], but does not know into which [jar] he stuffed them* [= M. 4:10M, with slight variation],

"(2) [or which one stuffed] into a bee hive [filled with dried figs], but does not know into which bee hive he stuffed them,

"(3) [or which] one pressed on a circle of pressed figs, but does not know on which circle of pressed figs he pressed them--

B. "R. Eliezer says, 'They regard the [figs on] top [of the jar, bee hive, or pressed figs] as if they are loose [and therefore are mixed with the rest of the produce].

"If there are there [in the jar, etc.] a hundred and one *litras* [of produce, the heave-offering] is neutralized, [see M. 4:10N].

"But if not, it is not neutralized.'

C. "R. Joshua says, 'If there are a hundred mouths [of jars, etc., the heave-offering] is neutralized [see M. 4:10/O].

"And if not, [produce in] the mouths [of the jars, etc.] is forbidden and [produce in] the bottoms [of the jars, etc.] is permitted [i.e., retains the status of unconsecrated food]" --the words of R. Meir.

D. R. Judah says, "R. Eliezer says, 'If there are there a hundred mouths [of jars, etc., the heave-offering] is neutralized.

"And if not, [produce in] the mouths [of the jars, etc.] is forbidden and [produce in] the bottoms [of the jars, etc.] is permitted.'

E. "R. Joshua says, 'Even if there are there three hundred mouths [of jars, etc., the heave-offering] is not neutralized.'

F. "If he pressed it [i.e., a *litra* of dried figs in the status of heave-offering] upon a circle of pressed figs, but does not know where [on the circle] he pressed it, all agree that it is neutralized."

T. 5:11 (b. Bes. 3b, b. Zeb. 73a)

A-C gives Meir's greatly expanded version of M. 4:10's dispute between Eliezer and Joshua. The two additional examples, given at A2-3, do not change matters. Although expanded in language, the opinions of Eliezer (B) and Joshua (C) likewise remain exactly the same as they were in M. Judah, D-H, offers a different version of the dispute. He attributes to Eliezer (D) the opinion, in M., held by Joshua. At E Judah has Joshua reject the notion that heave-offering in the mouth of one jar can be neutralized by unconsecrated produce in the mouths of other jars. Judah's Joshua, then, should hold the opinion given in M. to Eliezer, viz., that only if there is sufficient produce in the jar containing the heave-offering is the priestly gift neutralized.⁴⁴ At F Judah states that Eliezer and Joshua agree that if heave-offering is lost in a batch of unconsecrated produce, such that it cannot be recovered, it is neutralized. Judah thus offers credence to my understanding of the basic issue which Joshua and Eliezer debate, specifically, whether or not heave-offering is deemed to be neutralized in cases (such as those of A1-3) in which it is not mixed with or actually lost in the unconsecrated produce into which it falls.

A. *A se'ah of heave-offering which fell into the mouth of a store-jar [= M. 4:11T]--*

B. they regard it as if it [i.e., the heave-offering] were wheat on top of barley.

C. *One should skim it off [= M. 4:11T].*

D. Rabban Simeon b. Gamaliel says, "[If] a bit of heave-offering remained [with the produce in the store-jar], it is neutralized in a hundred and one parts."

E. "Heave-offering of the tithe [separated] from doubtfully tithed produce (*dmyy*), which fell back into (*hzh*) the

batch [from which it was separated] imparts the status of heave-offering [to that batch].

"But if it fell into a different batch, it does not impose the status of heave-offering [upon the produce]"--the words of R. Eliezer

F. But sages say, "Whether it fell back into its same batch or into a different batch, it imposes the status of heave-offering [upon the produce into which it falls]."

G. R. Simeon says, "Whether it fell back into its same batch or into a different batch, it does not impose the status of heave-offering [upon the produce with which it is mixed]."

T. 5:12 (y. Dem. 4:1)

The pericope is in two parts, A-D and E-G. A-C cites M. 4:11T, adding the gloss at B, in order to clarify M.'s point. This is, as I have stated, that when heave-offering can be distinguished from the unconsecrated produce with which it is mixed, it is not neutralized. Simeon b. Gamaliel, D, glosses. If in skimming the heave-offering from the unconsecrated produce the householder leaves behind some heave-offering, this small quantity is deemed neutralized in the other produce.

E-G is autonomous of M. Heave-offering of the tithe separated from *demai* is in a status of doubt as to whether or not it is a sanctified priestly gift. Eliezer, E, says that such heave-offering of the tithe is deemed true heave-offering only in conjunction with the produce from which it actually was separated.⁴⁵ This is so because it is this offering which in fact freed that produce for consumption. Thus if it is mixed with that produce in a ratio of more than one part of heave-offering to a hundred parts of unconsecrated produce, it imposes the status of heave-offering upon that produce.⁴⁶ If this heave-offering of the tithe falls into other produce, we assume that it is not a true priestly gift. It does not impose the status of heave-offering on that other produce. Sages, F, state that heave-offering of the tithe separated from *demai* is treated in all respects like a true priestly gift and, therefore, imposes the status of heave-offering on any produce with which it is mixed in sufficient quantity. Simeon takes the opposite view. Since the heave-offering of the tithe might not be a sanctified priestly gift, he holds that it is in no event treated as one. This view is closest to that of T. 5:9F-H, which holds that in cases of doubt concerning mixtures of

heave-offering and unconsecrated produce, the mixtures are deemed permitted for consumption as unconsecrated produce.⁴⁷

A. "Flour (*hqmhyn*) and fine flour (*hswltwt*) neutralize [heave-offering] in conjunction with one another"--the words of R. Nehemiah.

B. But sages say, "They do not neutralize [heave-offering in conjunction with one another]."

T. 6:6

C. (Lieberman supplies C-E from ed. princ.) "A *log* of water which fell into ninety-nine [*logs*] of wine, and afterwards a *log* of wine [which was heave-offering] fell [into the mixture]--

D. "[the water and the wine] neutralize [the wine which is heave-offering] in conjunction with one another"--the words of R. Nehemiah.

E. But sages say, "They do not neutralize [the heave-offering] in conjunction with one another.

T. 6:7

The two formally balanced disputes supplement M. 4:8-11's rules for the neutralization of different kinds of a single genus of produce.⁴⁸ Fine flour, A-B, can be distinguished from other flour with which it is mixed. Nehemiah takes the position of Joshua, M. 4:8A-B, that the distinguishing features are irrelevant. The two types of flour work together to neutralize heave-offering. Sages have the position of Eliezer, M. 4:8C, that heave-offering is not neutralized by a different type of its same genus of produce.

The problem at C-E is slightly different. This is whether wine which is heave-offering is neutralized by water. Nehemiah states that the water indeed increases the volume of the wine so that the heave-offering is neutralized. Sages, on the other hand, states that the water, which itself is not produce, does not have the power to neutralize heave-offering.

4:12

A. (1) Two bins [the combined content of which is a hundred *se'ahs* of unconsecrated produce],
or (2) two store-jars [the combined content of which is a hundred *se'ahs* of unconsecrated produce]

B. into one of which fell a *se'ah* of heave-offering,

C. and it is not known into which of them it fell--

D. [the bins or store-jars] neutralize [the heave-offering] in conjunction with one another (*m^owt zw 't zw*) [i.e., we deem the heave-offering to have fallen into a single batch of a hundred *se'ahs* of produce].

E. R. Simeon says, "Even if they [i.e., the two baskets or store-jars] are in two [different] cities--
"they neutralize [the heave-offering] in conjunction with one another."

M. 4:12

M. 4:12 advances the theme of M. 4:8-11, offering a case of doubt concerning a mixture of heave-offering and unconsecrated produce. A-D is glossed by Simeon, E. A *se'ah* of heave-offering falls into one of two bins (A1) or store-jars (A2), but it is not known which. Individually the containers do not hold enough unconsecrated produce to neutralize the heave-offering; together they do. Yet, since there are a hundred *se'ahs* of produce which, by one *se'ah* of heave-offering, have been rendered suspect as regards their status, D rules that the heave-offering is neutralized. This position is closely parallel to that of Eliezer, M. 4:8N, which holds that we deem heave-offering to be neutralized by produce with which it is not actually mixed. Simeon, E, adds little. Even if the containers are in two different cities, for the reason stated above, the rule of D applies.

4:13

A. Said R. Yose, "A case (*m^osh*) came before R. Aqiba concerning fifty bundles of vegetables, among which had fallen a similar bundle, half of which was heave-offering.

B. "And I said before him, '[The heave-offering] is neutralized.'

C. "Not that heave-offering is neutralized in [a mixture of one part of heave-offering in a total of] fifty one [parts of produce, but,] rather, because there were there a hundred and two half [*se'ahs*, only one of which was heave-offering]."

M. 4:13 (y. Ter. 4:13)

The case is exactly the same as that at M. 4:12. Among fifty-one bundles of unconsecrated vegetables is a bunch composed half of heave-offering, half of unconsecrated produce. It is not known which bundle contains the heave-offering. Since the status of all of the unconsecrated produce is in doubt, Yose rules that it all joins together to neutralize the heave-offering. The point is

made clear at C. Of the hundred and two half *se'ahs* of produce in the mixture, only one half *se'ah*, less than one percent of the mixture, has the status of heave-offering.⁴⁹

CHAPTER FIVE

TERUMOT CHAPTER FIVE

The chapter carries forward M. 4:7-13's discussion of the neutralization of heave-offering. It is in two parts. M. 5:1-4 present cases in which either the heave-offering or the unconsecrated produce with which it is mixed is unclean. M. 5:5-8+9 are on whether or not produce taken to replace heave-offering which is neutralized is true heave-offering. Both parts of the chapter flow from a single set of disputant opinions, Eliezer's, M. 5:2C, and that of sages, expressed first at M. 5:2D. Eliezer's view is that if heave-offering is neutralized in unconsecrated produce, the produce which the householder takes to replace it is the same produce which originally fell into the batch. This produce therefore is true heave-offering, and, further, has the same status of cleanness as the heave-offering which was lost. The batch from which it was taken, likewise, is composed solely of unconsecrated produce, just as it was before the mixture occurred (M. 5:6-7). Sages disagree. They hold that the replacement heave-offering contains only that proportion of true heave-offering which is contained in the mixture from which it is separated. According to this view, if the original heave-offering, or the unconsecrated produce with which it was mixed, is unclean, the replacement heave-offering is a mixture of clean and unclean produce. While the priest may consume this produce, he must do so in such a way as to prevent the unclean produce in the batch from imparting uncleanness either to the clean heave-offering or to himself. It also follows from this view that the batch in which the heave-offering was neutralized still contains some heave-offering. This being the case, sages cannot agree to the anonymous rule of M. 5:7.

Only M. 5:1 and M. 5:9 stand outside the framework of the dispute between Eliezer and sages. M. 5:1 introduces the problem of mixtures in which either the heave-offering or the unconsecrated produce is unclean, the topic of M. 5:2-4. Clean heave-offering is mixed with unclean unconsecrated produce and imparts its own status to that produce. M. 5:1I-J rules that since the original heave-offering is clean, the batch must be given to a priest, who cooks and eats the produce in such a way that the unclean unconsecrated produce does not impart uncleanness either to the clean heave-offering or to himself. If, however, the heave-offering in the mixture is unclean (M. 5:1A-C), the batch

is left to rot. The priest could not eat the original heave-offering and therefore may not benefit from the mixture. M. 5:9 is autonomous of the specific issues of the preceding pericopae, concluding M.'s discussion of the neutralization of heave-offering. In each of its three cases a mixture of heave-offering and unconsecrated produce changes in quantity. Unless it is certain that the ratio of heave-offering to unconsecrated produce has changed, the mixture retains its same status of consecration.

As usual T. restates and expands M.'s rules, adding significant statements of its own only at T. 5:15 (on the neutralization of ^c*orlah* and other forbidden produce), and at T. 6:11a (on the neutralization of heave-offering of one kind in a different kind of unconsecrated produce). As in Chapter Four, important attributions here are to Yavneans, most notably, to Eliezer. The Houses are cited pseudepigraphically,¹ M. 5:4. Simeon appears at M. 5:8. In T. we have Yose (T. 5:13), Judah (T. 5:14), Eleazar b. ^cArakh and Simeon (T. 5:15).

5:1

- I. A. A *se'ah* of unclean heave-offering which fell into less than a hundred [*se'ahs*] of unconsecrated produce,
 - B. or [which fell] into first tithe, or second tithe or [produce] dedicated [to the Temple],
 - C. whether these things are clean or unclean--
 - D. let [all of the produce in the mixture] rot.
- II. E. (Eight MSS. add: But) if that *se'ah* [of heave-offering which fell into the other produce] was clean--
 - let [all of the produce in the mixture] be sold to priests, at the [low] value of heave-offering,
 - F. less the value of that same *se'ah* [of heave-offering which fell into the unconsecrated produce].
 - G. And if it fell into first tithe--
 - let him designate [the mixture] heave-offering of the tithe.
 - H. And if it fell into second tithe or [produce] dedicated [to the Temple]--
 - lo, these may be redeemed.
- III. I. (Five MSS. lack: And) if the unconsecrated produce [into which the heave-offering fell] was unclean--
 - let [all of the produce in the mixture] be eaten² in small bits, or roasted, or kneaded with fruit juice, or divided into [little] lumps [of dough],

J. such that there will not be in a single place an egg's bulk [of produce].

M. 5:1 (A+D-F: b. Ned. 59a)

In these three cases heave-offering imparts its own status to produce with which it is mixed. The problem, A-D and I-J, is that either the heave-offering or the produce into which it falls is unclean. May the resultant mixture be eaten by a priest, as is clean heave-offering, or must it be left to rot, as is unclean heave-offering? The point, as we shall see, is that we rule according to the status of the heave-offering which originally fell into the other produce. If it was clean, the mixture is consumed by a priest. If it was unclean, the mixture is left to rot. Before turning to the specifics of the cases before us, we may note that the pericope is formally unitary. Each of its cases (A-D, E-H and I-J) depends on A for sense. Only B and G-H, which introduce the problem of mixtures of heave-offering and first tithe, second tithe, or produce dedicated to the Temple, are secondary to the concern of the pericope.

Unclean heave-offering, A, imparts the status of heave-offering to unconsecrated produce or, B, to other agricultural offerings or sanctified produce. Since the original heave-offering is unclean and may not be eaten by a priest, all of the produce in the mixture is deemed to have this same status and must be left to rot (D). At E-F clean heave-offering falls into clean unconsecrated produce. The mixture, composed entirely of clean produce in the status of heave-offering, is sold to a priest at the low market value of that offering.³ Since the *se'ah* of heave-offering which originally fell into the unconsecrated produce already is the property of a priest, however, that quantity of produce is given without remuneration to that individual (F). G-H refers to the circumstances adduced at B. If heave-offering is mixed with first tithe, the householder gives all of the produce to a Levite, who then designates it heave-offering of the tithe for other first tithe which he owns. In this way the Levite receives the tithe which rightfully is his, yet the produce ultimately is eaten by a priest, as it must be. If heave-offering is mixed with second tithe or with produce dedicated to the Temple, H, the householder redeems with coins the consecrated produce in the mixture. The coins take on the sanctified status previously held by the second tithe or dedicated produce. The mixture now may be sold to a priest, as at E-F.⁴ The householder, of course, must dispose of

the consecrated coins as appropriate, using them to purchase produce in Jerusalem, in the case of second tithe, or turning them over to the Temple treasury, in the case of produce dedicated to the Temple.

At I-J, finally, clean heave-offering imparts its own status to unclean unconsecrated produce. Since here the original heave-offering is clean and should be consumed by a priest, the mixture may not simply be left to rot, as at A-D. The problem is to prepare the produce for consumption in such a way that the unclean produce in the mixture does not convey uncleanness to the clean heave-offering, or to the priest who eats it. For this reason the mixture is prepared dry, or with fruit juice, so that the heave-offering is not made susceptible to uncleanness. It is eaten by the priest in quantities of less than an egg's bulk, which do not convey uncleanness.

5:2-4

I. A. A *se'ah* of unclean heave-offering which fell into⁵ a hundred [*se'ahs*] of clean [unconsecrated] produce [and so is neutralized]--

B. R. Eliezer says, "Let it be lifted out (*trwm*) and burned."⁶

C. "For I say, 'The *se'ah* which fell [into the unconsecrated produce] is the [same] *se'ah* that is raised up.'"

D. But sages say, "[The heave-offering] is raised up (*t^clh*) [out of the mixture] and is eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough],

E. "so that there is not in a single place as much as an egg's bulk [of produce]."

M. 5:2 (b. Bek. 22a-b; see Sifré Bammidbar #121, Horovitz, p. 149, ll. 3-6)⁷

II. F. A *se'ah* of clean heave-offering which fell into a hundred [*se'ahs*] of unclean unconsecrated produce--

G. let it be raised up and eaten dry, roasted, kneaded with fruit juice, or divided into lumps [of dough],

H. such that there is not in a single place as much as an egg's bulk [of produce].

M. 5:3

III. I. A *se'ah* of unclean heave-offering which fell into a hundred [*se'ahs*] of clean heave-offering--

J. the House of Shammai declare [the mixture] forbidden [for consumption by a priest].

K. But the House of Hillel permit.

L. Said the House of Hillel to the House of Shammai, "Since clean [heave-offering] is forbidden to non-priests, and unclean [heave-offering] is forbidden to priests, if clean [heave-offering] can be neutralized, so unclean [heave-offering] can be neutralized."

M. Said to them the House of Shammai, "No! If unconsecrated produce, to which leniency applies and which is permitted to non-priests, neutralizes clean [heave-offering], should heave-offering, to which stringency applies and which is forbidden to non-priests, [have that same power and] neutralize unclean [heave-offering]?"

N. After they had agreed:

O. R. Eliezer says, "Let it be raised up and burned."

P. But sages say, "It has been lost through its scantiness."

M. 5:4

M.'s concern, as at M. 5:1, is the adjudication of problems of cleanness in mixtures of heave-offering and unconsecrated produce. M. 5:2-4's three cases have heave-offering neutralized in other produce. At issue, thus, is the status of the produce taken from the mixture to replace the lost heave-offering (see p. 151 and M. Or. 2:1). A-E's case is like that of M. 5:1A-D, with unclean heave-offering mixed with clean unconsecrated produce. F-H's case parallels that of M. 5:1I-J, clean heave-offering mixed with unclean unconsecrated produce. The final case, I-K+L-M+N-P, has no equivalent at M. 5:1.

At A-E unclean heave-offering is mixed with a hundred times its quantity in clean unconsecrated produce. Eliezer (B) states that the householder takes a *se'ah* of produce from the mixture and deems it to be the same as that which fell in. Since it is unclean, it is burned. Sages, on the other hand, hold that since it is neutralized, the heave-offering is diffused in the clean produce. Produce taken to replace the lost priestly gift therefore is a mixture of clean and unclean produce. The priest eats it in such a way as to prevent the unclean produce in the mixture from imparting uncleanness either to the clean produce or to himself, just as at M. 5:1I-J.

M. 5:3 carries forward sages' view. Clean heave-offering is

neutralized in unclean unconsecrated produce. The produce which subsequently is separated from the mixture for a priest is treated as a mixture of clean and unclean produce, exactly as at D-E. Eliezer, who holds that the householder deems the *se'ah* of produce which is separated from the mixture to be the same as that which fell in (B), can hardly agree. In his view the produce taken from the mixture is clean, and may be eaten as such.

Unclean heave-offering, as we know, may not be eaten by a priest. M. 5:4 asks whether such heave-offering becomes permitted for consumption when it is mixed with a great quantity of clean heave-offering, just as heave-offering mixed with unconsecrated produce is neutralized and may be eaten by a non-priest. The House of Shammai state that it does not, and so prohibit I's mixture from consumption by a priest. The Hillelites, on the other hand, state that the small quantity of unclean heave-offering may be disregarded, just as we ignore a small quantity of heave-offering which is mixed with unconsecrated produce. They therefore permit the mixture to the priest. The debate which follows at L-M is problematic. Instead of having the Houses argue the issue in terms such as I have explained it, and which the language of J-K (forbids/permits) requires, it has the Houses debate whether unclean heave-offering is *neutralized* in clean heave-offering. The debate therefore refers to a dispute such as the following:

A. A *se'ah* of unclean heave-offering which fell into a hundred [*se'ahs*] of clean heave-offering--

B. The House of Shammai say, "[The unclean heave-offering] is neutralized."

C. But the House of Hillel say, "It is not neutralized."

This, however, is nonsensical, for it is meaningless to speak of heave-offering's being neutralized in heave-offering. None of the produce in question loses the status of a priestly gift. It thus seems likely that the debate, which directly reflects the language and concerns of M. 5:2-3, was formulated at the time at which the dispute was set in its present redactional framework. It does not go back to the historical Houses. Still, we can make sense of each of the House's positions. The Hillelites argue that both clean heave-offering and unclean heave-offering are forbidden to some individuals. Since the two categories of heave-offering are equivalent in this respect, they likewise are equivalent as regards neutralization. The Shammaites reply that while unconsecrated produce does in fact neutralize heave-offering,

heave-offering, to which greater stringency applies, cannot serve to neutralize other heave-offering. While the Shammaites are given the last word, their argument, which remains within the conceptual framework established by the Hillelites, is hardly more logical than the Hillelite one.

N is joining language, linking the opinions of Eliezer and sages to the foregoing. While later rabbinic tradition will assume that it is the House of Shammai which conceded to the position of the Hillelites, this is not stated or assumed here. What is important for our purposes is that the positions of Eliezer and sages revert to the formulation of the Houses' dispute found at J-K. These authorities do not use the terminology of the debate at L-M. Eliezer is consistent with his position at M. 5:2B-C. The householder (or priest) may take a *se'ah* of heave-offering from the mixture and claim that it is the same *se'ah* that originally fell in. Like all heave-offering which undoubtedly has a status of uncleanness, this *se'ah* is burned (M. Tem. 7:5). The rest of the heave-offering is clean and may be eaten by a priest. This position is essentially the same as that of the House of Shammai who, at J, state that we may not disregard the unclean heave-offering in the mixture. Eliezer simply adds that the unclean priestly gift can be removed from the clean heave-offering. Like Eliezer, sages do not make reference to the concept of neutralization. They simply state that the unclean heave-offering is *lost* in the clean, that is, comprises so insignificant a proportion of the mixture that it is disregarded. This is the position of the Hillelites, K. It seems likely, then, that the Houses' dispute at I-K is pseudepigraphic, modelled on the Eliezer/sages tradition at O-P. T. will offer further evidence for this view.

A. Just as heave-offering is neutralized in unconsecrated produce [in a mixture of one part of heave-offering in a total of] a hundred and one [parts of produce],

B. whether or not [the heave-offering] is mixed up [in the unconsecrated produce],

C. so unclean [heave-offering] should be neutralized in clean [heave-offering] in [a mixture of] a hundred and one [parts] [see M. 5:4I+K-L],

D. whether or not [the unclean heave-offering] is mixed up [in the clean heave-offering].

E. R. Yose says, "If it is mixed up--
"it is neutralized.

F. "But if it is not mixed up--
"it is not neutralized."

G. [If] it fell into unclean unconsecrated produce, all agree that it is neutralized.

T. 5:13

The anonymous rule at A+C restates the Hillelite position in the debate, M. 5:4L-M, that unclean heave-offering is neutralized when mixed with a large quantity of clean heave-offering. B-D is interpolated, allowing for Yose's position, E-F. This is that the unclean heave-offering is neutralized only in a case in which it cannot be recovered from the clean heave-offering with which it is mixed. This puts Yose in essential agreement with Eliezer, M. 5:4/O, who states that the unclean heave-offering should be removed from the clean. Notably, the attestation here to Yose of an issue debated by the Houses sheds further doubt on the authenticity of the attribution of those materials to the Houses. G states that all parties agree that unclean heave-offering is neutralized in unclean unconsecrated produce. The rules of M. 5:1-3 have not led us to expect otherwise.

A. An [unclean; see Lieberman, TK, I, p. 373 and y. Ter. 4:13] chate-melon in the status of heave-offering, which was mixed with a hundred unconsecrated chate-melons,

B. and so an [unclean] piece of bread (*prwsh*; ed. princ. reads: *lhm hpnym*) in the status of heave-offering which was mixed with a hundred pieces of unconsecrated bread--

C. lo, these are neutralized [see M. 5:2].

D. R. Judah says, "They are not neutralized."

E. (Lieberman supplies from E and ed. princ. :) If the slices touched each other, they have made each other unclean.

F. But if the food [i.e., the heave-offering] was invalid, having been made invalid through contact with one who had immersed on the selfsame day,

all agree that it is neutralized.

T. 5:14 (y. Ter. 4:13)

A-C repeats the rule of M. 5:2D.⁸ Unclean heave-offering is neutralized in clean unconsecrated produce. The important position here is that of Judah, D, who rejects this rule and states that the unclean heave-offering is not neutralized. It is possible that this view is the same as that of Eliezer, M. 5:2B, who holds that we simply remove the unclean heave-offering from the mixture. This however is not made explicit.⁹ E likewise is enigmatic. If

produce is prepared with water, as bread is, it is susceptible to uncleanness and is made unclean by contact with the unclean heave-offering. This however does not seem to shed light on Judah's position. Nor does F help matters. Heave-offering is rendered 'invalid' through contact with a person who was unclean and who immersed on the day of contact. While such heave-offering may not be consumed, it does not impart a status of uncleanness or invalidity to other produce with which it comes into contact (M. Par. 4:11). Concerning the imparting of uncleanness to other produce, then, invalid heave-offering is just like clean heave-offering. It follows that Judah will allow its neutralization, just as he deems clean heave-offering to be neutralized. I do not, however, see that this elucidates Judah's position at D.¹⁰

A. Untithed produce (*tbl*) which is mixed with unconsecrated [i.e., tithed] produce--

lo, this [i.e., the untithed produce] renders forbidden [the produce with which it is mixed] (*'usr*) in any amount [i.e., no matter how small a quantity of untithed produce is mixed with tithed produce, the tithed produce may not be eaten].

B. If he [i.e., the householder] has in a different place produce which needs to be tithed (*prnsh*; MB), he takes [this produce as tithes for the untithed produce mixed with unconsecrated produce] in accordance with a calculation [of the percentage of the mixture which is untithed].

C. But if not [i.e., if the householder has no produce which needs to be tithed]--

D. R. Eliezer and R. Eleazar b. ^CArak say, "He designates the (Lieberman, TK, I, p. 374, adds: heave-offering and) heave-offering of the tithe which is in it [i.e., in the untithed produce],

E. "and it [i.e., these offerings] are neutralized in a hundred and one parts [of produce]."

F. And so [is the case as regards] first tithe.

G. First tithe from which heave-offering of the tithe has not been separated (*m^esr tbl*) which is mixed with unconsecrated produce--

lo, this [i.e., the first tithe] renders forbidden [the produce with which it is mixed] in any amount.

H. If he [i.e., the Levite] has in another place first tithe from which heave-offering of the tithe has not been removed--

he takes [this produce as heave-offering of the tithe for the first tithe in the mixture] in accordance with a calculation [of the quantity of first tithe in the mixture].

I. But if not [i.e., if he has no first tithe from which heave-offering of the tithe has not been separated]--

J. [R. Eliezer and] R. Eleazar b. ^CArak say, "He designates the heave-offering of the tithe which is in it [i.e., in the first tithe mixed with the unconsecrated produce,] and it is neutralized in a hundred and one parts [of produce]."

K. (GRA, MB, HY omit:) But if it was untithed produce and first tithe or second tithe [which were mixed together]-- lo, this [mixture] is forbidden.

L. For they did not deem produce with which consecrated produce may have been mixed (*spq mdwm^c*) permitted, except in the case of produce which can be rendered permitted [through some action of the householder] (*dbr šyš lw mtyryn*).

M. R. Simeon says, "Any produce (*dbr*) which can become permitted (*šyš lw mtyryn*) [for consumption as unconsecrated food],

N. "such as untithed produce, second tithe, produce dedicated [to the Temple] or new produce [i.e., produce for which the ^comer is not yet separated (Rashi, b. Ned. 57b)]--

O. "(omit 'and' with E and ed. princ.) sages did not establish [for such produce] a measure [in which it is neutralized].

P. "(Lieberman supplies from the margin of V:) And any type of produce which cannot become permitted,

Q. "such as ^corlah and mixed seeds in a vineyard--

R. "sages established [for such produce] a measure [in which it is neutralized]."

S. They said to him, "But is it not the case that [produce of] the seventh year cannot become permitted? Yet sages did not establish [for such produce] a measure [in which it would be neutralized if mixed with permitted produce]."

T. [Simeon] said to them, "[Produce grown in] the seventh year does not render forbidden [produce with which it is mixed] in any quantity, except as regards the obligation to remove from one's possession all produce grown in the seventh year (*by^cwr*).

"But as regards eating, [produce of the seventh year] does not render other produce forbidden except if it imparts flavor [to that other produce. If it does not, it is deemed neutralized]."

T. 5:15 (A: see M. Hal. 3:10; G: y. Dem. 7:8, y. Hal. 3:1; K: T. Ter. 6:17; M-S: y. Sheb. 6:3, y. Ned. 6:8, b. Ned. 57b; S: see M. Sheb. 7:7)

T. gives rules for the neutralization of untithed produce and first tithe which are mixed with tithed, unconsecrated produce. Two formally and substantively parallel units, A-E and G-J, are linked by F. The expected third rule occurs at K-L, and itself introduces the general principle stated by Simeon, N-O+P-R, followed by the debate at S-T.

Untithed produce in any amount imposes the status of forbidden food on tithed produce with which it is mixed (A). If the householder has other produce which needs to be tithed, however, he simply designates that produce to be the tithe required of the untithed produce in the mixture. The untithed produce is rendered permitted for consumption, and, with it, the rest of the produce in the mixture (B). What if the householder has no produce which he can designate to be required tithes (C)? In this case he simply designates the needed offerings to be within the mixture itself. These offerings now are mixed with a quantity of unconsecrated produce sufficient to neutralize them (D-E). As before the mixture becomes permitted for consumption. According to G-J, the same is the case if first tithe from which heave-offering of the tithe has not been removed is mixed with unconsecrated produce. The Levite renders the first tithe permitted for consumption either by designating the required heave-offering of the tithe in a different batch of first tithe, or in the mixture itself. In either case, the first tithe, along with the unconsecrated produce with which it is mixed, may then be eaten by the Levite.

K appears again at T. 6:17, and is comprehensible only in that context. For this reason GRA and HD, followed by HY, delete the lemma from the present pericope. Without questioning the primacy of K to T. 5:15, I reserve its interpretation for T. 6:17.

Simeon, M-R, offers the general principle covering the rules of A-E and G-J. His statement repeats the sense of L. The point is that neutralization does not apply to produce which can be

rendered permitted for consumption by some simple action of the householder, e.g., the removal of tithes, in the case of untithed produce, or deconsecration, in the case of second tithe. The reason, of course, is that the householder himself can rectify the situation, without incurring any loss or causing a loss of agricultural offerings or holy things. Neutralization applies, Simeon states, only in the case of produce which the householder cannot through other means render permitted for consumption. Sages, S, offer an apparent contradiction to Simeon's principle. Produce of the seventh year, they state, is not subject to the rules of neutralization, yet cannot be rendered permitted for consumption through some action of the householder. Simeon replies that produce of the seventh year is, in fact, subject to the rules of neutralization. If it is mixed with unconsecrated produce in such a small quantity that it cannot be tasted, the produce of the seventh year does not impose a forbidden status on that other produce.

A. *A se'ah of unclean heave-offering which fell into a hundred se'ahs of clean heave-offering--*

B. *The House of Shammai declare [the mixture] forbidden [for consumption by a priest].*

C. *But the House of Hillel permit.*

D. *Said the House of Hillel to the House of Shammai, "Clean [heave-offering] is forbidden to non-priests (zrym), and unclean [heave-offering] is forbidden to priests. Just as clean [heave-offering] is neutralized, so unclean [heave-offering] can be neutralized" [= M. 5:4I-L].*

E. *Said to them the House of Shammai, "No! If you say [this] as regards clean [heave-offering], which is neutralized in unconsecrated produce [and then is] eaten by (Lieberman corrects to read:) priests [i.e., the produce taken from the mixture to replace the lost heave-offering is eaten by priests], will you say [that this is the case] for unclean [heave-offering], which is not neutralized in unconsecrated produce [and then] eaten by priests [= the position of Eliezer, M. 5:2A+B]?"*

F. *Said to them the House of Hillel, "Lo, unclean [heave-offering] which fell into unconsecrated produce will prove [the case], for it is not neutralized in unconsecrated produce [and then] eaten by non-priests, but, lo [even so], it is neutralized."*

G. Said to them the House of Shammai, "No! If you say [this] as regards unconsecrated produce to which applies great leniency (*šhtyrn hytr mrwbh*), will you say [it] for heave-offering, to which [only] slight leniency applies [in that it may be eaten by priests]?"

H. Said to them the House of Hillel, "But in what case was Torah stringent, in [the case of] non-priests who eat heave-offering (*'wkly trwmh l'rym*) or [in the case of] priests who eat heave-offering? In [the case of] non-priests who eat heave-offering, [whether it is] a clean [non-priest] who ate clean [heave-offering], or a clean [non-priest] who ate unclean [heave-offering], or an unclean [non-priest] who ate unclean [heave-offering]--

"they all are liable to death.

I. "But in [the case of] priests who eat heave-offering--

"[If it is] a clean priest who ate clean [heave-offering]--

"this is as he is commanded (*kmšwtw*).

"[If it is] a clean [priest] who ate unclean [heave-offering]--

"[he has transgressed] a positive commandment.

"And [if it is] an unclean [priest] who ate clean [heave-offering], or an unclean [priest] who ate unclean [heave-offering]--

"[he has transgressed] a negative commandment.

J. "And is it not an argument *a minori ad majus* (*ql whwmr*)? If in a case in which Torah was stringent, that of non-priests who eat heave-offering, lo, [the heave-offering] is neutralized in unconsecrated produce [and then] eaten by non-priests, in a case in which Torah is lenient, that of priests who eat heave-offering, is it not logical that [the heave-offering] is neutralized in (correct to read:) heave-offering [and then] is eaten by priests?"

K. *After they had agreed:*

L. R. Eliezer says, "Let it be raised up and burned."

M. *But sages say, "It has been lost through its scantiness" [= M. 5:4N-P].*

T. 6:4

T. cites all of M. 5:4, providing, at E-J, an expanded version of the Houses' debate, M. 5:4L-M. The Hillelites now are

left in the winning position. The fact that the Shammaites, E, argue on the basis of a rule attributed to Eliezer, M. 5:2B, is further evidence of the pseudepigraphic nature of the debate.

5:5-6

A. A *se'ah* of heave-offering which fell into a hundred [*se'ahs* of unconsecrated produce, and was thereby neutralized],

B. and one lifted it out [i.e., took a new *se'ah* of heave-offering for the priest], and [the replacement heave-offering] fell into a different batch [of unconsecrated produce]--

C. R. Eliezer says, "[That which falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering (*ktrwmt wd'y*)."

D. But sages say, "It does not impart the status of heave-offering except in accordance with a calculation [of the percentage of the produce which is true heave-offering]."

M. 5:5

E. A *se'ah* of heave-offering which fell into less than a hundred [*se'ahs* of unconsecrated produce], and [that produce thereby] took on the status of heave-offering (*wndm^ow*),

F. and [produce] fell from the mixture (*hmdwm^o*) into a different batch--

G. R. Eliezer says, "[That portion of the mixture which falls into the second batch] imparts the status of heave-offering [to the produce with which it is mixed] as does true heave-offering."

H. But sages say, "A mixture of heave-offering and unconsecrated produce (*hmdwm^o*) does not impart the status of heave-offering [to produce with which it is mixed] except in accordance with a calculation [of the quantity of true heave-offering contained in the mixture].

I. "And that which has been leavened [with heave-offering (Albeck)] does not impart the status of heave-offering to that which it leavens except in accordance with a calculation [of the quantity of true heave-offering in the mixture].

J. "And [water from an immersion pool which was made unfit by being mixed with] drawn water does not impart a status of invalidity to [other] immersion pools except in

accordance with a calculation [of the percentage of drawn water it contains]."

M. 5:6 (E-H: b. Shab. 142a, b. Tem. 12a; H-J: M. Tem. 1:4)

M. 5:5-6 carries forward the theme of the foregoing through two disputes between Eliezer and sages, A-C+D and E-G+H. These differ only in their superscriptions, A and E. M. 5:5 has a *se'ah* of heave-offering neutralized in unconsecrated produce. The *se'ah* of produce taken to replace the heave-offering then falls into other unconsecrated produce. Eliezer is consistent with his view of M. 5:2C, that the *se'ah* of heave-offering which was lifted out of the mixture is the same as that which originally fell in. It therefore has the effect of true heave-offering in imparting its own status to the produce with which it subsequently is mixed. Sages likewise are consistent with their view, M. 5:2D. The original heave-offering was neutralized, and so the replacement heave-offering contains only slightly less than one percent of true heave-offering. Only this true heave-offering imparts the status of heave-offering to unconsecrated produce with which the replacement heave-offering later is mixed.

At M. 5:6 the heave-offering falls into less than a hundred times its quantity in unconsecrated produce. The whole mixture is given the status of heave-offering. What if some of this produce falls elsewhere? Eliezer again is consistent with his position of M. 5:2C. He rules that the heave-offering which disappears into the unconsecrated produce is the same as that which later falls out. Sages, H, persist in stating that the heave-offering has been diffused in the unconsecrated produce. That which falls out of the mixture contains only that proportion of true heave-offering which is contained in the larger batch as a whole. As at M. 5:5D, only the true heave-offering in the mixture imparts the status of heave-offering to the unconsecrated produce with which it is mixed.¹¹ I-J extends sages view to the cases of unconsecrated dough which has been leavened with heave-offering, and to immersion pools which have been mixed with drawn water and so made unfit. The principle is the same in either case. In subsequent mixtures, we take into account only the percentage of the dough, or water, which originally had a forbidden status.

A. A *se'ah* of heave-offering¹² which fell into less than a hundred [*se'ahs* of unconsecrated produce] [= M. 5:6E]--

B. lo, it [i.e., all of the produce] takes on the status of heave-offering.

C. [One who eats it unintentionally] is not [however] liable to repay its value and the added fifth [see M. 6:1].

D. And they do not use it to repay the value and added fifth for (reading ^l; Lieberman, TK, I, p. 378) another batch [of heave-offering which accidentally was eaten by a non-priest], except in accordance with a calculation [of the quantity of unconsecrated produce in the mixture].

E. *A se'ah of heave-offering which fell into a hundred [se'ahs of produce and was neutralized], and one lifted it out [of the mixture, for a priest] [= M. 5:5A-B]--*

F. if [the produce into which the heave-offering fell] was untithed,

they designate it (following Lieberman, *loc. cit.*, and reading 'wth for 'wtn) [i.e., the *se'ah* which is lifted out] heave-offering (Lieberman, *loc. cit.*, deletes: and tithes) for another batch [of untithed produce],

G. or he designates the heave-offering [and tithe] (E; V reads: heave-offering of the tithe; see Lieberman, *loc. cit.*) which is in it.

H. If [the produce into which the heave-offering fell] was first tithe from which heave-offering of the tithe had not been removed (*m^ošr t̄bl*)--

he designates it [i.e., the *se'ah* which is lifted out] (emend to read:) heave-offering of the tithe for a different batch,

I. or designates the heave-offering of the tithe which is in it.

J. If [the produce into which the heave-offering fell] was second tithe--

one deconsecrates it with coins at the value of heave-offering,

K. less the value of the [true] heave-offering which is in it.

L. If it was new produce [i.e., produce for which the *omer* had not been offered] [into which the heave-offering fell]--

let him wait until Passover and [only then] give it to a priest.

M. A *se'ah* of heave-offering which fell into less than a hundred [*se'ahs*] of produce [and that produce thereby] took on the status of heave-offering [= M. 5:6E]--

N. if [the produce] was untithed,
he designates it heave-offering and tithes for a different batch,

O. or he designates the heave-offering and tithes (E; V reads: heave-offering of the tithe) which are in it.

P. If [the produce] was first tithe from which heave-offering of the tithe had not been removed (*m^ešr t^bl*)--
he designates it heave-offering and tithes for a different batch,

Q. or he designates the heave-offering of the tithe which is in it.

R. If [the produce into which the heave-offering fell] was second tithe--

he deconsecrates it with coins at the value of heave-offering, less the value of the [true] heave-offering which is in it.

S. If [the produce into which the heave-offering fell] was new [i.e., produce for which the *omer* had not yet been offered]--

let him wait until Passover and [only then] give it to a priest.

T. 6:2

T. A *se'ah* of heave-offering which fell into a hundred [*se'ahs* of produce which was grown in the] seventh year--

U. lo, this (reading *šh* for *'ylw*, see Lieberman, *loc. cit.*) [i.e., the heave-offering] is neutralized.

V. [If the heave-offering falls into] less than this [amount of prohibited produce]--

let [all of the produce] rot.

T. 6:3 (b. Shab. 26a)

T. is in three parts, A-D, E-L+M-S and T-V. A-D, first, cites and supplements M. 5:6. While mixtures of heave-offering and unconsecrated produce are treated like heave-offering, they are not subject to all of the stringencies accorded a true priestly gift. A non-priest who eats such a mixture need not repay the value and added fifth required in the case of true heave-offering (M. 6:1). Both Eliezer and sages can agree to this. D is clear as stated. The true heave-offering in the mixture already is the

property of the priest, and therefore may not be given to that individual as repayment for other heave-offering which accidentally was eaten.

E-L cites M. 5:5A-B and offers four variants of its case. Heave-offering is neutralized in produce which has not yet been tithed, or which itself has a sanctified status. Produce taken to replace the lost heave-offering must be properly tithed or removed from its prior sanctified status before it can be given to a priest. In cases in which the heave-offering has been mixed with untithed produce or first tithe from which heave-offering of the tithe has not been removed (F-I), the householder may designate the required heave-offering or heave-offering of the tithe within the replacement offering itself. Alternatively he can designate the replacement offering to be the heave-offering or heave-offering of the tithe required of other produce. Once properly tithed, or designated a priestly gift, the replacement offering may be eaten by the priest. J has the heave-offering neutralized in second tithe. The householder deconsecrates the replacement offering with coins. This produce now may be eaten by a priest. If the produce with which the heave-offering is mixed has not yet had the *omer* offered for it, the householder simply waits until Passover, when the produce becomes permitted. He then gives the priest his share.¹³

T. 6:2 cites M. 5:6E and offers cases in which heave-offering imparts its own status to untithed produce, first tithe from which heave-offering of the tithe has not been separated, second tithe, or produce which still is subject to the *omer*. These cases thus are exactly the same as those given at T. 5:15. Only T. 6:3 offers a problem not referred to there. Heave-offering is mixed with produce forbidden by the laws of the seventh year. If there is a sufficient quantity of this other produce, U, the heave-offering is neutralized. If not, since there is no way to render the produce of the seventh year permitted for consumption (see T. 5:15S-T), the mixture must be left to rot.

5:7-8

A. A *se'ah* of heave-offering which fell into a hundred [*se'ahs* of unconsecrated produce, and so was neutralized]--

B. if one lifted it out [of the mixture to give to a priest] and a different [*se'ah* of heave-offering] fell [into the same produce],

C. lifted out of that [*se'ah*], and a different [*se'ah* of heave-offering] fell [into the same produce]--

D. lo, this [i.e., the batch in which the mixtures occurred] is permitted [for consumption as unconsecrated produce],

E. until there [will have fallen into the batch] a greater quantity of heave-offering than there [originally was] unconsecrated produce.

M. 5:7

F. A *se'ah* of heave-offering which fell into a hundred [*se'ahs* of unconsecrated produce, and so was neutralized], and which one had not lifted out [of the mixture] before a different [*se'ah* of heave-offering] fell [into that same produce]--

G. lo, this [i.e., the batch of produce] is forbidden [for consumption by non-priests].

H. But R. Simeon permits.

M. 5:8 (b. Shab. 132a)

Two parallel cases, A-E and F-H, advance M. 5:2-6's discussion of the neutralization and replacement of heave-offering. M. 5:7 carries forward Eliezer's view, that produce the householder takes to replace heave-offering which was neutralized comprises the original heave-offering (M. 5:2C, M. 5:5C, M. 5:6G). Here, after this replacement offering is taken, more heave-offering falls into the same unconsecrated produce. Since according to Eliezer, the householder already has removed from the mixture the heave-offering which originally fell in, the second heave-offering likewise is neutralized. Sages, M. 5:5D, who hold that the householder removed only a percentage of the heave-offering which originally fell into the batch, should hardly agree.¹⁴ E qualifies Eliezer's position, stating that D's rule applies only so long as less than a hundred *se'ahs* of heave-offering have fallen, a *se'ah* at a time, into the unconsecrated produce. It seems that after this point, even according to Eliezer, we must assume that enough heave-offering has been left in the batch to impart to it the status of heave-offering.

M. 5:8 again has heave-offering neutralized in unconsecrated produce. In this case, however, additional heave-offering falls into the mixture before a replacement offering is taken. The batch now contains two *se'ahs* of heave-offering and only a hundred *se'ahs* of unconsecrated produce. Even Eliezer, therefore, must agree to the rule of G, that the batch takes on the status of heave-offering. Simeon, H, disagrees, holding that the mixture

does not take on the status of heave-offering. He thus evidences a conception of neutralization different from that of both Eliezer and sages. As we have seen, these authorities hold that while heave-offering which is neutralized may be eaten by non-priests, it retains the essential qualities of a priestly gift. As at M. 5:5-6, it still imparts the status of heave-offering to unconsecrated produce with which it is mixed. Simeon, however, holds that once heave-offering is neutralized, it is in all respects the same as unconsecrated produce. In the present case, therefore, he rules that the second *se'ah* of heave-offering falls into a hundred and one *se'ahs* of unconsecrated produce, and therefore, like the first *se'ah* of heave-offering, is neutralized.

A. *A se'ah of heave-offering which fell into a hundred [se'ahs of unconsecrated produce, and so was neutralized] and which one had not lifted out before there fell [into that same produce] another [se'ah of heave-offering]--*

B. *lo, this [batch of produce] is forbidden [for consumption by non-priests].*

C. *But R. Simeon permits [= M. 5:8F-H].*

D. Said R. Eleazar b. R. Simeon, "In what case does this [i.e., the rule of B] apply?

E. "In the case in which he did not know about it [i.e., about the first heave-offering that fell into the unconsecrated produce], and then [more heave-offering] fell [into that same produce].

F. "But if he knew about it [i.e., about the first heave-offering that fell into the unconsecrated produce] and then [more heave-offering] fell [into that same produce]--

"lo, this [batch of produce] is permitted [for consumption as unconsecrated food],

G. "since it [i.e., the first heave-offering] already was neutralized."

T. 6:5

Eleazar b. R. Simeon claims that the rule of M. 5:8F-G agrees in conception with the position of his father, M. 5:8H. He states that, unlike his father, the anonymous rule simply refers to a case in which the householder is not aware that heave-offering already has been mixed with his produce. Such a case is judged as if the two *se'ahs* of heave-offering had fallen at one time into the unconsecrated produce, and so imparted their own status to the batch. In Eleazar's view, thus, the householder must know about

the first mixture if it is to be treated separately from the second one. Needless to say, M. does not know the distinction Eleazar makes between the case to which M. 5:8F-G refers, and that on which his father, M. 5:8H, rules. Nor does the language of M. support such a distinction.

A. A *se'ah* of *orlah* which fell into two hundred [*se'ahs* of permitted produce]--

B. [if] he knew about it, and afterwards a different [*se'ah* of *orlah*] fell [into the same produce]--

C. lo, this [batch of produce] is permitted [for consumption; see M. 5:8],

D. (E adds:) until there will be more forbidden produce [in the batch] than there is permitted produce [see M. 5:7C].

E. [But if it fell] into less than this [quantity of permitted produce], lo, this is forbidden [for consumption].

T. 6:8

F. (Lieberman supplies F-H from E) A *se'ah* of *orlah* which fell into two hundred [*se'ahs* of permitted produce]--

G. [if] he knew about it, and afterwards a different [*se'ah* of *orlah*] fell [into the same produce]--

H. lo, this [batch of produce] is permitted [for consumption; see M. 5:8],

I. until there will be more forbidden produce [in the batch] than there is permitted produce [see M. 5:7E].

T. 6:9

T. 6:8-9 present two versions of the same pericope, different only in the inclusion of the gloss at T. 6:8E. The pericopae repeat the rule of M. 5:8F-G, as it applies to *orlah*, that is, produce from the first three years of growth of an orchard or vineyard (Lev. 19:23). As we recall, such produce is neutralized in two hundred parts of permitted produce. B and G indicate that the pericopae follow the understanding of Eleazar b. R. Simeon, T. 6:5.

A. A *se'ah* of heave-offering which fell into a hundred¹⁵ [*se'ahs* of unconsecrated produce] (E adds:) and one lifted it out [to replace the lost heave-offering],

B. and afterwards unconsecrated produce in any amount fell [into the replacement offering; Lieberman, TK, I, p. 386, following HD]--

C. lo, this [replacement offering] is permitted [for consumption by a non-priest].

D. A *se'ah* of heave-offering which fell into a hundred [*se'ahs* of unconsecrated produce, and one lifted it out]--

E. they do not remove the darnel (*zwnyn*)¹⁶ which is in it [i.e., in the replacement offering; Lieberman, TK, I, p. 386].

F. [If the heave-offering fell into] less than this [quantity of unconsecrated produce, and so imparted its own status to all of the produce in the batch]--

they may remove the darnel which is in it [i.e., which is in the batch of produce].

G. A *log* of wine [in the status of heave-offering] which had been clarified (*šlwł*) which fell into a hundred *logs* of [unconsecrated] wine which had not been clarified (*kwryn*)--

they do not remove the lees (*šmrym*) which are in it [i.e., in the *log* of wine taken to replace the lost heave-offering].

H. (Ed. princ. adds:) [If it fell into] less than this-- they remove the lees which are in it [i.e., in the mixture of heave-offering and unconsecrated wine].

I. A *log* of wine [in the status of heave-offering] which had not been clarified, which fell into a hundred *logs* of [unconsecrated] wine which had been clarified--

they do not remove the lees which are in it [i.e., in the *log* of wine taken to replace the lost heave-offering].

J. (E adds:) [If it fell into] less than this--

they remove the lees which are in it [i.e., in the mixture of heave-offering and unconsecrated wine].

T. 6:10 (G: y. Ter. 5:9)

T. explores two distinct problems, A-C and D-J, both of which advance in a general way the discussion of the rules for the neutralization and replacement of heave-offering. At A-C a small quantity of unconsecrated produce is mixed with produce taken to replace heave-offering which was neutralized. We rule that the replacement offering itself loses its consecrated status, and may be consumed by a non-priest. This is the case because the replacement offering is deemed to contain only a small quantity of true heave-offering. The rule, then, follows the view of sages, M. 5:5D, who hold that replacement heave-offering contains the same proportion of true heave-offering as does the batch of produce from which it was taken. Eliezer, M. 5:5C, who holds that the replacement offering is in all respects true heave-offering, cannot agree.

D-F+G-H+I-J makes a single point three times. The householder's separation of a replacement offering constitutes a designation of that produce to be heave-offering. For this reason the householder may not take from that which he separates darnel (E) or lees (G, I), even though these things are not edible and so are not normally made agricultural offerings. F, H and J have the heave-offering impart its own status to the unconsecrated produce with which it is mixed. In this case, there has been no designation of the produce in the batch to be heave-offering. For this reason, the inedible produce in the batch is not deemed to have the status of heave-offering and may, accordingly, be taken by the householder for his own use. I am not able to explain why this should be the case at J, where it is known that the inedible portion of the produce, the lees, had the status of heave-offering from the beginning.¹⁷

5:9

I. A. A *se'ah* of [wheat in the status of] heave-offering which fell into a hundred [*se'ahs* of unconsecrated wheat, and thereby was neutralized], and one ground it [i.e., all of the wheat in the mixture], and it diminished [in quantity]--

B. just as the unconsecrated [wheat in the mixture] diminished [in quantity], so the heave-offering diminished [in quantity].

C. (11 MSS. lack: and) [The mixture therefore remains] permitted [for consumption by non-priests].

II. D. A *se'ah* of [wheat in the status of] heave-offering which fell into less than a hundred [*se'ahs* of unconsecrated wheat, and thereby imparted its own status to the whole batch], and one ground it [i.e., all of the wheat in the batch], and it increased [in quantity]--

E. just as the unconsecrated [wheat] increased [in quantity], so the [wheat in the status of] heave-offering increased [in quantity].

F. (6 MSS. lack: and) [The mixture therefore remains] forbidden [for consumption by a non-priest].

G. If it is known that the unconsecrated wheat is of better quality than the [wheat in the status of] heave-offering--

H. [the mixture becomes] permitted [for consumption by a non-priest].

III. I. A *se'ah* of heave-offering which fell into less than a hundred [*se'ahs* of unconsecrated produce], and afterwards [more] unconsecrated [produce] fell there [i.e., into the same batch]--

- J. if [this happened] unintentionally,
[the mixture becomes] permitted;
- K. but if [it happened] intentionally,
[the mixture remains] forbidden.

M. 5:9 (A-C: y. Or. 1:4; see

T. B.M. 3:11)

The formally identical cases at A-C and D-F (glossed at G-H) make a single point. Produce in which heave-offering has been mixed is ground and as a result either increases or diminishes in quantity. We assume that the heave-offering and the unconsecrated produce were equally affected by the processing, and so the proportion of forbidden produce to permitted produce in the mixture does not change.¹⁸ At G-H it is known that the unconsecrated produce is of high quality. When it is ground it will increase in quantity. In this case, since we are assured that processing has caused the proportion of heave-offering in the mixture to drop, that offering is deemed to have been neutralized. I-K develops D-H. Now unconsecrated produce actually is added to a batch upon which heave-offering previously had imposed its own status. Do we rule that the heave-offering is neutralized, as at G-H, or that the batch retains its forbidden status? According to J-K, this depends on whether or not the householder purposely added the unconsecrated produce to the mixture. If his intention was to recover the produce for his own use, his actions are void. The batch retains its sanctified status. If, however, the unconsecrated produce was mixed unintentionally with the other produce, the new proportion of heave-offering to unconsecrated produce is taken into account. If there now is sufficient unconsecrated produce in the mixture, the heave-offering is neutralized.¹⁹

- I. A. Leaven [in the status of heave-offering] which was mixed (*blw*) with other leaven [which was not heave-offering], and one leavened dough with it [i.e., with the mixture]--
 - B. if there is not [a sufficient quantity] of forbidden [leaven] to impart taste [to the dough]--
 - [the dough] is permitted [for consumption by non-priests].

II. C. [In the case of] grain [in the status of heave-offering which is mixed] with [unconsecrated] barley--

let him pick [the grain in the status of heave-offering from the mixture].

D. If he ground them [i.e., the grain and barley in the mixture] [see M. 5:9]--

[the mixture is forbidden from consumption by non-priests if there is in it a sufficient quantity of heave-offering] to impart flavor [to the batch as a whole].

III. E. [In the case of] beans [in the status of heave-offering which are mixed] with [unconsecrated] lentils--

let him pick [the beans in the status of heave-offering from the mixture].

F. If he boiled them--

[the mixture is forbidden for consumption by non-priests if there is in it a sufficient quantity of heave-offering] to impart flavor [to the batch as a whole].

G. R. Yose say, "Fava-beans (*grys šl pwl*)²⁰ and chick peas (*grys šl twph*),²¹ lo, these are a single species."

T. 6:11a (A-B: see M. Or. 2:11;

E: see M. Or. 2:7)

T. is autonomous of M. Its only point of contact with M. 5:9 is the reference, at D, to the grinding of a batch in which heave-offering and unconsecrated produce have been mixed.

In each of T.'s three cases heave-offering of one species of produce is mixed with unconsecrated produce of a different species. Since the heave-offering can be distinguished by taste from the other produce, the usual rule, that heave-offering is neutralized in a hundred parts of unconsecrated produce, is not invoked. We hold, rather, that without regard to its quantity, if the heave-offering imparts taste to the mixture, the mixture takes on the status of heave-offering.²² If the heave-offering cannot be tasted, it is deemed insignificant, and therefore is neutralized. If possible, however, the householder simply removes the forbidden produce from the mixture (C, E). In context, Yose's point, G, is that since the two types of beans are a single species, their neutralization in conjunction with one another is determined on the basis of quantity of heave-offering, and not on the basis of taste.

T. 6:11b-6:19 are found after M. 7:5-6, to which they are supplementary.

CHAPTER SIX

TERUMOT CHAPTER SIX

M. 6:1A announces a new topic of discussion, cases in which a non-priest unintentionally eats heave-offering. The issue is the non-priest's responsibility to replace the priestly gift which he wrongly ate. The answer comes directly from Scripture. Lev. 22:14 states that if a non-priest unintentionally eats a holy thing, in this case, heave-offering, he pays to the priest the value of the holy thing, plus an added fifth. Through the payment of the value (the principal, as designated by M.) the non-priest compensates the priest for his lost share. The additional fifth is a fine, through which the non-priest makes atonement for misappropriating sanctified produce. With this as its generative principle, M.'s task is to delineate 1) exactly who is liable to pay the principal and added fifth, and 2) what produce may be used as payment. It is on the basis of these two questions that the chapter's discrete pericopae are organized. M. 6:1-4 gives rules which establish the non-priest's responsibility to pay restitution for heave-offering he unintentionally eats. M. 6:5-6 outlines what produce may be used to pay the principal and added fifth. Only this latter unit yields an interesting issue of law. This is whether the holy thing which was eaten actually is replaced, or whether the priest simply is compensated for the value of that holy thing.

T. adds little of interest. Its only substantive contribution is at T. 7:3-4a, which describe in detail the circumstances under which a non-priest incurs liability to pay the principal and added fifth. Attributions are as follows: Meir, M. 6:3; Aqiba, T. 7:10a; Eliezer and Aqiba, M. 6:6, T. 7:9; Simeon, T. 7:1; Yose and Simeon, T. 5:8b; Abba Saul, T. 7:2.

6:1

A. [A non-priest] who unintentionally eats heave-offering pays back the principal (*qmn*) and an [added] fifth.

B. The same [rule applies to] (*'hd*) (1) one who [unintentionally] eats [produce in the status of heave-offering], to (2) one who [unintentionally] drinks [liquids in the status of heave-offering], and to (3) one who [unintentionally] anoints [himself with oil in the status of heave-offering].

C. The same [rule applies to] (4) [one who unintentionally misappropriates] clean heave-offering, and to (5) [one who unintentionally misappropriates] unclean heave-offering.

D. He pays back [the principal and added] fifth, and [if he should eat the added fifth (Bert)], a fifth of the [added] fifth.

E. He does not pay restitution (*mšlm*) with heave-offering; rather [he pays it with] unconsecrated produce (*hwlyn mtwqnym*), and this takes on the status of heave-offering (*nšyn trwmh*).

F. And [since] the restitution is heave-offering,¹ [even] if the priest wishes, he may not refuse [it] (*'ynw mwhl*).

M. 6:1 (b. Pes. 31b-32a, b. B.M. 54b, y. Ket. 3:1)

Lev. 22:14 states, "And if a man eats of a holy thing unwittingly (*bšggh*), he shall add the fifth of its value to it, and give the holy things to the priest." The present pericope, and those which follow at M. 6:2-6, depend on this rule, stated at A in M.'s own language. They delineate the rules for the payment of restitution and the added fifth for heave-offering which unintentionally is consumed by a non-priest. The rule of A is expanded at B-C, D and E+F.

A non-priest who unintentionally² eats heave-offering compensates the priest by replacing the heave-offering with other produce. He also gives the priest an additional fifth of the heave-offering's value. This, it must be assumed, is a fine, in atonement for the offense of eating a holy thing.³ As may be expected, the same restitution--principal and added fifth--is required (B) no matter how the non-priest uses the heave-offering. Whether he eats, drinks or anoints himself with it, he has misappropriated a holy thing. The point at C is a close corollary to that of B. Unclean heave-offering, we know, may not be eaten by a priest, but is burned. Even so, if it is consumed by a non-priest, that individual is liable to repay the principal and added fifth, for he has misused a holy thing. It is of no regard that the priest could not have eaten the heave-offering. D-F describes the manner of repayment of the principal and added fifth. Payment is made with unconsecrated produce. It may not be made with produce in the status of heave-offering, which already is the property of the priest. Nor may it be made with untithed produce,

portions of which belong to priest and Levite (E). Once given as restitution, the unconsecrated produce acquires the status of heave-offering, in place of the misappropriated priestly gift. It therefore is subject to the stringencies which normally apply to that offering. In the event that the restitution or added fifth unintentionally is eaten by a non-priest, the usual compensation must be paid to the priest (D). The fact that the produce given as the principal and added fifth has the status of true heave-offering is further emphasized at F. Since these things are true heave-offering, the priest has no choice but to accept them.

H. R. Yose says, "Restitution for heave-offering [which a non-priest unintentionally ate], its [added] fifth, and the fifth of its [added] fifth [see M. 6:1A, D]--

I. "lo, these are like [true] heave-offering in that they obligate [one who intentionally eats them] to the death penalty (*myth*), [and in the case of one who unintentionally eats them] to the principal and [added] fifth,

J. "in that they render forbidden [for consumption by non-priests] less than a hundred parts [of unconsecrated produce with which they are mixed],

K. "[and] in that they are neutralized in a mixture containing a hundred and one [parts of produce, of which the restitution/heave-offering is one part]" [see M. 4:7A].

L. R. Simeon says, "[That heave-offering is neutralized] in a hundred [parts of produce, and not a hundred and one, is proven] from an argument *a minori ad majus* (*ql whwmr*).

M. "Just as we find in the case of heave-offering of the tithe, that it is one [part] in (read with E:) a hundred [i.e., one tenth of first tithe, which itself is one tenth of unconsecrated produce], lo, [the proportion here] also is one in (E reads:) a hundred [parts of unconsecrated produce]."

N. They said to him, "No. If you say [that the proportion one to a hundred applies] to heave-offering of the tithe, which is taken as consecrated produce from consecrated produce [i.e., first tithe],⁴ but [which previous to its separation] did not have the designation of a forbidden thing, will you say that it applies to this [i.e., to heave-offering mixed with unconsecrated produce], which is taken as consecrated [produce] from that which is unconsecrated, and which [already] was designated as forbidden?"

T. 5:8b (H-I: T. Toh. 1:7; L-M:
see y. Or. 2:1)

Yose, H-K, repeats and expands upon the rule of M. 6:1D-F. The point, again, is that produce paid as restitution for heave-offering which accidentally is eaten by a non-priest has the status of true heave-offering. A non-priest who intentionally eats the restitution or added fifth therefore is liable to death (I). One who eats it unintentionally is liable to the payment of the principal and added fifth. Yose's statement, K, that, like all heave-offering, the restitution and added fifth are neutralized in a hundred and one parts of unconsecrated produce introduces L-N. Simeon there claims that heave-offering is neutralized when it comprises one part in only a hundred parts of unconsecrated produce, the same proportion of a batch as is separated as heave-offering of the tithe.⁵ He is answered, N, that the case of the neutralization of heave-offering is not analogous to the separation of heave-offering of the tithe. Unlike heave-offering which is mixed with unconsecrated produce, heave-offering of the tithe does not have the status of a holy thing until the time of its separation, when it is designated a consecrated priestly gift.

I. A. R. Simeon says, "One who unintentionally anoints himself with oil (reading with E, ed. princ.; V reads: wine) in the status of heave-offering pays the principal, but does not pay the [added] fifth.

II. B. "One who [unintentionally] eats produce in the status of heave-offering which has on it puncture marks [from snakes],

C. "or one who [unintentionally] drinks wine [in the status of heave-offering] which has been left uncovered [and may contain venom from snakes; see M. 8:4]

D. "pays the principal and the [added] fifth.

III. E. "A *nazir* who unintentionally drank wine in the status of heave-offering pays the principal (read with E:) and the [added] fifth (V reads: but does not pay the added fifth).

IV. F. "[If] one [unintentionally] ate heave-offering on the Day of Atonement, he pays the principal and the [added] fifth.

V. G. "[If he unintentionally drank] wine [in the status of heave-offering mixed] with vinegar [in the status of heave-offering], he pays the principal and the [added] fifth (so V, ed. princ.; E reads: [If he drank] wine [in the status of heave-offering mixed] with oil [in the status of heave-offering], he pays the principal, but does not pay the [added] fifth.)."

T. supplements M. 6:1 with five cases in which a non-priest unintentionally consumes heave-offering. At A Simeon rejects M. 6:1B(3)'s rule that using oil in the status of heave-offering as a lotion obligates the offender to repay the value of the heave-offering and the added fifth. Simeon claims that while the priest must be compensated for his loss, the non-priest need not pay the added fifth. Simeon's reasoning, it seems, is that the non-priest does not receive the same benefit from anointing himself with heave-offering as he does from eating the offering.⁶ At B-D the non-priest eats produce in the status of heave-offering which has on it puncture marks from snakes, or drinks liquids which have been left uncovered. Lest they contain venom, these things are forbidden for consumption, and thus would not have been eaten by the priest. The case is comparable to that in which the non-priest eats unclean heave-offering (M. 6:1C), and we rule that in all events the non-priest must pay both the principal and the added fifth. A *nazir* is a person who has taken a vow neither to cut his hair nor to drink wine (Num. 16:1-21). If he breaks his vow by drinking wine, he is liable to a sin offering. If the wine is heave-offering (E), he must also pay the added fifth. The consumption of heave-offering is a separate transgression, which requires its own atonement. The point at F is the same. If a person eats heave-offering on the Day of Atonement when all consumption of food and drink is prohibited (M. Yom. 1:1), he still is liable to the added fifth. According to G, even if heave-offering is consumed in an unusual fashion, the restitution and added fifth must be paid. We should expect no different.

A. One who [unintentionally] eats unclean heave-offering pays to the priest [the heave-offerings's] value as if it were wood.

B. Abba Saul says, "Any [heave-offering] which is worth a *perutah* requires restitution."

C. They said to him, "They did not mention 'the value of a *perutah*' except [for the case of] something dedicated [to the Temple which was put to secular use]."

T. 7:2 (b. Pes. 32b; C: see Sifra
Hobah, *pereq* 20:7, Sifra, 'Emor,
pereq 6:3)

A rejects M. 6:1C's rule that consumption of unclean heave-offering obligates a non-priest to the same restitution as does the eating of clean heave-offering. According to A, since unclean

heave-offering is burned, a non-priest who eats it repays only the value the produce would have were it wood.

The dispute at B-C is separate, comprehensible only in light of the rule of T. 7:3G (below), that restitution need be made only by a person who eats more than an olive's bulk of heave-offering. Abba Saul rejects that rule, stating that, regardless of its quantity, if the heave-offering is worth a *perutah* or more, the principal and added fifth must be paid to the priest.⁷ C disagrees, for the stated reason.⁸

A. *The same [rule applies to] (1) one who [unintentionally] eats [produce in the status of heave-offering], to (2) one who [unintentionally] drinks [liquids in the status of heave-offering], and to (3) one who [unintentionally] anoints [himself with oil in the status of heave-offering] [= M. 6:1B].*

B. [If] one ate [heave-offering and then] ate heave-offering again--

C. if there is from the beginning of the first act of eating (*'kylh*) to the end of the last act of eating [no more time than is needed to eat] a half-loaf of bread (*prs*)--

[the several acts of eating] join together [to create the quantity of heave-offering which obligates payment of the added fifth, *viz.*, an olive's bulk (see H, M. 7:3C-D)].

D. But if not--

[the acts of eating] do not join together [and the added fifth is not paid].

E. [If] one drank [liquids in the status of heave-offering,] drank [liquids in the status of heave-offering] again, [and then] drank [liquids in the status of heave-offering] again--

F. if there is from the beginning of the first act of drinking (*štyyh*) to the end of the last act of drinking [no more time than is needed to drink] a quarter-*log*--

[the several acts of drinking] join together.

G. But if not--

they do not join together.

H. Just as [the quantity of heave-offering which obligates payment of the added fifth in the case of] eating is an olive's bulk, so [the quantity in the case of] drinking is an olive's bulk.

I. [But] eating and drinking do not join together.

T. 7:3 (T. Ker. 2:2-3, T. Pes. 1:12,
T. Yom. 4:3, T. Miq. 7:5; B-C: see
M. Ker. 3:3; G: see Sifra, 'Emor,
pereq 6:3)

J. [If] one [unintentionally] ate an olive's bulk of
heave-offering], even if it was [comprised] of each of five
[different] kinds [of produce]⁹--

lo, these join together.

K. [If] he [unintentionally] ate a half-olive's bulk,
and was informed [of what he had done],

L. and [then] went and ate another half-olive's bulk of
the same kind (read with HD: *mmyn* 'ḥd; V reads: *myn* 'ḥr)¹⁰--
lo, these do not join together.

T. 7:4a (T. Ker. 2:3)

T. cites and complements M. 6:1. The point is that a non-priest incurs liability to pay the added fifth only if he eats at least an olive's bulk of heave-offering within a circumscribed period of time (B-C). Less than an olive's bulk is considered insignificant. While such a small quantity of heave-offering must be replaced, atonement is not required (see M. 7:3C-D). By the same token, if even a larger quantity of heave-offering is consumed, but over a long period of time, the individual bites of heave-offering are deemed to be distinct one from the other. Again, liability to the added fifth is not incurred. E-H makes the same point for the case of liquids in the status of heave-offering.

I-K offers circumstances in which the requisite quantity of heave-offering is consumed without necessitating payment of the added fifth. Eating and drinking, first, are deemed separate acts of consumption (I). If an individual eats half an olive's bulk of heave-offering and then drinks the same quantity, he is not culpable. At K-L the individual consumes some heave-offering, is informed of his actions, and afterwards eats more heave-offering. Since the consumption of an olive's bulk occurred in separate spells of inadvertence, the individual acts of eating do not join together, and liability to the added fifth is not incurred. The case at J is different. In a single spell of inadvertence the individual eats more than one kind of heave-offering. Since only eating is involved, within the requisite amount of time, and in a single spell of inadvertence, the quantities of produce join together and both the principal and added fifth must be paid.

L. Just as they give heave-offering only to a priest who is a *haber* [*viz.*, one who is scrupulous about Levitical cleanness; see T. Dem. 2:3], so they pay restitution [for heave-offering unintentionally consumed by a non-priest] and the [added] fifth only to a priest who is a *haber*.

T. 7:4b (T. Dem 3:1; see b. Hul. 130b)

M. One who [unintentionally] eats the heave-offering of a [priest who is an] *am ha'ares*¹¹ [*viz.*, one who is not careful about cleanness] pays restitution and the [added] fifth to a priest who is a *haber*.

N. And the [priest who is a] *haber* takes the monetary equivalent [of the heave-offering] (*dym*) and compensates the [priest who is an] *am ha'ares*.

T. 7:5 (T. Dem. 3:2)

O. The heave-offering of a [priest who is a] *haber* and the heave-offering of [a priest who is] an *am ha'ares* which were mixed up together--

P. they compel the [priest who is an] *am ha'ares* to sell his portion to [the priest who is] a *haber*.

T. 7:6 (T. Dem 3:3)¹²

The point, as at M. 6:1D-F, is that the restitution and added fifth are in all ways true priestly gifts. They therefore must be given to a priest who is sure to eat them in cleanness, as is required of other heave-offering (L).¹³ According to M-N this holds even if the heave-offering which was eaten belonged to a priest who is not careful about cleanness. Restitution is made to a priest who is a *haber*, and he compensates the other priest for his loss. O-P is cognate to A-N, though not related to M. 6:1. Heave-offering which belongs to an *am ha'ares* is mixed with that of a *haber*. The batch may not simply be divided between the two priests, since this would entail giving heave-offering to an *am ha'ares*. The *am ha'ares* therefore is forced to accept monetary compensation in place of his own heave-offering.

A. One who [unintentionally] eats clean heave-offering pays restitution with clean unconsecrated produce [see M. 6:1E].

B. [If] he [anyway] paid restitution with unclean unconsecrated produce, what is the law (*mhw*)?

C. Sumkos says, "[If he did it] unintentionally, the restitution is valid [i.e., takes on the status of heave-offering]."

D. "[But if it was [intentional, his restitution is not valid, [and the offender must give clean produce to the priest]."

E. But sages say, "Whether [he gave the priest unclean produce] intentionally or unintentionally, the restitution is valid [and so has the status of heave-offering]."

F. "But [if it was of unclean produce,] he must pay restitution again, with clean [unconsecrated produce]."

G. An Israelite to whom they gave heave-offering from the estate of the father of his mother [who was a priest], and he ate it,

H. and so a creditor [who received heave-offering in repayment] of a debt, [and ate it,]

I. and so a wife [who received heave-offering as payment for her marriage settlement, [and ate it],

J. pays the principal and the [added] fifth to a priest who is a *haber*,

K. and the [priest who is a] *haber* (reading with ed. princ.) gives them its [i.e., the heave-offering's] monetary value.¹⁴

T. 7:7 (A-F: b. Yeb. 90a, b. Git. 54a)

The pericope is in two parts, A-F and G-K. While autonomous of each other, both are supplementary to M. 6:1. A non-priest who unintentionally ate clean heave-offering, A, pays the principal and added fifth with clean unconsecrated produce. He thus compensates the priest with produce which that individual may eat. What if the non-priest gives the priest unclean produce? Sumkos, C-D, states that the validity of the non-priest's actions depends on the intention with which they are carried out. If the payment of the principal and added fifth is made with proper intention to give the priest his share, it is valid. The unclean produce takes on the status of heave-offering in place of the clean heave-offering which was eaten. If, however, the non-priest intentionally gives the priest produce which he cannot eat, that produce does not take on the status of heave-offering. Other produce must be given to replace the priest's share. According to Sumkos, then, the payment of the principal and added fifth requires the same

proper intention as is needed in the initial designation of heave-offering (see above, pp. 2-3). Sages disagree. They hold that whether or not the householder knows that the produce is unclean, that which he gives as restitution takes on the status of heave-offering. If it was unclean the non-priest simply provides the priest with more, clean, produce. Unlike Sumkos, sages thus are concerned that the priest ultimately receive produce which he may eat.

G-K presents three cases in which heave-offering becomes the legal possession of a non-priest. Instead of selling the heave-offering to a priest, as he should do, the non-priest eats the offering himself. Proper restitution must be made, to replace the misused holy thing. Since the original heave-offering was the property of the person who ate it, however, the priest who receives the restitution subsequently pays that individual for the heave-offering he receives.

6:2

A. The daughter of an Israelite who [unintentionally] ate heave-offering and afterwards was married to a priest--

B. if she ate heave-offering of which a priest had not yet effected acquisition,

she pays the principal and [added] fifth to herself.

C. But if she ate heave-offering of which a priest [already] had effected acquisition,

she pays the principal to [its] owner [i.e., to the priest whose heave-offering it was] and the [added] fifth to herself.

D. For they have said,

E. "One who unintentionally eats heave-offering pays the principal to [its] owner and the [added] fifth to whom¹⁵ he wishes."

M. 6:2

The pericope carries forward the theme of M. 6:1, rules for the repayment of heave-offering unintentionally eaten by a non-priest. A-C is glossed by D+E, which repeats in general terms C's rule. Through marriage to a priest, an Israelite-woman gains the right to eat heave-offering.¹⁶ Even after she has this right, she must pay restitution for heave-offering she unintentionally ate when she had non-priestly status. She thereby replaces the improperly-consumed consecrated produce and pays a fine for her offense. To whom, however, does she pay the principal and added

fifth? If the heave-offering which she ate had not yet been given to a priest, the woman may keep the restitution and added fifth for herself (B). She now has the same right to these things as has any priest or person with priestly status.¹⁷ If, however, the heave-offering already was in the hands of a priest, that individual must be compensated for his loss (C). The principal therefore is paid to him. Since the added fifth belongs to no particular priest, E, the woman may keep that for herself.

6:3

A. "One who [unintentionally] gives his workers or guests heave-offering to eat:

B. "he pays the principal, and they pay the [added] fifth"--the words of R. Meir.

C. But sages say, "They pay [both] the principal and the [added] fifth,

D. "and he pays them the cost of their meal."

M. 6:3

At issue is whether the principal, like the added fifth is paid only by those who eat heave-offering, or whether it also is paid by people who in other ways benefit from sanctified produce. This is disputed by Meir, A-B and sages, C. The facts of the case are as follows. A non-priest gives another non-priest heave-offering to eat, such that two individuals together are responsible for the misuse of a priestly gift. It is clear both to Meir and sages that the person who actually eats the heave-offering pays the added fifth. According both to Lev. 22:14 and M., this is a fine paid for the unintentional consumption of a priestly gift. The question is which of the individuals is responsible for replacing the heave-offering, the one who initially misappropriated it, or the one who ate it. Meir, A-D, takes the position that any person who receives benefit from heave-offering must pay the principal. Since the householder here used heave-offering in place of his own produce, he is liable for replacing it.¹⁸ Sages, C-F, hold that liability to the principal, as to the added fifth, is incurred only by a non-priest who actually makes use of heave-offering. In the present case the principal is owed by the workers or guests, who ate the priestly gift. The householder (D) is held to his initial responsibility, the cost of the meal the others ate. Notably, the practical results of Meir's sages' views are the same. The workers or guests pay the added fifth, and the householder pays the value of the produce they ate.

6:4

I. A. One who steals heave-offering, but does not eat it, pays as restitution twice the monetary equivalent of the heave-offering.

II. B. [If] he [unintentionally] ate it--

he pays twice the principal and an [added] fifth [of one of the principals]:

C. [one] principal and the [added] fifth [he pays] out of unconsecrated produce,

D. and [the other] principal [he pays] in the monetary equivalent of the heave-offering.

III. E. [If] he stole heave-offering which was dedicated [to the Temple] and [unintentionally] ate it--

F. he pays two [added] fifths and the principal,

G. for [the requirement of] the payment of two-fold restitution is not applicable in [the case of] items dedicated [to the Temple].

M. 6:4 (A: T. B.M. 7:21; A-D:

b. B.M. 54a; E-G: y. Ter. 1:1;

G: M. B.M. 4:9)

The pericope is unitary, in three parts, A, B-D and F-G. At issue is what restitution is paid by a non-priest who first steals and then unintentionally eats heave-offering. We already know that for eating sanctified produce, he pays a principal and added fifth (M. 6:1). Stealing, A indicates, likewise carries with it a fine. A thief who is caught is required to pay double the value of that which he stole (Ex. 22:7).¹⁹ The individual at A therefore pays the priest twice the value of the heave-offering which he took, just as if it were unconsecrated produce. At B a single individual owes fines both for stealing and for unintentionally eating heave-offering. At issue is how he is at one time to pay both of the fines. There are two alternatives. We may rule that he needs to pay each of the fines individually. This would mean payment both of twice the value of the heave-offering, for stealing, and of a principal and added fifth, for eating the priestly gift. The second possibility is that the principal paid for eating the heave-offering also is counted towards the payment of the two-fold monetary restitution required for stealing. This is the view taken at B-D. For eating heave-offering, the offender pays a principal in unconsecrated food and an added fifth of that principal. He further pays once the monetary value of the

heave-offering, which, along with the principal already paid, is deemed to constitute the fine for stealing.

E builds on the foregoing and offers a further complication. The heave-offering which was stolen had still earlier been dedicated to the Temple.²⁰ Now there are three transgressions with which to contend, a non-priest's eating heave-offering, his eating produce dedicated to the Temple, and stealing. The description of what restitution must be paid, F-G, offers no surprises. We simply take account of two facts. The first is that a non-priest who eats produce dedicated to the Temple, like one who eats heave-offering, pays an added fifth.²¹ The second fact is stated at G. This is that two-fold restitution does not apply in the case of the theft of items dedicated to the Temple.²² We rule, therefore, that the non-priest must pay one principal, which replaces the sanctified produce which he ate, and two added fifths, one each for the transgressions of eating heave-offering and eating produce dedicated to the Temple.

A. One who steals heave-offering which is dedicated [to the Temple,] but does not eat it, pays the principal, but does not pay the [added] fifth.

B. And two-fold [restitution] is not required [see M. 6:4G],

C. as it is written, *He shall pay double to his neighbor* (Ex. 22:9).

D. [He pays double to his neighbor,] but not for that which is consecrated.

E. [If] he [unintentionally] ate it [= M. 6:4E],

F. he pays two added fifths [and the principal (HY)] [= M. 6:4F]:

G. a principal and [added] fifth with unconsecrated produce, and they become holy like heave-offering (E; V reads: *qđš btrwmh*).

H. The principal he gives to the treasurer [of the Temple], but the [added] fifth [remains with] the owner [i.e., the non-priest who separates it; he may give it to whichever priest he wishes (HY)].

I. (Omit: That; so ed. princ.)²³ The principal is liable to the law of sacrilege [since it replaces produce which was dedicated to the Temple].

J. [But] that [added] fifth is not liable to the law of sacrilege, [for it is not dedicated to the Temple, but simply has the status of heave-offering].

K. [As for] the second [added] fifth--

L. heave-offering or the monetary equivalent of heave-offering (follow GRA, HY and Lieberman in reading *dmy* for *dmyy*) he gives to the treasurer [of the Temple].

M. (Follow E which lacks: And the [added] fifth [remains] with [its] owners.)²⁴

T. 7:8a

A-D proves from Scripture the law of M. 6:4G, that two-fold restitution is not required of an individual who steals items dedicated to the Temple. E-L cites and explains M. 6:4E-F's rule, that a non-priest who steals and eats heave-offering dedicated to the Temple pays the principal and two added fifths. The fifth which is paid for the consumption of heave-offering, H-J, may be given to whichever priest the offender wishes, as is always the case for the added fifth paid for heave-offering unintentionally consumed by a non-priest (M. 6:2E). This fifth is not liable to the laws of sacrilege, which apply only to things dedicated or belonging to the Temple.²⁵ The principal, on the other hand, replaces dedicated produce. It is paid to the Temple and is subject to the laws of sacrilege. The same is so for the second added fifth, paid for the sin of eating produce dedicated to the Temple. Since this added fifth does not take on the status of heave-offering, but simply of an object dedicated to the Temple (MB), it may be paid with funds, instead of with unconsecrated produce (L). It is unclear to me why this added fifth may be paid with heave-offering which, of course, already is the property of the priesthood.²⁶

T. 7:8b is below, after M. 7:7.

6:5

A. "They do not pay restitution with (1) gleanings, (2) forgotten sheaves, (3) [produce grown in] the corners [of a field, which is left for the poor] or (4) ownerless property,

B. "and not with (5) first tithe from which heave-offering of the tithe has (Ve, N. Sa, T³ add: not) been removed,

C. "and not with (6) second tithe or [produce] dedicated [to the Temple] which have (N, Sa, T³ add: not)²⁷ been redeemed,

D. "for a consecrated thing does not serve for the redemption of a consecrated thing"--the words of R. Meir.

E. But sages permit [in the case of] these [i.e., all of the items listed at A-C].

M. 6:5 (Cf., M. 1:5; Sifra, 'Emor, *pereq* 6:5)²⁸

Meir and sages dispute whether or not the payment of produce as the principal and added fifth is subject to the stringencies which normally apply to the designation of produce to be heave-offering. The deeper issue--as we will see even more clearly at M. 6:6--is whether the produce given as restitution is intended to take on the sanctified status of the heave-offering which was eaten, or whether it simply provides the priest with unconsecrated produce in the quantity of that heave-offering. Meir, A-C, holds that the payment of produce as the principal and added fifth does in fact constitute a designation of that produce to be heave-offering. It follows, according to Meir, that produce paid as restitution must stand within a category of produce which is liable to the separation of heave-offering (see M. 1:5F).²⁹ This criterion excludes all of the items listed at A-C. A's items, as we have seen (above, pp. 50-52), are left to the poor (A1-3), or have no owner (A4). They therefore are exempt from tithes.³⁰ First tithe itself is an agricultural offering and cannot be designated to be a different offering. Whether or not heave-offering of the tithe has been removed from it seems to me to be irrelevant to this.³¹ Second tithe or produce dedicated to the Temple which has been redeemed may be consumed as unconsecrated produce by non-priests. Even so, since these things, like those at A, never were liable to the separation of heave-offering and tithes,³² they may not be used to pay the principal and added fifth. This being the case, D, which claims that Meir's reasoning is that these categories of produce retain a sanctified status, is not to the point and, moreover, does not seem to correspond to the facts. I am not able to explain it.

Sages, E, reject the notion that produce paid as the principal and added fifth must fulfill the requirements of produce designated to be heave-offering.³³ In their view, then, the produce paid as restitution simply compensates the priest for his lost share, but does not take on the status of heave-offering in place of the original priestly gift. It is, self-evidently, Meir's view, and not that of sages, which stands behind M. 6:1. That rule states that the unconsecrated produce paid as restitution takes on the status of heave-offering.

6:6

A. R. Eliezer says, "They pay restitution [for heave-offering unintentionally eaten by a non-priest] with [produce of] one kind on behalf of [produce] which is not of its same kind,

B. "with the stipulation that he must pay restitution with choicer [produce] for less choice [produce]" [see M. 2:4-6].

C. But R. Aqiba says, "They pay restitution only with [produce of] one kind on behalf of [produce] which is of its same kind.

D.³⁴ "Therefore:

E. "if he ate cucumbers [in the status of heave-offering grown on] the eve of the Sabbatical year, he waits for cucumbers [grown in] the year after the Sabbatical year (*mws'y šby^cyt*) and pays restitution with them."

F. On the basis of the same verse (*mqwm*) in accordance with which R. Eliezer rules leniently, R. Aqiba rules stringently.

G. For it says, [*If a man eats of a holy thing unwittingly, he shall add the fifth of its value to it,*] and give the holy thing to the priest (Lev. 22:14).

H. "[He may give the priest] anything which is fit to be holy"--the words of R. Eliezer.

I. But R. Aqiba says, "*And give the holy thing to the priest.* [He must give the priest] that holy thing which he ate."

M. 6:6 (Sifra, 'Emor, pereq 6:6)

M. 6:6 carries forward the issue of M. 6:5, now with a dispute between Eliezer, A-B, and Aqiba, C. Aqiba's view is instantiated at D+E. F-H provides a scriptural basis for the views of each of the disputing authorities.

We recall from M. 2:4-6 that produce of one genus may not be designated heave-offering on behalf of produce of a different species. Eliezer, A, states that this rule does not apply to the payment of the principal and added fifth. His view, like that of M. 6:5's sages, is that the produce paid as restitution does not take the place of the heave-offering which was eaten. Rather, it simply provides the priest with his due share of produce. B elucidates Eliezer's fundamental concern, which is that the priest receive his share from desirable produce. A non-priest who

compensates the priest with a kind of produce different from that which was eaten must therefore give the priest produce of better quality than that which was misappropriated.

Aqiba, C, rejects Eliezer's perspective, holding that the same requirements which apply to the designation of heave-offering apply to the payment of the principal and added fifth. He thus has the same opinion as Meir, M. 6:5, and the anonymous rule of M. 6:1. The consequences of the view that restitution must be paid with produce of the same kind as was eaten are outlined at D+E. A non-priest eats cucumbers in the status of heave-offering which were picked at the end of the sixth year. We assume that other cucumbers of the sixth year are not available for use in compensating the priest (Bert, TYY). Since, according to Aqiba, a different species of produce may not be used as restitution, and since produce of the seventh year--which is not liable to the separation of heave-offering--may not be used, the non-priest must wait and pay the principal and added fifth with cucumbers picked in the first year of the seven year cycle.

F-I is secondary, claiming Lev. 22:14 as the basis of the opinions both of Eliezer and Aqiba. It is noteworthy only in that it explains Eliezer's position in terms which should be quite acceptable to Aqiba and to the anonymous rule of M. 6:1, but which are not, as we have seen, intrinsic to Eliezer's view at A-B.³⁵

A. R. Eliezer says, *"They pay restitution [for heave-offering unintentionally eaten by a non-priest] with [produce of] one kind on behalf of [produce] which is not of its same kind, with the stipulation that he must pay restitution with choicer [produce] for less choice [produce] [= M. 6:6A-B].*

B. "How so?"

C. "If he eats barley [in the status of heave-offering] and pays restitution with wheat [V; E reverses the words barley and wheat),

D. "[or if he eats] dried figs and pays restitution with dates,

E. "let a blessing be upon him."

F. R. Aqiba says, *"They pay restitution only with [produce of] one kind on behalf of [produce] which is of its same kind" [= M. 6:6C].*

G. R. Eliezer says, "Just as they pay restitution with the new [i.e., produce of the present year] for the old [i.e.,

produce of the previous year], so they pay restitution with [produce of] one kind for [produce of] a different kind" [see M. 6:6E].

T. 7:9 (b. Erub. 29b)

Eliezer's position, M. 6:6A-B, is cited and explained, A-E. A non-priest who pays restitution with produce of a better kind than that which he ate is worthy of a blessing, since he has gone out of his way to improve the priest's lot. F cites Aqiba, M. 6:6C, and introduces Eliezer, G, who reacts to the gloss of Aqiba's statement, M. 6:6E (not cited in T.). We recall that Aqiba there offers a case in which a non-priest has no recourse but to pay restitution with produce of a different year from that of the heave-offering he ate. Eliezer argues on the basis of the rule of M. 1:5I-J, which states that produce of one year of the sabbatical cycle may not be designated heave-offering for produce of a different year. Eliezer states that if, as Aqiba holds, this rule does not pertain to the payment of restitution, it follows that the rule forbidding designation of produce of one kind as heave-offering for produce of another kind likewise should not pertain.

A. "One who eats untithed produce (*hṭbl*)³⁶ pays restitution [for the tithes and heave-offering required of that produce] with (1) gleanings, (2) forgotten sheaves, (3) [produce grown in] the corners [of a field] or (4) produce (*tbw'h*) which has not reached a third [of its growth]"-- (E lacks:) the words of R. Eliezer.

B. R. Aqiba says, "They do not pay restitution with these things,

C. "for they do not pay restitution with a thing that does not become liable to tithes (*šl' b' l'wnt hm'šrw*)."

T. 7:10a (see T. M.S. 3:11, b.
Hul. 130b)

T. 7:10a cites the substance of the case of M. 6:5 in the names of the authorities of M. 6:6, quite correctly reading the two pericopae as a unit on a single issue of law. The fact that the superscription, A, refers to untithed produce, and not to heave-offering, does not change matters.³⁷ The issue, in all events, is the compensation paid by a non-priest for misappropriating heave-offering and, here, tithes.

Eliezer, A, holds that the non-priest may compensate the priest and Levite for offerings owed from untithed produce by

paying over produce of such categories as are not liable to the separation of agricultural gifts. Just as at M. 6:6A, then, he holds that the restitution does not take on the status of the tithe it replaces, but simply provides the priest or Levite with his due share (= sages, M. 6:5E). Aqiba, B-C, has the same view that he holds at M. 6:6C (= Meir, M. 6:5A-D). The restitution takes on the status of the offerings which the non-priest ate. Therefore it must be paid with produce which is liable to the separation of agricultural offerings.

CHAPTER SEVEN

TERUMOT CHAPTER SEVEN

The chapter is in two parts, M. 7:1-4 and M. 7:5-7. Both continue Chapter Six's essay on the penalty paid by non-priests who eat heave-offering. The main point at M. 7:1-4 is that even in a case in which the non-priest is not liable to the added fifth, e.g., if he purposely ate heave-offering (M. 7:1), or if he is a minor and not culpable (M. 7:3), he still must pay the principal. In this way the priest is compensated for his loss in produce. Within the framework of this discussion, of particular interest is M. 7:2's dispute between Meir and sages, over the status of the daughter of a priest who marries an Israelite and afterwards eats heave-offering. At issue is whether the woman is treated like a person of priestly status, such that she is not liable to the added fifth, or as a non-priest, such that she is liable. M. 7:4 offers a general principle which summarizes the rules of M. 6:1-6 and M. 7:1-3.

M. 7:5-7 is a long and repetitive unit on a single problem, the adjudication of cases of doubt concerning the misuse of heave-offering. The point is familiar from elsewhere in Mishnah,¹ that we attribute an impairment in status to that which already is impaired. Thus if it is not clear whether a *se'ah* of heave-offering fell into a bin of heave-offering or a bin of unconsecrated produce, we assume that it fell into the heave-offering, leaving the other produce free for consumption as unconsecrated food. The substance of this elaborate formal construction is related to what precedes only in that it provides a case in which a non-priest eats the doubtful heave-offering. In principle, however, it is separate from the unit in which it is redacted.

T. consists almost entirely of a long unit of materials, T. 6:11b-19, which coordinates the rules of M. 4:12, on cases of doubt concerning the neutralization of heave-offering, and M. 7:5-7, which also concerns problems of doubt. The material is important as an example of T.'s acting as a redactional commentary to M. Through its sequence of comments on M., T. offers an alternative, and in this case, completely logical, ordering of the issues discussed in M.

M. 7:1-4 bear attributions only in M. 7:2's dispute between Meir and sages. The only attributions at M. 7:5-7 likewise are to

Ushans, specifically, Meir and Yose. The issue of M. 7:5-7 further is attested by Judah and Simeon, T. 6:12.

7:1

A. [A non-priest] who intentionally eats heave-offering pays back the principal, but does not pay the [added] fifth.

B. (Eleven MSS. add: "And") that which is paid as restitution [retains the status of] unconsecrated produce.

C. (Six MSS. add: "And") [therefore] if the priest wished to refuse [it], he may refuse [it].

M. 7:1

What has changed from M. 6:1 is that here the non-priest intentionally eats heave-offering. This is a sin for which he is punishable by death (T. Ker. 1:5). Since he is liable for that punishment, he is not required to pay the fine of the added fifth and to designate heave-offering to replace that which he ate. This would constitute double punishment for a single crime. The non-priest simply compensates the priest from whom he took the heave-offering. He does this by giving that priest a quantity of produce equal to that which was taken. This produce does not take on the status of the heave-offering which was eaten, and, therefore, the priest may refuse to accept it (C), as he can any other gift of unconsecrated produce.²

7:2

A. "The daughter of a priest who married an Israelite and afterwards [unintentionally] ate heave-offering pays the principal, but does not pay the [added] fifth.

B. "And [if she commits adultery] her death is by burning.

C. "[If] she married any person who is ineligible [for marriage to priestly stock, e.g., a bastard (M. Yeb. 6:2), and then unintentionally ate heave-offering],

D. "she pays the principal and the [added] fifth.

E. "And [if she commits adultery] her death is by strangling"--the words of R. Meir.

F. But sages say, "Both of these [women] pay the principal, but do not pay the [added] fifth,

G. "and [if they commit adultery] their death is by burning."

M. 7:2 (Sifra, 'Emor, pereg 6:4)

The concern here is the anomolous status of the daughter of

a priest who marries an Israelite. While such a woman is of priestly lineage, because of the marriage she becomes an outcaste and loses the right she had while living in her father's house to eat holy things. The problem is whether such a woman still is treated as a person of priestly status, or whether she is treated as an ordinary Israelite. The issue is disputed by Meir, A-E, and sages, F-G.

The key to the exegesis of the pericope is in what on the surface appears to be a secondary dispute at B+E vs. G. Meir distinguishes between a priest's daughter who marries an Israelite of unimpaired stock, and one who marries an Israelite who is not fit for marriage to priests. His point is made through the contrast between B and E. Upon divorce or widowhood the woman at B returns to her father's house and regains her previously held priestly rights. It follows for Meir that she is treated like a person of priestly status. If she commits adultery, she is executed by burning, as are all women of priestly caste who commit adultery (Lev. 21:9, M. San. 9:1). This is not the case at E, where the woman has married an Israelite of impaired lineage. Such a woman never may return to her father's house. Meir holds, therefore, that she is treated under the law as an Israelite. If she is unfaithful, her death is by strangulation, as it is for all Israelite women who are unfaithful (M. San. 11:1). On this basis we readily can interpret Meir's view regarding the restitution these women pay if they unintentionally eat heave-offering (A, C). The priest's daughter who marries an Israelite of unimpaired stock is treated like a person of priestly status. If she eats heave-offering she does not pay the added fifth, which is paid only by non-priests. Since she had no right to eat the heave-offering, however, she must replace it, as would any priest who ate heave-offering belonging to some other priest. For this reason she pays the principal. This is not the case at D. Since here the woman is treated like an Israelite, if she eats heave-offering, she must pay both the principal and the added fifth.

Sages reject Meir's distinction. By birth the woman is of priestly stock. This is not changed by her marriage to a non-priest, even one of impaired lineage. After her marriage she does not have the right to eat heave-offering. If she does so anyway, since she is of priestly stock, she need not pay the added fifth required of non-priests. If she commits adultery, her death is by burning, as it is in the case of all unfaithful priestly women.³

7:3-4

A. (1) One who gives his minor children or his slaves, whether they are grown or minor, [heave-offering] to eat,

B. (2) one who eats heave-offering [separated from produce grown] outside of the Land [of Israel],

C. (3) and one who eats less than an olive's bulk of heave-offering

D. pays the principal but does not pay the [added] fifth.

E. [That which is given as] restitution [retains the status of] unconsecrated produce.

F. [Therefore] if the priest wished to refuse [it], he may refuse [it].

M. 7:3

G. This is the general rule (*kll*):

H. Anyone who pays the principal and the [added] fifth-- [that which is given as] restitution [takes on the status of] heave-offering, and, [therefore, even] if the priest wished to refuse [it], he may not refuse [it].

I. [And] anyone who pays the principal but does not pay the [added] fifth--

[that which is given as] restitution [retains the status of] unconsecrated produce, [and, therefore,] if the priest wished to refuse [it], he may refuse [it].

M. 7:4

M. 7:3 follows substantively from M. 7:1-2, offering three instances of non-priests who eat heave-offering and pay the principal but not the added fifth. M. 7:4 concludes the unit of materials begun at M. 6:1, offering a general principle which coordinates and contrasts the rules of M. 6:1-6 and M. 7:1-3.

M. 7:3 refers to three cases in which a non-priest eats heave-offering in such a manner that he does not incur liability for eating a holy thing. The non-priest is a minor or slave (A), and so is not responsible for his actions (M. B.Q. 8:4); or the heave-offering was separated from produce grown outside of the Land of Israel (B), and therefore does not have the sanctified status of true heave-offering (see above, p. 52); or the non-priest ate less than the quantity of heave-offering the eating of which constitutes a transgression (C; see T. 7:3H). The point is that while in such cases the non-priest need not pay the added fifth, for no liability for the misuse of sanctified produce has

been incurred, he must in all events compensate the priest for his loss of produce. Since the individual was not in the first place liable for eating heave-offering, the produce paid as the principal does not take on the sanctified status of that offering. For this reason, as I explained at M. 7:1, the priest need not accept the compensation.

7:5-7

- A. Two bins, one [filled] with heave-offering, and the other [filled] with [less than a hundred *se'ahs* of] unconsecrated produce,
- B. into one of which fell a *se'ah* of heave-offering,
- C. but it is not known into which of them it fell--
- D. lo, I say, "Into the [bin filled with] heave-offering it fell" [and so there has been no mixing of heave-offering and unconsecrated produce].
- E. [If] it is not known which [of the bins] is [filled] with heave-offering and which is [filled] with unconsecrated produce--
- I. F. [if] he ate [the produce in] one of them, he is exempt [from payment of the principal and added fifth, i.e., we assume that he ate unconsecrated produce].
- G. And [as for] the second [bin]-- he [thereafter] treats it as heave-offering.
- H. "But [dough made from] it is subject to [the separation of] dough offering [since it might be unconsecrated produce]"--the words of R. Meir.
- I. R. Yose exempts [it from the separation of dough offering].
- J. [If] a different person ate [the produce in] the second [bin], he is exempt [from payment of the principal and added fifth, i.e., we assume that he ate unconsecrated produce].
- K. [If] a different person ate [the produce in] both [of the bins], he pays restitution in accordance with [the quantity of produce in] the smaller of the two.

M. 7:5

- II. L. [If the produce in] one of them [i.e., of the bins] fell into unconsecrated produce, it does not impart the status of heave-offering [to that produce].

M. And [as for] the second [bin]--

he [thereafter] treats it like heave-offering.

N. "But [dough made from] it is subject to [the separation of] dough offering"--the words of R. Meir.

O. R. Yose exempts [it from the separation of dough offering].

P. [If the produce in the] second [bin] fell into a different batch [of unconsecrated produce],

it does not impart the status of heave-offering [to that produce].

Q. [If the produce in] both [of the bins] fell into a single batch [of unconsecrated produce],

they impart the status of heave-offering [to the produce] in accordance with [the quantity of produce in] the smaller of the two [bins].

M. 7:6

III. R. [If] he sowed [as seed the produce in] one of them [i.e., of the bins, the crop which results] is exempt [from the laws of heave-offering, i.e., it is not treated as heave-offering (see M. 9:6)].

S. And [as for] the second [bin]--

he [thereafter] treats it as heave-offering.

T. "But [dough made from] it is subject [to the separation of] dough offering"--the words of R. Meir.

U. But R. Yose exempts [it from the separation of dough offering].

V. [If] a different person sowed the second [bin], [the resultant crop] is exempt [from the laws of heave-offering].

W. [If] one person sowed both [bins]--

X. in the case of a kind [of produce] the seed of which disintegrates, [the crop] is permitted [for consumption as unconsecrated produce (M. 9:5-6)].

Y. But in the case of a kind [of produce] the seed of which does not disintegrate, [the crop] is forbidden [for consumption as unconsecrated produce, i.e., it is treated as heave-offering].

M. 7:7

The long and formally unitary pericope makes a single point. In a case in which we need not assume that heave-offering was eaten by a non-priest or in some other way misused (specifically, mixed with unconsecrated produce or used as seed), we do not make such

an assumption. The point has its simplest expression at A-D, with E then acting as superscription to the three parallel cases at F-K, L-Q and R-Y, any one of which alone would have been sufficient to make the point that they all make together.

We know that if heave-offering is mixed with less than a hundred times its quantity in unconsecrated produce, it imparts the status of heave-offering to the produce. At A-D it is not certain whether heave-offering was mixed with unconsecrated produce or with other heave-offering. We assume that it was mixed with the heave-offering such that the unconsecrated produce retains its unconsecrated status. This same principle is applied in each of the cases which follow. Now one of two bins contains heave-offering, but it is not known which. If one of the bins is eaten (F), mixed with unconsecrated produce (L), or used as seed (R), the individual involved can declare that he used the bin containing unconsecrated produce. He therefore is not liable for the misuse of a holy thing. For obvious reasons, however, he subsequently must treat the remaining bin of produce as if it contains heave-offering (G, M, S). Meir (H, N, T) holds that since the status of the second bin is in doubt, dough offering must be separated from the produce it contains, as if it were unconsecrated produce. Yose (I, O, U) is consistent in holding that the second bin is treated as heave-offering. For this reason he claims that the produce in this bin is not liable to the separation of dough offering. J, P and V have a different non-priest make use of the second bin. Is he liable for the misappropriation of sanctified produce? We rule that he is not, for like the first person, he may declare that the bin which he used did not contain the heave-offering. Only if the same person makes use of the produce in both of the bins is it certain that he has misappropriated heave-offering (K, Q, W). If he ate the produce, he must make proper restitution. If it was mixed with unconsecrated produce, the rule for mixtures applies. If the heave-offering was used as seed, the resultant crop, as we shall see in a moment, may be in the status of heave-offering. Assuming that the two bins contained different quantities of produce, however, the issue is how to determine the quantity of heave-offering which was misused. Did the larger or smaller bin contain heave-offering? The answer is fully in line with what has preceded. The individual may declare that the bin containing the lesser quantity of produce was the one which contained heave-offering. If he ate the offering, he needs to compensate the priest with a commensurately smaller quantity

of produce (K). If the heave-offering was mixed with unconsecrated produce, there is a greater chance that it will have been neutralized (Q). Only the case in which the individual surely has planted heave-offering has a variation in ruling, signaled at W-Y by a shift in formal patterning and in choice of language (*ptwr* at R and V; *mwtr/'swr* at W and Y). The reason for the shift is that not all seed in the status of heave-offering produces a crop which likewise is deemed to be heave-offering (see below, M. 9:4-6). If the seed is of a type which disintegrates in the soil, it is not deemed integral to the plant which grows from it. The produce yielded by that plant therefore does not have the status of heave-offering. If, on the other hand, the seed remains intact in the soil, the produce yielded by it is deemed to have the status of heave-offering.

O. R. Meir declares the second bin subject to [the separation of] dough offering.

P. R. Yose exempts it [= M. 7:5H-I, M. 7:6N-O, M. 7:7T-U].

Q. But sages say, "Unconsecrated produce which [surely] has been mixed with heave-offering (*mdwm*^c) [and, therefore, has the status of heave-offering] is exempt from the separation of dough offering.

R. "That about which there is a doubt whether or not it was mixed with heave-offering (*spq mdwm*^c) is eaten as heave-offering, but [anyway] is liable to [the separation of] dough offering."

T. 7:8b (T. Hal. 15:, y. Ter. 7:6)

Sages, R, agree with Meir. At M. 7:5-7 it is not certain whether or not the produce in the second bin was mixed with heave-offering. While it is treated as heave-offering, dough offering still must be separated from it, as Meir says. According to Q, Yose's opinion applies only in a case in which it is certain that heave-offering was mixed with unconsecrated produce. The resultant mixture surely has the status of heave-offering, and so is not liable to the separation of dough offering.

T. 6:11b-19, which follow, are presented outside of their redactional context within T., and so require introduction. They treat together the formally and substantively related materials of M. 4:12 and M. 7:5-7, a fine example of T.'s improving upon M.'s ordering of materials through its own sequence of comments on M.'s pericopae. Thus while T. 6:11b-19 occur in T. along with that

document's materials on the neutralization of heave-offering (the topic of M. Chapter Four), I have reserved them for the present context. This allows them to be read with both M. 4:12 and M. 7:5-6 in mind. At this time we need only recall the point of M. 4:12. This is that if heave-offering falls into one of two containers, neither of which holds a hundred *se'ahs* of unconsecrated produce, the containers are deemed to join together to create the quantity of produce required to neutralize the heave-offering.

H. And so would (Lieberman supplies with ed. princ.: R. Yose say), *"Two bins, one [filled] with [less than a hundred se'ahs of] unconsecrated produce, and the other [filled] with heave-offering,*

I. *"and a se'ah of heave-offering fell into one of them, but it is not known into which of them it fell*
[= M. 7:5A-C, with minor variations],

J. *"both of them are permitted."*

T. 6:11b

I can make no sense of J. No matter into which of the two bins we assume that the *se'ah* of heave-offering falls, the bin which originally contained heave-offering does not become permitted for consumption as unconsecrated produce.

Lieberman, TK, I, p. 389, refers to M.'s version of this rule and states that the point here is the same. He claims that T. 6:11J refers only to the status of the bin which originally contained unconsecrated produce. This simply is not what J says. MB, HD and HY build an interpretation on the claim that the bin of heave-offering mentioned here contains heave-offering separated by mandate of the rabbis, but not required by biblical law. Since neither this pericope nor M. recognizes any such distinction, this interpretation is not viable.

A. [If there were] (1) two bins [each containing less than a hundred *se'ahs* of unconsecrated produce] in two store-rooms,

(2) two (following Lieberman, TK, I, p. 389:) bins in two attics,

(3) two bins in one attic,

B. lo, these [join together to create the quantity of unconsecrated produce needed to] neutralize [a *se'ah* of heave-offering which falls into one of them] [see M. 4:12A-B].

C. R. Judah says, "They do not [join together to] neutralize [heave-offering]."

D. R. Simeon says, "Even if they are in two different cities, they neutralize [heave-offering] in conjunction with one another" [= M. 4:12E].

E. [If] this one [of the bins] contains a hundred [*se'ahs* of unconsecrated produce], and that one (Lieberman supplies from E and ed. princ.: does not) contain a hundred [*se'ahs* of unconsecrated produce, and a *se'ah* of heave-offering falls into one of them, but it is not known which,]

F. lo, I say, "Into [the bin which contains] a hundred [*se'ahs* of unconsecrated produce] it fell [and, therefore, was neutralized]."

G. [If] one [of the bins contained] a mixture of heave-offering and unconsecrated produce, and the other did not contain a mixture of heave-offering and unconsecrated produce,

H. lo, I say, "Into the mixture of heave-offering and unconsecrated produce it fell."

T. 6:12

T. coordinates the principle of M. 4:12 (given here at A-D) with that of M. 7:5-7 (stated at E-H). If neither of the suspect bins alone contains enough unconsecrated produce to neutralize the heave-offering, they are deemed to join together in order to do so (A-B). If, on the other hand, one of the bins contains enough produce to neutralize the heave-offering and the other does not, the householder simply declares the heave-offering to have fallen into the larger of the bins, and to have been neutralized (E-F). The same rule is applied if the produce in one of the doubtful bins already has an impaired status (G-H). The net result in either case is the same as at A-D.

A. Two bins, in this one are forty *se'ahs* [of unconsecrated produce] and in that one are (follow E in deleting: not) forty *se'ahs* [of unconsecrated produce]--

B. [if] a *se'ah* of heave-offering fell into one of them, and it is known into which of them it fell,

C. and afterwards a second [*se'ah* of heave-offering] fell [into one of them,] but it is not known into which place it fell,

D. lo, I can attribute [the impairment] (*l'lw*) and say, "Into the place into which the first [*se'ah* of heave-offering] fell, there did the second fall [as well]."

E. [If] a *se'ah* of heave-offering fell into one of them [i.e., one of the original two bins,] but it is not known into which of them it fell,

F. and afterwards a second [*se'ah* of heave-offering] fell [into one of them] (Lieberman follows E in deleting seven words from text of V), and it is known into which of them it fell,

he may not attribute [the impairment] and say, "Into the place into which the second [*se'ah* of heave-offering] fell, there the first fell [as well]."

T. 6:13 (y. Ter. 4:12, 7:4; see

M. Miq. 2:3, T. Miq. 2:3-4)

T.'s two parts, A-D and E-F, once again illustrate the principle that if possible, we attribute an impairment in status to what already is impaired.⁴ At A-E we know which of the bins has been mixed with heave-offering and so is in the status of a priestly gift. When a second *se'ah* of heave-offering falls into one of the bins, but it is not known into which (C), we declare that it fell into the one which already had been mixed with heave-offering (D). This is not the case at E-F. Now it is not known into which of the two bins the first *se'ah* of heave-offering falls. Since the status of neither of the bins already is impaired, there are no grounds on which to declare that the heave-offering fell into one of the bins and not the other. We must deem both of the bins to be in a status of doubt as to having been mixed with heave-offering. The fact that we know into which of the bins a second *se'ah* of heave-offering falls does not change matters (F). The bin into which that heave-offering falls, now surely has the status of heave-offering. The other retains its previous status of doubt.

A. [If] before him were two bins, one of [unconsecrated] wheat and one of [unconsecrated] barley,

B. (Supply from E:) and before them were two *se'ahs* [of produce in separate containers], one of [unconsecrated] wheat and one of barley [in the status of heave-offering]--

C. [if] one of them [i.e., of the *se'ahs* of produce] fell [into the produce in the bins], (Lieberman supplies following ed. princ.: and one of them was lost),

D. but it is not known which of them fell and which of them was lost,

E. both of them [i.e., both of the bins] are permitted [for consumption as unconsecrated produce, for they retain their original status].

T. 6:14

The case is more complicated, but the principle is the same as before. The householder declares that the *se'ah* of unconsecrated produce was mixed with the unconsecrated produce in the bins, and that the heave-offering is lost. The produce in both of the bins therefore retains its unconsecrated status.⁵

- I. A. Two bins, one of unclean heave-offering and one of clean heave-offering--
- B. [if] a *se'ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,
- C. lo, I say, "Into the clean [heave-offering] it fell."
- D. But the clean heave-offering cannot be eaten in cleanness until it will be ascertained that there is not in each lump of dough so much as an egg's bulk.

T. 6:15

- II. E. Two bins, one of unclean heave-offering and one of [a hundred *se'ahs* (MB) of] clean unconsecrated produce--
- F. [if] a *se'ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,
- G. lo, I say, "Into the unclean heave-offering it fell."
- H. But the clean unconsecrated produce may not be eaten in cleanness until they will ascertain that there is not in each lump of dough as much as an egg's bulk.

T. 6:16

- III. I. [If] one bin [contained] clean heave-offering and one [contained] clean unconsecrated produce,
- J. [if] a *se'ah* of [unclean] heave-offering fell into one of them, but it is not known into which of them it fell,
- K. both are forbidden [for whichever way we were to attribute the impairment, one of the bins would have to be deemed forbidden].
- L. If there is in them [sufficient produce] to neutralize [the heave-offering] in conjunction with one another, they neutralize [the heave-offering] in conjunction with one another.
- M. But they may not be eaten in cleanness until they

will ascertain that there is not in each lump of dough so much as an egg's bulk.

T. 6:17

T. 6:15-17 introduce problems of doubts concerning mixtures of clean and unclean produce. The point, however, remains the same as before. Wherever possible, we attribute an impairment in status to what already is impaired. Unclean heave-offering, therefore, is deemed to have fallen into other unclean heave-offering, and not into clean heave-offering or clean unconsecrated produce (A-C, E-G).⁶ Since in either of these cases there is a doubt whether unclean produce actually was mixed with clean, the clean produce is eaten in small amounts, such that, if it is unclean, it does not impart uncleanness to the person who eats it.

The case at I-K is different. It is not known whether unclean heave-offering falls into clean heave-offering or into clean unconsecrated produce. In this case, the heave-offering will render forbidden for consumption whichever bin it falls into. If it falls into the heave-offering, it imparts to it uncleanness. If it falls into the unconsecrated produce, it imparts to it both the status of heave-offering and uncleanness. The householder may not himself declare either of the bins to have been ruined. He therefore must treat both bins as if they have been mixed with unclean heave-offering (K). L-M is difficult, for I do not understand how heave-offering and unconsecrated produce can neutralize heave-offering in conjunction with one another. Lieberman, TK, I, 393, states that the meaning is that if either the bin of heave-offering or the bin of unconsecrated produce contains a hundred *se'ahs* of produce, we deem the unclean heave-offering to fall there. If it is into the clean heave-offering that it falls, that produce will be sufficient to neutralize the unclean heave-offering (in accordance with the position of the House of Hillel, M. 5:4), and the bin will remain permitted for consumption by a priest. If it is deemed to fall into the unconsecrated produce, both the status of sanctification of the heave-offering, and its uncleanness will be neutralized. In either case, the possibility that unclean produce has been mixed with the clean must be taken into account (M). While Lieberman's interpretation makes sense, it obscures the usual meaning of "neutralize in conjunction with one another" at L (see, e.g., M. 4:12). I therefore offer his exegesis as provisional.

A. [If] there were before him two bins, one of heave-offering and one of unconsecrated produce,

B. and before them were two *se'ahs* [of produce in separate containers], one of heave-offering and one of unconsecrated produce,

C. and [the produce] fell from each of them [i.e., of the small containers], but it is not known whether it fell from this one into that one, or from that one into this one [i.e., it is not known which produce was mixed with which]--

D. lo, I say, "Heave-offering fell into heave-offering; unconsecrated produce fell into unconsecrated produce."

E. But if it was untithed produce, first tithe or second tithe [in one of the bins, and not heave-offering]--

this [i.e., the bin of unconsecrated produce] is forbidden [for consumption].

F. For they did not declare permitted [for consumption] unconsecrated produce about which there is a doubt whether or not it was mixed with heave-offering, except in a case in which one may attribute the impairment such that the produce in both of the bins is permitted (*dbr šyš lw mtyryn*).

T. 6:18 (A-D: b. Pes. 9b, b. Naz. 36b; E-F: see T. 5:15, T. 8:19)

A-D is no different from what has come before. Only E-F is of interest, offering a case like that of T. 6:17. Into whichever bin we deem the heave-offering to have fallen, that bin must be considered forbidden for consumption. This being the case, neither of the bins may be saved by the declaration that the heave-offering fell into the other. The reason is clear as stated at F, and as I have explained it at T. 6:17.

A. [If] he separated heave-offering, first tithe and second tithe, but does not know which of the offerings is which--

B. lo, this one measures [the quantity of] heave-offering, first tithe, and second [tithe] (read *šny* with E; V reads *šnyh*) [in order to establish on the basis of quantity which of the offerings is which].⁷

T. 6:19

The pericope is related to the foregoing only in that it offers a case in which containers of produce have been confused. It concludes T.'s material on this topic.

CHAPTER EIGHT

TERUMOT CHAPTER EIGHT

The chapter is formed of two long constructions of disputes between Eliezer and Joshua, M. 8:1-3 and M. 8:8-12. These are distinct from one another both in form and in the substance of their particular cases. These units have been redacted together because in both of them, problems regarding the improper consumption and disposition of heave-offering are employed to illustrate a single encompassing legal issue. This issue is whether or not in certain circumstances an individual may do what normally is prohibited to him, and yet not be deemed to have transgressed.¹ Eliezer's view throughout is that there are no such circumstances, but that an individual who does what he normally should not always is culpable. Joshua, on the other hand, takes into account extenuating circumstances. He holds that if the individual has no way of knowing that what he is doing is improper, or if his actions only hasten what anyway is inevitable, he has done no wrong. Unlike Eliezer, Joshua thus holds that culpability is relative to the circumstances under which an action is performed.

These two units of disputes between Eliezer and Joshua are separated by M. 8:4-7, which offer rules regarding liquids and foods which are suspected of containing snake venom. The material is relevant to this tractate only at M. 8:4A, which states that heave-offering which is suspected of containing venom must be destroyed. It seems that this rule is redacted in its present location because it signals the specific interest of the cases which follow at M. 8:8-12. This, as I said, is the proper treatment of heave-offering. M. 8:4B-7 are then included because topically they belong with M. 8:7A. They are however autonomous of the laws of heave-offering.

M. 8:1-3 and M. 8:8-12's attributions to the Yavneans Eliezer and Joshua are paralleled by references to other Yavneans, Gamaliel (M. 8:8F) and Nathan (T. 7:10bE). The discussion of foods which are suspected of containing snake venom takes place at Usha. Attributions are to Simeon (T. 7:12), Nehemia (M. 8:1, T. 7:13, T. 7:14), Ishmael b. R. Johanan b. Beroqah (T. 7:14), Judah b. Baba' (T. 7:15) and Simeon b. Menasia (T. 7:16).

8:1-3

I. A. (1) The wife [of a priest] who was eating heave-offering,

B. [and] they came and told her, "Your husband has died," or "[Your husband] has divorced you" [such that the woman no longer has the right to eat heave-offering];

C. (2) and so [in the case of] a slave [of a priest] who was eating heave-offering,

D. and they came and told him, "Your master has died," "He sold you to an Israelite," "He gave you [to an Israelite] as a gift," or, "He has made you a freeman" [in any of which case, the slave no longer may eat heave-offering];

E. (3) and so [in the case of] a priest who was eating heave-offering,

F. and it became known that he is the son of a divorcee, or of a *halusah* [and therefore may not eat heave-offering]--

G. R. Eliezer declares [all of these individuals] liable to payment of the principal and [added] fifth [of the heave-offering they unintentionally had eaten as non-priests].

H. But R. Joshua exempts.

II. I. [If a priest] was standing and offering sacrifices at the altar, and it became known that he is the son of a divorcee or of a *halusah*--

J. R. Eliezer says, "All of the sacrifices which he had [ever] offered on the altar are invalid."

K. But R. Joshua declares them valid.

L. If it became known that he is blemished-- his service [retroactively] is invalid.

M. 8:1 (E-H: b. Yeb. 34b; E-K:

b. Pes. 72b; I-K: b. Mak. 11b;

I-L: see b. Qid. 66b, T. Miq. 1:18)

III. M. And [in] all of these [cases] (*wkwlm*), if they had heave-offering in their mouths [at the time they were notified that they were not fit to eat heave-offering]--

N. R. Eliezer says, "Let them swallow [it] (*ybl^cw*)."

O. But R. Joshua says, "Let them spit [it] out (*ypltw*)."

II. P. [If] they told him [i.e., anyone with heave-offering in his mouth], "You have become unclean," or "The heave-offering has become unclean"--

Q. R. Eliezer says, "Let him swallow [it]."

R. But R. Joshua says, "Let him spit [it] out."

S. [If they told him,] "You were unclean [at the time you began to eat the heave-offering]," or, "The heave-offering was unclean,"

T. or [if] it became known that it [i.e., what he thought was heave-offering] is untithed produce, first tithe from which heave-offering [of the tithe] had not been taken or second tithe or produce dedicated [to the Temple] which had not been redeemed,

U. or if he tasted a bed-bug (*pšpš*) in his mouth--

V. lo, this one should spit it out.

M. 8:2 (U-V: b. Nid. 58b)

V. W. [If] he was eating a cluster of grapes [as a chance meal, free from liability to tithe] and entered from the garden into the courtyard [at which point the grapes are subject to the separation of tithes (M. Ma. 3:5-6)--

X. R. Eliezer says, "Let him finish [eating the cluster]."

Y. R. Joshua says, "He may not finish it [before he separates tithes]."

VI. Z. [If he was eating a cluster of grapes as a chance meal and] dusk fell on the eve of the Sabbath [at which point the produce he is eating is subject to the separation of tithes (M. Ma. 4:2)]--

AA. R. Eliezer says, "Let him finish [eating the cluster]."

BB. R. Joshua says, "He may not finish it."

M. 8:3 (W-Y: y. Ma. 3:4; W-BB:

b. Bes. 35a)

The three pericopae are formally unitary, each comprised of a pair of disputes between Eliezer and Joshua (M. 8:1A-H, I-K+L; M. 8:2M-O, P-R+S-T; M. 8:3W-Y, Z-BB). The juxtaposition of these disputes is justified by the fact that they each refer to the same situation: an individual is carrying out an action under the assumption that he is permitted to do so, when it is discovered that he is not so permitted.² This situation yields two different questions of law. At M. 8:1 the issue is whether or not an individual is held liable for performing an act which he had every right to assume that he was permitted to perform. At M. 8:2-3 the problem shifts to whether or not the individual may complete without permission an action which he was permitted to begin to perform. On the basis of this substantive analysis, it is clear that two related, though distinct, issues of law have been brought together for reason of the common situation addressed and authorities cited. As we presently shall see, the joining of these issues also is on solid substantive grounds, for, at least in the

case of Joshua, through their joining, a consistent approach to the law is illustrated. Let us begin with M. 8:1 and then move to the rule covered in M. 8:2-3.

The key to the exegesis of M. 8:1 is at I-L, which gives both a case in which Eliezer and Joshua disagree and one in which they agree. A priest is discovered to be of impaired lineage, and so not to be fit to offer sacrifices (Lev. 21:7). Eliezer declares that since the man never was fit to offer sacrifices, all sacrifices which he ever did offer are invalid. Joshua's position is that the individual's past offerings are valid. This means that Joshua regards the individual to have been a legitimate priest, at least up until the time that his real status became known.³ Put simply, therefore, Joshua's position is that self-perception determines actual status. Although in reality the priest never was fit to serve, as long as he perceived himself as fit, Joshua claims that his service was valid. That this is Joshua's view is further evidenced from L. There Joshua agrees with Eliezer that if the man is found to be blemished, his previous sacrifices are retroactively invalid. In such a case the priest, aware of his own physical defect, would have known all along that he is not fit to serve (Lev. 21:17). Since such a person never could have perceived himself as fit, Joshua has no grounds on which to declare his past service valid.⁴ The same positions which Joshua and Eliezer hold at I-L are operative at A-H. Eliezer holds that the fact that the individuals believed that they had the right to eat heave-offering is irrelevant.⁵ They objectively no longer had that right,⁶ and so must pay the principal and added fifth, as would any non-priest. As at K, Joshua holds that it is self-perception which counts. The individuals were acting under the assumption that they had the right to eat heave-offering. Even when it turns out that they did not have that right, they are not liable for a transgression.

At M. 8:2-3, as I said, the question shifts to whether or not an individual may complete without permission an action which to begin with was permitted.⁷ Joshua's view remains consistent with what has preceded. He states that as soon as the individual knows that his actions are not permitted, he must stop doing them. Eliezer's view, on the other hand, is that since the individual was permitted to begin the act, he may complete it.⁸ That this is Eliezer's position is proven by his agreement with Joshua at S-V. There it becomes clear that the individual should not even have begun to eat the produce, since, from the start, it was unclean or

otherwise forbidden. In such a case, Eliezer has no basis on which to rule that the person may continue to eat. I can, however, find no way to correlate Eliezer's position here with his view at M. 8:1. Here, as there, the individual objectively does not have the right to continue eating the produce. We therefore would expect Eliezer to rule, as he does at M. 8:1, that the person is liable for his actions and may not go on eating.⁹ It is evident from this that the issues of M. 8:1 and M. 8:2-3 have been juxtaposed with Joshua's view in mind. He is shown to have a consistent, and innovative, perspective on the law. Through the combination of the two issues, Eliezer is shown simply to contradict himself.¹⁰

E. Said R. Nathan, "R. Eliezer would say, 'Let him wait until the end of the Sabbath, or (w) let him leave the courtyard, and [then] finish eating'" [see M. 8:3W-BB].

T. 7:10b

Nathan removes the contradiction in Eliezer's position by having Eliezer state that the individual may continue to eat without tithing only if he does so under the conditions under which he initially was permitted to eat, i.e., outside of the courtyard or after the Sabbath.¹¹

A. R. Joshua says, "Blood which is on a loaf [of bread]--

"he scrapes its [i.e., the blood's] place [to remove the blood] and eats the rest.

B. "[If] it is discovered [already] between his teeth--
"he brushes it off (E reads: he eats it) and need not scruple [lest he has eaten blood]."

I. C. One who eats a grain worm (Jastrow, p. 305, for *dyrh*), or an ant, or a louse which is [found] in produce is culpable [for having eaten a forbidden thing (cf., M. Par. 9:2)].

II. D. [If he ate] a mite which is [found] in lentils, gnats that are [found] in pods, or worms that are [found] in dates and dried figs, he is exempt.

III. E. [If any of these insects] separated [themselves from the produce] and returned [to it]--
[the one who eats it is] culpable.

IV. F. [If one ate] worms which are [found] in the roots of trees, or the leech which is [found] in vegetables,
he is culpable.

- V. G. [And as to] gnats (Jastrow, p. 560, for *ybhwsšyn*) which are [found] in wine and vinegar, lo, these are permitted.
- VI. H. [If] he strained them [out of the wine or vinegar], lo, these are forbidden.
- I. R. Judah says, "One who strains (read *hmsmm* with E; V reads *hmpnyn*) wine and vinegar,
- J. "and one who says a blessing over the sun--
- K. "lo, this is a different path (*drk 'hrt*)."¹²
- T. 7:11 (A-B: b. Ket. 60a, b. Ker. 21b, 22a; C-D: b. Hul. 67b, see Sifra, *Shemini*, *pereq* 12:1; G-H: see b. Hul. 67a; J-K: T. Ber. 7:6)

The pericope is in three parts, A-B, C-H and I-K, each with its own point, and all autonomous of M. Joshua, A-B, states that the individual need not worry that the blood, which is forbidden for consumption, was spread throughout the food. He simply scrapes off all that is visible and eats the rest. I see no correlation between this statement and Joshua's opinions on heave-offering and the rules for tithing, M. 8:1-3.¹³ C-H apparently has been redacted here in light of M. 8:2U's reference to an individual's tasting a bed-bug in his mouth (so Lieberman, TK, I, p. 406).¹⁴ It lists several other types of insects which are either permitted or forbidden as food. The belief in parthenogenesis generates these rules. An individual is not held culpable for eating an insect which, according to T., is generated by, and therefore is an intrinsic part of, the produce in which it is found (Lieberman, HY, MB). Such an insect is not considered an autonomous creature, but part of the fruit. That this is the point is proven by E and H. If insects which normally may be eaten without liability are known to have left the produce in which they grew and to have returned, or if the householder himself detaches them, he is liable for subsequently eating them. At this point the insects are considered autonomous creatures, and forbidden as food. H's references to straining wine introduces the quite separate concern of Judah, I-K. Judah's statement is enigmatic.¹⁵

8:4

A. Wine in the status of heave-offering which is left uncovered-

let it be poured out [lest a snake drank from it and deposited in it venom].

B. And there is no need to state [that this is the law in the case] of unconsecrated [wine which is left uncovered].

C. Three [kinds of] liquids are forbidden [for consumption] on account of being left uncovered:

D. (1) water, (2) wine and (3) milk.

E. But all other liquids are permitted [for consumption, even if they are left uncovered].

F. Remaining [uncovered for] how long renders them [i.e., the liquids listed at D] forbidden?

G. Long enough for a snake to leave a nearby [hiding-] place and drink [from them].

M. 8:4 (C-D + F-G: b. Hul. 10a)

M. 8:4 introduces a series of pericopae (M. 8:4-7) on the rules governing liquids which have been left uncovered and foods which have on them the marks of snake bites. The issue is taken up here as a facet of the question of the proper treatment of heave-offering which may have become unfit for consumption, the topic of M. 8:8-12. What this pericope adds to that discussion is at A. Wine in the status of heave-offering in which a snake may have deposited venom must be destroyed, lest it poison the person who drinks it. A's rule, however, is autonomous of the statement of the rules of uncovered liquids at C-G, and, in fact, of the rest of M.'s discussion of this topic. These latter materials have been given a place in this tractate at the redactional level, through the employment of the transitional element at B.

A. (1) Brine (*šyr*), (2) vinegar, (3) fish-brine (*hmrwryys*), (4) oil, and (5) honey are permitted on account of [the law of] uncovered liquids [i.e., these things are not subject to that law].

B. But R. Simeon prohibits.

C. Said R. Simeon, (read with E, ed. princ.): "In Šidon I saw a snake drink brine."

D. They said to him, "There is no evidence [to be drawn] from [the actions of] insane creatures (*hšwtyn*)."

T. 7:12 (b. Hul. 49b; D: b. Shab. 104b, b. Nid. 30b)

Simeon offers evidence that snakes drink liquids other than the three mentioned in M. 8:4C-D. The snake which he saw is declared exceptional, D, and so Simeon's view is rejected.

8:5

A. [This is] the quantity of uncovered water [which is permitted for consumption]:

B. [any amount] such that the venom [of a snake] will be diluted ('BD) in it [and not poison the water].

C. R. Yose says, "[Water] in [uncovered] vessels [becomes forbidden] in any quantity [i.e., no matter how large the vessel, water left uncovered in it is prohibited];

D. "and [as for water in pools in] the ground--

"[if there is more than] forty *se'ahs* [it is permitted]."

M. 8:5

Despite its present formulation, the pericope is not a dispute, for Yose, at C, does not respond to the superscription, A. A asks for a quantity of water which is not liable to the law of uncovered liquids.¹⁶ Yose gives a quantity which is liable. This discontinuity is indicative of the fact that the disputant parties have entirely different notions about liability to the law of uncovered liquids. B's view is that the rule of uncovered liquids does not apply when there is sufficient liquid to dilute the venom. In such a case the liquid presents no danger to life. Yose has a different theory. He equates venom with uncleanness, and reasons by analogy to immersion-pools. These render cultically clean objects which are rinsed in them. Such pools are dug in the ground and contain forty *se'ahs* of rain-water. When they meet these requirements they are not invalidated by drawn water which falls into them. Yose claims that if these same specifications are met, uncovered water counteracts the effect of venom which is deposited in it. The water thus must be contained in the ground, not in a vessel (C), and must be forty *se'ahs* in quantity (D). Under such conditions, the water neutralizes venom which is deposited in it, just as an immersion pool counteracts uncleanness of drawn water which is placed in it.¹⁷

A. Water which has been left uncovered--

B. (1) one may not spill it out in the public way, (2) may not mix plaster with it, (3) and may not give it to a gentile, or to cattle owned by others, to drink.

C. But he may water his own cattle [with it].

D. Water which has been left uncovered--

E. (1) one may not sprinkle his house with it [in order to lay down the dust], (2) and may not wash his face, hands or legs with it.

F. Others say, "They did not say [that E2 is the case] except if he has a cut."

G. And how much [uncovered water is permitted; cf., M. 8:5A]?

H. [*In the case of water in a pool in the ground, forty se'ahs* [= Yose, M. 8:5D].

I. Others say, "Two *se'ahs*,

J. "whether [the water is] deep (*mkwnsyn*) or shallow (*mpwzryn*)."

K. R. Nehemia says, "[There must be enough water] for a keg made in Shihin (read with E and y. 8:6; V reads *šw^cyn*; see Lieberman, TK, I, p. 415) to be filled from it."

L. [As for] a spring--

M. as long as it is running (*mwšk*), it is not liable to [the law of] uncovered liquids.

N. Said R. Ishmael b. R. Johanan b. Beroqah "*M^cšh š:* R. Johanan b. Beroqah went to [the home of] R. Johanan b. Nuri in Beth Shearim and found a pond (*gby*; alternatively: cistern) which did not have in it three *logs* of water. And he bent over and drank from it."

O. [As for] wine--

P. whether it is in the ground or in a vessel, it is forbidden [on account of the law of uncovered liquids; see M. 8:5E-D].

T. 7:14 (y. Ter. 8:6; A-C: b. B.Q. 115b)

A-F augments M. with a list of uses, other than drinking, which may not be made of uncovered water. An individual may not use uncovered water in a way which endangers his own life, the life of others, or the property of others (A-B, E). He may, however, endanger his own property (C; see M. B.Q. 8:6). F holds that if there is little likelihood that venom will enter his bloodstream, an individual even may wash himself with water which has been left uncovered. H-K offers its own dispute on the quantity of uncovered water which is not subject to the law of uncovered liquids. I and K, Nehemiah, suggest much smaller quantities than did Yose, M. 8:5D (cited anonymously at H). No reason is indicated. L-M and N continue the discussion. A spring is not subject to the law because the water in it constantly is changing. It is likely that the *ma^cašeh* at N is intended to illustrate this rule. Since a pond, like a spring, has its own

source of water, Johanan b. Beroqah did not hold it subject to the law.¹⁸ In terms of lexical items ("spring" at L; "pond" at N), however, the unit surely is independent, and thus simply makes the point that Johanan did not hold ponds subject to the law. O-P carries forward Yose's analogy between the ability of an immersion pool to purify unclean things and water's ability to neutralize venom which is deposited in it. Wine may not be used in an immersion pool. According to O-P, it likewise does not neutralize venom which is deposited in it.

8:6

- A. (1) Figs, (2) grapes, (3) cucumbers, (4) gourds, (5) watermelons, and (6) chate-melons which have on them teeth marks [of snakes] (*nqwr̄y*),
- B. even if they are in a jug (follow Albeck in reading *bkd*; 7 MSS. read *kkd*; printed editions read *kkr*),
- C. it is all the same (*'hd*) whether they are large, or small,
- D. it is all the same whether they are picked or unpicked,
- E. any [of them] which has moisture in it
- F. is forbidden.
- G. And [a beast which has been] bitten by a snake is forbidden [for slaughter as food],
- H. as a danger to life.

M. 8:6 (G-H: see M. Hul. 3:5,

T. Hul. 3:19)

The pericope is in two formally autonomous parts, A-F and G-H. These state for produce and meat the same law that M. 8:4 gave for liquids. Produce or meat which shows signs that it contains venom may not be consumed, for fear that the one who eats it will be poisoned. The point at A+E-F is that only fresh produce is forbidden in this way. The moisture in such produce may be venom, which also is a liquid.¹⁹ Dry produce, self-evidently, does not contain venom, and so is not forbidden for consumption, even if it has on it marks of snake bites. B and C-D make a single point. No matter how unlikely it is that a snake has deposited venom in the produce, that produce still may not be eaten. This applies if the produce is in a jug, such that it is unlikely that a snake could have deposited venom in the pieces of produce on the bottom,²⁰ and if the piece of produce is large, so that only part of it may contain venom. I assume that the point

at D is that even if the produce still is on the vine, where the snake does not have easy access to it, it is forbidden.²¹

8:7

A. [A container of wine covered with] a wine-strainer (*mšmrt šlyyn*) is forbidden on account of [the laws of] uncovered [liquids].

B. R. Nehemiah permits.

M. 8:7²²

A claims that a wine-strainer does not prevent a snake from depositing venom in the jug or vat which it covers. Nehemiah, B, disagrees.²³

A. [A container of wine covered with a wine-] strainer is forbidden on account [the law of] uncovered [liquids] [= M. 8:7A].

B. R. Nehemiah says, "If the bottom [vat; i.e., the one into which the wine is being strained] was covered [by the strainer], even though the top [of the strainer, where the wine being strained is poured] was uncovered--

"lo, this [i.e., the wine which has been strained] is permitted [see M. 8:7B],

C. "for the venom of a snake is like a sponge, and stays in its own place [i.e., it does not pass through the strainer into the lower vat]."

D. Dough which one kneaded in water which had been left uncovered,

E. even though it is [dough] of heave-offering,

F. must be burned.

G. And there is no need to state [that this is the rule] as regards unconsecrated [dough; see M. 8:4A-B].

H. R. Nehemiah says, "[If] one baked it, lo, this is permitted,

I. "since the venom of a snake burns up (*klh*) in fire."

I. J. (1) Water used in pickling [vegetables], (2) water used in boiling [food], and (3) water used in soaking lupines [Lieberman, TK, I, p. 412 for *my trmwsyn*] is not liable to [the law of] uncovered [liquids].

II. K. Water in which one soaked pickled [vegetables], foods which had been boiled (*šlqwt*) or lupines--

L. if [the vegetables] were of sufficient [quantity] to impart taste [to the water, the water] is permitted [i.e., not subject to the law of uncovered liquids].

M. But if not, it is forbidden [i.e., is subject to the law].

III. N. Water in which one rinsed quince (Jastrow, p. 1047, for *wtbyn*; see also Lieberman, TK, I, p. 413), or Damascene plums (Jastrow, p. 324, for *drmsqnywt*) for a sick person,

O. (read with E, y. and Maimonides, cited by Lieberman, TK, I, p. 414:) is forbidden [i.e., is subject to the law].

IV. P.²⁴ Water which was left uncovered and which one [subsequently] heated is forbidden on account of [the law of] uncovered [liquids].

V. Q. [And as for] hot water [in an uncovered pot]--

R. as long as it releases steam, it is not subject to [the law of] uncovered [liquids].

T. 7:13 (A-I: y. Ter. 8:5; A-C:
Suk. 50a, b. B.Q. 115b)

The pericope is in three parts, A-C, D-I, and the five related rules at J-R. A-C cites M. 8:7 and, at B-C, offers an expanded version of Nehemiah's view, that venom does not pass through a strainer. D-F+G gives the logical rule that foods which are made from forbidden water themselves may not be eaten. The basis for Nehemiah's qualification of this rule, H, is clear, as given at I. J-N depends on M. 8:4C-E's rule that only water, wine and milk are subject to the law of uncovered liquids, and that other liquids which have been left uncovered remain permitted for consumption. The question here is under what conditions water which has been used in the preparation of food is deemed no longer to be water and therefore not to fall under the law. The criterion is clearly stated at K-M. If the taste of the water has been changed, it no longer is considered water, and so may be left uncovered without becoming forbidden for consumption. While K-M thus gives the point of the whole construction in which it is found, it must be noted that it is formally autonomous of that construction. It uses the apodosis "prohibited/forbidden," while the other cases at J-R use "liable to the law/not liable to the law." It therefore is not surprising that the substance of J3 is repeated at K. Only P and Q-R require further comment. P holds that water which is left uncovered and then is heated does not become permitted, but remains subject to the law. Unlike in the preceding cases, this liquid still is deemed to be water. Nehemiah, however, should not agree, for he holds (I) that heat

destroys venom. Q-R assumes that a snake will not drink from water which is boiling.

A. *M^eśh w*: A snake was found dead in a vat of wine.
(w) They came and asked R. Judah b. Baba' [to rule on whether or not the wine was forbidden] and he declared the vat permitted for them.

B. Wine which still is fermenting (*yyn twss*)--

C. as long as it is fermenting, it is not liable to [the law of] uncovered liquids.

D. And how long [after its manufacture is wine deemed still to be] fermenting?

Three days.

T. 7:15 (y. Ter. 8:6; B-D: b. Ta. 30a, b. San, 70a, b. A.Z. 30b)

Judah b. Baba, A, says we may assume the snake already was dead when it fell into the vat. It therefore could not deposit venom in the wine (see Lieberman, TK, I, p. 416). It is unclear, however, why the wine in the uncovered vat is not in all events forbidden.²⁵

I. A. An [open] bottle (*lgyn*) [filled with liquid] which they placed in a chest, a strong box, or a cupboard (V: *'lpsnh*; E: *płsqr*; y. Ter. 8:5: *mgdl*; see Lieberman, TK, I, p. 416, and Jastrow, p. 1183)--

lo, this is forbidden [on account of the law of uncovered liquids].

B. [If] he checked them [i.e., the storage places, to see that no snake was in them and then] placed (read with E: *hnyh*) [the bottle of liquid, in the storage place]--

lo, this is permitted.

II. C. A bottle in its case (E: *tyqw*)--

D. lo, it is forbidden.

E. [If] he inspected it [i.e., the case] and then placed it [i.e., the bottle, in it]--

lo, this is permitted.

III. E. [If] he placed it in a pit,

F. even if it is a hundred *'ammah* deep--

G. lo, this is forbidden.

IV. H. [If] he placed it in a turret (*mgdl*)

I. even if it is a hundred *'ammah* high--

J. lo, this is forbidden.

- V. K. [If] he placed it in a store-room (*trql̄lyn*),
 L. even if it is painted (*mpwyyh*),
 M. even if it is whitewashed (*mšwyyd*)--
 N. lo, this is forbidden.
 O. [If] they cover [the bottle], but do not seal [it],
 P. (Read with y. Ter. 8:5 and Lieberman, TK, I, p.

417:)

it is forbidden.

Q. But if the seal had an [open] space (V: ḥs; E: ḥss)
 in it [cf., Lieberman, TK, I, p. 417]--

lo, this is permitted.

R. How wide can the opening [in the seal, or in the neck of the bottle] be [before the bottle is subject to the law of uncovered liquids]?

S. Wide enough for the small finger of a child (*qtn*) to fit in.

T. Cooked food with teeth marks [of snakes] on it, and stalks of cabbage and anything which has moisture in it [see M. 8:6E] is forbidden [on account of the law of uncovered liquids].

U. R. Simeon b. Manasia says, "He throws out the [part with the] bites and eats the rest."

V. Mushrooms are forbidden as a danger to life.

W. [If there were] bite marks on a fig and it was made into a dried fig,

X. on a date, and it was made into a dried [date]--

Y. both of these are permitted [for consumption].

T. 7:16 (C-E, O-Q: y. Ter. 8:5)

The five cases at A-K make a single point. Unless we have solid evidence to the contrary, we assume that a snake had access to an uncovered bottle. This same point is made in the formally autonomous continuation of the pericope, P-Q+R-S. A container must be tightly sealed if it is not to be subject to the law of uncovered liquids. A simple cover is not permissible, for we assume that a snake can lift a corner of it and drink from the liquid. An opening the size of a child's finger, R-S, does not allow a snake to place its head in the bottle in order to drink.

T-Z states in its own language the law of M. 8:6E. Food which is moist is subject to the law. Simeon b. Menasia, U, disagrees, holding that the venom does not contaminate all of the food, but only the area around the bite.²⁶ V is interpolated,

possibly because it shares with M. 8:6G the phrase "as a danger to life." It has nothing to do with cases of snake bites, and so does not belong.²⁷ When the produce at W-Y is dried, the venom is removed with the rest of the moisture. The produce therefore becomes permitted for consumption.

A. [If] one saw a bird peck at a fig, or a mouse (^e*kbr*) gnaw at a watermelon--

B. both of these are forbidden [on account of the law of food with snake bites on it (M. 8:6)].

C. For I say, "Lest they [already] had (Lieberman supplies *hyw* with E and ed. princ.) snake bites on them."

D. [As for] a watermelon at which [the mouse] gnawed, and ten men [later] ate from it [without being poisoned]--

E. the rest [of the watermelon], lo, this [still] is forbidden.

F. And so [in the case of] a jug [of wine] which was left uncovered, and [later] ten men drank from it [without being poisoned]--

G. the rest [of the wine], lo, this is forbidden.

T. 7:17 (A-C: y. Ter. 8:5, b. Hul.

9a-b; D-G: y. Shab 1:4)

Food and liquids are forbidden on account of venom even if there is some evidence that they are safe for consumption. The marks on the fig or watermelon, A-B, seem to derive from a bird or mouse, and not from a snake. We assume that these creatures gnawed at a place on the produce at which a snake already had bitten (C). Even though individuals who eat forbidden food or liquid (D-E, F-G) are unaffected, the rest of the same food or liquid remains forbidden, lest there is venom in the portion which has not yet been consumed (y. Shab. 1:4).

8:8-12

A. A jug of [wine in the status of] heave-offering concerning which there arose a suspicion of uncleanness (*spq twm'h*)--

B. R. Eliezer says, "If it was lying in an exposed place, he should place it in a concealed place.

C. "And if it was uncovered, he should cover it."

D. R. Joshua says, "If it was lying in a concealed place, he should place it in an exposed place.

E. "And if it was covered, he should uncover it."

F. Rabban Gamaliel says, "Let him not do anything new with it."

M. 8:8 (b. Bek. 33b, y. Shab. 1:8;

A-E: b. Pes. 15a 20b)

G. [As to] a jug [of wine in the status of heave-offering] which broke in the upper vat, and the lower [vat] is unclean--

H. R. Eliezer and R. Joshua agree (*mdh*) that if he can save from it a fourth in a state of cleanness, he should save [it].

I. But if not:

J. R. Eliezer says, "Let it go down [into the lower vat] and be made unclean.

K. "But let him not make it unclean with his hand [i.e., through his own actions]."

M. 8:9 (b. Pes. 15a, 20b, b. Men.

48a-b)

L. And so [in the case of] a jug of oil [in the status of heave-offering] which was spilled--

M. R. Eliezer and R. Joshua agree that if he can save from it a fourth in a state of cleanness, he should save [it].

N. But if not:

O. R. Eliezer says, "Let it run down and be soaked up [in the ground].

P. "But let him not soak it up with his hands."

M. 8:10

Q. But as regards both of these cases (lit.: But on this and this):

R. Said R. Joshua, "This is not heave-offering concerning which I am warned against rendering unclean.

S. "Rather, [it is heave-offering which a priest is warned] against eating."

T. And "not to render it unclean." How so? [I.e., in what case must the individual not render heave-offering unclean?]

U. [If] one was walking from place to place, and loaves [of bread] in the status of heave-offering were in his hand--

V. [if] a gentile (all MSS.: *nkry*; printed edition: *c_wbd kwkby*)²⁸ said to him, "Give me one of them and I shall make it unclean, and if not, lo, I shall make all of them unclean"--

W. R. Eliezer says, "Let him make all of them unclean, but let [the Israelite] not give him [i.e., the gentile] one of them that he make it unclean."

X. R. Joshua says, "Let him place one of them before him, on a rock."

M. 8:11

Y. And so [in the case of] women to whom gentiles said, "Give [us] one of you that we may make her unclean, but if not, lo, we will make all of you unclean"--

Z. let them make all of them unclean, but they should not hand over a single Israelite.

M. 8:12

It is the obligation of the householder to protect heave-offering in a state of cleanness, for only in such a state may the offering be eaten by a priest. At issue here is the point at which the householder may consider his responsibility discharged, such that he no longer need concern himself with the cleanness of the priestly gift. In normal circumstances the individual's responsibility ends either at the point at which he presents the clean heave-offering to a priest or, alternatively, when the offering perchance is made unclean. In either case, the householder no longer has control over the cleanness of the offering, and so is not expected to protect it. Mishnah characteristically states its problem through a case of doubt. Heave-offering either is suspected of being unclean, or is in a situation in which the householder no longer can prevent it from being made unclean. In both cases the heave-offering ultimately will not be eaten by a priest. Since, however, it is not yet certainly unclean, and still is in the control of the householder, we must ask whether that individual is responsible to protect it. The larger issue to be addressed is whether or not he is culpable if, through his own actions, he hastens the priestly gift's becoming unclean.

When matters are stated in this way, it is clear that the issue here is the same as at M. 8:1-3, specifically, the circumstances under which an individual is or is not blameworthy for performing actions which normally are forbidden. Eliezer and Joshua's positions are consistent with what has come before. Eliezer, first, is concerned only with the objective facts of the individual's original responsibility. If, as in the present case, the householder is responsible for protecting heave-offering until it is in the hands of a priest or is certainly unclean, then he is

culpable for any actions by which he renders the heave-offering unclean before these conditions are met. The fact that the heave-offering is suspected already of being unclean, or will in all events become unclean, is of no concern to Eliezer. The householder's responsibility remains what it originally was, to protect the heave-offering in cleanness. Unlike Eliezer, Joshua takes into account the actual impact of the actions of the householder. Joshua holds that the householder does no wrong if through his own actions he does what is in all events inevitable. In the present case, no matter what the householder does, the heave-offering ultimately will not be eaten by a priest. Joshua therefore declares that the householder is not culpable if he himself renders the priestly gift unclean.

We turn now to the specifics of the pericopae before us. M. 8:8A-E is a formally unitary and balanced dispute, setting out the positions of Eliezer and Joshua. Even though heave-offering which is suspected of being unclean may not be eaten by a priest, Eliezer holds that the householder must continue to protect it against being made certainly unclean. Joshua's view is that the householder no longer is accountable for the heave-offering and therefore may take actions to assure that it becomes certainly unclean. The heave-offering then may be destroyed, assuring that it will not accidentally be consumed by a priest.²⁹ Gamaliel, F, presents a mediating position, which shows no formal similarity to the balanced views of Joshua and Eliezer and, indeed, does not recur in these materials. Gamaliel holds that the individual must leave the doubtfully unclean heave-offering as it is. He should not protect from uncleanness what already may not be consumed by a priest. He may not, however, take actions designed to render the heave-offering certainly unclean.

M. 8:9 and M. 8:10 are formally and substantively parallel, providing two examples of essentially the same case. Heave-offering has been spilled and is about to become unclean (G) or to be soaked up in the ground (L). The householder, however, cannot save the priestly gift without himself rendering it unclean. As we would expect, Eliezer, M. 8:9J-K and M. 8:10/O-P, states that the householder must let the heave-offering become unclean or be soaked into the ground by itself, but himself may do nothing improper with the offering.³⁰ Joshua's position is lacking from both pericopae. Instead there is an agreement-clause at M. 8:9H and M. 8:10M, and a general statement of Joshua's view at M. 8:11R-S. The question is whether or not these materials in

fact reflect the opinion which Joshua holds at M. 8:11R-S. When we turn to the agreement-clauses, we see that they do not reflect his particular view. They tell us only what should be obvious to all parties. If the householder can save the heave-offering in cleanness, he should do so.³¹ R-S, on the surface, does not help matters. Joshua's statement there is not even formulated as a response to Eliezer's view. When examined more closely, however, R-S does, in fact, counter Eliezer's view, and is compatible with Joshua's position at M. 8:8. Joshua states that the issue here is the prevention of the consumption of the heave-offering. This being the case, Joshua holds that what the householder does to the heave-offering itself does not matter.³²

In light of these considerations, we see that the problem here is not the content of Joshua's statement, but the reason that it has been formulated in the somewhat elliptical way that it is before us. The reason for this formulation becomes clear when we turn to the case at M. 8:11U-X. The case is complete in itself, and formally separate from the preceding. Yet it is attached to Joshua's opinion with T, which cites Joshua's statement at R. It appears, therefore, that R-S+T has been formulated in such a way as to tie to the preceding construction a further set of cases. The artificial nature of the link is clear, when we see that U-X does not continue Joshua's statement. While T leads us to expect an example in which Joshua holds that the householder must protect the cleanness of heave-offering, this is not what U-X presents. U-X, rather, is a replay of the disputes which have gone before, with the positions of both Eliezer and Joshua remaining exactly the same. Eliezer's view is that the householder may not bear responsibility for the gentile's making unclean a loaf of bread in the status of heave-offering. Should the gentile make all of the loaves unclean, that is not the householder's fault. Joshua, likewise, is consistent with his previous position. Since the loaves are sure to be made unclean, the householder is no longer responsible for them. He may place a loaf on a rock, where assuredly the gentile will make it unclean. This is comparable to M. 8:8, where Joshua has the householder place the heave-offering in an open place, where it will be rendered certainly unclean.

Although stated anonymously, M. 8:12 gives another example of Eliezer's view. Despite the extenuating circumstances, the women may not take responsibility for the rape of one of their number. They must, rather, allow each one of themselves to be raped.³³

G. R. Eleazar says, "[As to] an individual who was coming along the road and had in his hand figs, grapes or cucumbers [in the status of heave-offering] which could not reach the city [before spoiling]--

"he should throw them into the ravine or into thorn bushes.

H. "[If] he was passing among gentiles or Samaritans and had with him foods (*dbrym*) [in the status of heave-offering] which could not reach the city [before spoiling],

"he should place them on a rock" [see M. 8:11].

I. R. Yose says, "He should place them in his sack until they stink [and only then may he leave them for others to find]."

T. 1:14b³⁴

T. supplements M. 8:11's dispute on the householder's responsibility to protect heave-offering from being made unclean. Eleazar,³⁵ G, has the position Eliezer holds at M. 8:11W. While the householder may abandon heave-offering which is going to spoil, he must ensure that it will not be eaten or made unclean by another person. He therefore hides the priestly gift in a ravine or thorn bush. H is problematic, for it assigns to Eleazar the position held in M. by Joshua, and contradicts the statement at G. Now Eleazar states that the householder may leave the heave-offering on a rock, where it will be taken by a gentile or Samaritan.³⁶ Yose, I, rejects both G and H. He holds that the heave-offering must be protected until it actually is spoiled and no longer is fit for use as food.

A. They do not mix with one another [batches of heave-offering] of suspended status of uncleanness (*tlwywt*).

B. But they do mix heave-offering which was rendered unclean by an offspring of uncleanness with heave-offering which was rendered unclean by a Father of uncleanness,

C. even though they [thereby] add uncleanness to its [i.e., the heave-offering rendered unclean by an offspring's] uncleanness.

D. If he declared (*'mr*) of [heave-offering of] suspended status of cleanness, "It is clean," lo, this is [deemed to be] clean.

E. If he said, "Lo, I am going to leave it [i.e., the heave-offering of doubtful status] until I can ask of its status," lo, this is unclean.

F. [If] a suspicion of uncleanness was born concerning a loaf [of bread] and [this happened while] it was in his hand [see Lieberman, TZ, p. 148],

G. or [if] a suspicion of uncleanness [was born to it while it was] on top (read with E: ^eל; V reads ^se^eל) of a table--

H. he takes it [i.e., the loaf] and places it in a concealed place [see M. 8:8B].

T. 7:18 (See M. Pes. 1:6-7, T. Pes. 1:5; E: see T. Toh 8:14)

The pericope is in three parts, A-B+C, D-E and F-H, all supplementary to M. 8:8-12's discussion of the proper treatment of heave-offering which either is unclean or is suspected of being unclean. Heave-offering which is suspected of being unclean, we know, may not be consumed. Even so, according to A, several batches of such heave-offering may not be mixed together. This is because one of the batches may in fact contain clean heave-offering. In mixing it with the other batches the householder himself would render unclean this clean heave-offering. This clearly is Eliezer's view. Joshua, M. 8:8D-E and M. 8:11R, who holds that the householder need not continue to protect from uncleanness heave-offering which already may be unclean, will hardly agree.³⁷ At B, since the heave-offering surely is unclean and must be destroyed, it is of no concern that the householder raise its level of uncleanness. Eliezer, as well as Joshua, can agree to this.

The point at D-E is made through the contrast between the two cases described. The decisive factor in the ultimate status of cleanness of the suspect heave-offering is the householder's attitude towards that heave-offering. If he declares it to be clean and therefore protects it as such, the heave-offering indeed is deemed to be clean. If, however, the householder leaves the heave-offering unprotected and goes to ask of its status, it immediately must be considered unclean.³⁸ F-H states anonymously the view of Eliezer, M. 8:8B.

A. [As to] a jug [of wine in the status of heave-offering] which broke in the upper vat, and in the lower vat is unclean [wine] [= M. 8:9G, with slight variations]--

B. all agree that it should go down [into the lower vat] and impart to [all of the wine] the status of heave-offering.

C. *But he should not make it unclean* (read *ytm'ynh* with E; V, ed. princ. read *ydm^cnh*) *with his hands* [= Eliezer, M. 8:9K].

T. 7:19

T. cites the opinion of Eliezer, M. 8:9K, and claims that Joshua agrees. This clearly is not the case, as M. 8:11Q-S explicitly states.³⁹

A. [As to] a group of men to whom gentiles said, "Give us one of your number that we may kill him, and if not, lo, we will kill all of you"--

B. let them kill all of them, but let them not give over to them a single Israelite [see M. 8:12].

C. But if they singled one out,

D. such as they singled out Sheba the son of Bichri [2 Sam. 20]--

E. let them give him to them, that they not all be killed.

F. Said R. Judah, "To what case does [the rule of A-B] apply?

G. "To the case in which he [i.e., the one who would be handed over] is inside and they [i.e., the killers] are outside.

H. "But if he is inside and they are inside, since he is [in all events] going to be killed, and they [i.e., the other Israelites] are going to be killed, let them give him over to them so that they all not be killed."

I. And so it says [in Scripture], *Then the woman went to all the people in her wisdom* (2 Sam. 20:22).

J. She said to them, "Since he is going to be killed, and you are going to be killed, give him to them that you all not be killed."

K. R. Simeon says, "Thus she said to them, 'Anyone who is a rebel against the kingship of the House of David is liable to execution.'"

T. 7:20 (A-E+K: y. Ter. 8:10)

A-B's case and ruling are parallel to those found at M. 8:12.⁴⁰ C-E, F-H and I-J+K all clarify that rule. If the gentiles single out for death a particular Israelite, the other Israelites may hand him over, and are not held responsible for his murder. Judah's statement, which follows, is out of place, for it ignores C-E and refers directly to A-B.⁴¹ Judah's point, however, is the

same as that of C-E. If it is certain that a particular one of the Israelites is going to be killed, he may be handed over, and the others saved. I-J is clear, giving the principle which stands behind C-E. Simeon, K, rejects the case of Sheba the son of Bichri (2 Sam. 20) as evidence for the proposition of C-E. Simeon claims that Sheba was killed because he was a traitor and deserving of death, not because he was singled out.

CHAPTER NINE

TERUMOT CHAPTER NINE

The theme of the chapter is the status of a crop grown from seed of heave-offering, tithes, or other produce subject to special restrictions. At issue is whether or not such a crop shares the status of the seed from which it was grown. If, for instance, seed of heave-offering is planted, we must determine whether or not the crop which results likewise has the status of heave-offering. If so, it may be eaten only by a priest. A like case is that in which produce which has been made liable to the separation of tithes, but which has not been tithed, is planted. We must specify whether such a crop is subject to tithes from the beginning of its growth, or whether, like crops grown from tithed seed, it incurs this liability only at the time of its harvest and processing. The chapter offers two independent, and contradictory, notions of the conditions under which a crop is deemed to have the status of the seed from which it was grown. The first is at M. 9:1-4, the second, at M. 9:5-7.

According to M. 9:1-4, what grows from heave-offering has the status of heave-offering and may be eaten only by a priest. What grows from other agricultural offerings, or from produce subject to special restrictions (e.g., produce which is liable to the separation of tithes), however, does not share the status of the original seed. The reason for this distinction between heave-offering and other types of produce is clear when we specify the main difference between heave-offering and these other types of produce. The difference is that while heave-offering is consecrated, other agricultural offerings and categories of produce are not. An individual who plants heave-offering thus misuses what is holy and intrinsically cannot be eaten by him. This consideration does not apply to other categories of produce, which, while restricted to consumption by specific persons or in special circumstances, are not holy. Since any produce may be used for the same purpose, the householder may replace with other produce the seed which he planted. There is no reason now that he may not eat that seed or, indeed, the crop which grows from it.

The second theory of the chapter, stated at M. 9:5-7, is that whether or not the crop shares in the status of the seed from which it grew is determined on the basis of the nature of that seed, and not by the type of restriction to which it is subject. If the

seed constitutes part of the crop which grows from it (as in the case of onions, M. 9:6F), the crop has the same status as was held by the seed.¹ According to M. 9:5-7, this applies to heave-offering as well as to other produce subject to special restrictions. If, however, the seed is not integral to the crop, but is destroyed in the growth process, then even in the case of heave-offering, that crop does not have the status which originally was held by the seed. The crop is deemed a separate entity, and distinct from that seed.

As is usual, the fact that M. contains two sets of divergent materials on the same topic is indicated through the language and redactional placement of the chapter's pericopae. Chapter Nine is composed of two parallel constructions, each delineating one of the theories just reviewed. In each unit, M. begins with the rules for heave-offering (M. 9:1+2-3; M. 9:5) and continues with the law as applied to other types of produce (M. 9:4; M. 9:6H-J). M. 9:7K-N concludes the whole with a special case regarding heave-offering. Each of the chapter's units likewise has its own particular language for indicating the status of the crop in question. M. 9:1-4 uses *heave-offering/common food*, while M. 9:5-7 has *permitted [for consumption as common food]/forbidden*. A clear perspective on the formulation and redaction of M.'s materials thus is fundamental to a proper understanding of the substance of the law.

The central principles of the chapter are stated anonymously. We do, however, have an important attribution to Tarfon (M. 9:2) of an issue clearly dependent upon the principle of M. 9:1-4. In T. Judah and Meir (T. 8:1) and Simeon (T. 8:3) attest other secondary considerations regarding that same theory. Discussion of the theory of the second part of the chapter is attested only at Usha. Attributions are to Judah (M. 9:6, 7), Simeon (alt.: Judah; T. 8:4) and Simeon b. Eleazar (T. 8:7).

9:1-3

A. One who sows [as seed grain in the status of] heave-offering--

B. if [he does this] unintentionally, he should plough up (*ywpk*) [the seed].

C. But [if he does it] intentionally, he must leave [it] to grow.

D. (Eight MSS. add: And) if [the grain] reached a third of its growth (*hby'h šlyš*)--

E. whether [he sows it] unintentionally or intentionally, he must let [it] grow.

F. But in [the case of] flax [in the status of heave-offering]--

G. [even if he sows it] intentionally, he must plough [it] up.

H. And [the field in which the heave-offering was sown] is subject to [the laws of] (1) gleanings, (2) forgotten sheaves and (3) [produce growing in] the corner of a field.²

M. 9:1

I. And poor Israelites and poor priests glean [in such a field].

J. And the poor Israelites sell their portion to the priests at the price of heave-offering;

K. and the money [which they receive] is theirs [i.e., the poor Israelites'].

L. R. Tarfon says, "Only poor priests should glean,

M. "lest they [i.e., the poor Israelites] forget and put [the produce they glean] in their mouths."

N. Said to him R. Aqiba, "If so, only clean [priests] should glean."

M. 9:2 (H-J: y. Ter. 6:1)

O. And [the field] is subject to (4) tithes and (5) poorman's tithe.

P. And poor Israelites and poor priests take [the poorman's tithe].

Q. And the poor Israelites sell their [portion] to the priests at the price of heave-offering;

R. and the money [which they receive] is theirs [i.e., the poor Israelites'].

S. He who threshes by hand [the produce grown in such a field] is praiseworthy.

T. But he who threshes [it] with cattle (*hdš*), How should he do this [so that the cattle does not eat the grain which has the status of heave-offering]?

U. He hangs a feed bag from the neck of the beast and places in it [unconsecrated produce of] the same kind [as is being threshed].

V. It turns out that he does not muzzle the animal, but [also] does not feed it heave-offering.

M. 9:3 (T-U: T. B.M. 8:11, b.

B.M. 90a)

The three pericopae present an extended essay on the rules for heave-offering which is planted as seed. The single principle which emerges is that the crop grown from such seed is treated as heave-offering and must be eaten by a priest (see M. 9:4A). The crop, however, still is subject to the agricultural restrictions which normally apply to produce growing in a field. The problem, then, is to establish procedures for handling produce which is at the same time subject to two sets of restrictions, those applied to sanctified produce, and those pertinent to all produce which grows in a field. While M. 9:1-3 are not a formal unity, they do deal in logical order with three questions which arise in this situation. M. 9:1 opens with the question of the rights and responsibilities of the householder who has planted heave-offering. A formal doublet at M. 9:2+3/O-R next discusses the problem of the liability of the field to the agricultural obligations which apply at the time of the harvest, e.g., gleanings. The problem is that while such things as gleanings normally are collected by all poor people, in the present case, they may be eaten only by priests. M. 9:3S-V concludes with the next logical step. Once the produce has been grown and harvested, it must be processed. The processing of sanctified produce, we shall see, has its own particular problems.

The rules at M. 9:1 depend on the notion that a crop grown from seed in the status of heave-offering itself has the status of a priestly gift.³ The point here is made through the contrast between B and C. If the householder accidentally plants heave-offering, he is allowed to uproot the crop. In this way he avoids the considerable loss incurred in cultivating a crop which has the low market value of heave-offering. If he planted the heave-offering intentionally, the individual is not given the option of correcting his wrong action (y. Ter 9:1). He must allow the crop to grow. Later he will have to sell it to a priest, the only person who may eat this food. D-E and F-G each augment the rule of A-C, giving us three rules in all. At a third of its growth, the crop is deemed food. At this point it has the status of heave-offering. The farmer may not now plough it up, for he thereby would destroy what already is sanctified and ready for consumption by a priest. Flax, F-G, has its own rule because of the particular characteristics of that plant.⁴ Its seeds are a food, and therefore can take on the status of heave-offering. The more valuable part of the plant, however, is used to make linen. This is not a food and so even when grown from consecrated seed, remains

unconsecrated. Farmers who plant flax seed which has the status of heave-offering therefore would be able to use the plant fibers for their own benefit by making linen. In order to prevent this, they are required to plough up the plants.

H-K and O-R are formally balanced units making a single point. A crop grown from seed in the status of heave-offering is itself deemed a priestly gift. Still, this crop is subject to the agricultural restrictions which normally apply to produce cultivated by an Israelite in the Land of Israel. The non-priests who have the right to collect that which is left for the poor (H), or is designated as tithe (O), simply sell their portion to a priest. The dispute between Tarfon and Aqiba, L-N, is clear, bearing an exegetical gloss at M.⁵ I cannot, however, account for the redactional placement of the dispute, for Tarfon's consideration should apply to tithes, listed at O-R, as well as gifts to the poor, H-K.

S-V depends on the rule of Dt. 25:4, which states that an ox being used to tread grain must not be muzzled. This is a problem here, for the animal likewise may not be allowed to eat the produce (M. 11:9). The solution to this problem is stated at V.

A. "One who sows [as seed] flax in the status of heave-offering--

B. "before it has reached a third of its growth, he should plough [it] up.

C. "After it has reached a third of its growth, he must let [it] grow"--the words of R. Meir.⁶

D. R. Judah says, "[If he planted it] unintentionally, before it has reached a third of its growth, he should plough [it] up.

"After it has reached a third of its growth, he must let [it] grow.

E. "[And if he planted it] intentionally, in either case, he should plow [it] up" [see M. 9:1F-G].

T. 8:1

T. applies to the law of flax considerations of the stage of growth of the crop, and the intention of the farmer who originally planted it, thus filling out M.'s discussion. Meir's theory (A-C) is that like all other crops, once the flax reaches the stage at which its seeds are considered food, it is sanctified as heave-offering and may not be destroyed. Judah disagrees, stating that this applies only if the farmer unintentionally planted the

seed. If he intentionally planted the flax, he must in all events plow it up, lest he make use of the non-edible fiber. While this fiber itself does not have the status of heave-offering, by using it, the individual derives benefit from the sanctified seed which he wrongly planted.

A. *But he who threshes [produce grown from seed in the status of heave-offering] with cattle, How should he do this [so that the cattle does not eat the grain, which has the status of heave-offering]?*

B. *He brings a feedbag and hangs it from the neck of the beast and places in it [unconsecrated produce] of the same kind (read with E: m'wtw hmyn; v reads: hwlyn; ed. princ. reads: hwlyn m'wtw hmyn) [as is being threshed] [= M. 9:3T-U].*

C. R. Simeon says, "He places in it vetches,

D. "for they are of better quality than all [other produce fed to cattle]."

T. 8:3

Simeon, C-D, disputes the rule of M. 9:3T-U, cited at A-B. He holds that the householder must provide the beast with produce of better quality than the heave-offering which it is threshing. This assures that the animal is not being mistreated through the use of the feedbag.

9:4

I. A. That which grows from [seed in the status of] heave-offering has the status of heave-offering.

II. B. And what grows from [the seed of produce] that grew from [seed in the status of] heave-offering is unconsecrated.

III. C. But [as regards] (1) produce which is liable to tithes, (2) first tithe, (3) after-growths (*spyhy*) of the seventh year [of the sabbatical cycle], (4) heave-offering [separated from produce grown] outside of the Land of Israel, (5) mixtures of heave-offering and unconsecrated produce and (6) first fruits--

that which grows from them is common food (*hwlyn*)⁷ [i.e., does not have the same status as the seed from which it grew].

IV. D. That which grows from [seed] which is dedicated [to the Temple] or second tithe is unconsecrated.

E. And he redeems (B, C, and N read: they redeem) them [i.e., the seed] when they are sown.⁸

M. 9:4 (y. Ned. 6:4; A-C: y. Bik. 2:2, y. Sheb. 6:3; A-B: b. Shab. 17b, b. Pes. 34a, b. Ned. 60a, see y. Ter. 6:1)

The pericope continues the topic of M. 9:1-3, exploring the question of the status of consecration of crops grown from seed of heave-offering, or from other seed of special status. The principle here is that that which grows from sanctified seed itself is sanctified (A). What grows from produce which, while subject to certain restrictions, is not sanctified, or which can be redeemed, however, does not share the status of that from which it grew (B-D). The pericope is unitary, composed of four units containing the same apodosis, *gdwly (hn)...trwmh/hwlyn*. These units form three substantive sections. A-B, on heave-offering, sets the stage for what follows, and accounts for the redaction of this pericope in our tractate. C is on crops which grow from other sorts of restricted produce, and D+E is on the status of produce which grows from seed which, although consecrated, can be redeemed.

The point of the pericope is made by the contrast between A and B. That which grows from heave-offering is consecrated and must be eaten by a priest.⁹ As M. 9:1-3 has stated, however, unlike true heave-offering, this crop likewise is subject to agricultural restrictions which apply to unconsecrated produce. The crop, which thus does not have the same status as true heave-offering, itself does not produce a consecrated crop.¹⁰ C applies this same logic to types of produce which, although subject to a special set of restrictions, are not consecrated. Like that which grows from seed that grew from heave-offering, the crop which grows from these things does not share the status of the seed from which it grew. The reasons that the list's specific items are included here are as follows. Untithed produce (C1) contains offerings and therefore may not be consumed before it is tithed. Since the offerings have not yet been designated, however, they are not deemed sanctified. If untithed seed is sown, it therefore does not produce a crop which must be tithed at once. Neither first tithe (C2) nor after-growths of the seventh year (C3) have a status of consecration,¹¹ and so do not produce crops which have their same status. Heave-offering separated from produce grown outside of the Land of Israel (C4) does not have the status of

true heave-offering (M. 1:5) and for that reason does not produce a sanctified crop. Unconsecrated produce into which a sufficient quantity of heave-offering falls (C5) must be eaten by a priest. The batch, however, is not true heave-offering and therefore does not produce a sanctified crop. First fruits (C6) do not have a status of consecration and, therefore, if planted as seed, do not produce a sanctified crop.

D gives the opposite of what we would expect, stating that what grows from produce dedicated to the Temple, or from second tithe, both of which are deemed holy, is unconsecrated. The rule is corrected by, and makes sense only in light of, its gloss at E. The farmer who plants either of these types of consecrated produce simply redeems the seed, leaving it in an unconsecrated status. As we would expect, the crop which results therefore is unconsecrated.

A. One who sows the added quantity of heave-offering [which he separates in a case in which his initial separation was not of sufficient quantity (see M. 4:3)],

B. or [who sows] the *se'ah* [of heave-offering] taken up [for a priest] from a hundred [*se'ahs* of unconsecrated produce into which a *se'ah* of heave-offering fell (see M. 5:2-3)]--

C. that which grows from these things is unconsecrated.

D. *That which grows from [seed] which is dedicated [to the Temple] [= M. 9:4D]--*

E. [non-priests who unintentionally eat it] are not liable to the principal and [added] fifth.

F. And they do not pay out from this [produce] the principal and [added] fifth owed for a different batch [of produce dedicated to the Temple which was eaten by a non-priest],

G. except according to a calculation [of the percentage of original consecrated seed which is an integral part of the produce].

H. And it is liable to [the separation of] dough offering.

I. Hands [which have not been cleaned of their usual second degree uncleanness] and one who has immersed on the self-same day do not render [the produce] unfit [for consumption],

J. just as they [do not] render unconsecrated produce unfit [see T. Toh. 1:6].

T. supplements M. 8:4's rules on the status of consecration of crops which grew from seed subject to various restrictions. The point is the same as that of M. If the seed is not sanctified, that which grows from it has no special status, and as T. now adds (D-J), is subject to the same rules that apply to unconsecrated produce. The types of heave-offering listed at A and B do not have the status of true heave-offering (see above, M. 4:3, and M. 5:2-3).¹² D-J is self-evident on the basis of the rule of M. 9:4D+E. What grows from the seed of produce dedicated to the Temple does not have a consecrated status.

A. [As regards a *litra'* of first tithe which was planted [as seed] and, lo, there is in [the grown crop] about ten *litra's* [of produce; see M. 9:4C2]--

B. [the crop] is liable to [the separation of] heave-offering, first tithe and second tithe.

C. And [as regards] the first tithe which is in it [i.e., the first tithe which he separates from the grown crop], he [also] designates it heave-offering of the tithe (follow Lieberman in reading *trwmt m^cśr*; V and E read *trwmh wm^cśr*) for the first tithe which he [originally] planted.

T. 8:5 (see b. Ned. 58b)

D. [As regards] a *litra'* of second tithe which was planted and, lo, there is in [the grown crop] about ten [*litra's* of produce]--

E. [the crop] is liable to [the separation of] heave-offering, first tithe and second tithe.

F. And he goes and redeems the second tithe which he [originally] planted [see M. 9:5D-E].

T. 8:6

T. supplements M. 9:5C-E's laws, which state that crops grown from seed in the status of first tithe or second tithe do not have the status of these offerings. T.'s point is that since the crop has no special status, the usual agricultural offerings must be separated from it. According to C, the householder also must designate the heave-offering of the tithe required for the first tithe which he originally planted. Thus, all of the required offerings are paid. D-F clarifies the point of M. 9:4D-E. An individual who sows seed in the status of second tithe redeems the seed. The crop which grows from the redeemed seed is unconsecrated.¹³

9:5

A. [If there are] a hundred garden-beds (*lgnh*) [planted] with [seed in the status of] heave-offering and one [planted] with unconsecrated [seed, but it is not known which contains the unconsecrated seed],

B. all are permitted [for consumption as unconsecrated food] in the case of a kind [of produce] the seed of which disintegrates.

C. But in the case of a kind the seed of which does not disintegrate,

D. even if there are a hundred beds [sown] with unconsecrated seed and one [planted] with heave-offering,

E. all of them are forbidden.

M. 9:5

According to the present pericope, the decisive factor for determining the status of consecration of a crop grown from sanctified seed is the nature of the seed. If the seed is not an integral part of the produce which grows from it, then, according to A-B, the produce does not have the consecrated status of the seed. If, however, the seed is integral to the crop, as in the case of onions (M. 9:6E), the crop is sanctified (C-E). This principle clearly is not known to, and does not agree with, the law as stated at M. 9:1-4, which holds that what grows from heave-offering always is consecrated.¹⁴

The problem of the confusion of garden-beds containing consecrated and unconsecrated seed is irrelevant to the principle just stated. It serves only to emphasize the fact that the status of the crop depends solely on the nature of the seed from which it grows, and not on the likelihood that any single garden-bed actually contains heave-offering. Thus at A-B, even though the majority of garden-beds contain consecrated seed, the crop of none of them is deemed consecrated. At C-E, on the other hand, because of the presence of a single bed planted with heave-offering, all of the garden-beds are deemed to have a sanctified status.

A. [*If there are*] a hundred garden-beds [planted] with [*seed in the status of*] heave-offering and one [planted] with unconsecrated [seed, but it is not known which contains the unconsecrated seed],

B. *all are permitted in the case of a kind [of produce] the seed of which disintegrates.*

C. *But in the case of a kind the seed of which does not disintegrate* [= M. 9:5A-C]--

D. [the consecrated produce in the one garden-bed] is not neutralized.

E. For [produce in the status of heave-offering which still is in the] ground is not neutralized in a hundred and one parts [see M. 4:7].

F. If he picked [all of the produce]--
[the heave-offering] is neutralized,

G. providing that he did not purposely pick it [in order to have the heave-offering neutralized].

H. R. Simeon (E reads: Judah) says, "Also: if he purposely picks [the produce, the heave-offering] is neutralized in a hundred and one parts."

T. 8:4 (see M. Or. 1:6, b. Git. 54b)

T. cites M. 9:5 and offers a reason for its rule, an example of T. in its best capacity as commentator on M. M. 9:5C-E has one *se'ah* of heave-offering planted among a hundred *se'ahs* of unconsecrated produce. In such a case we might expect the law of neutralization (M. 4-7) to be invoked, such that the heave-offering loses its status of sanctification. T. states that the law of neutralization does not apply to produce growing in the ground, and therefore, as M. states, the produce in all of the garden-beds must be treated as heave-offering. F-H offers the next logical question, the status of the produce after it is picked. At this point the law of neutralization certainly will apply. G, like Yose at T. 5:10R, holds that if the individual purposely picks the produce in order to cause the heave-offering to be neutralized, his actions are of no effect. Simeon (alt: Judah) holds that neutralization is a mechanical process, which occurs no matter what the intentions of the householder. This same view is attributed both to Judah and Simeon at T. 5:10Q, above, p. 154.

9:6-7

A. Produce which is subject to the separation of tithes (*tbl*)--

B. that which grows from it is permitted [for consumption as a chance meal (Bert, TYY, Rashi to b. Ned 60a), in [the case of] a kind [of produce] the seed of which disintegrates.

C. But in [the case of] a kind the seed of which does not disintegrate--

D. [even] what grows from [the seed of a crop] which grew from it is forbidden [for consumption as a chance meal, for like the seed, it is deemed subject to tithes].

E. What is a kind [of produce] the seed of which does not disintegrate?

F. [A kind] such as arum, garlic or onions.

G. R. Judah says, "Garlic is like barley [i.e., its seed disintegrates]."

M. 9:6 (A-D: b. Pes. 34a, b. Ned. 60a)

H. One who weeds alongside a gentile (all MSS.: *nkry*) [in a field of] leeks [grown from seed which has not been tithed]--

I. even though his [i.e., the gentile's] produce has the status of untithed produce,

J. [the Israelite] makes a chance meal of it [without tithing].

K. Saplings [from seed] in the status of heave-offering which became unclean--

L. if (G², C, M, O², S, Z: and) he planted them, they no longer render unclean [that with which they come into contact].

M. And [the fruit of the saplings] is forbidden for consumption [by non-priests (b. Pes. 34a, Sens, Albeck)] until he [once] trims off that fruit (*h'k'l*) [which has the status of heave-offering].

N. R. Judah says, "Until he trims off [the fruit] and does so a second time [i.e., also trims off the next crop which grows]."

M. 9:7 (J-K: b. Pes. 34a)

The unit is in three parts. A-D+E-G and H-J are on problems regarding a crop grown from seed of untithed produce. K-N then returns us to the problem of heave-offering planted as seed, thereby concluding M.'s redactional unit on that topic. A-J, first, states for untithed produce the same principle which M. 9:5 gave for heave-offering. If the seed is integral to the crop, the crop is deemed to have the same status as that seed. In this case, that means that the crop may not be eaten as a chance meal. Even before the harvest, it is held to be fully liable to the separation of heave-offering and tithes.¹⁵ If, however, the seed is not an integral part of the crop which grows from it, the crop has no

special status, and may be consumed as a chance meal. Although formally autonomous of A-G, the case at H-J follows from the facts just stated. The produce of the gentile was grown from untithed seed of a type which does not disintegrate. It therefore should not be available for consumption as a chance meal. Since produce grown by a gentile is not liable to the separation of tithes, however, the restrictions which apply to the original seed are abrogated, and the Israelite is allowed to eat the produce as a chance meal without tithing.

K-L is obvious. Once the saplings are planted in the ground, they lose their status of uncleanness, and no longer convey uncleanness to that which comes into contact with them. M-N's problem is more interesting. Since the saplings which grew from heave-offering will continually bear fruit, we must establish the point at which the fruit no longer is deemed to have the status of heave-offering. According to M the first crop of the sapling is heave-offering,¹⁶ subsequent crops are not. This is comparable to M. 9:4B's view that only the first generation of produce grown from seed in the status of heave-offering has that same status. Judah's position is that the second generation of produce likewise has the status of heave-offering.¹⁷

A. *One who weeds [a field of] leeks [grown from seed which had not been tithed] alongside a Samaritan--*

B. *even though his [i.e., the Samaritan's] produce is untithed,*

C. *[the Israelite] [follow b. Ned. 58b in omitting ל'] makes a chance meal of it [without tithing] [= M. 9:7G-I].*

D. R. Simeon b. Eleazar says, "In the year following the seventh year [of the sabbatical cycle] (*bmws'y šby^cyt*) [even if the other person is an] Israelite [who is suspected as regards his observance of the laws of the seventh year (b. Ned. 58b)],

"it is permitted [to eat his produce; see M. 9:4C2]."

T. 8:7 (b. Ned. 58b)

A-C states the rule of M. 9:7G-I for the case of a Samaritan. The point, of course, is the same.¹⁸ D is redacted here because of the similarity between its case and that of A-C. It depends, however, on the rule of M. 9:4C3, that what grows from seed of produce of the sabbatical cycle does not have a forbidden status. For this reason, the householder need not scruple that he is eating food which grew from produce of the seventh year.

C. R. Nathan b. R. Joseph says, "Onion sets (*štl̥y bš̥lym*) [which were grown from seed which was liable to the separation of tithes] are forbidden [for consumption as a chance meal] for three years [of growth] [see M. 9:7:-M].

D. "From this point and on [that which grows from them] is permitted [just as if it had been grown from a seed of produce which had been tithed]."

T. 8:8b¹⁹

T. makes for the case of what grows from untithed produce the same point that M. 9:7L-M made for the case of the crop of saplings grown from seed in the status of heave-offering. As in M., since the onion sets²⁰ continually will produce crops, we must determine the point at which those crops cease to have the status of the originally untithed seed. I am unable to determine why the crop of the onion sets should be forbidden for three years, while, as M. states, only the first crop of the saplings grown from heave-offering has the status of that offering.

CHAPTER TEN

TERUMOT CHAPTER TEN

The chapter raises a fresh problem related to cases in which heave-offering is mishandled. Now the offering is cooked, or in some other way prepared with unconsecrated produce. At issue are the conditions under which the unconsecrated produce is deemed to take on the status of the heave-offering with which it is prepared. A single principle of law is introduced, M. 10:1, and applied to a series of diverse cases, M. 10:2, 3-4, 5-6, 7-10 and 11-12. This principle states that permitted food takes on a forbidden status if it is flavored by prohibited produce. If, for instance, produce in the status of heave-offering is cooked or otherwise prepared with unconsecrated food, and imparts its flavor to the dish as a whole, the unconsecrated food is deemed to take on the status of heave-offering. Even if the householder later removes the prohibited produce from the mixture, the other food remains forbidden, for in a concrete way it has benefitted from the heave-offering.

Once the chapter's central proposition has been stated at M. 10:1, it easily can be applied to cases involving various types of forbidden produce. Alongside heave-offering, we discuss problems involving unclean produce and produce subject to other agricultural restrictions. What is of greater interest to M., however, is the application of its principle to cases describing diverse methods of preparing food. That is to say, we want to know what happens when dough is raised with forbidden leaven (M. 10:2), when permitted food absorbs forbidden vapors (M. 10:3-4), when water is flavored with heave-offering (M. 10:5+6), and when permitted food is pickled (M. 10:7-10), boiled or cooked (M. 10:11-12), with forbidden produce. These discrete units do not develop the principle stated at the outset, but simply employ it. Nor do they build on one another. Judah alone transcends this otherwise uninteresting context. He supplies his usual position, that all matters of law are judged in light of the intention of the person involved, and that intention is determined on the basis of action. He thus holds that the status of unconsecrated produce cooked with heave-offering is not determined simply on the basis of whether or not the heave-offering has flavored that unconsecrated food. The further condition required by Judah is that the householder intended to use the heave-offering to flavor his food, and that this intention be indicated by the fact that the householder purposely added the

heave-offering to the unconsecrated dish for its flavor. This view is instantiated at M. 10:1H, M. 10:3 and T. 8:9a.

Only one other view in the chapter is worthy of note. This view is expressed anonymously at M. 10:1A-D (see my comment to that pericope) and is clearly represented in the position of Aqiba, M. 10:8E+F, explained at T. 9:4b. It disagrees with the chapter's central notion that permitted food takes on a forbidden status when it is flavored by that which is prohibited. This view holds, rather, that unconsecrated food becomes forbidden when it is made into a single, homogeneous dish with prohibited produce. This occurs when the prohibited produce is cut up and then cooked with the permitted produce. In this view, thus, what is determinative is not the flavoring-power of the forbidden food, but the fact that it is inextricably mixed with the other produce. Besides this position, assigned to Aqiba, all of the attributions in this chapter are to Ushans. It appears therefore that while the discussion of cases in which unconsecrated food is prepared with heave-offering may have begun at Yavneh, whatever was there accomplished was rejected at Usha and replaced with conceptions distinctive to that age.

10:1

A. [As regards] an onion [in the status of heave-offering] which one placed [i.e., cooked] among [unconsecrated] lentils--

B. if [the onion] is whole, it is permitted [to eat the lentils as unconsecrated food].

C. But (C, L, O², K lack: w) if one cut up [the onion and then placed it among unconsecrated lentils]--

D. [it is forbidden to eat the lentils as unconsecrated food] if [the onion] imparts [to them its] flavor.

E. And [as regards] all other cooked foods (*tbšyl*)--

F. whether [the onion in the status of heave-offering] is whole or cut up,

G. [it renders forbidden the unconsecrated food with which it is cooked] if it imparts [its] flavor [to that food].

H. R. Judah permits [for the consumption of a non-priest] a pickled-fish [which was cooked with an onion in the status of heave-offering],

I. for the purpose [of the onion] is only to absorb the stench [of the fish, and not to flavor the brine].

M. 10:1 (I-J: y. M.S. 2:1)

Unconsecrated produce which is cooked with heave-offering, like that which in other ways is mixed with a priestly gift (M. 4:7-5:9), itself may become forbidden for consumption by a non-priest. At issue here are the specific conditions under which this takes place. The formal unity of the pericope belies the fact that in it are juxtaposed two different theories of these conditions (A-D, E-G+H-I). The first, expressed at A-D, is that the essential factor is whether or not the heave-offering has been cut up into the other food, and so made an integral part of the dish as a whole. The second conception, at E-G+H-I, is that the decisive factor is whether or not the heave-offering has imparted its own flavor to the unconsecrated produce. Matters are confused by the fact that the juxtaposition at the redactional level of these two distinct notions has led to a reformulation of D to read "if it imparts flavor," instead of the simple "it is forbidden" which B+C leads us to expect. Let us, then, examine the pericope in order to understand the point made by each of its parts, and the way in which these two parts have been read concurrently at the redactional level.

The point of A-E is made through the contrast between B and C, which distinguish between cases in which a piece of produce in the status of heave-offering is cooked whole with unconsecrated produce, and cases in which the heave-offering is cut up.¹ On the basis of this distinction, we easily can determine what A-D deems the decisive factor for the status of the unconsecrated food. This is whether or not the heave-offering has been made an integral part of the dish in which it is cooked. If the heave-offering is placed whole into that dish, it remains separate from the unconsecrated food, and therefore, that food remains permitted to non-priests (B). Both the unconsecrated food and the heave-offering have retained their own integrity. If, on the other hand, the householder cuts the heave-offering up into the unconsecrated produce, he makes a single dish of the priestly gift and the other food.² It should follow that even if he later attempts to remove the heave-offering from the dish, his initial act is decisive, and the unconsecrated food is forbidden for consumption by non-priests. In light of this, D is problematic. It claims that if heave-offering is cut up into unconsecrated food, the essential factor in determining the status of that food is whether or not it has been flavored by the priestly gift. This consideration is out of phase with, and indeed contradicts, the principle of B-C. If, as B-C claims, the issue is whether or not the heave-offering has been

cut up into the unconsecrated food, then taste should be of no concern. Conversely, if, as D states, what is important is whether or not the heave-offering imparts its flavor to the other food, it should make no difference whether the heave-offering is whole or cut up. It thus is clear that D introduces into A-C a second and distinct legal conception. The source of this second conception is obvious when we turn to E-G.

According to E-G, all that is important in determining the status of food which is cooked with heave-offering is whether or not the heave-offering has flavored that food.³ If it has, then even if the heave-offering is removed, the unconsecrated produce may not be eaten by a non-priest, who, by eating it, would benefit from the consecrated produce. If it is not, however, the heave-offering may be removed, and the unconsecrated dish, upon which it has had no effect, may be eaten by a non-priest. It is in light of this conception that D was formulated as we presently have it. F, likewise, is irrelevant to the case of E-I, and simply takes account of the consideration of A-D.

This brings us to Judah's qualification, H-I. Judah claims that in a case in which the heave-offering is not intended to add flavor to the unconsecrated food, it does not render that food forbidden to non-priests. For Judah what is important is not the actual effect the heave-offering has upon the unconsecrated dish, but the intention of the householder who created the mixture. As long as the householder did not intend to benefit from the heave-offering as a food substance, we take no account of the fact that it may in all events have flavored his unconsecrated dish.⁴ As we shall see, Judah holds this same position at M. 10:3.

10:2

A. [As regards] an apple [in the status of heave-offering] which one chopped up and placed in dough,

B. and [as a result the dough] was leavened--

C. lo, this [i.e., the dough] is forbidden [for consumption by a non-priest].

D. [As regards] barley [in the status of heave-offering] which fell into a well of water--

E. even though the water [in the well] was tainted [by the barley],

F. (Fourteen MSS. add: the water) is permitted [for consumption by a non-priest].

M. 10:2 (y. Pes. 2:4; A-C: b. Men. 54a, y. Hal. 1:1, y. Shab. 3:3, see M. Or. 2:4; C-E: y. Or. 2:4)

The pericope is composed of two autonomous cases, A-C and D-F, illustrating the same issue as M. 10:1. A-C depends on the rule of M. Or. 2:4, that unconsecrated produce which is leavened by produce in the status of heave-offering is deemed to take on that same status.⁵ Here the dough, which has benefitted from the leavening action of the apple in the status of heave-offering, is deemed forbidden to non-priests.⁶ At D-F the barley in the status of heave-offering ruins the flavor of water. The water remains permitted to a non-priest, since the individual who drinks it in no way benefits from the heave-offering with which it is mixed.⁷ This radical interpretation of M. 10:1's theory is that of Judah, 10:1H-I and, as we shall see, M. 10:3C. It claims that heave-offering imparts its own status to unconsecrated food it flavors only if the householder desires that flavor.

G. *[As regards] an apple [in the status of heave-offering] which one chopped up and placed in dough, and [as a result the dough] was leavened [= M. 10:2A-B]--*

H. R. Yose says, "That which is leavened [by the apple] is not deemed [truly] leavened [and therefore the law of M. Or. 2:4 does not apply; the dough remains permitted to non-priests]."

I. "It is all the same whether [heave-offering] imparts flavor [so as] to improve [the taste of food], or spoil [it].

J. "In either case (E reads: Lo, this) [the food to which the heave-offering imparted flavor] is forbidden [for consumption by a non-priest]"--the words of R. Meir.

K. R. Simeon says, "[If the heave-offering] improves [the taste of unconsecrated food, that food] is forbidden.

L. "[But if the heave-offering] spoils [its taste], it [remains] permitted [for consumption by a non-priest],

M. "as in the case of vinegar [in the status of heave-offering] which fell into [unconsecrated] beans."

T. 8:9b (y. Ter. 10:2; G-H: y. Hal. 1:1, y. Shab. 3:3, y. Pes. 2:4; I-M: y. Bik. 2:5, y. A.Z. 5:3, b. A.Z. 67b; M: M. A.Z. 5:2)

A. (1) Beans [in the status of heave-offering] which fell into a well of water,

B. (2) [or] dates upon which fell wine [in the status of heave-offering],

C. (3) or dried figs upon which fell oil [in the status of heave-offering],⁸

D. lo, this [i.e., the water, dates or dried figs] is forbidden [for consumption by non-priests].

E. But R. Simeon permits.

T. 8:10

M. 8-9G-H cites M. 10:2A-B and adds Yose's disputing opinion. Yose claims that the leavening action of the apple is not comparable to that of normal leaven, and therefore the rule of M. Or. 2:4 does not apply. Although it does not directly refer to M., I-M must be read as supplementary to the case of M. 10:2, in which barley in the status of heave-offering imparts to water a tainted flavor. M. has the position of Simeon, against Meir, that if the heave-offering ruins the flavor of food, that food is not deemed forbidden. T. 8:10⁹ follows with a triplet of cases exemplifying the positions of Meir and Simeon. The anonymous view of A-D is that of Meir. He deems the unconsecrated produce forbidden for consumption by non-priests, for it was flavored by heave-offering. Simeon (E), we must assume, holds that the heave-offering spoiled the taste of the unconsecrated produce. He therefore deems that produce still permissible for consumption by non-priests (MB, HY).

I. A. [As regards one part of] leaven in the status of heave-offering which fell into [more than a hundred parts of unconsecrated] dough and one lifted it [i.e., the leaven] out [of the mixture; see M. 5:2-3, 5, 7-8 and T. 5:9], but afterwards [the dough anyway] was leavened--

B. [the dough] is permitted [for consumption as unconsecrated food].

T. 8:11 (y. Or. 2:3)

II. C. [As regards one part of] leaven made from produce of the seventh year [of the sabbatical cycle] which fell into [more than a hundred parts of] dough [of any other year of that cycle]--

D. [if] he knew about it [i.e., that forbidden leaven had been mixed with permitted dough, such that the leaven is neutralized; see T. 6:5, 8-9] and afterwards it [i.e., the dough] was leavened--

E. [the dough] is forbidden [on account of the laws of the seventh year].¹⁰

T. 8:12 (y. Or. 2:9)

III. F. [As regards] leaven in the status of heave-offering and leaven of the seventh year which [together] fell into dough,

G. neither of them [alone] sufficient in quantity to leaven [that dough] (*l' bzh ...wl' bzh*)--

H. if (*w*) they joined together and leavened [the dough]--

I. [the dough] is forbidden to non-priests [but permitted to priests; M. Or. 2:14].

J. R. Eleazar b. R. Simeon (*y. Or. 2:9*, followed by HD and Lieberman, reads: R. Simeon) declares it permitted to non-priests [and also to priests; M. Or. 2:14].

K. [If] each [alone] was of sufficient quantity to leaven [the dough],

L. but together they leavened [the dough]--

M. [the dough] is forbidden [even] to priests.

N. R. Eleazar b. R. Simeon declares [it] permitted to priests [but not to non-priests].

T. 8:13 (*y. Or. 2:9*; F-J: M. Or. 2:14)

T.'s triplet of cases supplements M. 10:2 with an extended essay on the leavening of unconsecrated dough by leaven in a forbidden status. Since T. 8:11-12 together make a single point, and T. 8:13 makes a separate one, I deal independently with these two parts of the pericope.

T. 8:11-12 coordinates the rule of M. 10:2 with the law of neutralization, given in M. Chapters Four and Five.¹¹ T. asks which rule takes precedence in a case in which leaven in the status of heave-offering or of the seventh year is neutralized in unconsecrated dough, yet leavens that dough. If the law of neutralization applies, the batch will be deemed permitted for consumption as unconsecrated food. If the law of M. 10:2 applies, the unconsecrated dough must in all events be deemed forbidden, for it was leavened by forbidden produce. The point made here is that the rule of M. 10:2 is operative. If the dough's being leavened can be attributed to the heave-offering or leaven of the seventh year, that dough is forbidden for consumption. This principle emerges in the contrast between the cases at T. 8:11 and 12, the details of which must now be explained. We recall that in the case in which heave-offering is neutralized, the householder is required to take from the batch for a priest the heave-offering

which originally fell in (just as here at T. 8:11A; see Eliezer, M. 5:2). In this way the priest does not lose his share. In the present case, the leaven in the status of heave-offering thus is not present in the batch at the time the dough is leavened. The leavening therefore need not be attributed to the heave-offering, and the dough remains permitted for consumption by non-priests. The facts for the neutralization of produce of the seventh year are different and, it follows, so is the rule at T. 8:12. The neutralization of produce of the seventh year is completed as soon as the householder discovers that a mixture has been created (just as here at T. 8:12D; see T. 6:8-9 and HD). Since the produce which is neutralized does not belong to any particular individual, the householder does not remove it from the batch in which it was neutralized. In the present case, therefore, the forbidden produce certainly accounts for the leavening of the dough and, for this reason, that dough is deemed forbidden.

The problem at T. 8:13 is separate. Now two different categories of forbidden leaven are mixed with dough. The one category, heave-offering, renders the dough forbidden for consumption by non-priests, but not by priests. The other, leaven subject to the restrictions of the seventh year, renders the dough forbidden to non-priest and priest alike. We have two different cases, F-J, which has neither of the categories of leaven alone sufficient to leaven the dough, and K-N, where the two categories of leaven do together what either could have done alone. In each case we must determine which of the restrictions applies. According to I, if neither of the types of leaven alone could have leavened the dough, but together they do so, the dough can be eaten by priests, but not by non-priests. This is because as regards non-priests, we must take into account the restrictions pertinent to both categories of leaven. From the point of view of the non-priest, the dough was leavened by forbidden leaven, and so is prohibited. This is not the case for priests. Since the heave-offering does not render the dough forbidden to them, we do not take account of its leavening action. This leaves the leaven in the status of the seventh year alone to be considered. Since this leaven alone was not of sufficient quantity to leaven the dough, that dough is not rendered forbidden. Eleazar B. Simeon's view, J, is that even as regards non-priests, each of the prohibitions must be considered separately. Since neither of the categories of leaven was sufficient to leaven the dough, that dough is liable neither to the restrictions of the seventh year nor of heave-offering.

L-N has each of the categories of leaven sufficient to raise the dough. M holds that the dough therefore is prohibited both to priests and to non-priests, for it has the status of produce of the seventh year, as well as that of heave-offering. Eleazar again disagrees, declaring that the dough is permitted for the consumption of priests. His view is that we deem the leaven in the status of heave-offering alone to account for the dough's being leavened. Since the leaven of the seventh year thus is irrelevant to the dough's being leavened, the dough is not subject to the restrictions of the seventh year and is permitted to priests.

10:3-4

A. One who scrapes hot bread [from the side of an oven] and places it on top of a jug of wine in the status of heave-offering--

B. R. Meir deems [the bread] forbidden [for consumption by non-priests].

C. But R. Judah deems [it] permitted.

D. R. Yose deems [it] permitted in [the case of] bread made from wheat,

E. but deems [it] forbidden in [the case of] bread made from barley,

F. for barley absorbs [the wine vapor].

M. 10:3 (b. Pes. 76b, b. A.Z. 66b;
see M. Mak. 3:3)

G. [As regards] an oven which one fired with cumin in the status of heave-offering and baked (seventeen MSS. add: bread)¹² in it--

H. the bread is permitted [for consumption by a non-priest].

I. For the flavor of cumin is not [imparted to the bread,] but [only] the smell of cumin.

M. 10:4 (b. A.Z. 66b)

The two pericopae share a common issue, whether or not the bread is deemed to absorb the vapor of the wine or cumin, such that it is rendered forbidden for consumption by non-priests. They are, however, formally autonomous and, as we shall see, do not make the same point. We must, therefore, treat each separately.

On the surface the point of M. 10:3 is quite simple. As is clear from F, the issue is whether or not the bread absorbs the wine vapor.¹³ Meir, B, holds that it does, and therefore declares the bread forbidden for consumption by non-priests. Judah, C,

holds that it does not, and so deems the bread permitted. Yose, D-F, offers the expected mediating position. Matters are complicated, however, when we examine these three positions more closely. We note that in his theory, Yose agrees with Meir alone. He states that if the bread absorbs, it is forbidden. Judah's view clearly is out of phase with the others, for as I have explained it, Judah simply rejects the fact assumed by Meir, that the bread in question absorbs. The alternative, and I believe more likely, interpretation of Judah's view is that Judah accepts the fact that the bread absorbs the vapor of the wine, but rejects the contention that this renders the bread forbidden for consumption by non-priests.¹⁴ Judah's view here thus is consistent with a position which occurs throughout Judah's rulings in M. This is that matters are to be judged in accordance with the intention of the individual, and that intention is determined on the basis of deed.¹⁵ In the present case, if the man wished to put wine in the bread, he would have done so in a more direct manner than by placing the warm bread on top of a wine jug. Since he did nothing more than this, we must assume that he did not want the wine in the bread. We therefore deem the effect of the vapor upon the bread to be null. This is to say that for Judah, what is decisive is not whether or not some of the wine has entered the bread, but whether or not the householder intentionally placed that wine in the bread. On the basis of the deed of the householder, we must declare that he did not, and therefore deem the bread to have retained its unconsecrated status. This is, of course, the same position which Judah holds at M. 10:1H-I.

M. 10:4 is separate from the foregoing. It rules that bread baked in an oven fired with cumin in the status of heave-offering is permitted for consumption by a non-priest. The point is as stated at I. The burning cumin does not impart flavor to the bread, but only gives it the aroma of cumin. This ruling is not representative of any of the three position at M. 10:3.

10:5-6

A. [As regards] fenugreek¹⁶ which fell into a vat of [unconsecrated] wine--¹⁷

B. in [the case of fenugreek which is] heave-offering (follow nine MSS. which add: or) second tithe,

C. if the seed [without the stalk] is sufficient to impart flavor [to the wine, that wine is subject to the law of heave-offering or second tithe].

D. But not [if the seed is not sufficient to impart flavor to the wine without] the stalk.

E. In [the case of fenugreek which is produce of] (1) the seventh year [of the sabbatical cycle], (2) of a vineyard in which were sown diverse kinds, or (3) [if it] is dedicated [to the Temple]--

F. if the seed and stalk [together] are sufficient to impart flavor [to the wine, that wine is subject to the law of produce of the seventh year, diverse kinds, or that which is dedicated to the Temple].

M. 10:5 (E-F: y. Sheb. 9:5)

G. One who had bundles of fenugreek grown in a vineyard in which were sown diverse kinds--

let them be burned.

H. [If] he had bundles of fenugreek which were liable to the separation of tithes (*šl tbl*)--

I. he crushes [some of the stalks] and determines the quantity of seed which [all of the stalks together] contain

J. and separates [the tithes required] for [this quantity of] seed.

K. But he does not need to separate tithes for the stalks.

L. (Seven MSS. add: And) if he separated tithes [for the stalks],

M. he may not say, "I shall crush [all of the stalks] and shall take [the stalks for myself] and give the seed [to its proper recipients, priest and Levite]."

N. Rather, he must give [to priest and Levite] the stalks along with the seed.

M. 10:6 (G: M. Or. 3:6; H-K:

b. Bes. 13a)

M. takes up the special case of fenugreek, a type of produce the seed of which is a food, but the stalk of which, while edible, generally is not eaten. The special nature of this plant is problematic in cases in which the fenugreek is in the status of heave-offering and is mixed with unconsecrated food (A-D),¹⁸ is subject to other agricultural restrictions (E-F+G), or is liable to the separation of tithes (H-N). In each case we must determine whether the seed alone is subject to the pertinent restrictions, or whether these restrictions apply as well to the stalk, which, as I just have said, may in certain circumstances be used

as a food. As we shall see, the status of the stalk is determined on the basis of the nature of the restriction, on the one hand, and by the express designation of the householder, on the other. The stalks are not deemed to be liable to designation as, or to have the status of, tithes. This is because the householder normally does not eat them. Yet if he designates them to be tithes, the designation is valid, for by doing this he expresses his intent to use the stalks as food. The stalks, however, automatically are subject to restrictions (e.g., that of diverse kinds) which apply to a field as a whole. This is because the householder may in no event benefit from such produce. Whether or not he specifically designated the stalks to be food is irrelevant in this case.

The point of M. 10:5 is made through the contrast between A-D and E-F. The former presents cases in which the fenugreek has the status of heave-offering or second tithe, the latter, cases in which the fenugreek is subject to restrictions which apply to a field as a whole, or in which the fenugreek has been dedicated to the Temple. In the former case, the stalks are not deemed to have the status of the agricultural offering, for they are not considered food. In determining the status of unconsecrated food with which the fenugreek has been mixed, we therefore do not take into account the flavoring-power of the stalks. This is not the case for the types of restrictions listed at E. Here the stalks are deemed subject to the restrictions imposed upon the field as a whole, or are consecrated, having been dedicated along with the seed to the Temple. If this fenugreek is mixed with unconsecrated food, we must take into account the flavoring capacity of the stalks, which, like the seed, have a restricted status.

The same contrast which is operative at A-D+E-F is found at G and H-K. G simply repeats in its own terms what we know from E-F. The restriction pertinent to produce from a field in which were grown diverse kinds of seed applies to the whole of the fenugreek plant. The stalks, as well as the seed, therefore must be burned. As regards the separation of tithes, H-K, only the seed is liable, for this is the part which the householder normally eats. He therefore calculates the quantity of tithe to be separated from the seed alone, using the method outlined at I-J. L-N makes the next logical point. If the householder himself designates tithes for both the seed and stalks, his designation is valid. Having indicated that he deems the stalks to be food, he

must give to the proper recipients the required quantity of them, as well as of the seed.

A. One who separates bundles of fenugreek as (follow E in adding: second) tithe (see Lieberman, TK, I, p. 429, HD and HY) [for other produce]--

B. lo, this one must redeem both the stalks and the seed (E reads: the seed and the stalks) [see M. 10:H-N].

T. 8:8a

T. clarifies the point of M. 10:5A-D in light of M. 10:6L-N. Stalks of fenugreek are not liable to the separation of second tithe, and therefore are not normally deemed to have a consecrated status (M. 10:5A-D). If, however, a householder purposely separates the stalks as second tithe, they are deemed to have that status and must be treated as sanctified offerings, just as M. 10:6L-N states.

A. [*As regards*] fenugreek [*in the status of heave-offering*] which fell into a well of water [= M. 10:5A]--

B. R. Meir deems [the water] forbidden [for consumption by non-priests].

C. But R. Judah permits.

D. Said R. Simeon, "To what case does [the opinion of R. Meir] apply?

E. "To a case in which the fenugreek sank [into the water].

F. "But if it did not sink, lo, this [i.e., the water] is permitted [for consumption by non-priests]."

T. 8:9a

T. 8:9a applies to the case of M. 10:5 (cited at A) the principles of Meir and Judah, M. 10:3.¹⁹ Meir, as we would expect from M. 10:3B, assumes the fenugreek to have flavored the water in the well. He therefore deems that water forbidden to non-priests. Just as at M. 10:3C, Judah holds the effect of the fenugreek upon the water to be null. On the one hand, the householder did not intentionally place the fenugreek in the water; on the other, he does not desire the water, which now has the flavor of fenugreek.²⁰ Simeon, D-F, seems to assume that if the fenugreek does not sink in the water, it does not impart flavor to the water.²¹ This qualification of Meir's view does not mitigate the basic disagreement between Meir and Judah.

A. (1) [As regards] wine in the status of heave-offering which fell upon pieces of [unconsecrated] fruit--

B. let one wipe them off, and they are permitted [for consumption as unconsecrated produce].

C. (Lieberman follows ed. princ. in deleting four words from the text of V. See TK, I, p. 433, for other problems of reading.)

D. (2) And so [in the case of] oil in the status of heave-offering which fell upon pieces of [unconsecrated] fruit--

E. let one wipe them off, and they are permitted.

F. (3) And so [if the oil in the status of heave-offering fell] into [unconsecrated] wine--

G. let one skim it off, and the wine is permitted.

H. (4) [If] it fell into brine--

I. let one skim off [enough unconsecrated oil] to remove the flavor of oil which is in it [i.e., in the brine; thereafter, that brine is permitted].

T. 8:14 (T. Miq. 1:4)

The pericope is not related specifically to M. 10:5-6, but complements in a general way the discussion of the laws of Chapter Ten. The point of each of the four rules is the same. The householder may rinse or skim the unwanted heave-offering off of his unconsecrated food, and that heave-offering is not deemed to have rendered the food forbidden.²² The householder did not cause the heave-offering to fall on the food in the first place, and his later actions in wiping off the heave-offering indicate he does not wish to benefit from it. This view, which takes no account of whether or not the heave-offering actually imparted flavor to the unconsecrated produce, self-evidently is that already offered by Judah, M. 10:1H-I, M. 10:3C and T. 8:9C.

A. [As regards leather] garments [such as sandals, MB, HY] which one lubricated [first] with unclean [olive-]oil and then with clean oil,

B. or which one lubricated [first] with clean oil and then with unclean oil--

C. R. Eliezer says, "I rule [on the cleanness of the garments] in accordance with [the status of cleanness of] the first [oil which was used]."

D. But sages say, "The last" [=M. Or. 2:13].

E. For Eliezer says, "Let a man lubricate his garments [first] with (read:) clean oil (all MSS.: unclean) and then with (read:) unclean oil (all MSS.: clean). (Supply with E: For) when they exude [oil from the other side of the leather], they will exude the first, [clean, oil]."

F. But sages say, "Let a man lubricate his garments [first] with (read:) unclean oil (all MSS.: clean) and then with (read:) clean oil (all MSS.: unclean). (Supply with E: For) when they exude [oil from the other side of the leather], they exude the latter, [clean, oil]."

G. [As regards] garments which one lubricated with unclean oil and then wiped off--

H. he uses them in [cases requiring preservation of] cleanness.

I. [If] liquids then exuded from them [i.e., the garments]--

[the garments] are unclean.

T. 8:15 (A-D: M. Or. 2:13)

The pericope belongs with M. Or. 2:13 and is unrelated to the present discussion. I cannot account for its placement in this context.²³ Its rule, however, is as follows. Olive-oil is used to soften leather. Presumably individuals prefer to use for this purpose unclean oil, which may not be eaten by people who wish to eat their food in cleanness (Lieberman, TK, I, p. 434). At issue between Eliezer and sages is how such unclean oil may be used, without its rendering unclean the person who later wears the garment. I have corrected the positions of each authority, at E and F, to be in line with the rulings at C and D. Eliezer, C, holds that the status of cleanness of the garment is determined on the basis of the first oil that is used. Thus one should use some clean oil first, and then apply the unclean. His view, as I have corrected E to read, is that what goes into the leather first is also that which comes out first. The clean oil thus coats the leather and prevents the unclean oil from rendering unclean the person who wears the garment. Sages, D, have the opposite view, that the cleanness of the garment is judged on the basis of the status of cleanness of the last oil that is used. As I have corrected F, their view is that this second oil permeates the leather and seeps out to the surface, where it, and not the first oil which was used, will come into contact with the person wearing the garment.

Contrary to my interpretation, Lieberman, TK, I, p. 434, upholds the reading of the MSS. of T. Eliezer (E), he says, holds that the individual first uses unclean oil and then clean. His view is that the clean oil forces the unclean out of the leather, so that it can be wiped off. Sages, on the other hand, hold that the individual first uses sufficient clean oil to permeate the leather. When afterwards he uses unclean oil, this oil will exude from the leather, and so can be wiped off. The problem is that according to this reading and interpretation, E and F contradict the positions ascribed to Eliezer and sages at C and D. According to Lieberman's exegesis, Eliezer, C, should state that the cleanliness of the garment depends on the second oil which is applied, and sages, D, should take the opposite view. I find it very unlikely that T. would so blatantly contradict what is stated in M., and in particular in the context of materials which are intended to give the reasons for views cited by M.'s authorities.²⁴

G-I offers a different method by which an individual may use unclean oil to soften leather. It states that he simply should wipe the unclean oil off of the surface of the leather.²⁵ He must, of course, be careful that more oil does not subsequently seep out of the leather (I).

A. (1) [As regards] a pot in which one cooked meat-- he should not [thereafter] cook in it dairy.

B. (2) [If he cooked in it] dairy, he should not [thereafter] cook in it meat.

C. (Follow E in deleting: [If he cooked in it] unconsecrated produce, he should not [thereafter] cook in it heave-offering.)²⁶

D. (3) [If he cooked in it] heave-offering, he should not [thereafter] cook in it unconsecrated produce.

E. But if one cooked [food in any of these forbidden ways]--

F. lo, this [i.e., what has been cooked second] is forbidden if [the food which was cooked first] imparted to it flavor.

T. 8:16 (b. Zeb. 96b, b. Hul. 97a, 111b)

The triplet makes a single point, relevant at E-F to the rules of M. 10:1-6. Food should not be cooked in a pot which may impart to it the flavor of something which is forbidden. One therefore does not cook meat in a dish used for dairy, or *vice versa*, and

does not cook unconsecrated food in a pot which had been used for heave-offering. If this restriction is not followed, E-F, we apply the criterion of whether or not the food has been flavored by what previously was cooked in the pot. This is just as M. 10:1-6 would lead us to expect.

I. A. [If] there were before him two pots, one [filled] with heave-offering and one [filled] with unconsecrated produce,

B. and before him [also] was a mortar [filled] with heave-offering--

C. [if] he placed [the heave-offering in the mortar]²⁷ in one of them [i.e., of the pots], but it is not known in which of them he placed [it],

D. lo, I say, "In the [pot of] (read with MB, HY:) heave-offering (MSS.: unconsecrated produce) he placed [it].

II. E. [If] there were before him two mortars, one [filled] with unconsecrated produce and the other [filled] with heave-offering,

F. and before him [also] was a pot [filled] with unconsecrated produce²⁸--

G. [if] he placed [in the pot at F produce] from one of them [i.e., of E's two mortars], but it is not known from which of them he placed [it],

H. lo, I say "From the [mortar filled with] unconsecrated produce he placed [it]."

T. 8:17 (see M. 7:5A-C, and

T. 6:11b)

III. I. [If] there were before him two pots, one [filled] with unconsecrated produce and one [filled] with heave-offering,

J. and before them were two mortars, one [filled] with heave-offering and one [filled] with unconsecrated produce--

K. [if] he placed [in the pots produce] from the two of them [i.e., put the contents of each of the mortars in one of the pots], but it is not known whether he placed this in that, or that in this [i.e., whether he mixed heave-offering with heave-offering or with unconsecrated produce]--

L. lo, I say, "He placed heave-offering with heave-offering, and unconsecrated produce with unconsecrated produce."

T. 8:18 (see T. 6:14-17)

M. If [the produce in one of the pots mentioned at I was not heave-offering, but rather] was liable to the separation of tithes, [or had the status of] first tithe or second tithe, [and it was mixed with either heave-offering or unconsecrated produce, but it is not known which,]--

N. lo, this is forbidden [i.e., none of the produce may be eaten by a non-priest].

O. For they did not deem permitted [for consumption by non-priests] produce which might have been mixed with heave-offering (*spq mdwm^e*) except in a case which can be adjudicated such that all of the produce retains its original status.

T. 8:19 (O: T. 6:18F; see T. 6:18)

On the surface this discussion is not related to the present context. At issue is not heave-offering's flavoring unconsecrated produce, but whether we may declare that heave-offering and unconsecrated produce have not been mixed at all. As we shall see clearly at T. 8:20-22, however, what T. wishes to do by placing this discussion in the present context is to treat as a unit the materials on the problem of mixtures of heave-offering and unconsecrated food which M. covers in diverse chapters. This is a fine example of T.'s acting as a redactional commentary by reorganizing M.'s materials in accordance with its own concept of theme.

The point of cases like these already has been stated above at T. 6:11-18. This is that in a case in which we can rule that the heave-offering was mixed with other heave-offering and not with unconsecrated produce, we do so. In this way we uphold the prevailing status both of the priestly gift and of the unconsecrated produce (A-L).²⁹ If the doubt cannot be adjudicated in such a way that none of the produce involved is deemed to take on a forbidden status, we must deem all of the produce to be forbidden. This is exemplified at M-O, where a mixture occurs between either heave-offering and unconsecrated produce, or heave-offering and some different agricultural offering. As O states, in such cases, neither of the pots of produce may be saved by the declaration that the heave-offering fell into the other.

A. A forbidden (E lacks: forbidden)³⁰ piece [of meat] which was mixed with [other] pieces,

B. even if they are a thousand [in number]--

C. all of them are forbidden.

D. [In the case of forbidden] broth [which was mixed with pieces of permitted meat]--
 [the meat is prohibited if the broth] imparts [to it its] flavor [= M. Hul. 7:5C].

E. If [the piece of meat at A] was dissolved, lo, this [i.e., all of the meat] is [prohibited if] it imparts flavor [just like at D].

T. 8:20 (T. Hul. 7:7)

F. A piece [of meat] from a sin offering which was mixed with a hundred pieces of unconsecrated [meat],

G. and so a piece of show-bread which was mixed with a hundred pieces of unconsecrated [bread],

H. lo, these are neutralized [such that all of the meat or bread may be eaten as unconsecrated food].

I. R. Judah says, "They are not neutralized."

T. 8:21 (y. Or. 2:1; see b. Yeb.

81b)

J. A piece of unclean sin offering which was mixed with a hundred pieces of clean sin-offering,³¹

K. and so a piece of unclean show-bread which was mixed with a hundred pieces of clean show-bread,

L. lo, these are neutralized [such that all of the sin offering or show-bread is deemed clean].

M. R. Judah says, "They are not neutralized."

N. And so in the case of meal-offerings,

O. and so in the case of cakes of thank-offering.

P. Produce which is liable to the separation of tithes or wine used for libations [either of which is mixed with permitted, unconsecrated produce]--

Q. [if all of the produce in the mixture is] of the same type [the mixture is forbidden] no matter how little [forbidden substance it contains].

R. But [if the produce in the mixture is] not of the same type [the mixture is forbidden if the prohibited food] imparts flavor [to that mixture].

S. And [as to] all other forbidden foods,

T. whether [the mixture is of foods] of the same kind or of different kinds,

U. [it is forbidden if the forbidden food] imparts [its] flavor [to the mixture].

T. 8:22 (P-U: see M. A.Z. 5:8,

b. A.Z. 73b)

At issue are the conditions under which the rules of neutralization apply and those under which the probative factor is whether or not forbidden food has imparted flavor to permitted food. This problem is stated in terms of cases involving the mixture of meat permitted for consumption by non-priests and forbidden meat. While the unit thus is autonomous of the topic of heave-offering, it ties together the two different types of problems of mixtures discussed in M. Terumot. This material therefore is both pertinent and aptly placed in its context in T.

The point is that in cases in which the forbidden food is of a type different from that with which it is mixed, the other food is rendered prohibited if it is flavored by the forbidden food (D, E, R, S-U). When this happens, even if the forbidden substance is removed from the mixture, the other food remains forbidden, having received the benefit of that which is forbidden. This is not the case if the forbidden and permitted foods are of the same type. In such a case there can be no consideration of whether or not the forbidden food has flavored the permitted. The laws of neutralization therefore are applied, and if the forbidden food is an insignificant proportion of the mixture as a whole, that mixture is deemed permitted (F-H, J-L).³²

Matters are confused by the view of Judah (I, M), echoed in the anonymous laws of A-C and Q. This view is that the laws of neutralization do not apply in cases in which meat from sacrifices, or show-bread, is involved. The theory here apparently is that these things are of such importance that they never may be disregarded and so never are neutralized (b. Hul. 100a). This is exactly the view attributed to Judah at T. 5:10A-I (pp. 153-154) regarding certain types of produce in the status of heave-offering. S-U is a further source of confusion. It claims a distinction between the types of produce listed at P and all other food. This distinction is contradicted by A-O. I cannot account for it.

10:7

A. [As regards] unconsecrated olives which one pickled with olives in the status of heave-offering--

B. [if it was] (1) crushed, unconsecrated [olives which were pickled] with crushed [olives] in the status of heave-offering,

C. [or] (2) crushed, unconsecrated [olives which were pickled] with whole [olives] in the status of heave-offering,

D. (3) [or if they were pickled] in brine in the status of heave-offering (*my trwmh*)--

E. it is forbidden [i.e., the unconsecrated olives are rendered forbidden for consumption by a non-priest].

F. But [if] whole unconsecrated [olives are pickled] with crushed [olives] in the status of heave-offering-- it is permitted.

M. 10:7

The issue is the circumstances under which unconsecrated olives are deemed to be flavored by olives in the status of heave-offering with which they are pickled. If they are so flavored, they will themselves be deemed to have the status of heave-offering (M. 10:1).³³ According to M. the operative consideration is whether the unconsecrated olives are crushed or whole at the time they are pickled with the heave-offering. If they are crushed, they are assumed to be capable of receiving the flavor of the other olives. They therefore are deemed forbidden for consumption by a non-priest (B, C). If they are whole, they are considered impervious to the flavor of the olives in the status of heave-offering, and so retain their unconsecrated status (F). This distinction is not applied in the case in which the brine itself is in the status of heave-offering (D). In such a case whether the unconsecrated olives are whole or crushed, they will be flavored by the forbidden brine.³⁴

There is formal evidence that the pericope has undergone a stage in development beyond the simplest expression of its law. This simplest statement would consist of the superscription, A, plus the perfectly balanced, contrasting cases at B+E vs. F. Together these cases make the point of the pericope. C and D appear to be appended, forming a triplet of cases at B-D. The reason for the addition of C-D is clear on substantive grounds. I already have stated the point of D. C stresses that it is irrelevant whether the olives in the status of heave-offering are crushed or whole. In either case they are assumed capable of imparting flavor to the unconsecrated olives.

10:8

A. [As regards] unclean fish which one pickled with clean fish--

B. [in the case of fish pickled in] any keg which holds two *se'ahs* [= 9600 *zuz*, weight of brine,]

C. if [in that two *se'ahs*] it contains unclean fish of a weight of ten *zuz* in Judean measure,

D. which equals five *sela*^cs in Galilean measure,

E. the brine (*syrw*) is forbidden [i.e., unclean].

F. R. Judah says, "[It is forbidden if there is] a quarter [-log, i.e., fifty *zuz*, of unclean fish] in two *se'ahs*."

G. R. Yose says, "[It is forbidden if the unclean fish is] one sixteenth [of the whole, i.e., 600 *zuz*]."

M. 10:8 (Sifra, *Shemini*, *parashah*

3:9; B: y. R.H. 1:8; see b. Hul.

99b)

The pericope carries forward the issue of M. 10:7, problems of the status of permitted food which is pickled with forbidden food. The question now is the minimum quantity of forbidden food--here, unclean fish--which will flavor, and thereby render prohibited, the food with which it is pickled. We have a tripartite dispute on the matter. The anonymous law of A-E is disputed by Judah, F, and Yose, G. As indicated in the translation, the three positions define progressively greater quantities of unclean fish to be present in the brine before that brine is rendered unclean.³⁵ I find no particular significance in the specific figures given.

The form of the pericope requires no comment. Of interest only is the superscription, A, which is misleading. Unlike what A claims, the issue of the pericope is not the status of the clean fish which is pickled with the unclean, but of the brine.³⁶ E makes this clear.³⁷ The reason for this discontinuity is probably that the superscription here is on the model of M. 10:7A, to which it is an exact linguistic parallel. This is a fine example of the use of a single syntactic pattern for the presentation of materials which, while on diverse topics, are intended to illustrate a single underlying problem of law.

A. [As regards] unclean fish which one pickled with clean fish,

B. and so a keg [in which one pickled fish] which contains two *se'ahs* [= 9600 *zuz*, of brine]

C. in which there is unclean fish of a weight of ten *zuz* in Judean measure, which equals five *sela*^cs in Galilean measure,

D. the brine is forbidden [i.e., unclean].

E. R. Judah says, "[It is forbidden if there is] a quarter [-log, i.e., fifty *zuz*, of unclean fish] in the two *se'ahs*."

F. R. Yose says, "[It is forbidden if the unclean fish is] one sixteenth [of the whole, i.e., 600 *zuz*] [= M. 10:8].

G. Said R. Simeon b. Menasia', "You do not find a keg which holds two *se'ahs* in which there is (read *šyš bw*; all MSS.: *š'yn bw*; see Lieberman, TK, I, p. 441) unclean fish of a weight of ten *zuz* in Judean measure, which is five *se'ahs* in Galilean measure, which does not contain a quarter [-log of brine]."

H. Said R. Yose b. R. Judah, "To what case does this apply [i.e., the rule that brine in which is pickled unclean fish may itself be rendered unclean]?"

I. "To the case in which one removes [the fish from the brine] and places it before him and finds it to be of the specified measure.

J. "But if he takes [pieces of fish from the brine] and tosses [them into a pile] one at a time (*r'swn r'swn*),

K. "even though he [ultimately] found there more than the specified amount--

L. "[the brine is] permitted."

M. (Delete the following, which is a marginal gloss that has been copied into the text of T.; see Lieberman, TK, I, p. 442; *His father and his mother did not know that it was from the lord; for he was seeking an occasion against the Philistines* (Jud. 14:4).)

T. 9:1 (I-M: see y. Ter. 10:7)

Important here is the use of "and so" at B, and "in which" at C. Through these interpolations T. reads M.'s pericope as referring to two different problems.³⁸ These are, first, the status of clean fish which is pickled with unclean (A), and, second, the status of the brine in which unclean fish is pickled (B) (Lieberman, TK, I, p. 439). In T.'s version, these two statements of case share the same ruling, at D. T. thus resolves the problem of the misleading superscription at M. 10:8A.

G and H-L continue matters by supplementing M.'s rule. Simeon b. Menasia', G, reads B-F as the continuation of A. The problem for him, thus, is the minimum proportion of unclean brine, derived from the unclean fish in the mixture, which will render unclean the clean fish which is pickled with it. Thus Judah's

statement, E, of the quantity of unclean fish, is understood to refer to the quantity of brine derived from that fish. Simeon's point is that Judah and the anonymous rule are in essential agreement. He says that if the quantity of unclean fish mentioned at B-D is present, so will there be the quantity of unclean brine defined by Judah (Lieberman, TK, I, p. 441). I already have indicated (n. 34) why this reading of matters is not supported by the language of M. 10:8.

H-L offers a qualification of M.'s rule, separate from G. Yose b. R. Judah's position is that if the householder removes the unclean fish a piece at a time, the individual pieces of unclean fish do not join together to constitute the minimum quantity which renders the brine unclean. They are, rather, considered separately from each other (Lieberman, TK, I, p. 442).

I. A. [*As regards*] *unclean fish which one pickled with clean fish* [= M. 10:8A]--

B. he wipes off [the clean fish], and it is permitted [i.e., clean].

II. C. [*As regards*] a salted, unclean fish [which one pickled] with unsalted, clean fish, [the clean fish] is forbidden.

III. D. [*As regards*] salted clean fish [which one pickled] with unsalted, unclean fish, [the clean fish is] permitted.

E. [*As regards*] unclean fish which one cooked with clean fish--

F. they consider the matter as if [the unclean fish] is a leek or an onion.

G. If it is of sufficient quantity (*'m yš bw*) to impart flavor to the clean fish, [that fish] is forbidden.

H. But if not, it is permitted.

T. 9:2 (A-D: see y. Ter. 10:8)

T. is in two parts, the triplet at A-B+C+D, and E-H. Both supplement M. 10:8. The first rule of the triplet, A-B, is familiar (see T. 8:14). It states that if the householder wipes the forbidden brine off of clean fish, that fish is considered unaffected by the brine and therefore remains clean. The contrasting cases at C+D explain why this is the case. The point is that salted fish imparts its flavor to other fish, but unsalted fish does not. A-B, where, we assume, the unclean fish is unsalted, the clean fish thus will not have been flavored by it. This is a consideration unknown to M. 10:8.

E-H stands on its own, offering a criterion for determining whether or not unclean fish has rendered unclean the clean fish with which it is cooked. Here there is no issue of brine as an intermediary between the clean and unclean fish. T. therefore suggests a method by which the householder simply may determine whether the unclean fish was sufficient in quantity to flavor the clean. The method is clear, as stated at F.

10:9

A. Unclean locusts which were pickled with clean locusts have not invalidated [i.e., imparted uncleanness to] the brine [in which they were pickled].

B. Testified R. Sadoq concerning the brine of unclean locusts, that it is clean [i.e., that it does not impart susceptibility to uncleanness; y. Ter. 10:8].

M. 10:9 (M. Ed. 7:2, Sifra, *Shemini*,
pereq 5:10; B: T. Ed. 3:1)

The pericope is redacted here because of its relevance to M. 10:8's discussion of the status of brine in which is pickled a mixture of clean and unclean foods. Unlike M. 10:8, however, M. 10:9 adds nothing to the laws of M. Chapter Ten. A's rule, a declarative sentence, is explained by B. Sadoq states that locust-brine is not considered a liquid which imparts susceptibility to uncleanness to foods it wets down. It therefore does not impart uncleanness to the mixture of which it is a part.³⁹

10:10

A. All [kinds of unconsecrated produce] which are pickled together [with heave-offering remain] permitted [for consumption by non-priests],

B. except [for unconsecrated produce pickled] with leeks [in the status of heave-offering].

C. (1) Unconsecrated leeks [which are pickled] with leeks in the status of heave-offering,

D. [or] (2) unconsecrated vegetables [which are pickled] with leeks in the status of heave-offering

E. are forbidden [for consumption by non-priests].

F. But unconsecrated leeks [which are pickled] with vegetables in the status of heave-offering are permitted [for consumption by non-priests].

M. 10:10

A and C-E+F are joined by B, forming a tight little essay. A

states that unconsecrated produce which is pickled with heave-offering does not take on the status of that offering. The claim, it appears, is that different types of produce which are pickled together do not flavor one another. This is not what is assumed at M. 10:7, a contradiction for which I cannot account.⁴⁰ B states that leeks alone do not fall under A's rule. This introduces C-E+F, on the laws for leeks.⁴¹ C-F states, simply, that leeks impart flavor to produce with which they are pickled, but themselves are not flavored by other produce. This point is made through the contrast between D-E and F. C is added to give the rule for a case in which both the unconsecrated produce and the heave-offering with which it is pickled are leeks.

A. These are types of leeks [M. 10:10C-F]:

B. (1) arum (*lwp*),⁴² (2) garlic, (3) onions and (4) porret (*qplwtwt*).⁴³

C. R. Judah says, "Porret alone is a type of leek (*lyn lk myny hwsyt 'l' qplwt bld*).

T. 9:3 (A-B: b. Ned. 68b)

T.'s contribution is obvious.⁴⁴

A. R. Yose says, "They pickle onions in the status of heave-offering in unconsecrated vinegar,

B. "but they do not pickle onions in the status of heave-offering in vinegar in the status of heave-offering.

C. "And there is no need to say [that they do not pickle] unconsecrated onions in vinegar in the status of heave-offering."

T. 9:4a

Vinegar which is used for pickling is not thereafter eaten. For this reason, A-B, vinegar in the status of heave-offering may not be used for pickling. If it were, the heave-offering could not afterwards be eaten by the priest. At C, both the unconsecrated onions will be given the status of heave-offering, and the vinegar in the status of heave-offering will be ruined.⁴⁵

10:11

A. R. Yose says, "All [kinds of unconsecrated produce] which are boiled with beets [in the status of heave-offering] are forbidden [for consumption by non-priests],

B. "since they [i.e., beets] impart flavor [to that with which they are cooked]."

C. R. Simeon says, "[Unconsecrated] cabbage from an irrigated field [which is boiled] with cabbage [in the status of heave-offering] from a rain-watered field is forbidden [for consumption by non-priests],

D. "since it [i.e., the cabbage from the irrigated field] absorbs [the flavor of the other cabbage]."

E. R. Aqiba (reading with thirteen MSS. and editions; printed edition reads: Judah) says, "All [kinds of permitted food] which are cooked together [with forbidden food] are permitted [for consumption],

F. "except [for that which is cooked] with [forbidden] meat."

G. R. Yohanan b. Nuri says, "Liver renders [other food] forbidden, but itself is not rendered forbidden,

H. "for it imparts [flavor], but does not absorb [flavor]."

M. 10:11

M. 10:11 is in two parts. A-B+C-D provides two Ushan rules on mixtures of heave-offering and unconsecrated produce. E-H is Yavnean, on mixtures of a wide range of types of forbidden and permitted foods. The two units have been redacted together because of the single issue they share.⁴⁶ The points both of A and C, first, are obvious on the basis of the previous rules of the chapter and in light of the glosses at B and D. Aqiba's statement, E-F, is more difficult, for it is not clear to what type of forbidden food he refers. I assume that, as its wording claims, E is intended as a general principle, to be applied to all types of forbidden foods, including heave-offering.⁴⁷ Aqiba thus will reject all of the laws of M. Chapter Ten. His point, as stated by F, is that only forbidden meat (i.e., unclean meat, improperly slaughtered meat, or meat deriving from sacrifices, is of sufficient gravity to render forbidden other foods with which it is cooked.⁴⁸ Yohanan b. Nuri's statement, G, follows upon that of Aqiba, giving the rule for the specific case of liver. It is explained by H.

D. R. Aqiba says, "*All [kinds of permitted food] which are cooked together [with forbidden food] are permitted [for consumption], except [for that which is cooked] with [forbidden meat] [= M. 10:11E-F].*

E. "[Permitted] meat [which is cooked] with [forbidden] meat is prohibited [for consumption].

F. "And [in the case of] any [two kinds, one permitted and one forbidden] which were mixed (supply with E: *nt^crbw* together and [then] cooked, lo, this is prohibited."

T. 9:4b

F presents an important qualification of Aqiba's position, cited at D.⁴⁹ According to F, the factor which determines the status of permitted food which is cooked with forbidden food is whether or not the permitted and forbidden foods are mixed together to create a single dish before they are cooked.⁵⁰ If they are, the permitted food is deemed to take on the forbidden status of the other food. This is the same notion that is held by M. 10:1A-D, and which is ignored by the rest of Chapter Ten. T. thus shows that view to belong to Aqiba.

A. R. Eliezer says, "*Liver renders [other food] forbidden, but itself is not* (supply *'ynh* with E) *rendered forbidden*" [= M. 10:11G].

B. R. Ishmael b. R. Yohanan b. Beroqah says, "[Liver which has been boiled renders [other food] forbidden, but is not itself rendered forbidden.

C. "[Liver] which has been spiced renders [other food] forbidden and [also] is itself rendered forbidden [by other food]."

T. 9:5a (b. Hul. 111a)

What is given in the name of Yohanan b. Nuri in M. is here attributed to Eliezer. Ishmael, B-C, qualifies that statement. Rashi (to b. Hul. 111a, s.v., *mtwblt*) explains that spicing the liver, C, softens it, such that it will absorb the flavor of that with which it is cooked. I can suggest no alternative interpretation.⁵¹

10:12

A. [As regards] an egg which was spiced (read with 17 MSS. and editions: *ntb^lh*; printed editions read: *ntb^šl^h*) with forbidden spices [e.g., spices in the status of heave-offering]--

B. even its yolk is forbidden [for consumption].

C. since it [i.e., the yolk] absorbs [the flavor of the spices].

D. Liquid in which heave-offering has been boiled or pickled is forbidden to non-priests.

M. 10:12

Two independent rules, A-C and D, conclude M.'s discussion of the status of unconsecrated food which is prepared with heave-offering or other forbidden produce. The theory here again is that produce which is flavored by heave-offering or other forbidden food itself takes on a forbidden status. This is explicitly stated, C, as the reason for the rule of A-B. The basis for the separate rule at D is the same. The heave-offering imparts its own flavor to the liquid in which it is boiled or pickled.

D. [As regards] clean eggs which one poached with unclean eggs--

E. if [the unclean eggs] are of sufficient quantity to impart flavor [to the clean eggs, those eggs are] forbidden.

F. But if not, they are permitted.

G. [As regards] eggs which one boiled and [later] found a baby bird in one of them--

H. if it is of sufficient quantity to impart flavor [to all of the eggs, they are] forbidden.

I. But if not, they are permitted.

J. Abortive eggs (Jastrow, p. 241, for *gy^cwly bysym*) are permitted for consumption.

K. [As regards] spoiled eggs (*bysym mwzrwrt*; see Lieberman, TK, I, p. 449)--

let a hearty soul (*npš yph*) eat them [i.e., they are permitted].

L. If one found blood in either of these [i.e., J or K], he may throw out the blood and eat the rest.

T. 9:5b⁵² (y. Ter. 10:10; D-I:

b. Hul. 98a; J-K: b. Hul. 64b)

A. A man (supply 'dm with E and ed. princ.) may eat fish and locusts whether they are alive or dead and need not scruple.

T. 9:6a

T. takes up the discussion of laws regarding eggs, complementing M. 10:12A-C in a most general way. D-I simply applies the theory of M. Chapter Ten to cases irrelevant to the topic of heave-offering. In issue, J-M and T. 9:6a are autonomous of M. J-M is placed here because, like D-I, it gives rules for eggs. T. 9:6a follows D-I, listing two other foods which are permitted for consumption. The basis of T. 9:6A's rule is that neither fish or locusts require ritual slaughter (HY).

CHAPTER ELEVEN

TERUMOT CHAPTER ELEVEN

The topic of the chapter is the proper preparation and use of heave-offering by the priest. This forms a logical conclusion to the tractate as a whole, for it details the rules for the final disposition of the priestly gift. The central point of the chapter is that produce in the status of heave-offering may not go to waste. It must, rather, fully be used for the purpose for which it was designated, the benefit of the priest. This principle is expressed and developed in the chapter's three segments, M. 11:1-3, M. 11:4-7 and M. 11:8-10. While these units are of diverse literary forms, they are closely related in substance. Each explains how we are to be certain that heave-offering is used such that none goes to waste. They constitute, moreover, a fine piece of redactional organization. Their larger progression of ideas is from discussion of food, to refuse from food, and finally to what is not deemed food.

M. 11:1-3 opens the chapter with a statement of the theory governing all that follows. Produce in the status of heave-offering must be prepared in the manner customary for unconsecrated produce of its same type. This is to assure that all portions of the produce which normally are eaten in fact are made available for consumption by the priest. If the produce were processed in some manner other than the normal (e.g., if what usually is eaten fresh were pressed for juice) edible portions of the produce (e.g., the skin) would be left to waste. Such processing therefore is forbidden.

The next logical step is at M. 11:4-7, which refer to produce that has food value but, nevertheless, normally is not eaten. Olive pits, for instance, are not customarily used as food. They are, however, edible, inasmuch as the priest may suck on them for their juice. The problem is to determine whether or not such produce is to be deemed food, such that it has the consecrated status of heave-offering and must be eaten by the priest. According to M., this is determined on the basis of the priest's own attitude towards the produce. That which he considers worthy as food retains the consecrated status of heave-offering. What he does not desire to eat is deemed inedible and therefore no longer to have that status. This is an important application of the notion, basic throughout Tractate Terumot, that man's own intention

determines the status of consecration of produce.

M. 11:8-10 carry forward M. 11:4-7's discussion by referring to produce of an ambiguous nature. The produce is unclean, and therefore may not be eaten by the priest, or simply is not desirable to him as food. Unlike at M. 11:4-7, however, here the produce has some alternative use, e.g., as fodder for animals (M. 11:9), or for kindling in lamps (M. 11:10). Since this produce is not usable as food, the stipulation that heave-offering be eaten by the priest is relaxed. In order to prevent the heave-offering's being wasted, it is put to its other purposes. What is essential, simply, is that the consecrated offering be used to benefit the priest. That is, it must be used to feed *his* cattle or light *his* way. The delineation of acceptable uses of heave-offering other than for human consumption is a major aspect of T.'s extended discussion of this chapter. Its theory, however, remains exactly the same as that of M.

Attributions to Eliezer and Joshua at M. 11:2 set the basic principle of this chapter in Yavnean times. Its development and exemplification, however, take place at Usha, as the other attributed materials in the chapter indicate. In M. attributions are to Judah (M. 11:1), and to Yose, Simeon, Meir and Judah (M. 11:10). The picture offered by T. is no different. Important attributions are to Eliezer b. R. Simeon (T. 9:6b), Simeon b. Gamaliel (T. 9:17), Dosa' and Jacob (T. 10:2), Meir (T. 10:12) and Eliezer b. Jacob (T. 10:13).

11:1

I. A. They may not put cakes of pressed figs or dried figs [in the status of heave-offering] in fish-brine [in order to flavor that brine],

B. since this ruins them [i.e., the figs, for use as food].

C. But they may put wine [in the status of heave-offering] in brine.

II. D. And (seven MSS. lack: *w*) they may not perfume oil [in the status of heave-offering, for it may not thereafter be eaten].

E. But they may make wine [in the status of heave-offering] into honied-wine (Danby for *yynwmllyn*; see Jastrow, p. 52, s.v. *'yynwmylyn*).

III. F. They may not boil wine in the status of heave-offering,

- G. since this diminishes its quantity.
 H. R. Judah permits [one to cook wine],
 I. for this improves it [i.e., the flavor of the wine].
 M. 11:1 (C+E: see T. Dem. 1:24,
 T. Sheb. 6:5; D: see M. M.S. 2:1;
 H-I: y. Sheb. 8:2, y. Ter. 2:5)

The point of this pericope is that food in the status of heave-offering must be eaten by the priest, and therefore may not be processed in a way that renders it unavailable for consumption (A-B, D, F-G). This point is made in the contrast between rules which apply to figs (A) and oil (D), and those which apply to wine (C, E). F-G+H-I, as we shall see, is cognate, appended here to create what is in all events a poorly balanced triplet.¹ The specifics of the pericope's laws are as follows. Fish brine is consumed as a food. Figs are added to the brine in order to flavor it. Since, as B states, such figs are not thereafter eaten,² the priest may not use for this purpose figs in the status of heave-offering. Wine, however, may be added to the brine, in order to sweeten it (b. A.Z. 38b). Unlike the figs, the wine later is drunk along with the brine. The same point is made at D-E. Once oil has been perfumed, it is used as an ointment, but is not eaten. Wine which is mixed with honey (E) still is consumed by the priest (as a medicine, b. Shab. 140a; cf., y. Shab. 14:14 and T. Ter. 9:7).

The theory of F-G is parallel to, and carries forward, that which has preceded. It claims that the volume of consecrated wine may in no way be diminished. Food in the status of heave-offering would thereby be lost. Judah, H-I, disagrees, applying his principle familiar from M. 2:4. He holds that the priest should eat as heave-offering produce of the highest possible quality.³ It therefore is irrelevant to Judah that in its preparation some of the consecrated wine will evaporate. This simply is part of the process through which the wine is prepared for consumption by a priest.

- B. [As regards] wine in the status of heave-offering which fell into [unconsecrated] brine--
 [the mixture] is forbidden to non-priests [see M. 11:1C].
 C. R. Eliezer b. R. Simeon (E reads: Simeon b. R. Eliezer) permits it to non-priests.
 T. 9:6b (T. Sheb. 6:5, see y. Ter. 11:1, y. A.Z. 2:6)

At issue is whether or not being mixed with brine ruins wine. If it does, then wine in the status of heave-offering which is mixed with brine would be deemed to lose its consecrated status, no longer falling into the category of wine. The anonymous rule of B claims that the wine is not ruined by the brine. It therefore retains its consecrated status and, moreover, imparts that status to the brine which it flavors. This is in line with M. 11:1C, which holds that wine in the status of heave-offering may be mixed with brine. Eliezer b. R. Simeon, C, disagrees with B, and thus should reject M. 11:1C. He holds that the brine spoils the wine (see b. A.Z. 38b). It no longer may be considered heave-offering, and, therefore, the mixture of which it is a part retains an unconsecrated status.⁴

A. One may put a cake of pressed figs or dried figs [in the status of heave-offering] in fish-brine in the same way that he adds spices [cf., M. 11:1A-B].

B. He may not press them in order to squeeze out [their] juices.

C. In [the case of] spices [in the status of heave-offering] this is permitted,

D. since this is their normal use (*m'l'ktn*).

E. He ties up [in a bundle] spices [in the status of heave-offering] and puts them in a dish [which is cooking]--

F. if they are left without flavor (*b'tl t^cmn*), they are [thereafter] permitted [for consumption as unconsecrated food].

G. But if not, they [remain] forbidden [as heave-offering].

H. (E lacks H-M). They may not make wine [in the status of heave-offering] into an unguent, nor oil [in the status of heave-offering] into spiced-oil.

I. But if he made wine [in the status of heave-offering] into an unguent, or oil [in the status of heave-offering] into spiced-oil,

J. [the priest] may anoint [himself] with the oil,

K. but he may not anoint [himself] with wine or vinegar.

L. For [as regards] oil--its normal use (*drkw*) is for anointing.

M. [As to] wine and vinegar--their normal use is not for anointing.

T. 9:7 (T. Sheb. 5:6-8; E-M: T.

M.S. 2:2-3)

T. supplements M. 11:1 in two parts, A-B+C-G and H-M. Both of them make the same point, emphasizing the principle which is central in M. This is that produce in the status of heave-offering must be used in its normal fashion as a food. This being the case, A-B claims that the priest may use figs in the status of heave-offering to flavor fish brine. This is so if he does so in a way which will not spoil them for his later consumption. T. thus carries forward M. 11:1A-B, which knows of no way that figs in the status of heave-offering may be added to brine.⁵ C-G, likewise, advances M.'s theory. Since spices normally are used to flavor foods, but are not eaten, even if they are in the status of heave-offering, they may be used for that purpose. It follows (F) that they lose their consecrated status, and may be discarded, when they no longer serve this usual purpose.

H-M states explicitly the basis for M. 11:1's rule. Wine and oil in the status of heave-offering should be used in their normal manner, as foods. As at A-B, T. now adds a point unknown to M. If, contrary to the law, oil in the status of heave-offering is perfumed, T. states that it may be used as an ointment. This is so (L) because this is a normal way in which oil is used. The point is cognate to the one which T. makes as regards spices in the status of heave-offering, C-D. This same thinking does not apply to wine or vinegar, D, since these things are not normally used as ointments, M.

11:2

A. [As regards any of the following which have the status of heave-offering:] (1) honey made from dates, (2) wine made from apples, (3) vinegar made from winter grapes (*stwnywt*) or (4) any other fruit juice in the status of heave-offering--

B. R. Eliezer obligates [a non-priest who unintentionally drinks any of these] to [payment of] the principal and [added] fifth.

C. But R. Joshua exempts.

D. And R. Eliezer declares [that these things render foods susceptible to] unclean[ness], under the law of liquids (*mšwm mšqh*).

E. Said R. Joshua, "Sages did not number seven liquids [which render food susceptible to uncleanness] as do those who count spices [i.e., imprecisely].

F. "Rather, they said, 'Seven [kinds of] liquids

[render foods susceptible to] unclean[ness], but all other liquids are clean [i.e., do not render foods susceptible to uncleanness].'"

M. 11:2 (A-C: b. Ber. 38a, b. Hul. 120b; F: see M. Mak. 6:4)

We know from M. Chapter Six that a non-priest who unintentionally eats heave-offering must replace that heave-offering and give the priest an additional fifth of the heave-offering's quantity. This is a penalty for misusing sanctified produce. The issue disputed by Eliezer and Joshua, A-L, is whether or not a non-priest who unintentionally eats heave-offering which was improperly processed as fruit juice is obligated to this same restitution. Objectively, the juice was made from a priestly gift and therefore has a sanctified status.⁶ This being the case, Eliezer holds that the individual is liable to the usual restitution. This is just as we would expect on the basis of Eliezer's position in M. Chapter Eight. Joshua, C, likewise is consistent with his position in that chapter. He takes into account extenuating circumstances. Although the fruit juice was made from heave-offering, it should not have been. The non-priest therefore could not have known that it was heave-offering, and had no reason to suspect that in drinking it he was doing anything improper.⁷ It follows for Joshua that he is exempt from the penalty.⁸ As before, Joshua holds that the status of an act is determined by the perception of the actor, not by the objective situation.

D-F is redacted here because, like A-C, it consists of a dispute between Eliezer and Joshua on the topic of fruit juice. It is however distinct in issue from A-C and from the concerns of this tractate in general.⁹ D-F depends on the law of Lev. 11:34, 38, which states that only foods which have been moistened are susceptible to uncleanness. M. Makh. 6:4, in turn, lists seven specific liquids which render foods susceptible to uncleanness. Eliezer apparently holds that these seven kinds typify larger categories of liquids (cf., M. Makh. 6:5). He therefore claims that even though fruit juices are not included in the list, they render foods susceptible to uncleanness. Joshua's view is clear. Only the specific liquids listed at M. Makh. 6:4 render foods susceptible to uncleanness. Fruit juices are not among those listed.

- A. [As regards] honey made from dates--
- B. R. Eliezer declares it liable to [the removal of] tithes.

C. (E lacks C-G.)¹⁰ Said R. Nathan, "R. Eliezer agrees that [the honey itself] is exempt from the removal of tithes.

D. "But R. Eliezer used to say (*'wmr hyh*) that one may not eat of the honey unless he had tithed the dates [from which the honey was made].

E. "R. Eliezer agrees that if he tithed the dates here (*kn = k'n*; see Jastrow, *s.v.*, *k'n*, p. 606, Lieberman, TK, I, p. 456, and Epstein, *Mabo'*, p. 1236) [i.e., in the Land of Israel] and turned them into honey in Apamaea,¹¹ that [the honey] is permitted [for consumption, without further tithing]."

F. [As regards] honey made from dates--

G. *R. Eliezer declares [that it renders foods susceptible to] unclean[ness], under the law of liquids [= M. 10:2D].*

H. Said R. Nathan, "R. Eliezer agrees that this does not render [food susceptible] to unclean[ness] under the law of liquids.

I. "Concerning what did they disagree?

J. "Concerning [the case] in which one put water in it.

K. "For R. Eliezer declares [that it renders foods susceptible] to unclean[ness] under the law of liquids.

L. "But sages say, 'They rule in accordance with which is in the majority, [honey or water].'"

T. 9:8 (y. Ter. 11:2; G-L: see

T. Mak. 1:7)

The contribution of each of T.'s two parts (A-B+C-D and F-L) is the comment of Nathan. This refines Eliezer's position such that Eliezer is made to agree with the view in M. held by Joshua. A-B, first, emphasizes Eliezer's notion that honey made from dates is deemed to be an agricultural produce in the status of the original dates. Like all produce, the honey therefore is liable to the separation of tithes, and, it follows, may take on the status of heave-offering. At C-E+D Nathan restates Eliezer's opinion, in fact reversing it (MB). He claims that Eliezer holds that the honey is not an agricultural product which may (C) or needs to (E) be tithed in its own right. This being the case, honey will not normally have the status of heave-offering, for only dates are to be tithed. This is Joshua's position.

Again at G-L Nathan brings Eliezer into line with the view taken by Joshua in M. 11:2. Nathan states that Eliezer agrees that honey is not a liquid which renders food susceptible to

uncleanness, Joshua's position at M. 11:2E-F. Nathan then re-states the dispute of M. in terms of whether or not honey which is mixed with water has the status of that water (K). The dispute is clear as given at K-L, with the opinion we would expect to be given to Joshua held instead of sages. This shift, along with the fact that this same dispute appears at T. Mak. 1:7 between Meir and sages, makes it likely that Nathan's comment reports an Ushan pericope, recast to mitigate the essential difference between the position of Eliezer and that considered normative in later times (e.g., at M. Ed. 7:2).

11:3

I. A. [Regarding produce in the status of heave-offering or second tithe:] they may not make (1) dates into honey, nor (2) apples into wine, nor (3) winter grapes into vinegar, nor (4) [as regards] all other fruits may they alter their natural condition if they are in the status of heave-offering or second tithe,

B. except [in the case of] olives and grapes.

II. C. They do not receive the forty stripes for [drinking liquids made from produce which is] from the first three years of growth of a vineyard or orchard (^C*r̄lh*; Lev. 19:23),

D. except for [drinking] that which is produced from olives or grapes.

III. E. And they may not bring first fruits in the form of liquids,

F. except for that which is produced from olives or grapes.

IV. G. And no [fruit juice] imparts [susceptibility to] uncleanness under the law of liquids,

H. except for that [liquid] which is produced from olives or grapes.

V. I. And they may offer no [liquid] at the altar,

J. except for that [liquid] which is produced from olives or grapes.

M. 11:3 (I: b. Pes. 24b; I-J:

b. Hul. 120b)

At A-B the pericope depends on and carries forward the principle of M. 11:1, that produce in the status of heave-offering must be eaten by the priest. Its particular question is the form in which produce is to be eaten, whether fresh (A), or, in the case of olives and grapes, processed (B). The problem for

interpretation is to determine why a distinction is made between olives and grapes and all other produce. As T. will make clear, the basis for this distinction is the form in which each type of produce customarily is eaten. Those things listed at A normally are eaten in their fresh state, and therefore, if in the status of heave-offering, must be consumed in that form. This is not the case for olives and grapes, which M. itself refers to as being made into wine and oil (cf., e.g., M. 1:8-9). If they have the status of heave-offering, they therefore may be processed into wine and oil.¹² The larger consideration, it would follow, is that of M. 11:1, that food in the status of heave-offering not go to waste. If produce which normally is eaten fresh is processed, then parts of the produce which usually are eaten (e.g., the skin) will be left to waste. For this reason, if such produce is in the status of heave-offering, it may not be processed. This consideration does not apply in the case of olives and grapes, which usually are pressed for oil and wine.¹³ Those parts of the produce which are left after pressing (e.g., grape skins) are not normally deemed the food of the grape or olive, and therefore, even if in the status of heave-offering, need not be eaten by the priest.

While the four rules at C-D, E-F, G-H and I-J all are formally similar to A-B, only the first two derive from the same reasoning which is operative at A-B. This indicates the unit was probably originally a triplet, A-B, C-D and E-F. G-H and I-J were added for reasons of form and completeness. The point at C-D and E-F is that first fruits and produce deriving from a vineyard or orchard in its first three years of growth, like heave-offering, are sanctified. For this reason they should be left in the form in which produce of their type normally is eaten. C-D's particular consideration is whether or not an individual is deemed culpable for eating consecrated produce which was improperly processed. This is the same issue as is disputed by Joshua and Eliezer for the case of heave-offering, M. 11:2. The anonymous rule here has the position of Joshua, that the individual is not culpable. Eliezer, we recall, holds that the individual is culpable, even though the produce has been misprocessed.

G-H and I-J are separate. G-H goes over the ground of M. 11:2D-F. Again, the anonymous rule here is in the position of Joshua at M. 11:2, that fruit juices do not impart susceptibility to uncleanness. Eliezer, M. 11:2D, holds that they do. I-J simply refers to the fact that the only liquids used on the altar are

oil, in which cereal offerings are fried (see, e.g., Lev. 2:1-16), and wine, given as a drink offering (e.g., Ex. 29:40).

A. "[As regards] olives in the status of heave-offering--

B. "[if they are] clean, let them be made into oil.

C. "[If they are] unclean, let them not be made into oil.

D. "[As regards] grapes [in the status of heave-offering]--

E. "whether they are unclean or clean, let them not be made [into wine]"--the words of R. Meir.

I. F. R. Jacob says (delete following E and ed. princ.: in his name), "R. Eliezer concedes to R. Joshua in [the case of] clean olives, that they should be made [into oil].

G. "Concerning what did they disagree?

H. "Concerning [the case of] unclean olives.

I. "For R. Eliezer says, 'Let them not be made [into oil],'

J. "and R. Joshua says, 'Let them be made [into oil],'

K. "'and clean grapes should be made [into wine], and unclean grapes should not be made [into wine].'"

II. L. Said R. Judah, "R. Joshua concedes to R. Eliezer concerning [the case of] clean olives and clean grapes, that they should be made [into oil and wine].

M. "Concerning what did they disagree?

N. "Concerning unclean [olives and grapes].

O. "For R. Eliezer says, 'They should not be made [into oil and wine],'

P. "and R. Joshua says, 'They should be made [into oil and wine].'"

III. Q. Said Rabbi, "R. Eliezer and R. Joshua did not disagree concerning clean olives, that they should be made [into oil], and concerning unclean grapes, that they should not be made [into wine].

R. "Concerning what did they disagree?

S. "Concerning unclean olives and clean grapes.

T. "For R. Eliezer says, 'They should not be made [into oil and wine],'

U. (Ed. princ. lacks:) "and R. Joshua says, 'They should be made [into oil and wine].'"

T. exposes a grey-area in the law of M. 11:3. The problem is what we are to do in a case in which the processing required for grapes and olives in the status of heave-offering will leave the wine or oil in a state of uncleanness. In this state it may not be eaten by a priest. (We recall that the unclean olives and grapes themselves may be eaten by the priest, for individually they are of too small a quantity to render the priest unclean.) At issue is whether, in such a case, we apply the rule that heave-offering should be processed as produce of its type normally is, or the one which states that heave-offering must be eaten. This question generates four sets of rules, that of Meir, A-D, and three Ushan versions of an Eliezer-Joshua dispute, F-K, L-P and Q-U. Since interpretation of the pericope requires a clear statement of the areas of agreement and disagreement among the various authorities and versions, I offer the following chart. "+" stands for "may be made into wine or oil," and "-" indicates "may not be made."

| | Meir (A-D) | Jacob Eliezer | (F-K) Joshua | Judah Eliezer | (L-P) Joshua | Rabbi Eliezer | (Q-U) Joshua |
|-------------------|---------------|------------------|-----------------|------------------|-----------------|------------------|-----------------|
| clean olives | + | + | + | + | + | + | + |
| unclean olives | - | - | + | - | + | - | + |
| clean grapes | - | + | + | + | + | - | + |
| unclean grapes | - | - | - | - | + | - | - |

Seen in this form, it is clear that there is in fact only a small range of disagreement as to the correct dispute between Eliezer and Joshua. All three Ushan renditions report the same version of the dispute for cases concerning clean and unclean olives. Eliezer and Joshua agree that clean olives in the status of heave-offering should be made into oil. The reason is as given in M., that olives normally are consumed in the form of oil. Joshua holds that unclean olives likewise should be made into oil, for this is the processing they normally undergo. Eliezer, to the contrary, holds that the priest's eating the produce is central. He therefore requires that the unclean olives be left in their unprocessed form. This same position is taken by Meir.

When we turn to the question of grapes in the status of heave-offering, matters are only slightly more complicated. We would

expect that clean grapes in the status of heave-offering should be made into wine, just as M. states. Only Rabbi's Eliezer, paralleled by Meir, disagrees with this. I assume that these authorities hold that grapes are normally consumed, or are more valuable, in their unprocessed form (HY), contrary to what M. holds. As regards unclean grapes, all of the versions have Eliezer remain consistent with his view concerning unclean olives. The unclean grapes are not to be processed, for obvious reasons. Meir agrees. Regarding Joshua, only Judah has him remain consistent with his position on unclean olives. He says that the unclean grapes should be processed into wine, even though the priest will not be able to drink that wine. As before, his view is that proper processing of the heave-offering is central. For this case, Jacob and Rabbi have Joshua revert to the position of Eliezer, that the grapes should not be processed. It is likely that the reason for this shift is that the unclean wine will go completely to waste. In this way it is unlike unclean oil in the status of heave-offering, which may be used to kindle the priest's lamp (M. 11:10). Jacob and Rabbi thus attribute to Joshua the basic position of Eliezer, that the rule for processing is not invoked in a case in which, as a result, the priest will not be able to use the heave-offering. In doing so, however, they destroy the consistency of Joshua's position, indicated in Judah's version of matters.

11:4-5

A. The stems of [fresh] figs, dried figs, pods (*klysym*)¹⁴ and carobs in the status of heave-offering are forbidden [for consumption] by non-priests.

M. 11:4 (see T. 5:6P-R)

B. [As regards] the pits (*gr^eyny*) of produce in the status of heave-offering--

C. when he [i.e., the priest] keeps them (*mknsn*), they are forbidden [for consumption by non-priests].

D. But if he throws them out, they are permitted.

E. And so [in the case of] the bones of Holy Things (*qdšym*) [i.e., animal offerings]--

F. when he keeps them, they are forbidden [to non-priests].

G. But if he throws them out, they are permitted.

H. Coarse bran (Jastrow, p. 751, for *mwrsn*) [from grain in the status of heave-offering] is permitted [for consumption by non-priests].

I. Fine bran (*swbyn*; Jastrow, p. 360: bran-flour) from fresh [wheat in the status of heave-offering] is forbidden [to non-priests].

J. But [fine bran] from old [wheat in the status of heave-offering] is permitted.

K. (Follow O², Pa, L, S and K which lack: And) [The priest] may treat heave-offering just as he treats unconsecrated produce [i.e., he may throw out the parts he does not normally eat].

L. One who prepares fine flour (*mslt*) [from wheat in the status of heave-offering], deriving a *qab* or two from each *se'ah* [of wheat], may not destroy the residue [which is edible].

M. Rather, he places it in a concealed place.

M. 11:5

The several rules of the two pericopae express a single thesis. This is that only food can have the status of heave-offering; what is not food cannot. This being the case, those parts of produce in the status of heave-offering which normally are not eaten are not deemed consecrated as a priestly gift.¹⁵ They need not be consumed by the priest and, in fact, are permitted for consumption by a non-priest who wishes to eat them. In light of this fact, the problem of the two pericopae is to establish criteria for determining what is food, such that if it is heave-offering, it must be eaten by a priest. Two distinct notions are presented. A, H-J and L-M use an objective standard of what is edible and what is not. B-C+D, its gloss at E-F+G, and K, to the contrary, offer cases in which the priest's own attitude towards the heave-offering is determinative. The claim is that what he deems to be food is to be treated as such and therefore retains the status of heave-offering (C). What he does not consider food, indicated by the fact that he throws it out, is deemed inedible, and so not to have the status of heave-offering (D). Since A-J is formally unitary¹⁶ we need not expect that these two distinct notions necessarily are contradictory. As we shall see, rather, they simply are applied in specific cases involving different types of produce. Each type has its own particular characteristics and, accordingly, its own rule.

The stems of produce in the status of heave-offering (A) are forbidden to non-priests because a small portion of food remains attached to them when the stem is broken off of the piece of

produce (Maimonides, TYY). This same criterion, that a small quantity of food remains with the waste, is operative at H+I-J and M-N. Bran, H-J, is the husk of wheat, left over in the production of flour. Large kernels of bran ("coarse bran," H) will have been completely emptied of flour-meal, and so are permitted to non-priests. This is not always the case for fine bran, in which small amounts of edible flour may adhere, making the husks available for use as food. In the case of fine bran we therefore distinguish between fresh, moist wheat, in the husks of which flour-meal is likely to have remained, and drier wheat, the husks of which will easily have emptied of all edible produce. The former contains food and is forbidden to non-priests; the latter is permitted.

The consideration at L-M is the same. In processing flour of high quality, much edible grain is left as waste. The priest need not eat this grain, for it is waste. Since it actually is edible, however, it may not be consumed by non-priests. It must, therefore, be hidden away (N).

This brings us to B-D+E-G and the question of why the items mentioned there are subject to a different rule from that which governs other types of food. In answer to this question it is notable, first, that pits, B, and bones, E, have in common a basic characteristic. Whereas they are not themselves edible, they may be used in the preparation of food, e.g., in making a broth or flavoring a stew. The status of these things thus is ambiguous, in that it is unclear whether or not they are to be deemed foods. It is this problem which interests M. and which generates the notion that the status of these things is determined in light of the attitude of the priest. If his actions indicate that he views the bones or pits as food, they are treated as such. It follows that they retain their consecrated status.

A. [*Produce in the status of*] heave-offering is permitted (*ntnh*) for (1) eating, (2) drinking and (3) anointing--

B. (1) to eat that which customarily (*drkw*) is eaten, (2) to drink that which customarily is drunk and (3) to anoint with that which customarily is used for anointing [=M. Sheb. 8:1, M. M.S. 2:1].

(1) C. To eat that which customarily is eaten. How so?

D. They do not obligate him [i.e., the priest] to eat the peel (*qnybh*) of a vegetable [in the status of heave-offering], bread [in the status of heave-offering] which has

become mouldy, nor a dish [in the status of heave-offering] the appearance of which has changed.

E. R. Hanania the Chief of the Priests says, "Heave-offering which has become unfit for use as food for humans, but which a dog can eat, imparts uncleanness as a food, yet (w) they burn it in its place [i.e., immediately, and need not wait for the time of removal; Lieberman, TK, I, p. 458]."
(2) F. *To drink that which customarily is drunk.* How so?

G. They do (Lieberman supplies with E and ed. princ.: not) obligate him [i.e., the priest] to drink a sauce of oil and garum (Jastrow, p. 84, for 'nygrwn) or of vinegar and garum (Jastrow, p. 64, for 'ksygrwn), or to drink wine along with its lees.

T. 9:10 (A-D, F-G: T. Sheb. 6:1-3;

E: see b. Pes. 15b, 45b)

H. [A priest] who has a toothache may not rinse them [i.e., his teeth] in vinegar [in the status of heave-offering, as a cure (b. Shab. 111a)] and [then] spit it out.

I. But he may rinse and swallow.

J. He may dunk [his bread, in any of the liquids mentioned at G, H] and need not scruple [that he has improperly used a liquid in the status of heave-offering].

T. 9:11 (T. Sheb. 6:3; see M. Shab.

14:4; T. Shab. 12:9, b. Bes. 18b)

K. [A priest] who has a sore throat (Lieberman supplies *hhwšš* with E and ed. princ.) may not lubricate it (Lieberman supplies *y^cr^cnw* with E and ed. princ.) [by gargling] with oil [in the status of heave-offering].

L. But he may add much [oil] to a sauce of oil and garum (Lieberman supplies 'nygrwn with E and ed. princ.) and swallow.

T. 9:12 (T. Sheb. 6:3, T. Shab.

12:10, b. Ber. 36a)

(3) M. *To anoint with that which customarily is used for anointing.* How so?

N. A person [i.e., a priest] may put oil [in the status of heave-offering] on his wound,

O. so long as he does not take [the oil] with a rag or cloth patch [which will absorb some of the oil] in order to place it on his wound.

T. 9:13 (T. Sheb. 6:4, T. Shab.

9:12)

P. [A priest] who had a head ache or any [priest] on whose head there appeared (^clw) scabs may anoint with oil [in the status of heave-offering], but may not anoint with wine or vinegar [in that status].

Q. For [as regards] oil, its normal use is for anointing.

R. But [as regards] wine and vinegar, their normal use is not for anointing.

T. 9:14 (T. Sheb. 9:4, T. Shab.

9:11; Q-R: T. Ter. 9:7L-M)

S. [As regards] wine in the status of heave-offering--

(1) they may not make it into an unguent ('lnty),

and (2) they may not make it into perfumed wine,

T. and (3) [the priest] may not place in his hand that which remains in the cup [after he drinks the wine],

U. (Delete with E and ed. princ.: and he may not take in his hand that which remains [in the cup])

V. and (4) a woman may not rinse her son in it.

W. Rabban Simeon b. Gamaliel says, "[As regards] wine in the status of heave-offering which became unclean [and so may not be drunk], or which was left uncovered [and may not be drunk, lest a snake deposited in it venom (M. 8:4)]--

"[the priest] may pour it out a bit at a time (s^wpq w^swnh) [in order to enjoy the smell],

X. "and he need not scruple [that heave-offering is being misused]."

T. 9:15 (S: see T. Ter. 9:7L-M;

V: see T. Shab. 12(13):13; W:

see b. Pes. 20b, b. B.Q. 116a)

T.'s long construction is formally autonomous of M., placed here because, at A-B, it states the principle which is operative at M. 11:1-5. This is that the priest uses produce in the status of heave-offering in the manner which is normal for produce of its type. The three part exposition which follows elucidates in turn each of the three elements of A-B, as indicated in the translation. The considerations dealt with are (1) that the priest need not eat food which, were it in an unconsecrated state, would be discarded (C-E) or used, for example, as a dip (F-G); and (2) that the priest must actually consume heave-offering. He may not use it for gargling and then spit it out (H-K), or use it in some other way which causes some of consecrated produce to go to waste (M-O).

P-X repeats what we already know from T. 9:7.¹⁷

A. [As regards] the pits of (1) olives, (2) dates and (3) carobs [in the status of heave-offering]--

all of these (E lacks: *kwlm*), even though [the priest] does not keep them [for his own use], are forbidden [for consumption by non-priests].

B. But [regarding] all other pits [from produce in the status of heave-offering]--

C. [*if the priest*] keeps them, they are forbidden,

D. [*and if he*] does not keep them, they are permitted [= M. 11:5B-D, with minor variations].

T. 10:1 (see T. Uq. 2:10)

T.'s point is clear on the basis of what we already have seen in M. 11:5. The pits of olives, dates and carobs differ from those of other produce in that they normally are used as a food, e.g., are pressed for their juices.¹⁸ If they come from produce which is in the status of heave-offering, they therefore also have that status. This is not the case for pits of other produce (B-D). These generally are not used as foods.

A. [As regards] the husks (*qlpy*) of fava-beans or sesame-seeds [in the status of heave-offering]--

B. [if] they contain food, they are forbidden [to non-priests].

C. [If] they do not contain food, they are permitted.

D. [As regards] peels (*qlpy*) of musk-melons [in the status of heave-offering]--

E. even though they do not contain food [from the musk-melon], they are forbidden [since they may themselves be eaten (MB, HY)].

F. The peel of a citron (*'trwg*) [in the status of heave-offering] is forbidden.

G. The seeds of a citron [in the status of heave-offering] are permitted.

H. The insides (E lacks: *m^ay*) of a citron [in the status of heave-offering] are forbidden,

I. since those with cravings (*qy'wt*; see Lieberman, TK, I, p. 464-5, and Jastrow, p. 1321, s.v. *qhh*) eat them.

J. [As regards] the rind (*qlpy*) of a watermelon and the insides [i.e., where the seeds are] of a watermelon and [other] refuse (*qnbwt*) of vegetables in the status of heave-offering--

K. R. Dosa' permits to non-priests.

L. But sages prohibit.

M. R. Jacob says in his [i.e., Dosa's] name, "[If these are from] early fruits (*hbkrwt*) or late fruits (*syypwt*), they are forbidden, [but if they are from] the middle of the summer, they are permitted."

N. The same restrictions which apply to the eating of [refuse of produce in the status of] heave-offering apply to untithed produce, (follow E in deleting: *m^csr tbl*), first tithe from which heave-offering [of the tithe] has not been separated and second tithe or produce dedicated [to the Temple] which have not been redeemed.

T. 10:2 (D-E: see T. Uq. 2:10)

O. Hollow kernels of wheat (*nyswlt*)¹⁹ and decayed grain (*rqbwnt*) in the status of heave-offering are forbidden [to non-priests, for they still may contain food].

P. [If] they turned to dust (so MB and HY for: *h^clw 'bq*)²⁰ they are permitted [for they no longer are food].

T. 10:3

T. further exemplifies M.'s principle that only that which is edible has the status of heave-offering and must be eaten by a priest. Waste from produce in the status of heave-offering which normally is not eaten therefore is deemed unconsecrated and may be consumed by non-priests.²¹ N states that this same principle applies to produce in the status of other sanctified agricultural offerings and to untithed produce.

A. *Fine bran from fresh [wheat in the status of heave-offering] is forbidden [to non-priests].*

B. *But [fine bran] from old [wheat in the status of heave-offering] is permitted [= M. 11:5I-J].*

C. For how long (*^cd mty*) is [fine bran from] fresh [wheat in the status of heave-offering] forbidden?

D. For as long as it is normal for people to thresh (*lhw^t*) at the threshing floors.

E. R. 'Aha says, "For thirty days [from the harvest]."

F. [As regards] fenugreek in the status of heave-offering with which a woman of priestly caste shampooed her hair (*r'^sh*)--

G. an Israelite-woman is not permitted to shampoo after her [with the same fenugreek].

H. But she [is permitted afterwards to] rub her hair against the [priestly woman's] hair.

T. 10:4 (A-F: y. Ter. 11:4; G-I:

T. M.S. 2:1)

A-E's supplement to M. 11:5I-J is clear as stated. F-H is separate, offering a problem autonomous of M. 11:4-5, yet illustrating the same principle. Fenugreek normally is used as a shampoo and therefore may be used for this purpose, even if it has the status of heave-offering. As long as the fenugreek remains useful as a shampoo, it has the status of heave-offering and may not be enjoyed by the Israelite-woman (G). Once the fenugreek has been rinsed out of the priestly woman's hair, however, no prohibition applies. The law of H follows.

A. [As regards] pulse in the status of heave-offering-- they do not make it into meal.

B. R. Simeon permits in the case of vetches [a type of pulse].

T. 10:5

At issue is the normal manner of preparation of legumes. A states that pulse in the status of heave-offering may not be ground, for this is not how such beans normally are eaten.²² Simeon, B, exempts vetches from A's rule.

11:6-8

A. [As to] a storage bin from which one emptied wheat in the status of heave-offering--

B. they do not obligate him to sit and pick up one at a time each kernel of wheat [which remains on the floor of the bin].

C. Rather, he may sweep [the bin] in his normal fashion, and [then] may put unconsecrated [wheat in the bin].

M. 11:6

D. And so [in the case of] a jug of oil [in the status of heave-offering] which was spilled--

E. they do not obligate him to sit and scoop [it] up with his hand (*mtph*; Jastrow, p. 546).

F. Rather, he treats it as he treats unconsecrated [oil which spills; he may wipe it up with a rag, even though the rag will absorb some of the consecrated oil].

M. 11:7

G. One who pours [wine or oil in the status of heave-offering] from one jar to another and [allows] three [last] drops to drip [from the jar he is emptying] may [then] put unconsecrated [wine or oil] in that [jar, without further wiping it out].

H. If [after three drops had fallen] he placed [the jar] on its side and [more oil or wine] drained [from it]--

lo, this [wine or oil] is in the status of heave-offering.

I. And what quantity of heave-offering of the tithe [separated] from produce about which there is a doubt whether or not it previously was tithed (*dm'y*) need one take to the priest?

J. One eighth of an eighth *log* [= 1/64 *log*; less than this quantity is deemed insignificant and need not be given to the priest].

M. 11:8 (G-H: see M. B.B. 5:8)

An individual may empty a vessel filled with heave-offering in the same way that he customarily empties a container of unconsecrated produce (A-C). He need not scruple about the small quantity of consecrated offering which remains in the bottom of the jar and goes to waste when other food is put in it. In the same way, D-F, one may clean up spilled heave-offering with a rag, which will absorb and thereby waste some of the consecrated oil. In each of these cases the small quantity of heave-offering which goes to waste may be ignored, just as it would be were it unconsecrated food. As at M. 11:3-5 the priest's obligation to eat produce in the status of heave-offering is determined by whether or not people normally consider that produce worthy as food. H's qualification is obvious. By collecting what otherwise would not be deemed significant as food, the individual indicates that he desires the produce. As at M. 11:5B-C, this act is determinative and, if it is in the status of heave-offering, the produce must be given to a priest.²³

I-J is separate from the foregoing, referring to heave-offering of the tithe and not to heave-offering. It has been redacted here because, like A-H, its concern is the householder's obligation to give to a priest small quantities of consecrated food. Heave-offering of the tithe separated from the produce about which there is a doubt whether or not it previously was tithed may not have a consecrated status. This is because the produce from which it was separated may already once have been tithed. In such a case of doubt, insignificant quantities of heave-offering may be destroyed (T. 10:6J). They need not be given to a priest.²⁴

A. *What quantity of heave-offering of the tithe [separated] from produce about which there is a doubt whether or not it previously was tithed need one take to the priest?*

One eighth of an eighth log [= M. 11:8I-J].

B. In what case does this apply?

C. [It applies] in the case of produce about which there is a doubt whether or not it previously was tithed.

D. But [as regards] produce which certainly is liable [to the separation of tithes] (*wdyy*), [in the case of] (read with E and ed. princ. :) any quantity [of heave-offering of the tithe, however small, it is forbidden [to destroy the offering; rather, it must be given to the priest].

E. To what case does this [A] apply?

F. [It applies] in the case of clean produce.

G. But in the case of unclean produce, no matter how much [heave-offering of the tithe is separated], it need not be given to the priest.

H. And so you rule (*'wmr*) in [the case of] the heave-offering of the tithe which is in all other produce [i.e., except wine and oil]--

I. if it is of this quantity [i.e., 1/64 *log*] you must give it to the priest:

J. But if it is not of this quantity, one throws it in the fire and burns it.

T. 10:6

T.'s qualification of M. 11:8I-J is in three distinct parts, B-D, E-G and H-J. Each of these clarifies M. by making explicit what previously was hardly subject to doubt.

B-D states that M. 11:8I-J's rule applies only to heave-offering of the tithe separated from produce which may already have been tithed. This is exactly what M. has said. If the heave-offering of the tithe is from produce which certainly never before was tithed, even if it is of insignificant quantity, it must be given to a priest. This is in accordance with the principle of M. 11:8H, that small quantities of consecrated produce which have been collected retain the status of a priestly gift.

F-G is standard. The householder need not give the priest doubtful heave-offering which the priest in all events may not eat, e.g., because it is unclean. This rule is applied no matter how large the quantity of such heave-offering.

H-J, finally, is perplexing. It claims that M. 11:8I-J refers only to some particular kind of produce (e.g., wine and oil, as I have interpolated following Lieberman). M. of course does not know this to be the case. Other than this shift, which I cannot explain, I-J simply repeats M.'s rule.

11:9

- A. [As regards] vetches in the status of heave-offering--
- B. [priests] may feed them to [their] cattle, animals or fowl.
- C. An Israelite who hired a cow from a priest may feed it vetches in the status of heave-offering.
- D. But a priest who hired a cow from an Israelite,
- E. even though he is responsible for feeding it
(*mzwntyw clyw*),
- F. may not feed it vetches in the status of heave-offering.
- G. An Israelite who tended the cow of a priest in return for a share in the value of the animal may not feed it vetches in the status of heave-offering.
- H. But a priest who tended the cow of an Israelite in return for a share in its value may feed it vetches in the status of heave-offering.

M. 11:9

Vetches are a food of an ambiguous type. Since they may be eaten by humans, they are liable to the separation of heave-offering and tithes. More commonly, however, they are not eaten by people, but are used as fodder for cattle. In light of this customary usage, even if vetches have the status of heave-offering, they may be fed to the priest's animals (A-B).²⁵ The animals, like the priest's wife and children, are considered part of the priestly household.²⁶ This basic notion, stated at A-B, is the subject of the little essay at C+D-F and G+H. Each of these cases addresses the question of the conditions under which animals are deemed to be under priestly jurisdiction, such that they may eat heave-offering. C-F states explicitly that the criterion is priestly ownership. A priest, therefore, may not feed heave-offering to an Israelite-owned cow, even if he has hired that cow and is responsible for feeding it.²⁷ An Israelite, however, may feed heave-offering to a priest's animal, just as he would give it to the priest himself. G-H complicates matters by introducing a case of joint ownership. One person owns the animal, while another cares for it in exchange for a share of the profit the mature animal will bring. In such a case an Israelite may not feed heave-offering to a cow owned by a priest. The Israelite himself ultimately will profit from that food, in the form of his share of the increased value of the animal. Under such terms, however, a priest may feed

heave-offering to an Israelite-owned animal. This is comparable to a case in which he feeds it to a creature of which he is part owner.

A. [As regards] the cow of an Israelite that bore a first-born [which belongs to the priest, Ex. 13:12]--

B. [the Israelite] may feed it (follow Lieberman in reading *m'kylw* for *m'kylh*) vetches in the status of heave-offering [if these are his to give, e.g., if he inherited them from his mother's father who was a priest; Lieberman].

C. Rabban Simeon b. Gamaliel says, "Not only is this the case (*wl'wd*). Rather, he may [even] take for it vetches [in the status of heave-offering which he separated from his own produce]."

D. A man [i.e., a priest] may place vetches in the status of heave-offering in his dove-cote and need not scruple [see M. 11:9B].

T. 10:7

The issue is whether or not a non-priest may feed to an animal which belongs to a priest heave-offering which he has separated from his own produce but which never has been given to a priest. One might argue that this heave-offering belongs to the priestly clan and therefore is not the non-priest's possession to give away, even to the priest's animal. This is the position of A-B. It holds that the householder may feed an animal belonging to a priest only heave-offering which is his rightful property. Simeon b. Gamaliel disagrees. He states that the non-priest may take vetches which he has separated from his own produce and give them to the priest's animal. It appears that Simeon's concern simply is that the consecrated produce is properly consumed. Whether or not it at any time is placed in the hands of a priest is irrelevant.

D is separate, yet like A-C clarifies M. 11:8. The priest may feed his doves vetches in the status of heave-offering, even though he does not benefit from work they perform or from using them as food. Like his other animals, they are deemed part of the priestly household.

A. A priest's slave who fled, or a priest's wife who rebelled [against him, and ran away], lo, these may eat heave-offering [under the assumption that the priest still is alive].

B. A man guilty of manslaughter should not go outside of the city of [his] refuge, in the assumption that the high priest still is alive.

T. 10:8 (T. Yeb. 9:2, T. Git. 2:12)

The same point is made twice. We maintain the prevailing status of the person who was left behind. In both cases we thus assume that the priest still is alive, as B states explicitly.

11:10

A. They kindle [unclean] oil [in the status of heave-offering] which is fit for burning in (1) synagogues (*bty knsywt*), (2) houses of study (*bty mdršwt*), (3) dark alleyways and (4) for sick people,

B. in the presence of a priest (*bršwt khn*).

C. [As regards] the daughter of an Israelite who married a priest but is accustomed to visit (supply *lbw'* with sixteen MSS. and versions; it is lacking in standard printed editions) her father--

D. her father may kindle [oil in the status of heave-offering] in her presence.

E. "They kindle [oil in the status of heave-offering] in a house in which there is a wedding feast, but not in a house of mourning"--the words of R. Judah.

F. R. Yose says, "[They do so] in a house of mourning, but not at a wedding feast."

G. R. Meir prohibits in either case.

H. R. Simeon permits in either case.

M. 11:10

Unclean oil in the status of heave-offering may not be eaten by the priest. In line with the laws of M. 11:2, 3 and 9, the oil may, therefore, be used for one of its other customary purposes, kindling in lamps.²⁸ With this as its underlying assumption, the problem of 11:10 is to determine in what places the oil may be burned. This is a problem because not only the priest, but also non-priests who happen to be present, will enjoy the light. Since non-priests are restricted from benefitting from consecrated priestly gifts, we should expect that heave-offering-oil should not be kindled where such individuals are present. A-B and C-D make the single point that this is not the case. So long as the oil is used for its designated purpose, the benefit of the priest, it is irrelevant that non-priests also profit. That is, we take into account only the oil's intended purpose. Consequences which are

extraneous to that purpose may be ignored. As long as a priest is present, oil in the status of heave-offering may be kindled either in public (A),²⁹ or private (C) places.³⁰

E-H carries forward the question of where oil in the status of heave-offering may be burned. The four-party dispute eludes interpretation, since its own language offers no grounds for determining why the rule for a wedding feast should differ from that governing a house of mourning. A priest may be present in either place, and therefore it would seem that both locations should fall under the rule of A-B+C-D.³¹

A. [As regards] a priest's cattle which were standing [in a barn] next to an Israelite's cattle,

B. and so the garments of a priest which were being woven near the garments of an Israelite--

C. lo, this one [i.e., the Israelite] may kindle on their account oil [in the status of heave-offering] which is fit for burning.

D. [As regards] an Israelite who was sitting in the shop of a priest--

E. lo, this [priest] may fill for him a lamp with oil [in the status of heave-offering] which is fit for burning,

F. [and the Israelite] may go up to the attic, or down to the cellar, in order to do what is needful to the priest, but not what is needful to the Israelite.

G. If [the Israelite] was a partner in the [ownership of] the store with him [i.e., the priest], this is permitted [i.e., the Israelite may use the heave-offering for his own needs, since this ultimately benefits the priest].

H. And so [in the case of] a priest who was dining (*msb*) in the home of an Israelite--

I. lo, this [priest] may kindle for him a lamp [filled] with oil [in the status of heave-offering] which is fit for burning.

J. Even though the priest [later] got up and left, they do not obligate him to put out the lamp, until it goes out by itself.

K. [As regards] an Israelite who entered the home of a priest to light his [i.e., the Israelite's] lamp and wished to leave [immediately thereafter]--

[the priest] dips a wick in oil [in the status of heave-offering] which is fit for burning for him.

L. (E lacks L-M). And so [in the case of] the daughter of an Israelite who entered [to visit] the daughter of a priest and wished to leave.

M. [The priest's daughter] dips a wick in oil [in the status of heave-offering] which is fit for burning for her.

N. [As regards] the daughter of a priest who had in her hand a lamp filled with oil [in the status of heave-offering] which was fit for burning, on the eve of the sabbath at the time of sunset--

lo, this one may add any [small] amount of unconsecrated oil to the lamp, and may kindle it [for the sabbath].

T. 10:9 (A-N: y. Ter. 11:7; A-G:
y. Shab. 2:1; L-M: y. Sheb. 42;
N: y. Shab. 2:1)

T.'s several rules all repeat the point made by M. 11:10. As long as the oil in the status of heave-offering is used to the benefit of the priest, it is irrelevant that non-priests likewise enjoy the light. What T. adds is that this principle applies even if the priest benefits from the oil in a most tangential way, e.g., in cases in which he is not present (A-C). He may even use the oil to light the lamp of a passer-by, thereby avoiding the use of unconsecrated oil which he would have had to purchase (K-M). The problem at N is that sanctified oil, like any holy thing, normally is not burned on the sabbath (y. Shab. 2:2, cited by Lieberman, TK, I, p. 471). To indicate that she does not intend to transgress this prohibition, but simply to light the lamp required for the sabbath, the priestly woman adds some unconsecrated oil to the heave-offering (Lieberman, *ibid.*).

A. A priest may anoint himself with oil in the status of heave-offering and [afterwards] bring an Israelite member of his household and roll [the Israelite] around on his [i.e., the priest's] back [so that the Israelite is anointed with the oil].

B. A priest may anoint himself with oil in the status of heave-offering and enter a bath house,

C. (supplied with E: and) a non-priest need not refrain from rubbing against him (read with E: *mšḥw*; V reads: *mšḥynw*), even though he is anointed by the [oil on the priest's body].

D. A priest may not put oil in the status of heave-offering on a marble table in order to roll on it [and anoint himself].

E. Rabban Simeon b. Gamaliel permits.

T. 10:10 (D-E: T. Sheb. 6:9)

T. applies to cases in which the consecrated oil is used as an ointment M.'s theory on the use of oil in the status of heave-offering for kindling. This theory is revealed in the contrast between the cases at A+B-C and that at D+E. As long as the oil first serves its purpose upon the body of the priest, it may be used to the benefit of non-priests (A-C). Any oil which does not serve the purpose of the priest, however, is forbidden to non-priests. For this reason the priest may not put consecrated oil on a marble table, D. Any oil which is not absorbed by his body will not have benefitted the priest, yet will be left for non-priests. Simeon b. Gamaliel, E, does not mind this. His theory is that the consecrated oil left on the table in all events has no further purpose to the priest, who cannot collect it and use it again. This is not a rejection of the principle of the pericope, but a qualification of its application.

A. [As to] oil in the status of heave-offering--

B. they do not anoint with it with unclean hands.

C. [But if] it fell on his [i.e., the priest's] skin, he may rub it in, even with unclean hands (E adds: and need not scruple).

D. [As regards] oil in the status of heave-offering--

E. they do not glaze (*hsm*) an oven or stove with it.

F. And they do not soften (lit.: anoint) shoes or sandals with it.

G. [A priest] may not anoint his foot [with oil in the status of heave-offering] while (*w*) it is in a shoe.

H. He may not anoint his foot while it is in a sandal.

I. But he may anoint his foot and [then] put on a shoe,

J. [or] anoint his foot and [then] put on a sandal.

K. A priest may anoint himself with oil in the status of heave-offering and [then] roll around on a leather spread and need not scruple.

T. 10:11 (D-K: T. Sheb. 6:11; F-K:

T. Shab. 3(4):16)

The priest may use oil in the status of heave-offering only

to anoint his own body, a customary use for oil (D-H; cf., T. 9:7). As at M. 11:10 and T. 10:11, the point here is that once the oil has served this purpose, it no longer need be treated as a consecrated priestly gift. The priest may thereafter do with it what previously had been forbidden, i.e., make it unclean (C), or use it to soften leather (G-K). Since D-E does not make this point, it must be seen as separate, interpolated because of the congruence to A-B of its topic and language. I assume that oil in the status of heave-offering may not be used for glazing because, unlike anointing, this is not an everyday use of oil.³²

I. A. [As regards] the lees of wine in the status of heave-offering--

B. the first and second times [the priest strains water through them, the resultant liquid] is forbidden [to non-priests].³³

C. But the third time, it is permitted.

D. R. Meir says, "The third time [the liquid is forbidden] if [the wine lees] imparted to it flavor."

II. E. [If the lees are in the status of] second tithe--³⁴

F. the first time [that someone strains water through them, the resultant liquid is] forbidden [i.e., has the status of second tithe].

G. But the second time, [the resultant liquid] is permitted [i.e., unconsecrated].

H. R. Meir says, "The second time, [the liquid is forbidden] if [the wine lees] imparted to it flavor."

III. I. And as regards [lees from wine which was] dedicated [to the Temple]--

J. the first, second and third times [that water is strained through them, the resultant liquid] is forbidden [i.e., dedicated to the Temple].

K. But the fourth time, it is permitted [i.e., unconsecrated].

L. R. Meir says, "The fourth time, [the liquid is forbidden] if [the lees] imparted to it flavor."

T. 10:12 (b. B.B. 97a)

M. Lees which derive from the wine of gentiles, which dried up, [still] are forbidden [to Israelites] for benefit.

N. [As regards] the chamber pot of a *zab* or a *zabah*--

O. the [water of the] first and second [washings of the pot] conveys uncleanness.

P. But the [water of the] third [rinsing] is clean.

Q. Under what circumstances?

R. When one put water in it [to rinse it].

S. But when one did not put water into it [but rinsed it with clean urine]--

T. even up to the tenth [rinsing]--

U. it conveys uncleanness.

V. R. Eliezer b. Jacob says, "The third, even though he did not put water into it, is clean."

T. 10:13 (T. Toh. 5:3; see b. A.Z. 34a)

W. They purchase and borrow urine from any source, and they do not take account of the possibility that it derives from menstruating women,

X. for the daughters of Israel are not suspected of collecting their urine when they are menstruating.

T. 10:14³⁵ (T. Toh. 5:3)

The pericopae explore an ambiguity arising from the law of M. 10:11. The problem is how we determine when produce in the status of heave-offering has served its intended purpose, such that it no longer has the consecrated status of a priestly gift (A-D). The difficulty in interpretation is to discern the theories which underlie the distinct approaches of A-C and Meir, D. In light of the redactional setting of the pericope, I assume that A-C takes into account the number of times which people ordinarily use a batch of lees to prepare a drink. For that same number of times, lees which have the status of heave-offering impart a consecrated status to the water with which they are mixed. After that number of times, they have fulfilled their usual purpose and so no longer have the status of heave-offering. Meir, on the other hand, applies the criterion of M. Chapter Ten. As long as the lees impart flavor to the water, they are useful as food and therefore impart to that water the status of heave-offering. E-H are formally parallel, carrying out A-D's same exercise for cases of second tithe and produce dedicated to the Temple. The differing number of uses for which the lees impart their own status to the liquid is on the basis of the relative sanctity of the different categories of lees. That which is dedicated to the Temple (i.e., Holy Things) is the most holy, followed by heave-offering (see M. Toh. 2:6) and, finally, second tithe.

Lees from the wine of gentiles, M, fall under the same restrictions as gentile-wine itself. Since the wine may have been

used for a libation to pagan gods, Israelites may not drink it. The same applies to a drink made from the lees.

P-V+W-X is redacted here for reasons of its form and underlying theory. Topically, however, it does not belong, its primary context being in T. Toh. Urine of a *sab* or *sabah* (i.e., an individual who has had a flux and is unclean) or a menstruant, is unclean, like the person from whom it derives. As at A-L, the consideration here is the number of times people ordinarily wash a bed-pan before they consider it clean. Water from washings prior to this number is deemed unclean, like the pot itself. Once the pot is considered clean, water with which it is rinsed likewise is clean.

A. They may not mix together grain and pulse in the status of heave-offering.

B. But they may mix together sesame-seeds³⁶ and fava-beans (*'ypylym*) or fava-beans and lentils,

C. or any kinds [of produce] which customarily are sifted (read with V: *lykbr*; E, ed. princ. read: *lykbd*) [before use, for the different kinds thus will be sifted apart].

D. Ever since Judaea was destroyed (Hastily may it be rebuilt!), they began to mix together different types of grain, and different types of pulse,

E. but not grain with pulse, nor pulse with grain.

T. 10:15

F. [As regards] a priest to whom they gave heave-offering [of produce of one kind] and he found in it produce of a different kind (*dbrym 'hrym*)--

G. lo, this [i.e., the other produce] is forbidden [i.e., assumed to be heave-offering],

H. since [householders] throw all [of the heave-offering they separate from various kinds of produce] into the storage room for heave-offering (*byt hdm^c*).

T. 10:16

T. carries forward M.'s principle that heave-offering is to be prepared only in ways in which produce of its type normally is cooked and eaten. D-E describes the way in which people usually prepare grain and pulse. It therefore provides the key to the interpretation of A-C. Since people do not customarily mix together grain and pulse, E, it is forbidden to do so if produce of these kinds has the status of heave-offering (A).³⁷ B-C's point

simply is that such mixtures may be created if the produce ultimately will not be cooked together. This hardly is a major qualification of A's rule.

F-H is not dependent on A-E for meaning. It has been juxtaposed to that unit because it also deals with mixtures of different kinds of produce in the status of heave-offering. Its point is clear on the basis of its explanatory gloss, H.

A. They do not bring heave-offering from the threshing floor to the city [to be distributed to priests], nor from the wilderness to a settlement.

B. However, in a case in which a wild or domesticated animal would eat [the heave-offering were it left at the threshing floor for a priest to pick up], they ordained that the householder should bring it [to the city or settlement],

C. and receive from the priest payment [for his work],

D. to prevent (*mpny*) desecration of the name [of God, through the profanation of the heave-offering].

T. 10:17 (A-B: b. Hul. 134b; A-C:
y. Dem. 1:2, see T. M.S. 3:12)

E. There are ten [categories of people] to whom they do not distribute [heave-offering] at the threshing floor, and these are they:

F. (1) deaf-mutes, (2) imbeciles, and (3) minors,

G. (4) people without sexual traits (*tumtum*) and (5) hermaphrodites,

H. (6) wives [of priests] and (7) slaves [of priests],

I. (8) uncircumcised [priests] and (9) unclean [priests, neither of which categories are fit to eat heave-offering],

J. and (10) [priests] who marry women who are not fit for them [e.g., divorcees; such priests no longer are accorded the privileges of the priestly clan, M. Bek. 7:7].

K. But [as regards] all of them, [a householder] may give them heave-offering from within [the householder's] house,

L. except [in the case of] unclean [priests] and [priests] who marry women who are not fit for them.

T. 10:18 (b. Yeb. 99b)

T.'s final unit is on what individuals are fit to receive heave-offering and how the offering is distributed to them. While this topic has been ignored by M., it constitutes a fitting conclusion to the tractate as a whole, paralleling at E-L M. 1:1's

list of individuals who may not separate heave-offering. The point at A-D is that the expense of transporting heave-offering to the priest is not incumbent upon the householder. His responsibility simply is to separate the priestly gift from his produce, thereby preparing that produce for his table. For this reason, priests normally receive their due at the threshing floor, where householders separate the heave-offering. Only if the offering is in danger of being eaten improperly need the householder transport it to the priest (B-D). The householder does this as a service to the priest, and therefore the priest must pay him for his labor.

E-J's list is a composite of types of individuals who, for different reasons, may not be given heave-offering at the threshing floor. The list falls into two major parts, people who are not fit to eat heave-offering (I-J) and individuals who, while fit, may not be given the priestly gift in public (F-H). This latter group consists of individuals who are either intellectually or physically imperfect (F-G), or who do not themselves have priestly status (H). Since it would appear improper to give such people heave-offering, it is forbidden to do so in public. These people are, however, fit to eat the priestly gift. The householder, therefore, may give it to them in the privacy of his own home, where appearances are not a consideration (K). The individuals at I-J may not eat heave-offering. They are either permanently unfit to serve as priests (e.g., are married to unfit women, or are uncircumcised), or are temporarily unfit (e.g., are unclean). A priest who has married an unfit woman no longer has the right to eat heave-offering, and therefore may not receive it, even in private. Unclean and uncircumcised priests, on the other hand, may feed their households with the priestly gift. Still, they are not given the offering in public. As before, this would appear a misdeed. An unclean priest, moreover, like the one who married an unfit woman, is not allowed to receive heave-offering in private (L). I assume (following b. Yeb. 99b) that the reason is that he is punished for his lack of care in following the rules of cleanness.

NOTES

NOTES TO INTRODUCTION

¹The other offerings set aside by the Israelite are first tithe, for the Levite, second tithe, which the householder himself eats in Jerusalem, poorman's tithe, for the poor, and first fruits, waved before the altar in Jerusalem. If the householder makes dough, he further must separate dough-offering which, like heave-offering, goes to the priest. The Levite, for his part, takes from his first tithe an offering for the priest. This is called heave-offering of the tithe. On the structure and content of the Order of Agriculture as a whole, see Neusner, *Judaism*, Chapter Three, part ii, and Chapter Four, part ii. On Mishnah's tithing system, see Sarason, *Demai*, pp. 1-9, and Sarason, "*Zera'im*."

²In this way the task of Mishnah Terumot is parallel to that of the other tractates in the Division of Agriculture which deal with specific agricultural dues. I refer in particular to Tractate Pe'ah, on the portion of the unharvested crop which must be left for the poor, Ma'aser Sheni, on second tithe, Hallah, on dough-offering, and Bikkurim, on first fruits. Tractate Ma'aserot, for its part, functions as the introduction to this whole system of tithes. It does this by indicating exactly what produce is liable to the separation of tithes, and the point in its ripening or subsequent processing at which it becomes so liable. See the introduction to Jaffee, *Maaserot*.

³On this passage, see Eissfeldt, pp. 81-83, Snaith, pp. 266-67, and Gray, pp. 223-24. The problem of the biblical sources for Mishnah's system of tithes, and heave-offering in particular, has been discussed by Sarason, *Demai*, pp. 6-8, and note 8 there, and in the notes to his "*Zera'im*."

⁴Further grounds for Mishnah's identification and description of this priestly gift is at Neh. 10:37a, which refers to offerings of "the first of our coarse grain, and our contributions (*trwmtynw*), the fruit of every tree, the wine and the oil."

⁵It is this concern for the process of sanctification which in the first place has prompted Mishnah's framers to talk about heave-offering. This is clear from the fact that the Division of Agriculture devotes tractates only to those offerings which have a consecrated status. These are heave-offering, second tithe, dough-offering and first fruits. There is, on the other hand, no tractate on first tithe, which is not holy. The inclusion of Tractate Pe'ah, on poor-taxes, is explained by the fact that the produce of which it speaks stands completely outside of the system of tithes. It is not liable to the separation of agricultural dues. This produce had to be defined if, in its other tractates, the Division of Agriculture was accurately to detail what produce is liable and available for payment of the various dues (see, e.g., M. Ter. 1:5). The whole thus forms a single, indivisible unit (see Neusner, *Judaism*, Chapter Three, part ii). It appears, therefore, that a theory of what Mishnah's tithing-tractates were to discuss preceded and guided all work which actually was done on these tractates.

⁶This must be qualified. The Israelite's power to designate as holy applies only to produce which, because it was grown on God's land is susceptible to sanctification (see Sarason,

"Zera'im"). Note however that even produce grown on the Land of Israel is not automatically liable to the separation of agricultural offerings. It becomes so liable only in response to certain desires and intentions on the part of the Israelite householder. Jaffee, Introduction to *Maaserot*, MS. pp. x-xi, states:

What is striking...is that the entire mechanism of restrictions and privileges, from the field to home or market, is set in motion solely by the intentions of the common farmer. Priests cannot claim their dues whenever they choose, and God himself plays no active role in establishing when the produce must be tithed. Indeed, the framers of *Maaserot* assume a profound passivity on the part of God. For them, it is only man who is active and whose actions affect the world. God's claims against the Land's produce, that is to say, are only reflexes of those very claims on the part of Israelite farmers. God's interest in his share of the harvest...is first provoked by the desire of the farmer for the ripened fruit of his labor. His claim to that fruit, furthermore, becomes binding only when the farmer makes ready to claim his own rights to its use, whether in the field or at home or market.

Mishnah thus describes the intentions of the common Israelite as central in all aspects of its system of agricultural dues. This begins with the circumstances under which produce become liable to the separation of these dues, and includes the actual separation and, as we shall see, protection of the offerings.

⁷This is with the provision that the householder does not violate the taxonomic categories established by God at creation, for instance, by separating the heave-offering required of a batch of olives from a batch of grapes. See my discussion of M. 1:4, 8, 9 and, in particular, M. 2:4-6.

⁸The rules for such cases are found at M. 10:1-12.

⁹This is implicit throughout, but is stated quite explicitly in the position of Judah, M. 10:1H-I, and in Simeon's position in T.'s correlative material, at T. 8:9b.

¹⁰In this regard it is possible that Tractate *Terumot* simply carries forward and brings to their logical conclusion ideas which have found their foundation in Scripture. The statement of Moshe Weinfeld (pp. 214-15, cited by Sarason, "*Zera'im*") regarding the Deuteronomic view is pertinent:

The book of Deuteronomy also contains a less sacral conception of the tithes than the other Pentateuchal sources. The tithe, which the Priestly document designates as 'holy to the Lord' (Lev. 27:30-33), and which according to a second tradition accrues to the Levites (Num. 18:21-32), remains by deuteronomic legislation the property of the original owner (Dt. 14:22-7). Furthermore, it may be secularized and employed for profane purposes on payment of its equivalent monetary value (without the addition of the fifth-part required by P (cf. Lev. 27:31). This provision seems to be yet another expression of the liberation of the cultus from its intimate ties to nature. The sanctity of the tithe is not conceived as an inherent quality of the grain or

animal, as in the Priestly document (Lev. 27:30-3); for it is man who consecrates it and may, if he wishes, secularize it through redemption. In the deuteronomic view, sanctity is not a taboo that inheres in things which by nature belong to the divine realm but is rather a consequence of the religious intentions of the person who consecrates it.

As is clear, the conception of the sacred described by Weinfeld is very close to that which is central in Tractate Terumot.

¹¹These rules are at M. 9:1-6.

¹²M. makes the same point through cases in which a non-priest unintentionally eats heave-offering. If that happens, the non-priest simply sanctifies more produce to replace the heave-offering which he ate. (In this case he also must pay an additional fifth of the heave-offering's value, as mandated by Lev. 5:16 and 22:14). If, however, the non-priest intentionally eats the priestly gift, he is culpable for destroying the holy thing. He cannot replace the sanctified produce, and, further, is liable to extirpation.

¹³The tractate's only attributions to authorities who lived before A.D. 70 are in three disputes assigned to the Houses of Hillel and Shammai. As I have argued (in Neusner, *Judaism*, Appendix I, part iv), only in the case of one of these disputes are there grounds for holding that the issue actually goes back to the historical Houses. It therefore is clear that almost all of the work on Tractate Terumot was done at Yavneh and Ushah.

¹⁴On the larger statement made by the Order of Agriculture, see Neusner, *Judaism*, Chapter Four, part ii. I also have used the introductions to the following commentaries on specific tractates within the order: Sarason, *Demai*, Mandelbaum, *Kilaim*, Jaffee, *Ma'aserot*, Haas, *Ma'aser Sheni*, Havivi, *Hallah*.

¹⁵See Neusner, *Judaism*, Chapter Six, part vi, where he discusses the role of man in Mishnah as a whole. Neusner writes:

So, stated briefly, the question taken up by the Mishnah is, What can man do? And the answer laid down by the Mishnah is, Man, through will and deed, is master of this world, the measure of all things. Since when the Mishnah thinks of man, it means Israelite, who is the subject and actor of its system, the statement is clear. In the aftermath of the two wars, the message of the Mishnah cannot have proved more pertinent--or poignant or tragic.

We have seen here clearly that Tractate Terumot corroborates Neusner's claim.

¹⁶The original statement of this theory is in Neusner, *Purities*, part 21. See in particular pp. 234-46 and 298-302.

¹⁷This means that in the context of this commentary, no systematic effort may be made to speak about stages in the development of the law prior to the redaction of the tractate. Such a picture of the development of the law necessitates a further level of interpretation. This involves describing the logical unfolding

of the several main principles of the tractate, as these appear in the mouths of lawyers of different generations. This approach was developed by J. Neusner and is explicated in "Current Events," pp. 410-12. See also the chapters on the "Weaving of the Law" in his *Purities* (vols. 3, 5, 8, 10, 12, 14, 16-20), vol. 5 of *Appointed Times*, vol. 5 of *Women*, vol. 5 of *Damages*, and vol. 6 of *Holy Things*.

¹⁸ See Neusner, "Form and Meaning: Mishnah's System and Mishnah's Language," in J. Neusner, ed., *Method and Meaning in Ancient Judaism* (Missoula, 1979), pp. 155-81.

¹⁹ MSS. are coded to Latin letters, listed in this volume in the Abbreviations and Bibliography.

²⁰ In parentheses below each pericope of Tractate Terumot I list parallel passages found elsewhere in Mishnah, Tosefta, the Halakhic Midrashim and in the Talmudim. These are passages to which I turned for help in interpreting the pericope in question. An exhaustive list of parallels and other pertinent passages is in Sacks-Hutner.

²¹ In order to facilitate reference, these syntactic units are designated with the letters of the alphabet.

²² Neusner calls the statements comprised by these sequences of syntactic building blocks "cognitive units." These are "the formal result of a single cogent process of cognition, that is, analysis of a situation and statement of a rule pertaining to it, observation of a recurrent phenomenon and provision of a generalization covering all observations, reflection upon basic rules and their generation of, or application to, secondary and tertiary details or situations, in all, again, the product of an act of thought" (*Purities*, part 21, p. 164; see also "Redaction," p. 10). It is these cognitive units to which I here refer as "pericopae," and which constitute the primary foci of my literary analysis.

²³ Neusner, *Purities*, vol. 21, pp. 165-96, presents a full catalog of Mishnah's forms.

²⁴ At several points in Tractate Terumot, disparate items have been brought together at the redactional level, apparently in order to create lists of five, or a multiple of five, entries. See, for example, M. 1:1 and M. 1:5. Since in these cases redactional seams are discernable, they offer the opportunity to examine the meaning of a particular law outside of its redactional context. While such cases are informative of the role of the redactional process in imparting particular meaning to prior laws, they are too episodic to allow description of sources which might have been used in the formulation of the tractate.

²⁵ Neusner, *Purities*, vol. 21, p. 165, defines formulary patterns as "grammatical arrangements of words distinctive to their subject but in fixed syntactical patterns serviceable for a wide range of subjects." At pp. 196-246 he catalogs all formulary patterns found in the Division of Purities. See also "Form and Meaning: Mishnah's System and Mishnah's Language," pp. 156-57.

²⁶ The philological work of modern scholars also has been an important tool in my examination of the tractate. I make constant reference to the studies of Feliks, as well as to the brief commentary of Albeck, and to prior translations of the tractate.

These all are important in elucidating the meaning of otherwise obscure words and phrases. Since, however, these studies do not advance the rabbinic treatment of the meaning of the law, I exclude them from the present discussion.

²⁷On the following, see Neusner, "Current Events," p. 413. See also, J. Zaiman, "The Traditional Study of the Mishnah," in Neusner, *Modern Study*, pp. 1-12.

²⁸See Neusner, "Transcendence," pp. 25-26.

NOTES TO CHAPTER ONE

¹M. 1:5B-D gives examples of produce from which heave-offering may not be separated, an issue secondary to that of particular methods by which heave-offering is not separated.

²Specifically, M. 1:2-3 gloss M. 1:1 by referring to particular individuals listed at M. 1:1. As glosses, these pericopae comprise extensions of M. 1:1, and are not to be viewed as separate entities within the chapter's redactional framework.

³Among these pericopae, only M. 1:7 does not evidence the formulaic characteristics I have noted. It lacks the expected statement of the status of heave-offering separated in contradiction to its law. I have explained the redactional placement of this pericope above, p. 12.

⁴Notably, Chapter One's two sub-units both are introduced by formally parallel pericopae (M. 1:1, 6). Each of these lists five individuals who may not separate heave-offering *de jure*.

⁵For other examples of this cliché, see M. R.H. 3:2, M. Git. 2:5, M. B.K. 4:5, *et. al.*, cited in Kasovsky, *Mishnah*, vol. 2, p. 735.

⁶On the variant ^a*wbd kwkbym* for the term *nkry* found in most MSS., see *JE*, vol. 3, p. 644, Popper, p. 71, and Strack, p. 262, n. 66.

⁷The reading translated here at E-G is supported by Ve, C, K, Sa, T3, the printed edition, the parallel passages and the medieval commentators. The various remaining manuscripts offer three other distinct readings (cited in Sacks-Hutner, p. 101). Two of these do not make good sense. Only the reading of C, M and S remains a viable alternative. It is as follows:

E. and a gentile who separated heave-offering from [the produce of] an Israelite,

F. even with permission.

G. That which these [five individuals] separate is not [valid] heave-offering.

According to this reading, E is introduced with *and* and depends upon A-B for its sense. G then refers back to all of the items of the list. This reading seems to indicate an attempt to harmonize the form of M. 1:1 with that of M. 1:6, and to make M. 1:1 appear less of an artificial construction than it in fact is.

⁸B. Nid. 46b reads: "that which he separates is not [valid] heave-offering." No MS. of the Mishnah supports this reading. Among exegetes, only Rosh argues its veracity.

⁹See M. Makh. 3:8, 6:1, and M. Toh. 8:6. The point of these pericopae is that only the actions of the *heresh* are of consequence; his intention is of no effect.

¹⁰This exegesis is supported by T. 1:1. Y. Ter. 1:1, followed by all prior exegetes of the tractate, finds Biblical support for the rule of M. 1:1 in Ex. 25:2-3. Its interpretation is as follows: "*Speak to the people of Israel that they make for me an offering; from every man whose heart makes him willing you shall receive an offering for me. And this is the offering which you shall receive from them...*" The reference to "people of Israel" is understood to mean that a gentile may not separate heave-offering. (This is contrary to M. 3:8 and in all events does not explain M. 1:1E-G.) "From every man" excludes the minor from separating heave-offering; "whose heart makes him willing" excludes the deaf-mute and imbecile; "from them" means that each person must separate heave-offering from his own produce.

¹¹Sifré Zutta 13:34 (Horovitz, p. 279), b. Kid. 41b, b. Naz. 12b and b. Ned. 72b provide scriptural proof that "a man's agent is like himself." See also Levinthal, p. 25.

¹²Y. 1:1 (= b. Kid. 43b, y. Dem 6:1) derives the rule from Num. 18:22: "*So shall you also present an offering to the Lord.*" The word "also" is interpreted to mean that although "you" (=Israelites) may have agents for separating heave-offering, your agents must be like "you," that is, Israelites. See Levinthal, p. 41-2, and b. B.B. 71b, which he cites.

¹³His status thus equals that of the individuals listed at M. 1:6.

¹⁴Cited by TYT. At y. Meg. 2:4 (cited by Epstein, *Mishnah*, p. 354), R. Hisda states that the inclusion of the *heresh* in M. Meg. 2:4 was caused by *lapsus linguae*.

¹⁵Both of the Talmudim, and the various commentaries, have noted the contradiction between M. 1:2L and T. 1:2. y. Hag. solves the problem by stating, in reference to M. 1:2L, that "general principles established by Rabbi are not [to be deemed] general principles." This hardly seems to help matters. Isaac de-Treni (*Tosefot RY"D*, b. Git. 71a), alternatively, distinguishes (apparently on the basis of T. Ter. 1:1G-I) between an individual who was a *heresh* (= deaf-mute) from birth, and one who became a *heresh* through disease. The latter is only partially disabled. Others have attempted to discern the specific contexts in which the term *heresh* refers to a deaf-mute or simply to someone who is deaf. Rašhi (b. Git. 71a), followed by Serilio (y. Ter. 1:1), states that only the *heresh* mentioned with the imbecile is a deaf-mute. I discern no particular support for this assertion. M. Meg. 2:4 seems to contradict it. Note Jastrow's definition (p. 507) of the *heresh* as either a deaf, dumb, or deaf and dumb person. His only example from M. or T. in which *heresh* means deaf is M. Meg. 2:4. He cites no examples in which the term refers to a dumb person. As regards the meaning deaf and dumb, he cites M. 1:2L and indicates that this is the meaning of the term in a "legal sense." I do not know what he means by that. In all, we are left with no way of discerning the meaning of the term *heresh*

other than context, which, as noted, is almost invariably ambiguous. For convenience sake, unless context requires otherwise, I have rendered the term as *deaf-mute*.

¹⁶Followed by Sens, GRA, TYY, Bert and Albeck.

¹⁷Although M. never mentions the requirement of a blessing, T. shows some interest in the issue. Besides the aforementioned T. 3:1-2, T. 3:3 discusses when the blessing on the separation of heave-offering is to be recited. T. Ber. 6:14 gives the actual text of the blessing for the separation of heave-offering.

¹⁸Since the issue throughout the first chapters of M. is the validity of heave-offering *post facto*, Bert, Sens and TYY state that Yose and Judah agree with M. 1:1 that the minor should not separate heave-offering, and that they dispute only whether heave-offering he has separated is valid. This simply is not what the pericope says.

¹⁹Albeck, following Maimonides (*Heave-offering* 4:4), solves the problem by rendering M as, "A minor, *even though* he has not produced two pubic hairs." I find no grounds for arguing that this is what Judah means. MR and GRA argue that M refers to a person who has reached the age of majority, but who has not yet produced two pubic hairs. This explanation is not acceptable since Yose, O, refers specifically to someone under the age of majority. Further, if the case were as MR and GRA claim, M should not refer specifically to a minor, but rather, simply to "an individual who has not produced two pubic hairs." In general, the difficulty in interpreting M stems from the fact that no where in M. or T. is there a clear exposition of the relationship between the signs of majority (M. Nid. 6:11) and the age of majority (M. Nid. 5:6). M. Nid. 5:4-6, 9 seem to indicate a distinction between an individual who is chronologically a minor and who has not produced two pubic hairs, and one who, although chronologically a minor, already has produced these signs of majority. The particular obligations and privileges of each are not, however, clear.

²⁰At M. Meg. 2:4, cited by TYY, Judah also disputes the grouping of the minor with the deaf-mute and the imbecile. He states there that a minor may read the Scroll of Esther in public.

²¹This view is taken by GRA, MR, Rashi, Maimonides and Albeck. Alternatively, TYY states that the age of vows is the age of majority itself. Although M. Nid. 5:6 is ambiguous on this point, TYY's explanation is not acceptable. According to it, P in no way responds to M, which refers specifically to a minor.

²²The word *'wtw* is missing in ed. princ. Lieberman suggests reading *'wth*, referring to the heave-offering.

²³Literally, *pqh* has the sense of seeing and hearing. See Jastrow, p. 1208.

²⁴y. Ter. 1:1 and y. Git. 7:1 read *mqqymyn ktb ydw*. This is a scribal emendation (Lieberman, TK, I, p. 294, n. 4) which clarifies Simeon's point. The function of the executors is to witness the document as the deaf-mute's own.

²⁵It remains to be noted that C is not stated specifically as a response to B. C refers to a deaf-mute, imbecile and minor, as

well as to both heave-offering and tithes. Judah, B, does not suggest that his *m^osh* applies to anything but a deaf-mute and heave-offering.

²⁶As concerns Yohanan b. Gudgada, see Neusner, *Pharisees*, vol. 1, pp. 417-19.

²⁷Y. Ter. 1:1 finds a biblical basis for the distinction between foods requiring preparation in purity and heave-offering. Numbers 18:27 reads: *and your offering shall be reckoned to you (wnhsb lkm trwmtkm)*. Heave-offering, therefore, requires intention (*mhsbh*). Leviticus 22:9 states: *They shall therefore keep my charge (wsmrw 't msmrty)*. Accordingly, foods requiring preparation in purity need only be guarded (*SMR*).

²⁸This is comparable to sages' understanding of the case of the son who separates heave-offering under his father's supervision, T. 1:4.

²⁹This exegesis takes F-H to be autonomous of D-E. Alternatively, MB holds that F-G explains the distinction between the deaf-mute of M. 1:1 and the one to which Isaac refers. The deaf-mute of M. 1:1 is born a deaf-mute. Even under supervision, he may not separate heave-offering. Isaac, though, refers to an individual who became a deaf-mute later in life. Since he might have retained the capacity for intention, he may separate heave-offering under supervision.

³⁰This stich is lacking in the parallels listed.

³¹Y. Ter. 1:1 (= y. Git. 7:1 and b. Hag. 3b) questions whether an individual must exhibit all of the characteristics listed in T. 1:3 in order to be considered an imbecile. Both possible answers are discussed.

³²GRA, following y. Ter. 1:1, reads *whyh twrm*. The meaning is the same.

³³Lieberman, TK, I, p. 295, chooses this reading over that of the first edition of T., *mqqym*. The meaning of *mabr* here is like its meaning at M. 3:4, "to indicate permission." The term *mqqym* does not make sense here because it would indicate that the sanctity of the heave-offering depends on the father's validation (c.f. T. 1:1E), the opposite of Judah's point.

³⁴Reading with y. Ter. 1:1 and ed. princ.

³⁵The Talmudim disagree as to whether the individual in question picks produce for his own consumption and separates heave-offering from it or, alternatively, whether he plans only to prepare the produce for the owner's consumption. y. Ter. 1:1 holds the former position, b. M.B. 22a the latter. Maimonides, *Heave-offering* 4:3 (followed by HY), offers both possibilities. Neither view finds particular support in the language of the pericope.

³⁶See b. B.M. 22a and y. Ter. 1:1 which question whether the heave-offering is valid from the time that it is separated or, alternatively, only from the point at which the feelings of the householder are revealed.

³⁷Literally, "a violent man." See *Aruch*, vol. 1, p. 151, and Jastrow, p. 86.

³⁸In the text of T. in HY and in standard editions of b., G-J is numbered T. 1:7.

³⁹Cited by Lieberman, TK, I, p. 297.

⁴⁰GRA reads *lhpryš*.

⁴¹The phrase *TRM + 't hm^cš^r* appears in the sense of "separate (e.g., designate) the heave-offering of the tithe" also at T. M.S. 3:15. The same phrase is used at T. 1:14a (p. 45) and M. Ned. 4:3 in the sense of "to set aside first tithe."

⁴²Y. Ter. 1:1 in fact cites B independently of A.

⁴³M. Bik. 2:5 states that heave-offering of the tithe, unlike heave-offering, may be separated from clean produce on behalf of unclean produce.

⁴⁴Lieberman, TK, I, p. 300, states that Yose disagrees with A, his opinion being that the householder may in the first place separate heave-offering of the tithe and therefore has no need to set aside a quantity of produce for the Levite to designate. This interpretation ignores the language of Yose's opinion which--as Lieberman himself notes--implies that the householder should not separate heave-offering of the tithe. Lieberman solves this problem by reading B in light of A and asserting that in situations in which there is a problem of purity, Yose is in favor of the householder's separating heave-offering of the tithe. Since neither A nor B explicitly refers to problems of cleanness, this appears to me to be groundless. Lieberman further holds that Yose disputes T. 1:8B, holding that even the householder's workers may separate heave-offering of the tithe on behalf of the Levite. Yet T. 1:8 does not know any rule concerning heave-offering of the tithe. Similarly, Yose says nothing about the rights of workers.

⁴⁵B. Git. 52a adds at A and B: "to provide food for orphans but not to set aside [i.e., not to put away that which is tithed, or the funds from that which is sold, in reserve for a later date]." This appears to be an explanatory comment on the part of b., and not a variant reading. See however HD.

⁴⁶B. Git. 52a lacks: *in the torah*, at F and H. Rashi, *loc. cit.*, interprets this reading by stating that the duty of charity (and presumably the redemption of captives) has no clearly defined scope, since there are always poor people who need charity (and captives who must be redeemed). It is therefore detrimental to orphans to allow their funds to be used for these purposes. Conversely duties such as those listed at C and E apply either one time a year, or, as in the case of a scroll of the Torah, are one-time-expenses. These are allowable. Among the exegetes of T., I find no interpretation of the specific language before us.

⁴⁷B. Git. 52a reads: "to redeem."

⁴⁸HY and HY read: Simeon b. Eleazer.

⁴⁹Ed. princ. reads at E: "If a Levite or priest or poor person was accustomed [to visit] him [i.e., the householder] (*hyh lmd 'slw*)--lo, this one [i.e., the householder] provides food for him from his own [i.e., the householder's own tithed, unconsecrated produce]." Lieberman, who cites M. Dem. 4:4, states that according

to this reading, the point is that a householder may not use tithes or heave-offering in entertaining guests.

⁵⁰E-F is missing from T. in standard printings of b. F is lacking in ed. princ.

⁵¹It is likely that C, which repeats at F, is secondary. Without it, the three rules legislated "for the sake of the social order" (A, B, D) would appear consecutively. This is noteworthy, since, as stated below, D's case fits into this context primarily because it is a rule required for the "social order." We would therefore expect it to be juxtaposed to A-B, forming a nice triplet.

⁵²The root *TRM* is used here in the sense of *lhpryš* (HD), that is, to separate, but not specifically heave-offering. *TRM* in this sense occurs also at M. Ned. 4:3.

⁵³For the use of the infinitive *HYH* + participle in a "frequentive and iterative sense," see Segal, p. 157.

⁵⁴T. Dem. 7:15 states that the householder may not however take tithe from other householders as repayment of a loan he has made to a Levite. In doing so, he arrogates the Levitical right of receiving tithe.

⁵⁵HD (followed by HY) holds that D refers back to A. Its sense, he states, is that *even* an individual who always gives tithes and priestly gifts to a particular priest or Levite may not take these things for his own use without first asking permission. The fact that HY interprets the phrase *mkry khwnh w'wyh* as I have --as referring to the priest or Levite himself--does not affect his exegesis. He simply interpolates, at D, the joining language "even in the case of."

⁵⁶This town is mentioned also at T. Yeb. 6:8, M. Par 8:10 (*pwgh*), b. B.B. 74b (*pygh*), b. San. 56a, Yalqut Shemoni Tehillim #687 and Midrash Tehillim 24:6. On its location and history, see Press, vol. 4, p. 767.

⁵⁷The rules regarding the status of mixtures of heave-offering and unconsecrated produce are found at M. 4:7-5:9.

⁵⁸Lieberman (TK, I, p. 307-8) states that T. 2:1-3 are derived from a collection (*qwbs*) of rules in which "the measure of the law was voided for the sake of the social order," or, alternatively, in which the individual is meant "to act more stringently than is dictated by the measure of the law." He believes that all pericopae in T. Chapter One which provide rules for the sake of the social order (including the laws for minors and orphans, loans to priests and Levites, and lost things) come from this same collection. At no point does Lieberman define what he means by "collection." The notion that there were organized collections of pericopae before the final redaction of M. and T. is as yet undocumented.

⁵⁹While A2-3 do not respond to the superscription at A1, their meaning is clear. There is no evidence here of a logical lacuna caused by the redactional juxtaposition of originally autonomous materials.

⁶⁰On this principle, see b. Ket. 18b.

⁶¹Lieberman, TK, I, p. 307, suggests that the individual at A may wish to regain possession of property he sold. HY suggests that the persons at D and I hope to grieve the other individuals involved.

⁶²According to this interpretation, the pericope refers to olives or grapes which are intended for pressing into oil or wine, such that their preparation for consumption is not yet complete. It does not refer to olives or grapes which are to be eaten whole and which are already fully processed. Cf., Maimonides, *Heave-offering* 5:18 and MS. Note that M. 1:9 explicitly distinguishes between grapes and olives intended for pressing (*zytym*, ^{C_{nbym}}), and those already prepared for consumption (*zytym l'kylh*, ^{C_{nbym}} *l'kylh*).

⁶³In M. Ed. 2:5's version of this Houses-dispute (see also y. Ter. 1:8), the House of Hillel has the position of the anonymous rule of M. 1:10A. The House of Shammai state to the contrary that heave-offering may be separated from olives for oil, or from grapes for wine. The problem of the literary and substantive relationships among these materials has been considered by Epstein (*Mishnah*, p. 399), Lieberman (TK, I, p. 331-2) and Goldberg (*Tarbiz* 38 (1968-9), p. 231-54). Epstein resolves the contradictions among the various versions by asserting that there are two (or three) Yoses, each with a different tradition about the dispute. Lieberman uses a weakly supported variant reading of the statement of Mana at y. Ter. 1:8 in order to harmonize the several pericopae. Goldberg attempts to distinguish in this material among the differing views of five of Aqiba's students. His work, as well as that of Lieberman, has been evaluated by William Green in Neusner, *Modern Study*, pp. 235-41.

⁶⁴M. 1:10D states that heave-offering separated from produce which is not ready for consumption on behalf of produce the preparation for consumption of which is completed is valid *post facto*. Both Houses at M. 1:4 contradict that rule.

⁶⁵On the basis of the Hillelite position, this pericope has been redacted with M. 1:1-3, 5. These pericopae discuss methods of separating heave-offering which even *post facto* do not yield valid heave-offering. Alternatively M. 1:4 could logically have been placed with M. 1:8-9, which provide rules for heave-offering separated from grapes and olives. Lieberman, TK, I, p. 332, n. 54, in fact states that in the recension of M. on which T. is based, M. 1:4 was located after M. 1:8. He supports this statement with the claim that T. 3:14 complements M. 1:4 (and not M. 1:8, as I hold). Even if Lieberman were correct on this point, it would not constitute proof that T. knows a recension of M. ordered differently than the one before us today. As will be seen throughout this commentary, T. often has its own theory of the proper context in which to discuss discrete pericopae of M. On the redactional ordering of T.'s materials, see Neusner, *Purities*, vol. 3, pp. 175-91.

⁶⁶MA notes that the opinions of the Houses here accord with their opinions at M. Ned. 3:2. In that pericope, as in this one, the Shammaites hold that prior intention need not be taken into account in assessing the ultimate effects of a person's actions. The House of Hillel, on the other hand, believe that if a person's original intention cannot be carried out in full, it is null.

⁶⁷C, Pa, O² lack: *and*.

⁶⁸B, C, Ca, O² lack *and* at G, I and K.

⁶⁹Alternatively, there are ten items prefaced "and not" at C-D+E-L. For the reason I have given, however, it is apparent that B and C-D belong together. It therefore is unlikely that C-L was interpolated as a unit into a prior unit of tradition consisting of A-B+M-N.

⁷⁰See M. Hal. 1:3 which states that the items at B-D are exempt from the separation of tithes. Maimonides (followed by Bert) claims that the point at B is that the householder may not use gifts of the poor as tithes for his own produce, since these gifts do not belong to him. This interpretation is rejected by TYT and Sens. These exegetes, along with TYY, hold, as I do, that gifts of the poor in no event are subject to the separation of heave-offering. Cf. y. Ter. 1:5, which deduces the rule of B from Dt. 14:29.

⁷¹M. Ma. 1:1 stipulates that only produce which is edible, grown in the earth and cultivated (*nšmr*) is subject to the separation of heave-offering and tithes. Produce which grows wild, or which is abandoned does not meet this last requirement. See Jaffee to M. Ma. 1:1.

⁷²At C-D, numerous manuscripts and editions read:

C. and not from first tithe from which heave-offering [of the tithe] has *not* been removed;

D. and not from second tithe or [produce] dedicated [to the Temple] which has *not* been redeemed.

Of these manuscripts and editions only K, G⁴ and Z are not influenced by Maimonides. This same reading appears in his Mishnah commentary and in *Heave-offering* 5:13. This reading is not to be preferred over that of the printed edition. It has little support among the exegetes of M. (excluding Maimonides). Further, it contradicts the rule of first tithe, second tithe and dedicated produce set out in M. Hal. 1:3, as well as the rule of first tithe stated at Sifré Zutta 18:24 (Horovitz, p. 297, l. 27- p. 298, l. 2). For a complete review of the readings of the various MSS., editions and exegetes, see Sacks-Hutner, vol. II, p. 104. In notes 17 and 18, the source of Maimonides error is delineated.

⁷³Maimonides, Bert, Sens, TYY and Albeck hold that the items listed at B-D are both exempt from the separation of heave-offering, and, further, that heave-offering may not be separated from them for any other produce. Although not intrinsic to B-D, this exegesis is hardly far-fetched. Through a unitary reading of the pericope it is easily adduced from E.

⁷⁴MA avoids this multiplication of examples of E-F by stating that K-L refers to produce grown outside of the Land of Israel that was brought to the Land before its preparation was completed. Its status as regards the separation of heave-offering is ambiguous. Alternatively, TYT and TYT explain that according to sages, even produce grown outside of the Land of Israel is subject to the separation of heave-offering and tithes. Neither of these interpretations has a basis in the text before us.

⁷⁵According to MS. E, which reads *grwnwt* at D, T. refers to a field of wheat or other produce, and not to an orchard. This being the case, *kgwn*, at E, follows logically.

⁷⁶Alternatively, T. may refer to produce from a field in Syria owned by an Israelite. The produce from such a field is liable to the separation of heave-offering (T. 2:10). If this is the case, then the point is that produce of Syria and that of Israel is not homogeneous as regards the separation of heave-offering. See Maimonides (*Heave-offering* 1:15) and HY, who distinguish between the source of the obligation to tithe produce of the Land of Israel, and the obligation to tithe produce grown by an Israelite in Syria.

⁷⁷Whereas the operative noun at H, *ship*, is feminine, at I, MS. V shifts into the masculine. E reads the verb *leaving*, I, as masculine, yet has *is not liable* in the feminine. I assume in all events that the referents of the pronouns at I are the same as those at H.

⁷⁸M. 2:6 states that while heave-offering should be separated from the most choice produce, even if it is not, the designation is valid.

⁷⁹"Recite the blessing" at B, all of C and "because he may not" at D have been supplied from E and ed. princ. These words are lacking in V.

⁸⁰I cannot explain why T. has followed neither the order of M.'s list, nor grouped the several individuals in accordance with the reason they may not separate heave-offering.

⁸¹For the text of the blessing recited over the separation of heave-offering and tithes, see T. Ber. 6:14.

⁸²Notably, the pericopae's operative language, the verbal root *PRS* in the causitive stem, remains consistent throughout. This explains the juxtaposition of the two substantively autonomous units.

⁸³As regards the designation of heave-offering by oral pronouncement, see M. 3:5. It is apparent from E that such a declaration is not a necessary part of the valid separation of heave-offering. See HY, Lieberman, TK, III, p. 775, and Sifré Bammidbar 121 (Horovitz, p. 147), which Lieberman cites.

⁸⁴Lieberman, TK, I, p. 117, reads the pericope as unitary in issue, equating the recitation of the blessing with the designation of heave-offering by oral pronouncement. This has no grounds in the language of C-E.

⁸⁵Y. Ter. 1:6 (followed by Bert, TYT, MS, GRA) uses Num. 18:27, "And your offering shall be reckoned to you" (*wnhšb lkm trwmtkm*), to prove that the desired quantity of heave-offering may be determined only by estimation and not by exact measure.

⁸⁶TYT, Bert and Albeck hold that E-F refers to a vessel designed for measuring, which has markings to indicate its half-full-point. This seems to me to go beyond the simple sense of E-F.

⁸⁷According to *Aruch* (vol. 6, p. 266) and Jastrow (p. 1114) ^CArascus is probably Damascus.

⁸⁸While it is certain that Judah restates the rule of M. 1:7A-B, his language is somewhat elliptical. It is unclear exactly what is the force of "brings it into his house." The phrase is usually used in a technical sense, meaning "to render produce fully liable to the separation of heave-offering and tithes." This cannot be the sense of the phrase here, since according to the language of the pericope, we are dealing with produce which already is subject to the removal of tithes. It appears that the phrase is used as a cliché, and thus should not affect interpretation of Judah's statement.

⁸⁹Lieberman (TK, I, pp. 322-23) states that by first weighing his produce with the basket, and afterwards calculating the exact weight of the produce the individual at D never really weighs the produce itself. He contends that for this reason the man's actions are agreeable even to Yose.

⁹⁰Lieberman (TK, I, p. 323) reads the pericope as unitary in issue. He states that since heave-offering is separated by an estimation only, even if there is more produce than the individual is conscious of, the heave-offering he designates is valid for all of the produce. As indicated by F, this is not the point of the rule.

⁹¹According to prior exegetes, the issue here is the separation of heave-offering from diverse kinds of produce. They state that the point made by A is that small and large produce are not distinct types from which heave-offering must be separated individually. In light of this exegesis, they hold that the force of *bywnny*, at B, is that the individual should separate as heave-offering the quantity of produce which M. 4:3 calls average. I prefer to read the pericope in the terms suggested by the thematic unit of which it is a part.

⁹²The items at B are refuse of the manufacture of wine. Those at C result from the manufacture of oil. On this basis, Lieberman (TK, I, p. 324) follows the reading of ed. princ., viz., *vat* (for wine) at B and *tank* (for oil) at C. It is not however clear that T. is at all consistent in distinguishing between the terms *vat* and *tank*. See, e.g., T. 3:7, which refers to wine in a tank.

⁹³What appears as a logical disjunction stems from a technical use of the term *kyed*. This same use is found above, at T. 1:5.

⁹⁴For a discussion of various readings and exegeses of B, see Lieberman, TK, I, p. 327-28.

⁹⁵This rule is consistent with T. Toh. 11:4, which states that grapes convey uncleanness as foods only until they are trampled warp and woof. After this point they are treated as liquids. See Neusner, *Purities*, vol. 11, p. 234.

⁹⁶Y. Ter. 3:4 reverses the opinions of the Houses of Hillel and Shammai. In this way it places the Hillelites in the more lenient position, as is commonplace.

⁹⁷Like the rule of grapes (D-E; above, note 95), this rule is consistent with T. Toh. 11:4, which states that olives convey uncleanness as foods only until they have been pressed. From that time on, they are treated as liquids.

⁹⁸I follow Maimonides and Bert. Cf., Albeck.

⁹⁹The use of the root DM^C in the intensive stem "to impose the status of heave-offering" is based on Ex. 22:28's reference to dm^g (= wine) as an agricultural offering given to the Lord. In rabbinic parlance, the term is used specifically in reference to heave-offering. See Jastrow, p. 313. He cites *Yalqut Exodus* 351, M. Ohal. 16:4, and T. Ter. 10:16, all of which refer to heave-offering as dm^a .

¹⁰⁰The passage reads: *An outsider shall not eat of a holy thing. A sojourner of the priest's, or a hired servant shall not eat of a holy thing...And if a man eats a holy thing unwittingly, he shall add the fifth of its value to it, and give the holy thing to the priest.*

¹⁰¹On the various readings at I, see Lieberman, TK, I, p. 331. I follow the reading of MS. E, which holds that tithes alone need be separated from the second heave-offering. Since the first heave-offering was valid, there is no reason that heave-offering need be separated again from this produce, as the readings of V and ed. princ. would require. Heave-offering of the tithe will be separated by the Levite from first tithe. Therefore, the reading offered by Sens and HY is not to be preferred.

¹⁰²Cf., M. 1:4 and T. 3:16F-I.

¹⁰³Following y. Ter. 1:8, Lieberman, HY and MB read U after X. The point then is that while the householder's re-processing of the heave-offering does not affect its consecrated status, he needs to indicate once again that it is heave-offering. He does this by making an oral designation.

¹⁰⁴E, Sens, Rosh (to M. 1:10), followed by Lieberman (TK, I, p. 334), reverse the names of the Houses at F-I. This puts the House of Hillel in the position of the rule stated anonymously at D, yet in opposition to M. 1:8A-E.

¹⁰⁵Lieberman, TK, I, p. 334, follows 'Or Sameah in stating that the Houses here dispute the rule of M. 1:9K-P, and not A-B of this pericope. I see no particular support for this view. It must be rejected since it requires that we ignore the clear structure of T.'s unit.

¹⁰⁶Note Neusner, *Pharisees*, vol. 2, p. 89. He follows Lieberman in interpreting the Shammaites as stating: "If you say that he has to give Heave-offering a second time, you annul what is already *holy unto the Lord*." This is plausible, yet has no clear foundation in the language of I.

¹⁰⁷Lieberman, TK, I, p. 335, states that the term $\check{s}k\check{s}m \check{s}$ instead of $k\check{s}m \check{s}$ indicates that T. derives this rule from a halakhic midrash. Since no midrashic passage parallel to this one is extant, I do not know the basis for his claim.

NOTES TO CHAPTER TWO

¹It is possible that this consideration has its source in the Priestly Code itself, which insists that the offering to the priests be given of "the best (*h'lb*) of the oil, and all the best of the wine and of the grain..." (Num. 18:12).

²On the equation of this Eliezer with Eliezer b. Hyrcanus, see Neusner, *Eliezer*, vol. 1, p. 43.

³Cf., M. Kil. 2:2, M. Shab. 1:3, 10:4, M. Naz. 7:3. See Epstein, *Mishnah*, p. 1263, and Lieberman, TK, II, p. 705, n. 47.

⁴Unclean oil in the status of heave-offering is an exception to this rule. The priest may kindle such oil in a lamp (M. 11:10).

⁵Bert, TYY and MR state that the rule at A was legislated to prevent householders from contaminating all of their produce by bringing the clean and unclean together to form a single batch for purposes of separating heave-offering. This exegesis depends on the contention that M. in fact requires that heave-offering be separated from produce contained in one area for produce contained in the same area (see M. Bik. 2:5). M. and T. however are hardly clear on this point. T. 2:8, for instance, states explicitly that heave-offering may be separated from produce in one city on behalf of produce in a different city. But, cf., T. 3:7. Note also T. Ma. 1:5, which adduces a case in which Rabbi holds that it is preferable that heave-offering be separated from one batch of produce for a different batch.

⁶At b. Yeb. 89a, Hisda and Nathan dispute the sense of the phrase *he has not done anything* (N). Hisda holds that it indicates that the householder has neither separated valid heave-offering nor prepared his produce for consumption. Nathan disagrees. He claims that while the produce must be tithed again, that which was separated from it is considered valid heave-offering and must be given to a priest. While we would have expected M. to use the standard phrase *'yn trwmtw trwmh*, the sense of *l'šh klwm* is certainly as Hisda states.

⁷This can occur if a portion of the batch has not yet been made wet and therefore is not susceptible to uncleanness. The fig juice which bonds together the figs in a ring does not act as a connector for uncleanness. One of the figs therefore may become unclean without contaminating the rest of the figs in the ring.

⁸Bert holds that the householder at T and W may eat the food he has prepared or make use of the utensils he has immersed only at the conclusion of the Sabbath. TYY states that he need not wait. M. gives no evidence as to which view is correct.

⁹Alternatively, sages' point, G, is that heave-offering was separated from clean produce for unclean produce within a single batch. As M. 2:1C-G states, such a separation of heave-offering is valid. While the sense of *trmw mhn lyhn* (G) is ambiguous, I prefer the interpretation offered by MB and HY. This interpretation does not attempt to read into T. the issues of M.'s composite pericope at a point at which T. does not clearly intend to offer an exposition of those issues.

¹⁰ On the laws of susceptibility to, and transfer of, uncleanness, see Neusner, *Purities*, vol. 11, p. 23 and vol. 17, pp. 7-12.

¹¹ Sifré Bammidbar 120 (Horovitz, p. 147, l. 3, and parallels) derives this law from Num. 18:25-26: *And the Lord said to Moses, "Moreover you shall say to the Levites, 'When you take from the people of Israel the tithe which I have given you from them for an inheritance, then you shall present an offering from it, to the Lord...'"* The statement that the offering is to be separated from it is interpreted to mean that it must be separated from produce of its same genus.

¹² Albeck states that the case is one in which the produce will be given immediately to the priest, and that Judah and sages simply disagree about which onion is of higher quality. While this is plausible, it seems to me more likely that the dispute concerns the larger issue operative in the pericope, as I have interpreted following TYY and MS.

¹³ Alternatively, the term I have translated (following Maimonides, Bert, Sens, MR, TYY) "onions from villages" (*kwpryn*) refers to onions grown in Cyprus. Cf., M. Ned. 9:8 and Albeck to M. Ter. 2:5 and to M. Ned. 9:8. The point is the same in either case.

¹⁴ Bert, TYY, and MR read K-L in light of the preceding. They hold that while onions grown in large towns are more choice, those grown in villages keep for longer periods of time. While this may be the meaning intended by the placement of K-L in its present redactional setting, it is hardly implicit in M. itself. MS, TYY, GRA and Sens, further, read M-P as a continuation of Judah's opinion, as against that of F-G. They state that olives which normally are pickled and wine which has been boiled keep longer than olives used for oil and wine which has not been boiled. While this seems likely in the case of wine which has been boiled, I have found no independent sources which substantiate the possibility (cf., y. Ter. 2:5). On the question of the difference between olives used for oil and those which normally are pickled, see Lieberman, TK, I, p. 332 and Pliny, *Natural History*, xv, 3:10, which Lieberman cites.

¹⁵ The preparation of the olives referred to here has not been completed. This contradicts M. 1:10, which states that heave-offering may not be separated from produce the preparation of which has not yet been completed. On this problem see MS, who contends that while the reference is to olives which normally would be prepared in other ways, in this case they have been prepared to be eaten whole, such that they are ready for consumption. Contextually it is apparent that wine which has not been boiled is held to be of better quality than wine which has been boiled (Bert, MS, TYY). This contradicts the position of Judah, M. 11:1. He holds that the quality of wine is improved through boiling. Y. Ter. 2:5 resolves this difficulty by stating that Judah's point at M. 11:1 is that the wine is improved only insofar as once boiled it keeps longer.

¹⁶ At M. Kil. 1:2 Judah and sages dispute this same issue. Notably, the terminology used in each instance reflects the needs of the dispute's specific redactional context. This is evidence that antecedent materials were available, and that their formulation took place in conjunction with the redactional process.

¹⁷*Juglans quadrangulata*.

¹⁸*Amygdalus communis* = *prunus amygdalus*.

¹⁹B. Hul. 136b adds: *do not*. Lieberman, TK, I, p. 310, notes that the reading in the printed edition of b. is supported by MS. evidence and by the early exegetes of the Talmud. We have, therefore, divergent versions of the pericope, each of them well attested. T.'s version, which cites the rule as in agreement with M., and with the Hillelites, is preferable in this context.

²⁰MS. evidence for b. reads Eleazar, as do the sources for T. See Lieberman, TK, I, p. 310.

²¹T. 2:4-5 appear among the materials in T. pertinent to M. 1:5. On this basis Lieberman suggests that in the recension of M. which was before T., M. 1:5 included the rules we have before us at M. 2:4A-B. This theory ignores the possibility that T. simply has its own theory of the order in which M.'s materials are best presented. It further does not explain why M. 2:4A-B should appear in two different contexts in M.

²²My translation of G-J follows b. Men. 54b, y. Ter. 2:4, GRA, HY, MB, Maimonides, *Heave-offering* 5:18 and Lieberman, TK, I, p. 338. V and E reverse the terms "volume" and "number" at G-H and I-J. I find no way to interpret that reading.

²³Cf., T. M.S. 1:18.

²⁴Lieberman, TK, I, p. 341, states that the word 'p occurs in V because of a copyist's error, having been transposed from the line above (J).

²⁵Lieberman, TK, I, p. 341, claims that, according to T., Judah's view is that the householder may separate heave-offering either from better produce, or from that which keeps. In light of Judah's statement at G, I cannot concur with this interpretation.

²⁶Y. Ter. 8:5 holds that snakes simply will not drink wine which has been boiled. PM (*loc. cit.*, s.v., 'yn bw mšwm glwy) states that, because it is of very low value, gentiles do not offer as a libation wine which has been boiled.

²⁷For a like usage of the phrase *twrmyn clyw* see T. 1:14aC.

²⁸*Cucumis sativus*: Feliks, *Plant World*, p. 168.

²⁹*Cucumis melo* L: *ibid.*, p. 164.

³⁰*Chicorium endivia*: Lieberman, TK, I, p. 341.

³¹*Lactuca sativa, longifolia*: Feliks, *ibid.*, p. 194.

³²*Allium porrum*: *ibid.*, p. 174.

³³*Brassica rapa*: *ibid.*, p. 197-8.

³⁴*Allium porrum capitatum*. Note T. Ned. 3:5, (cited by *ibid.*, p. 174) which takes into account locations in which vetches (*kršym*) are called leeks (*qplwtwt*).

³⁵*Cucumis sativus*: *ibid.*, p. 168

³⁶On the basis of the difference in the terms used to indicate the concept 'to keep,' we may assume that this pericope was not formulated specifically in conjunction with M. 2:4F-G. That pericope uses *QYYM*. Here we have *ŠMR*.

NOTES TO CHAPTER THREE

¹*Cucumis melo*.

²*Cucumis citrullus (vulgaris)*. On the identification of M.'s 'btyh with the common watermelon, see Feliks, *Plant World*, p. 164 and Gütting, *Terumot*, p. 77. He cites Lōw, *Flora*, vol. 1, pp. 550-53.

³According to y. Ter. 3:1, while both quantities of heave-offering must be given to the priest, the householder should be remunerated for the greater of the two amounts of the offering. It bases its conclusion on O, which holds that in cases of mixtures, only the smaller quantity of produce is deemed true heave-offering.

⁴This follows nicely from Judah's opinion, M. 2:4H, which holds that the priest's being able to eat heave-offering he is given is not central.

⁵Cf., M. Miq. 2:3, which reviews problems of doubt in the status of immersion pools. The principle there is much like that found here. It holds that in a case in which we can assume that a pool was not made unfit, we indeed make that assumption.

⁶Bert and TYY note that this should be the second quantity of produce designated heave-offering. This is so since after separating heave-offering once, the householder will have a smaller quantity of produce from which to separate heave-offering the second time.

⁷E, y. Ter. 3:1 and b. B.B. 143a read simply "R. Yose says." HD makes sense out of V's reading, which I translate, by re-situating this pericope after T. 4:6E-F, which contains a statement attributed to Yose by his son, Ishmael. In light of the well supported variant, HD's emendation is hardly a necessary one.

⁸My interpretation follows y. Ter. 3:1. B. B.B. 143a, on the other hand, holds Yose's point is that each time the householder separates a chate-melon as heave-offering, he must supply the priest with an additional amount of produce, as if all chate melons are part bitter. See Tosafot, *loc. cit.*, s.v. 'yn lk mr bqšwt. They follow y.'s exegesis.

⁹Y. Kil. 1:1 omits F-G entirely, adding after E: "If he transgressed and separated heave-offering in that way, that which he has separated is [valid] heave-offering." Y., then, reads the rule as in accord with M. 2:6, which holds that if heave-offering is separated from produce of worse quality for produce of better quality, *post facto* it is considered valid heave-offering.

¹⁰So y. Ter. 3:1 (s.v., r hyyh bšm r ywhnn dr hy').

¹¹I follow Lieberman, TK, I, p. 344, who reads *twrm* as a passive construction (*pual*). Sens and Rosh (to M. 3:1) and MB read *trwm*.

¹²Lieberman has supplied C-D on the basis of E and ed. princ. It is missing in V.

¹³In supplying E, I follow Maimonides, *Heave-offering* 5:21, Sens and Rosh (to M. 3:1), Rašba' and Ritba' (to b. Yeb. 89a).

¹⁴G is lacking in ed. princ.

¹⁵Alternatively the point of ^c*d slwšh ymym* (I) is that the keg is considered certainly to have contained wine for three days from the last time it was examined. After these three days and until the examination in which the wine is found to have turned sour, it is held to be in doubt whether the wine had already become vinegar. Both this interpretation and the one I have given in the body of the text are suggested at y. B.B. 6:1, b. Qid. 79a and parallels.

¹⁶A comparable problem is at M. Ned. 5:1.

¹⁷Y. Ter. 3:5 (cited by GRA; followed without citation by TYY, Bert and Albeck) interprets matters somewhat differently. It holds that Aqiba's view is that half of the heave-offering separated by each of the partners is considered valid heave-offering, and half retains the status of unconsecrated food. Between them, then, the two partners will have separated exactly the required quantity of heave-offering. Since, however, a householder who wishes may give much more than the quantity of produce normally separated as heave-offering (M. 4:5), y.'s view is neither implied nor necessitated by Aqiba's statement.

¹⁸B. Tem. 13a reports a variant version of the dispute. It assigns Aqiba's opinion to Eliezer, and that of sages to Aqiba. On that version, and on b. and y.'s interpretation of the laws before us, see Primus, *Aqiva*, pp. 53-4.

¹⁹Yose's view here is comparable to that of T. 4:16. According to that pericope, a householder who separates less than the required quantity of heave-offering may separate heave-offering from the same produce a second time.

²⁰Albeck states that Yose, E, holds that if the first individual did not separate the required quantity of heave-offering, only that which is separated by the second is valid heave-offering. The wording of Yose's statement hardly requires this interpretation. I see no reason that the first separation of heave-offering should not be valid, and therefore find this exegesis unacceptable.

²¹Albeck notes the discontinuity in operative verbs--*dbr*, at G; *hršh* at I--and states that the text at H-I originally read '*bl dbr 'w hršh...*' On p. 388 he claims that the word *dbr* eventually was omitted because it was understood simply to repeat the sense of *hršh*. While Albeck seems to indicate that this corruption occurred at the time of y.'s interpretation of this pericope, the exact sense of his statement is unclear. Albeck, moreover, holds that F-J refers to Yose's statement at E. This interpretation is based on his claim (see above, note 20) that at E Yose holds that the heave-offering separated by the first partner is not valid.

Albeck states that the point of F-J is that this separation of heave-offering is not valid only if the partners had not beforehand agreed to separate less than the usual amount of heave-offering. If however they had agreed to do so, that which the first partner separates is considered valid heave-offering. Since it is based on an incorrect understanding of E, Albeck's view is highly implausible.

²²Lieberman, TK, I, p. 300 suggests reading at I a disjunctive *w* and *mšmšym*, thus "a small tank, or a tank which others touch." In this way he sees the issue here to be cultic cleanness, as at M. 3:4/O-P.

²³Lieberman, TK, I, p. 229, offers no interpretation of his own for this rule. He notes however that Maimonides, *Heave-offering* 4:10 omits this stich. HD claims the point is that while the sharecropper may separate heave-offering and tithes for the householder, he may not go ahead and give these things to the priest or Levite. That is the right of the householder. HY claims that D refers to Dt. 14:28-9's requirement that at the end of every three years, all tithes be removed from one's household and given to their proper recipient. The point, he says, is that a sharecropper may not perform this obligation on behalf of the householder. Neither of these interpretations is acceptable because they are not attentive to the usual sense of the term *lhwsy' mššr*, found at D, or to the legal context in which D is redacted.

²⁴Note that T. 3:3 claims that heave-offering may be separated without a prior designation. From the materials presented within M., it is impossible to establish whether or not the tractate shares this same view. From the present pericope, it appears that it does not.

²⁵According to Albeck, Eleazar Hisma' differs from Simeon in that Eleazar does not even require the householder to state that the offering is within the batch from which he plans to separate it. While this is the case, the important point, which Albeck misses, is that Eleazar's underlying theory is the same as Simeon's.

²⁶Rabbi's point in T. 4:9 may be that, having yet properly to designate heave-offering, the householder should perform an additional designation of the offering. At this time he would specify more exactly in which portion of the batch he wishes the heave-offering to be located. This interpretation is compelling in that it prevents us from concluding that Rabbi views half of the produce as having the status of heave-offering. The notion that problems in mixtures of heave-offering and unconsecrated produce are resolved through an additional designation of heave-offering, however, is foreign to the texts before us, and, therefore, is not a defensible exegetical possibility.

²⁷Y. Ter. 3:5 holds that by *špwn špwnw* Simeon states that one eighth of the produce has been designated heave-offering. Y. thus understands the pericope to be formulated as a numerical progression, with Rabbi's one half followed by sages' one fourth and Simeon b. Gamaliel's one eighth.

²⁸Albeck notes that Sifrē Debarim #64 (Finkelstein, p. 130, ls. 12-14) understands the term *trwmt ydkm* (Dt. 12:6) to refer to first fruits. See also Mekhilta D'Rabbi Ishmael, Mishpatim #17.

²⁹On the biblical sources for the various agricultural offerings referred to in M., see Sarason, *Demai*, pp. 3-10.

³⁰On the basis of the biblical description, M. holds that in the first, second, fourth, and fifth years of the sabbatical cycle, second tithe is separated and eaten in Jerusalem by the householder himself. In the third and sixth years poor man's tithe is separated by the householder and distributed to the poor of the community of Israel.

³¹Note M. Naz. 5:1, in which the Houses dispute whether or not a dedication to the Temple made in error is valid. The House of Hillel states that it is not, comparable to the anonymous rule of M. 3:8. The Shammaites disagree.

³²V, and ed. princ. read: first tithe. I follow the reading of E. See Lieberman, TK, I, p. 348.

³³GRA, HY emend to read: He did not say anything.

³⁴Lieberman, TK, I, p. 348, holds that in each of T.'s cases at A-I the individual literally "was going" to separate one offering, but, at the time of his designation, changed his mind and intentionally designated a different offering. For this reason, he states, the designation is valid. The language of the pericope does not support this reading of the law.

³⁵Printed editions read *h^cwbd kwkbym* here at C and E. Almost all MSS. have *nwkry*. See above, p. 331, n. 6.

³⁶That these rules are autonomous of each other is shown by the fact that they each may be fully understood apart from the others. Further, while A+B refers both to a gentile and to a Samaritan, the subsequent materials deal only with a gentile.

³⁷Bert, TYY, Sens, GRA, Albeck state that Simeon holds heave-offering separated by a gentile to be exempt only from payment of the added fifth. None of these exegetes offers a reason for this view. Both this possibility and the one I have accepted are discussed at y. Ter. 3:9. Note Sifra Emor 6:8, which cites Lev. 22:2 and proves from it that the law of the added fifth applies only to that which is consecrated by Israelites.

³⁸Alternatively T. simply knows a different version of the dispute. I see no way to verify either this possibility, or the one presented in the text.

NOTES TO CHAPTER FOUR

¹E-G assumes that heave-offering already has been separated, presumably at the threshing floor (T. 3:11).

²In his commentary and code (*Heave-offering* 3:7) Maimonides states that heave-offering separated from a batch of produce does not take on a sanctified status until all of the heave-offering required of that produce has been designated and removed. I do not know the source of this notion. It is not hinted at in the language of M. 4:1-2 and clearly is precluded by Meir's position at M. 4:2B.

³Lieberman, TK, I, p. 352, emends to read *muddt*, "measured." For the reason that he makes this emendation, see below, n. 5.

⁴Note y. Hal. 3:5, cited by Lieberman, TK, I, p. 354, which questions whether or not Rabbi holds that the presence both of heave-offering and untithed produce in a single piece of fruit causes the piece of fruit as a whole to take on the status of heave-offering. Y. suggests both the possibility that Rabbi assents to this position and that he disagrees with it.

⁵According to Lieberman, TK, I, p. 355, Meir's point (A) is that a householder who has yet to determine the quantity of produce he owns anyway may separate tithes and give them to their proper recipient, Levite or poor person. Lieberman continues (following Maimonides to M. 4:1) by stating that the produce the householder designates takes on the actual status of the offering only after he determines the quantity of produce contained in the whole batch and separates gifts sufficient for all of it. In light of this interpretation, Lieberman, TK, I, p. 352, emends T. 4:15aA (above, p. 133) to refer to a heap of produce which has been measured, and which he claims, may validly have heave-offering and tithes separated from it. Lieberman's perspective is not acceptable because it reads into the law notions which these texts themselves do not evince.

⁶Lieberman, TK, I, p. 355, states that at issue is whether or not that which was separated as tithes has been burned. He chooses this interpretation because of his view (see above, n. 5) that the produce given to the Levite or poor person does not have the status of tithes until such time as the whole quantity of offerings required of the produce is separated. We would not expect the Levite or poor person to eat what he receives until that point. I follow Maimonides. Neither HD nor HY commit themselves on the matter.

⁷Lieberman follows Maimonides, *Tithes* 3:7, in stating that sages' point, E, is that the individual may eat without further tithing a quantity of produce commensurate with the amount of tithes which still exist in the hand of the Levite or poor person. According to this interpretation M. in fact knows the consideration suggested by T. There is no evidence that this is the case.

⁸Note M. 1:7 which states that the householder must estimate the quantity of produce he separates as heave-offering. M. 4:3A-E seems to assume that the individual will derive the proper quantity by measuring the quantity of produce he takes. F-M on the other hand is clear that the individual should separate heave-offering by an estimation, in agreement with M. 1:7. It is in light of F-M that the redactor clearly wishes A-E to be read.

⁹I have excluded here the possibility that M.'s rule is intended to ensure that the priestly cast is adequately maintained. This is because M. in general is surprisingly uninterested in the priest's receiving and eating produce separated as heave-offering. This is abundantly clear in M. 2:1A's rule, which forces the householder to separate as heave-offering produce which is unclean and therefore may not be consumed by a priest.

¹⁰This additional produce is in no way comparable to doubtful heave-offering (see e.g., M. 3:1-2), which, since it might be true heave-offering, is not subject to the separation of tithes.

¹¹MR distinguishes between cases in which the householder

intends to separate the required quantity of heave-offering and fails to do so, and cases in which he had no such intention in the first place. He states that only in a case in which the individual desired to separate one-sixtieth or more of his produce and failed to do so must he separate heave-offering a second time. MR's point, of course, is that since there is no quantity of heave-offering set by Scripture, as long as the individual separates all that he intends to, he has fulfilled his obligation. This interpretation, however, has no support in the language of the pericope itself.

¹²For the interpretation of Judah's statement, cf., M. Bik. 2:5, T. Ma. 1:5 and T. Ter. 2:8.

¹³M. 1:7 does not state whether or not *post facto* heave-offering separated according to a set measure is to be considered valid.

¹⁴Cf., Lieberman, TK, I, p. 353.

¹⁵C-D is lacking in E.

¹⁶It is logical to assume that in a case such as this the householder is required to separate heave-offering again, in order to remove from the produce all that he originally intended as heave-offering. T., however, is not clear on this point.

¹⁷If C-D and E-F are read independently of each other, C-D makes no point of any weight, and E-F simply cites M.

¹⁸While the logic of this view is clear, M. 4:3A-E, which holds that the quantity of heave-offering contained in a batch of produce is determined by the disposition of the householder, need hardly agree.

¹⁹That heave-offering is of low market value is hinted at in M. 5:1 and is stated explicitly in both of the Talmudim. It follows, further, from the laws of supply and demand. Heave-offering is of value only to priests. Yet these individuals need not purchase such produce. Being little in demand, heave-offering should be of low market value compared to other produce, which may be purchased and used by the whole community.

²⁰See in particular T. 2:9. Lieberman, TK, I, p. 360-61, holds that the rabbis declared these things subject to the separation of heave-offering. Since the laws governing these categories of produce thus are not scriptural in provenance, Lieberman states that only a minimal separation is required. M. itself at no point distinguishes between scriptural and rabbinic law. This, therefore, is not a viable approach to the interpretation of the text before us.

²¹According to y. Ter. 4:4 the agent should separate the percentage he knows the householder normally to separate, whether or not that individual has told him specifically to do so.

²²TYY, GRA, Sens, Bert, Albeck hold that G refers only to the case in which the agent knows the quantity of heave-offering normally separated by the householder. Since the issue here clearly is that of the agent's carrying out the terms of his appointment--as is shown by the contrast between F and G--I do not believe that this is the case. The rules of F-G should apply equally to the case of B and to that of C.

²³I assume that if the agent intentionally separated less than he should, the separation is valid. This is because, in such a case, all that the agent separated was intended by the householder to be heave-offering.

²⁴Sacks-Hutner, p. 131, n. 26, notes that MS. Oxford 671 simply reads "heave-offering." Since heave-offering may not be taken from produce which no longer is liable to that offering on behalf of other produce (M. 1:5F), this reading is not viable.

²⁵Ca, L and M read "but not for a different batch." See MS, GRA, and Sens (all cited by Sacks-Hutner, *loc. cit.*) who discuss the problem of the reading here. I follow the well supported reading of the printed edition.

²⁶According to T. 1:7 (above, p. 111) a householder may separate heave-offering of the tithe in place of the Levite.

²⁷In its own redactional context, T. 5:3b glosses M. 4:3's rules on the quantity of heave-offering normally separated from a batch of produce.

²⁸Maimonides, Bert, TYY and MR claim that A-B refers to the case of a householder who habitually counts his produce. Since the size of the produce varies from beginning to end of the harvest, such a householder must be careful to separate heave-offering from produce of a given point in the harvest on behalf of produce of that same time. This is not intrinsic to the language of A-B.

²⁹This same rule appears at M. Or. 2:1.

³⁰According to both A and Simeon, B, ^c*orlah* and produce grown in a field in which were grown diverse kinds of seeds thus are much more potent than heave-offering in their ability to impose their own status upon produce with which they are mixed.

³¹Lieberman, TK, I, p. 306, follows HD in claiming that the point is that if someone takes produce from the mixture, we assume that it was forbidden produce which he took and therefore declare the rest of the produce to have become permitted. I do not see how this interpretation follows from the language of T.

³²For instance, one who might have eaten this doubtful heave-offering need not repay its value and the added fifth required in the case of holy things (M. 6:1). If, however, it is certain that an individual ate the possibly forbidden mixture, he is liable to all penalties incurred by one who improperly uses that which certainly is forbidden.

³³Lieberman, TK, I, p. 366, n. 56, notes that sweet pomegranates are one of the five types of pomegranates mentioned by Pliny, *Natural History*, book 13, #113.

³⁴Lieberman follows Rashi, b. Yeb. 74a, in claiming that the produce in the last batch is deemed to have the status of unconsecrated produce. This is not what H states.

³⁵Lieberman (TK, I, pp. 366-7) notes that shoots of beets are a type of produce which M. Or. 3:7 states never is neutralized from the status of ^c*orlah*. Lieberman concludes that during Judah b. Baba's time, or in his particularly dwelling place, shoots of beets

were no more prized than any other type of produce. On the basis of T. 5:10L he states that in the same way, over a period of time, people's love (*hbybwt*) for all other types of produce waned. Lieberman's reasoning is not sound, since it reads into Judah b. Baba's opinion considerations which are extraneous to it.

³⁶See Primus, pp. 57-8, who offers a more complete formal analysis.

³⁷Primus, p. 56.

³⁸Note M. 2:4D, which states specifically that all types of figs and pressed figs are deemed a single species.

³⁹So Neusner, *Eliezer*, vol. 1, p. 50, cited also by Primus, pp. 56-7.

⁴⁰K and L are fully aware of and point out this shift. I am unable to account for the reversal of the positions of the two authorities. See Neusner, *op. cit.*, pp. 52-3.

⁴¹The words "but he does not know which [jar]" at M. 4:10M, are included to allow for Joshua's opinion, O. They are irrelevant to, and in fact confuse, Eliezer's statement, N.

⁴²Neusner, *op. cit.*, pp. 51-2. Neusner also cites the interpretation offered by prior exegetes of M. for the pericope as it stands before us.

⁴³For Lieberman's explanation, see n. 44.

⁴⁴Lieberman, TK, I, pp. 369-70, states that Meir, T. 5:10, reverses the opinions of Eliezer and Joshua for the case of M. 4:8, and that Judah does the same here for M. 4:10's dispute in order to make the opinions of each authority consistently stringent or lenient.

⁴⁵See y. Dem. 4:1 (s.v., *על רהגי מרין*), cited by Lieberman, TK, I, p. 370.

⁴⁶In the case cited here, all of the heave-offering of the tithe separated from the batch of produce falls into that same produce. Since heave-offering of the tithe is a full tenth of the produce, it is not neutralized but, rather, imparts the status of heave-offering to the produce with which it is mixed.

⁴⁷Lieberman, TK, I, p. 371, cites M. Or. 2:1, which claims that heave-offering of the tithe separated from *dema'i* is neutralized under the same conditions as is other heave-offering. Only sages, at F, would agree.

⁴⁸This pericope is both formally and substantively autonomous of its redactional context in T. I am unable to account for its positioning.

⁴⁹Maimonides, Bert and TYY state that the issue here is whether or not produce which takes on the status of heave-offering by being mixed with that offering itself has the power to impart the status of heave-offering to produce with which it is mixed. According to this interpretation Yose's point is that although the half *se'ah* of heave-offering will have imparted its status to the bundle with which it initially is mixed, all of the produce in

this bundle does not impart the status of heave-offering to unconsecrated produce with which it subsequently is mixed. While this exegesis can be supported on the basis of C, it does not take into account the redactional juxtaposition of M. 4:12 and 4:13.

NOTES TO CHAPTER FIVE

¹I argue this in Neusner, *Judaism*, Appendix I, part iv, as well as below, p. 173-74.

²O¹, B, C and O² read "[The heave-offering] is neutralized and eaten...." Since heave-offering which is mixed with less than a hundred times its quantity in unconsecrated produce is not neutralized (M. 4:7), this reading clearly is in error. See on this point Sacks-Hutner, p. 140, n. 6, who cites MS.

³See above, p. 350, n. 19.

⁴These same rules should apply to a case in which unclean heave-offering is mixed with first tithe, second tithe or produce dedicated to the Temple, A-B. In those cases the priest simply may not eat the heave-offering which he finally receives.

⁵The printed edition reads *l'w'k m'h*. Eleven MSS. have *l'm'h*. There is, of course, no difference in meaning.

⁶B. Bek. 22b reads: let rot. On the problem of the reading here, see Sacks-Hutner, p. 141, n. 10. The distinction made between heave-offering which is left to rot (e.g., M. 5:1A-D) and that which is burned (as in the present case) is based on a distinction between produce which may be unclean, and that which surely is unclean. Since the former might be clean, it may not be destroyed. Yet since it may be unclean, it likewise may not be eaten by a priest. It therefore is left to rot. Heave-offering which certainly is unclean, on the other hand, is disposed of through burning, as M. Tem. 7:3 states.

⁷Sifré Bammidbar #121 proves from Num. 18:29 that heave-offering imposes its own status upon unconsecrated produce with which it is mixed.

⁸I interpolate "unclean" at A and B, as is required by the sense of E and F. It is of course possible that the pericope is not unitary, and that A-D deals with the neutralization of clean heave-offering in clean unconsecrated produce. If this is the case, however, Judah is left to reject the basic premise that heave-offering is neutralized, an unlikely situation. The glosses at E-F, further, would be left with no antecedent rule. Y. Ter. 4:13, in fact, cites A+C, inclusive of the word "unclean."

⁹Lieberman, TK, I, p. 374, follows Jonah b. Judah Gershon and states 1) that D should read Yose instead of Judah, and 2) that the case is one in which the unclean heave-offering has not been mixed with the clean produce, as at T. 5:13E-F. There is, however, no MS. support for the emendation. There is little likelihood that this pericope knows the issue of T. 5:13.

¹⁰Lieberman, *loc. cit.*, states that the pericope is a continuation of T. 5:13, and that the case is one in which unclean heave-offering has been mixed with clean heave-offering. Judah

holds that since the produce is susceptible to uncleanness, as E makes clear, the priest will be careful not to allow the unclean heave-offering to become lost in the clean, and so to impart uncleanness to it. For this reason Judah (or Yose; see n. 9) holds that the unclean heave-offering simply can be recovered from the mixture. Since invalid heave-offering, F, does not impart a status of uncleanness to produce which it touches, the priest is not careful with such a mixture, and so the heave-offering is neutralized. While Lieberman's reference to the question of whether or not the householder (or priest) is careful with the mixture is given some support at y. Ter. 4:13, it seems unlikely from the language before us that this issue is known to T.

¹¹See Neusner, *Eliezer*, vol. 1, pp. 56-7.

¹²E reads "unclean heave-offering." This is a scribal error.

¹³Lieberman, TK, I, p. 379, states that this rule implies that the priests were not themselves trusted as regards observance of the law of the ^comer. If this were not so, the householder could give the priest his share immediately and expect him to refrain from eating it until the proper time arrived. This is not a point intended by the framers of the pericope.

¹⁴In sages view, at the time that the second *se'ah* of heave-offering falls into the batch, that batch already contains almost a full *se'ah* of heave-offering. The batch therefore takes on the sanctified status of a priestly gift.

¹⁵E reads "less than a hundred." The reading self-evidently is incorrect, since according to it, no replacement offering should be taken.

¹⁶*Lolium temulentum*, a kind of weed which grows among wheat. See Feliks, *Agriculture*, p. 120, n. 42 and Lieberman, TK, p. 387, n. 42.

¹⁷My interpretation of the preceding follows Lieberman and HD, as indicated in the translation. Neither of these commentators refers to this problem.

¹⁸These rules assume the view of Eliezer and sages, M. 5:5-8, that even after heave-offering is neutralized or imparts its own status to produce with which it is mixed, we take into account the quantity of true heave-offering found in the mixture.

¹⁹This same distinction is made by Yose, T. 5:10aP-R.

²⁰*Vigna sinensis*: Feliks, *Agriculture*, p. 152 and p. 152, n. 284, listed as *fwl hmsry*. Löw, *Planzennamen*, p. 312, gives: *Vicia faba* for *fwl hlnb*.

²¹*Lathyrus cicera*: Lieberman, TK, I, p. 389.

²²M. Or. 2:11 refers to a case like that of A-B. Eliezer there states that the heave-offering imparts a sanctified status to the dough only if it is mixed with it after the unconsecrated leaven, such that it completes the leavening process (Albeck). Sages hold that unless the leaven in the status of heave-offering is of sufficient quantity by itself to leaven the dough, it is neutralized. Neither of these positions agrees with T. 6:11B's

view that the status of the dough is judged by whether or not the leaven in the status of heave-offering imparts its own taste to the mixture.

NOTES TO CHAPTER SIX

¹The syntax of the Hebrew text is difficult here. I follow Bert and Albeck in supplying the words "since" and "even." Danby offers a comparable translation: "[therefore] even if the priest would remit he may not."

²The case of a non-priest who intentionally eats heave-offering is discussed at M. 7:1.

³See Martin Noth, *Leviticus*, pp. 46 and 162, and J.R. Porter, *Leviticus*, pp. 45 and 174. Porter likens the fifth to a guilt offering. MR suggests a different view. See his comments to M. 6:2 and, in particular, to M. 3:1.

⁴First tithe is not usually referred to as consecrated. The reference here, however, is to first tithe from which heave-offering of the tithe has not yet been separated. This produce does have a sanctified status. See Lieberman, TK, I, p. 364, and, in particular, Sifré Korah, #119, Horovitz, p. 146, which Lieberman cites.

⁵This refers us back to M. 4:7's dispute about the quantity of unconsecrated produce required to neutralize heave-offering. Yose's position, K, is the same as that of Eliezer, M. 4:7A; Simeon's has no counterpart in M. 4:7. It is on the basis of this debate that T. 5:8b has been redacted in its context in T., with other materials supplementary to M. 4:7. H-K, however, is out of place in that context.

⁶Lieberman and HY state that the basis of Simeon's opinion is the fact that Lev. 22:14 refers specifically only to the eating of heave-offering, and does not explicitly prohibit using it as a lotion.

⁷This interpretation of B-C follows b. Pes. 32b's version of the pericope, cited also by MB, HY and Lieberman.

⁸Reference to this rule is made at Sifra, 'Emor, pereg 6:3, cited by Lieberman, TK, I, p. 397.

⁹The meaning of *ḥmyšt ḥmynym* ("the five kinds") is not clear. It is usually taken to refer to the five species of grain for which the Land of Israel was known, i.e., wheat, barley, rye, oat and spelt (Jastrow, p. 775-6, s.v. *myn*).

¹⁰This same emendation is accepted by HY and Lieberman, TK, I, p. 399. The ruling would be the same if the second act of eating involved produce of a different kind.

¹¹I follow Lieberman in deleting six words from the text of V. These occur in that MS. through dittography.

¹²My translation of T. 7:4b-6 relies upon that of Sarason, *Demai*, p. 98.

¹³The rule that heave-offering must be given to a priest who is scrupulous about cleanness is assumed here, but neither stated nor adduced elsewhere in the tractate.

¹⁴I read with V (*ʿwnh 'wtm dmy*) and ed. princ. (*nwtm lhn dmy*). E reads: "And the [priest who is a] *haber* does not give them its monetary equivalent." The reason for this choice of reading is made clear in my exegesis of the pericope.

¹⁵The printed edition and the text in Albeck read *lkl my šyršh*. Eleven MSS. have *lmy šyršh*. There is no difference in meaning.

¹⁶See M. 8:1, which deals with the right of a priest's wife to eat heave-offering.

¹⁷Bert, TYY and Sens state that the woman has eaten heave-offering which she separated from her own produce but did not give to a priest. This being the case, the heave-offering is hers to give to whichever priest she wishes. I see no reason that the rule should be restricted to such a case.

¹⁸So GRA. Bert, TYY and TYT conclude that, according to Meir, the householder gives the priest the monetary equivalent of the heave-offering, as if he had stolen, but not eaten, that offering (see M. 6:4). I do not understand how they reach this conclusion since, according to M. 6:4, a person who steals heave-offering pays twice its monetary equivalent. This is not Meir's view here. Further, the language of M. 6:4 distinguishes explicitly between cases in which the non-priest pays the principal (*qrm*), and those in which he pays the value of the heave-offering (*dmy trwmh*).

¹⁹The verse reads, *If a man delivers to his neighbor money or goods to keep, and it is stolen out of the man's house, then, if the thief is found, he shall pay double.*

²⁰Such a dedication of heave-offering to the Temple is carried out by the priest who owned the heave-offering (Albeck). Cf., Y. Ter. 1:1.

²¹See Lev. 5:16, which refers to "holy things of the Lord" and states, *He shall also make restitution for what he has done amiss in the holy thing, and shall add a fifth to it and give it to the priest.*

²²See M. B.M. 4:9, and T. Ter. 7:8A-D which explains from Scripture why this is the case. Cf., Maimonides, *Commentary*.

²³In E the word "that" is written between the lines of the text.

²⁴Lieberman suggests reading here: "This [added] fifth is liable to the law of sacrilege." While this statement surely is in keeping with the law, there is no textual evidence supporting such an emendation of T.

²⁵On the laws of sacrilege, see Neusner, *Holy Things*, vol. 5, chapter 8, pp. 79-84.

²⁶Lieberman, TK, I, p. 401, states that the reference here is to heave-offering which the non-priest has received as an inheritance or in payment of a debt, as at T. 7:7G-K. While this solves

the difficulty presented by L, it depends on a unitary reading of several formally and substantively distinct pericopae of T.

²⁷The reading with "not" (here and at B) clearly is secondary, poorly attested in MSS. and among the exegetes of M. For a complete discussion, see Sacks-Hutner, vol. 2, p. 151.

²⁸Sifra cites the whole of the pericope and proves Meir's position on the basis of Lev. 22:14. Scripture's statement that the non-priest must *give the holy thing to the priest* is taken to mean that restitution must be paid with produce which is fit to take on a sanctified status.

²⁹We recall however that the produce must be fully tithed at the time it is given as restitution (M. 6:1E). The reason for this is explained above, p. 194.

³⁰For a complete discussion, see my treatment of M. 1:5, above, pp. 50-52. That pericope contains the same list of items that is found here.

³¹If the first tithe still is liable to the separation of heave-offering of the tithe, it may not be given as restitution. The priest already has a claim on it.

³²I assume that the reference is to produce which was dedicated to the Temple before it became liable to the separation of tithes. Even when it is redeemed, it does not take on such liability (see above, p. 52).

³³My view is that of Sifra (*'Emor, pereg* 6:5). Yohanan (y. Ter. 6:5) and Maimonides. Simeon b. Laqish (y. Ter. 6:5), Bert and TYY hold that sages dispute only C.

³⁴Eight MSS. designate D-I as M. 6:7.

³⁵Note Primus, p. 61, who follows Neusner, *Eliezer*, vol. I, p. 59, in stating, "The case in D [my D-E] in fact provides a common ground for Aqiba and Eliezer in so far as the opinion of the latter is limited by B. If the sixth-year cucumbers are available, but not acceptable, as for instance, if they have hardened, then, according to B, Eliezer would agree that they cannot be used (see Bert., TYY)." He continues, p. 62, "The limitation of Eliezer's view in B would not be inferred from the exegesis in F [my G-H].... Since B brings Eliezer over to Aqiba's opinion, it seems that Aqiban editors have transmitted this tradition." The exegesis at F-I, we presently see, is further evidence for Primus' theory. It attributes to Eliezer what clearly is the Aqiban view regarding the restitutions' taking on a sanctified status.

³⁶HD and HY suggest reading "heave-offering." See below, n. 37.

³⁷HD, HY and Lieberman are troubled by the fact that T. M.S. 3:11 and b. Hul. 130b state explicitly that restitution may not be paid for untithed produce which is eaten. T. M.S. 3:11 states that the offender's only recourse is to beg forgiveness from heaven. This being the case, HD and HY emend A to read "heave-offering." Lieberman, TK, I, p. 403, offers a more complicated emendation, allowing for a citation of M. 6:6A and a separate rule on unconsecrated produce. There are, however, no textual variants on which to base such emendations. It is more likely that we simply have contradictory rules.

NOTES TO CHAPTER SEVEN

¹See, e.g., M. Miq. Chapter One.

²Maimonides, TYY and Bert note that Lev. 22:14 refers only to an individual who unintentionally eats a holy thing, thereby excluding from the requirement to pay the added fifth a person who intentionally eats heave-offering.

³My interpretation of this pericope follows Maimonides.

⁴The pericope is formally and substantively parallel to T. Miq. 2:3-4. My translation and comment, accordingly, follow the model offered by Neusner, *Purities*, vol. 13, pp. 54-55.

⁵Lieberman, TK, I, p. 392, offers a different and more complicated interpretation of the pericope. I follow GRA, cited by MB.

⁶Notably, the pericope assumes that non-priests eat unconsecrated food in a state of cleanness.

⁷Lieberman, (TZ, I, p. 141) cites Jonah b. Judah Gershon (who states that it is permitted to measure the heave-offering (see M. 4:6) since, at the time of the measuring, the offering already has been designated and separated.

NOTES TO CHAPTER EIGHT

¹For a review of approaches to this problem in moral theory, see the chapter on Consequentialism in Donagan, pp. 172-209. In particular, see pp. 182-83, where Donagan discusses the implications for moral theory of the rules of M. 8:12 and T. 7:20.

²My interpretation of this pericope carries forward that offered by William Green, "Techniques," pp. 1-11. See also Neusner, *Eliezer*, vol. 1, pp. 61-62.

³On this point, see Green, p. 4.

⁴My interpretation differs from that of prior exegetes of M., who simply claim a distinction between the biblical injunction concerning priests of impaired lineage and that regarding priests who are blemished (see e.g., Bert). Their interpretation does not explain why Joshua and Eliezer disagree on the law of the priest of impaired lineage and agree on the case of the blemished priest.

⁵See Albeck, p. 390, who discusses the way in which the wife of a priest (A-B) may be deemed divorced before she actually is informed of her husband's actions.

⁶The case of the priest (E-F) is different only in that it turns out that he never had the right to eat heave-offering. He must pay the principal and added fifth for all the priestly gifts he ever had eaten.

⁷MR differs from the other exegetes of M. and from y.'s view in stating that the issue here is the proper disposal of heave-offering which has become unfit for consumption. Eliezer's position, he says, is that even in its present condition, the

heave-offering may not be allowed to be ruined. The individual therefore swallows it, and does not spit it out onto the ground. Joshua, however, holds that once the heave-offering is unfit for consumption (in this case, consumption by another person), the individual may do anything necessary to dispose of it. While, as MR notes, these positions are comparable to those views held by Eliezer and Joshua at M. 8:8, this interpretation is unacceptable in light of the authorities' agreement at S-V and the cases at M. 8:3.

⁸TYY and Bert state that M. 8:2M-O refers only to the case of the woman or slave. Since the priest never had the right to eat heave-offering, they state that his case is just like that at S-V. As at S-V, Eliezer should hold that the priest of impaired lineage must spit out the heave-offering, which he never had the right to eat. While TYY and Bert's reasoning surely is correct, their interpretation cannot be upheld on the basis of the language at M. 8:2M. This further inconsistency in Eliezer's thought is additional evidence for my view (p. 231) that the pericope is formulated with Joshua's point of view in mind.

⁹Alternatively, Eliezer's view is that since the individual already is liable for his actions, he may complete them without added culpability (TYY, TYT, Maimonides). If this is his view, however, I do not understand why Eliezer should agree that in the case of S-V the individual must stop eating. This interpretation also is unacceptable in light of the cases at M. 8:3. There the individual will incur liability only upon swallowing the food in his mouth.

¹⁰Green, p. 6.

¹¹Bert and TYY read this pericope into their interpretation of M. 8:3.

¹²Lieberman, "Light," p. 395, states that the term "different path" refers to heterodoxy. See below, n. 15.

¹³See also HD. Lieberman, TK, I, p. 406, cites Rashi to b. Ket. 60a, who states that the loaf here is in the status of heave-offering, and that the problem is whether or not the individual may waste some of the sanctified produce by scraping it away. One need hardly assume from the language of T., however, that we deal here with produce in the status of heave-offering. This surely is not the concern in the continuation of the pericope.

¹⁴The six cases are not a unitary construction, as is evidenced by the shift in language, *culpable/exempt*, at C-F, *permitted/forbidden*, at G-H. It is possible that this is an original triplet of C, D and F, three cases beginning with (or assuming) the words "If he ate," glossed by E and augmented by G-H. In all events, the redactor's intent is clear, as I have numbered the cases in the translation.

¹⁵According to Lieberman, "Light," I implies that certain ultra-pious Jewish sects of Judah's time deemed all tiny insects forbidden as food. They thus were scrupulous about removing all creatures from liquids they drank. Judah therefore considers straining liquids a heterodox practice. Prayers said to the sun (J), which are not ordained by rabbinical authority, are in the same category. Since we know of no such sects in Judah's time, and since the very meaning of "a different path" is unclear, this

view is highly conjectural. Lieberman goes on to argue from statements in the Damascus Covenant and Josephus that Judah's statements are directed against the Essenes. The difference between the time in which Judah lived and the documented existence of the Essene community makes this unlikely.

¹⁶This interpretation is given by Maimonides, Bert, TYY, MR and Albeck. Alfasi (to b. A.Z. 30a; cited by Albeck) Sens and *Tur Yoreh De'ah* #116 (cited by MR) hold the opposite view. These authorities state that large quantities of liquid are subject to the law, since venom which they contain will be diluted and therefore invisible to the eye. Small quantities, on the other hand, normally are permitted, for if they contain venom, it will be visible. This latter view surely is incorrect. According to it, most major sources of water (wells, ponds, cisterns) would be forbidden, for they contain large quantities of water. T., moreover, assumes that water in jugs and small jars is liable. According to the view just cited, it would not be.

¹⁷None of the exegetes cited in the previous footnote offers an explanation of Yose's view.

¹⁸Y. Ter. 8:6 (cited by Lieberman, TK, I, p. 415 and HY) adds that at the time Johanan came upon the pond it was raining. Y.'s point clearly is that Johanan deemed the pond permitted because of the flow of rain-water into it (so Lieberman, *loc. cit.*; cf., PM), comparable to the flow of water in a spring.

¹⁹Bert and TYY state that by way of the moisture in the produce the venom becomes spread throughout the vegetable. If there is a snake bite on dry produce, the individual simply may cut off that part of the piece of produce and eat the rest. Maimonides has this same view when he states that a piece of produce is forbidden on account of snake bites only if the bites pierce the vegetable down to its moist insides. Cf. y. Ter. 8:7.

²⁰My interpretation follows Albeck. Alternatively, Bert and Maimonides read at B *kkr* ("loaf") and state that even if the produce is very large, such that a single person does not eat a whole piece, it still is forbidden. A third explanation is offered by TYY and MS, who state that *kkr* refers to a large quantity of produce (TYY: sixty *maneh*). According to this view, even though it is unlikely that a snake could have bitten and deposited venom in all of the produce, that produce still is forbidden. MR, finally, states that *kkr* refers to a loaf of pressed figs (*kkr dbylh*), and that the point is that even though there is a bite only on one fig, the whole loaf is forbidden. I find none of these interpretations convincing, and therefore have chosen to uphold the best attested reading at B.

²¹Maimonides, Bert, MR and Albeck ignore this lemma. TYY claims that it indicates that Yose (M. 8:5D) concedes that produce still on a tree, unlike water contained in pools in the ground, is subject to the law. There are however no substantive or formal grounds on which to claim that M. 8:6 was formulated with M. 8:5 in mind. TYY presupposes a unitary text in which every rule knows and interacts with every other rule.

²²In six MSS. the pericope appears as a continuation of M. 8:6. Except for the common issue addressed, I see no formal or substantive reasons for reproducing it as such. I therefore have followed the division of pericopae found in standard editions of M.

²³Albeck cites MS, who states that this pericope is lacking from most of the editions of M. known to him. In the extant MSS., however, it is missing only from K and G⁷. In both of these it has been copied by a later hand into the margin. Epstein, *Mabo'*, p. 950, cites a MS. (which I am unable to identify from the reference he gives) which indicates M. 8:7 to be an interpolation, according to Epstein, from the Tosefta. The pericope, however, appears in the form it has in M. neither in T. nor in any other rabbinic document. The evidence adduced thus is not sufficient to show the pericope to be an interpolation.

²⁴E reverses the order of P and Q-R.

²⁵HY and MB do not comment. Y. Ter. 8:6 (followed by HD) reverses the order of A and B-D. It thus claims that the wine in the vat at A is wine which still is fermenting, and so in no case is liable. That however is not what is suggested in T.'s version, as Lieberman, TK, I, p. 416 points out. Lieberman proposes that the reason for Judah b. Baba's ruling is that there was in the vat sufficient wine for it not to be subject to the law of uncovered liquids. Lieberman thus sees the *ma^caseh* as standing in dispute with the rule given at T. 7:14/O-P (above, p. 235), that wine always is subject to the law. This is not suggested by the facts of the case as given in T. 7:15. It is possible that the vat here was in fact covered. But if this is the case, it is unclear how the dead snake got into it.

²⁶Lieberman, TK, I, p. 418, suggests that the words "in the case of dried foods" have dropped out of the text. There are no grounds for this proposal except the assumption that Simeon b. Menasia should not disagree with the law as stated in M.

²⁷Lieberman, TK, I, p. 418 is troubled by the fact that elsewhere mushrooms are indicated as a kind of food. (Lieberman offers no citations and does not state to which documents he refers.) On this basis he suggests that the mushrooms referred to here are those mentioned at b. Shab. 108a, which grow in jugs of water. Lieberman states that since these mushrooms are nourished from uncovered water we would expect them to be forbidden. Neither the pericope before us, nor b. Shab. 108a, knows this consideration. It therefore is more likely that we simply have contradictory notions about whether or not mushrooms are fit for consumption.

²⁸See above, p. 331, n. 6.

²⁹So Neusner, *Eliezer*, p. 64, and Green, *Joshua*, p. 77.

³⁰On M. 8:10P see Neusner, *Eliezer*, p. 63, and MR.

³¹Bert, MR and Albeck state that in order to save the heave-offering in cleanness the householder must go to bring a clean jug. In the meantime some of the heave-offering will flow down into unclean, unconsecrated wine (or, oil) in the lower vat and render that batch forbidden (see M. 5:1). The point of M. 8:9H and M. 8:10M is that Joshua agrees with Eliezer that even so, if the householder can save a fair quantity of the heave-offering in cleanness, he must do so, and allow the rest of the heave-offering and the unconsecrated wine to be ruined. The householder cannot, however, use his hands to prevent all of the wine from running down into the lower vat, thereby making unclean a great deal more heave-offering than otherwise would have been rendered unclean. I

agree with Neusner, *Eliezer*, p. 64, that this is reading too much into the pericope, especially M. 8:10, which knows nothing of a lower vat.

³²The formulation here is that of Green, *Joshua*, p. 79. According to Joshua's view, the householder may stop the heave-offering from running down into the lower vat and mixing with the unconsecrated wine there. By doing so, he salvages the oil for use, for example, in lighting the lamp of a priest (M. 11:10). Cf., Neusner, *Eliezer*, p. 65.

³³Maimonides, followed by Bert and Albeck, states that Joshua also agrees to the rule given at M. 8:12. They suggest no reason for which Joshua would not simply apply to this case his previously held position.

³⁴T. 1:14a is above, p. 45. This pericope is formally and substantively autonomous of its context in T. Chapter One.

³⁵A better reading would be *Eliezer*, that is, the authority cited in M. There is however no MS. evidence for such a reading.

³⁶Lieberman, TK, I, p. 306, states that at H the householder has no place in which to hide the heave-offering. This is not indicated in the text of T., and, further, does not resolve the contradiction between Eleazar's view here and his previous contention that the householder may not allow a gentile to render the heave-offering unclean.

³⁷My view here is supported by M. Pes. 1:7, which has Joshua state that heave-offering which might be unclean may be burned with heave-offering which certainly is unclean. This does not agree with T. 7:18A. In M. Pes. 1:7 *Eliezer*, on the other hand, holds that unclean heave-offering may not be burned with that which is in doubt, a position which is compatible with that of T. 7:18A. This being the case, I find no basis for Lieberman's view, TK, I, p. 418, that both *Eliezer* and Joshua agree to the rule of A.

³⁸T. Toh. 8:14 gives the case of E, but rules that the heave-offering is deemed clean. Neusner, *Purities*, vol. 11, p. 178, states that this is the case because in going to ask of its status, the householder shows concern for, and willingness to protect, the heave-offering. While the point thus surely is the same as that made by T. 7:18D-E, I find no way to explain the contradictory texts.

³⁹Lieberman, TK, I, p. 420, suggests that the version of M. known to T. contained only the dispute between *Eliezer* and *Gamaliel*, M. 8:8A-C+F, and included no reference to the opinion of Joshua. T. 7:19, then, provides what should be acceptable to both *Eliezer* and *Gamaliel*. The householder must allow the heave-offering to impart its own status to the wine in the lower vat and to be made unclean at the same time. The householder himself, however, may not render the heave-offering unclean. Lieberman's theory depends on the unproven assumption that T. knows a version of M. different than the one extant today. It also disregards the fact that T. commonly records opinions different from those cited in M.

⁴⁰On this rule, see Donagan, pp. 182-83.

⁴¹F-H, further, interrupts the progression of ideas from C-E to I-J+K, both of which refer to Sheba the son of Bichri. F-H, thus, would be better placed before C-E.

NOTES TO CHAPTER NINE

¹M. 9:4 applies this principle to a case of doubt whether or not a garden-bed is planted with heave-offering. As we shall see, however, that case serves to emphasize the disjuncture between the principle governing this part of the chapter and the principle of M. 8:1-4.

²Ca, N, Sa, T³ add: *and poorman's tithe*. This is a scribal error. Cf., M. 9:3/O.

³See M. 9:4A. Cf., Primus, *Aqiva*, pp. 66-68, and Gereboff, *Tarfon*, p. 27.

⁴See "Flax," *Encyclopaedia Britannica*, (Chicago, 1968), vol. 9, p. 430. The seeds of flax are the source of linseed oil, used in ancient times as food.

⁵Gereboff, *Tarfon*, p. 27, is correct in stating that "Tarfon can admit to the validity of this [i.e., Aqiba's] argument and still maintain the reasoning attributed to him." Gereboff goes on to note, "Thus as is common throughout the entire Tarfon-corpus, Aqivan redactors have attempted to portray Aqiva as the wiser of the two masters. But in the present pericope, they have not given Aqiva a good argument."

⁶MS. E lacks the attribution at C and all of D. This is a scribal error, homoeoteleuton.

⁷The usual translation of the Hebrew "*hwlyn*" is "unconsecrated produce." This refers to produce which is properly tithed and ready for consumption by an Israelite. This clearly is not what is intended here, for crops grown from the types of produce listed at C do need to be tithed before they are eaten (as T. 8:5-6 will state explicitly). I therefore have translated "common food," which both captures the sense of the Hebrew "*hwlyn*" and allows for the meaning which the term must elicit.

⁸R reads: at the value of the seed. This reading does not change the point of E. See Sacks-Hutner, p. 174, ns. 129-130.

⁹Bert, TYY and MR follow b. Shab. 17b in stating that this rule was enacted in order to encourage householders not to leave heave-offering in their homes until the point at which the produce goes to seed. M. knows no such consideration.

¹⁰This is analogous to the rules governing the Substitutes and offspring of animal offerings. The offspring or Substitute of an offering has the same status as the original animal. The Substitute of an offspring, or the Substitute of a Substitute, however, retains an unconsecrated status (see M. Tem. 1:5 and 2:3 on Substitutes of Substitutes, and M. Tem. Chapter Three, on the offspring of animal offerings). Judah, however, should not agree with the present law, for he holds (M. Tem. 1:5) that the offspring of an animal offering does in fact produce a Substitute. This is comparable to a claim that a crop grown from heave-offering

in turn produces a crop which has the status of heave-offering. Cf., y. Bik. 2:2, which reads into the exegesis of our pericope the consideration of whether or not the seed is of a type which is integral to the crop which it produces.

¹¹Only the heave-offering of the tithe contained in first tithe is consecrated. T. 8:5 (below, p. 259) relates to the problem posed by this offering.

¹²My understanding of the term "added quantity of heave-offering (*twsept trwmh*)," at A, equals that of MB, HY and Lieberman. For B, see MB, HY and HD.

¹³This interpretation follows MB and HY. Cf., Lieberman, TK, I, p. 428, who follows HD (and Shittah Mequbešet to b. Ned. 48b) in claiming that T. refers to a crop grown from first or second tithe of a kind the seed of which does not disintegrate (see M. 9:5). While according to this view the point of the pericope remains substantially the same as I have stated it, it seems to me that this interpretation reads more than is necessary into the language of T.

¹⁴Cf., y. Ter. 9:4, followed by TYY, which reads the considerations of this pericope into the interpretation of M. 9:4.

¹⁵On the rule governing the consumption of untithed produce as a chance meal, see Jaffee, Introduction.

¹⁶This is the view of Rabah (b. Pes. 34a), Sens, Rabad (on Maimonides, *Heave-offering* 11:23), and Albeck. Maimonides, Bert and TYY hold that the produce is forbidden both to priests and non-priests. This law, they say, was enacted in order to prevent individuals from planting produce in the status of heave-offering. Such a consideration, however, is not known to M.

¹⁷Judah's view is in keeping with his statement at M. Tem. 1:5 (see above, n. 10), where he holds that, in the case of animal offerings, the Substitute of a Substitute has the same status as the original offering.

¹⁸As noted in the translation, I follow the reading of b. Ned. 58b, followed also by HY and Shittah Mequbešet (cited by Lieberman, TK, I, p. 427). Cf., Lieberman, *ibid.*, who prefers the reading of E and V (i.e., "he may not make a chance meal of it"). This reading is not to be preferred for, as Lieberman himself notes, it makes the phrase "even though" (at B) nonsensical. It also creates a tension between A-C and Simeon's gloss at D. Cf., GRA, who has simply created a composite of the version of the pericope found in M., and that of MSS. E and V.

¹⁹Lieberman correctly notes that T. 8:8b would more logically be redacted before T. 8:8a. It thus would follow directly upon T. 8:7, which likewise supplements M. 9:6-7, and not upon T. 8:8a, which belongs with the rules of M. Chapter Ten. While it is possible that the redactor of T. has his own theory of the logical ordering of these materials, or sees some connection between T. 8:8a and T. 8:8b, this is not apparent to me.

²⁰An onion set is an area heavily planted with onions, which will produce a crop for several years. See "Onion," *Encyclopaedia Britannica*, (Chicago, 1968), v. 16, p. 967.

NOTES TO CHAPTER TEN

¹Maimonides, Bert, TYY and Albeck follow y. Ter. 10:1, which states that the present law applies only if the heave-offering and unconsecrated produce are placed together after the unconsecrated produce has been cooked, but not if they actually are cooked together. Y.'s point, unknown to M., is that in the process of cooking, the heave-offering invariably imparts its flavor to the unconsecrated produce.

²Maimonides, Bert, and Albeck state that the point of the pericope is the same whether it is the lentils or the onions which are in the status of heave-offering. These exegetes make this claim because they incorrectly read the issue of whether or not the heave-offering imparts flavor to the other food as central at A-D, as well as at E-I. The pericope, however, clearly assumes that the onion is heave-offering, as Judah's opinion, H-I, proves. The view I take in reference to this matter is the same as that of TYY.

³I find no reason that the rule for lentils, A-E, should be different from the rule for any other food. Presumably E has been formulated simply to harmonize the contradictory rules at A-D and E-G. Cf., MR.

⁴MR states that Judah permits the mixture even if the heave-offering imparts its flavor to it, because the flavor of the onion spoils the taste of the brine. It therefore is not taken into account (see T. 8:9J-M, above, p. 269). This simply is not what M. 10:1I suggests.

⁵M. Or. 2:4 is cited by TYT and referred to by Maimonides.

⁶The rule self-evidently does not refer to the criterion expressed by M. 10:1 and assumed by M. 10:2D-F, of whether or not the heave-offering imparts flavor to the other food. The present rule does not however seem to me to contradict that principle, but only to offer a consideration pertinent to its particular case.

⁷So T. 8:9I-M, followed by TYY, TYT and Sens. Albeck cites M. A.Z. 5:2, which states that a dish flavored by wine used for libations is prohibited only if the flavoring benefits the Israelite who wishes to eat the dish. The point here clearly is the same.

⁸Lieberman has followed ed. princ. in supplying the words "wine," at B, through "oil," at C.

⁹For variant readings of T. 8:10A-C, see Lieberman, TK, I, p. 431.

¹⁰Ed. princ. mistakenly reads: permitted. See Lieberman, TK, I, p. 432.

¹¹We recall that according to the law of neutralization, if heave-offering or other produce of special status is mixed with unconsecrated produce so as to comprise an insignificant proportion of the mixture as a whole, it is neutralized, and the mixture is permitted for consumption as unconsecrated food. I have interpolated the problem of neutralization into T. 8:11-12 on the basis of the phrases "and one lifted it out," at A, and "if he knew about it," at D. That these phrases constitute references to

cases of neutralization is proven by parallel usage at T. 5:9 and T. 6:5, 8-9. This same interpretation of the pericope is given by Lieberman, *loc. cit.*, and HD.

¹²On the reading of the printed edition, see Sacks-Hutner, p. 180, n. 8. It appears that the word "bread" dropped out through haplography.

¹³MR asks why the status of the bread is not determined by whether or not the bread has taken on the taste of the heave-offering. He concludes that the issue here simply is the status the bread is deemed to have until a priest tastes it in order to ascertain whether it has indeed been flavored by the heave-offering. While MR's interpretation is plausible it does not seem to me to touch the deeper point of this dispute, as I state it in the continuation of my comment.

¹⁴Bert and TYY hold, as I do, that Judah agrees that the bread absorbs the wine vapor. They state that Judah's position is that the vapor is immaterial, and therefore is not deemed to render the bread forbidden. While this is an accurate restatement of Judah's view, it ignores the question, which I answer, of why Judah deems the vapor insignificant.

¹⁵Note in particular M. Makh. 3:3 (also M. Makh. 3:1), which offers the present pericope in the context of the question of uncleanness. My interpretation is the same as that which Neusner, *Purities*, vol. 17, pp. 57-58, gives for Judah's position there. Neusner states that according to Judah, "we adjudge the matter according to the man's deed.... He could and would have done exactly what he wanted to indicate his intention, and not having done so, has not made the wine capable of imparting susceptibility to uncleanness to the bread which happens to be subject to its fumes." I cannot determine whether the pericope is primary to Tractate Terumot, or to its context in M. Makh. In both cases it carries forward the point of the materials with which it is redacted. In each instance it likewise instantiates a view of Judah evidenced by other materials in its same redactional unit.

¹⁶*Trigonella Foenum-graecum* (Feliks, *Agriculture*, p. 125, n. 87). See "Fenugreek," *Encyclopaedia Britannica*, (Chicago, 1968), vol. 4, p. 176.

¹⁷G and L read: water. This same reading in K has been corrected to read "wine," as I have translated. The point of the pericope is the same no matter which reading is accepted.

¹⁸On the basis of this problem the present unit has been redacted in Chapter Ten of Tractate Terumot.

¹⁹T. 8:9b is found above (p. 269), with M. 10:2, to which it is supplementary. I cannot account for the fact that T. 8:9a has been redacted before that pericope, instead of after T. 8:13. I have placed it where it clearly belongs, as a redactional element joining the issues of M. 10:3-4 and M. 10:5.

²⁰According to Lieberman, TK, I, p. 440, at issue between Meir and Judah is whether or not the stalks of the fenugreek are deemed to have the status of heave-offering. Judah, he says, has the position of M. 10:5, that they do not, while Meir, to the contrary, holds that they do. While Lieberman clearly is correct in

reading this pericope as supplementary to M. 10:5, he ignores the fact that T. knows nothing of M.'s distinction between seed and stalks. Lieberman likewise does not take into account the positions of Meir and Judah which M. 10:3 already has provided.

²¹Cf., Lieberman, *loc. cit.*, and y. Ma. 1:3, which he cites. I do not see the relevance of b. Erub. 81b and b. San. 25a, which Lieberman cites in his n. 35.

²²See Neusner to T. Miq. 1:4 (*Purities*, vol. 13, p. 25). The pericope deals with problems related to heave-offering and so has its primary location in Tractate Terumot. As Neusner notes it is not pertinent to its context in T. Miq.

²³Neither Lieberman, MB, HD or HY comments on this problem.

²⁴An alternative to the solution I have offered is given by Sens (to M. Or. 2:13, cited by Lieberman). Sens reads at E and F, "A man should *not* lubricate...."

²⁵Lieberman, MB and HY assume that the individual also will immerse the garment in an immersion pool in order to render it ritually clean.

²⁶This lemma must be removed because it is nonsensical. There is no reason that a priest may not eat heave-offering which was flavored by unconsecrated produce. C has been added in V as the formal corollary to D, but surely is not primary to the pericope before us. On the basis of the text of E and the parallel passages in b., Lieberman, TK, I, p. 435, draws this same conclusion.

²⁷E reads: If the heave-offering fell... It has this same locution for each point at which V reads: If one placed... There is no difference in meaning.

²⁸E reads: And before him were [also] two mortars, one filled with heave-offering and one filled with unconsecrated produce. This appears to be a scribal error on the basis of T. 8:18J.

²⁹Lieberman, TK, I, p. 435, upholds the reading of the MSS. at D. He states that in each of T.'s cases the pots are filled with produce and the mortars contain spice, the taste of which can be discerned if it is mixed with the produce. In the first case, A-D, the spice is in the status of heave-offering, and it is not known whether it was mixed with other heave-offering or with unconsecrated produce. According to Lieberman, since here we can determine on the basis of taste with which of the produce the heave-offering-spice was mixed, we initially deem it to have been mixed with the unconsecrated produce, as the MS. reading at D states. A priest later can taste that produce to see if that indeed is so. This is not the case in T.'s two other cases, in which either spice in the status of heave-offering or unconsecrated spice is mixed with produce. Since in these cases it cannot be determined on the basis of taste whether or not spice in the status of heave-offering was mixed with unconsecrated produce, we maintain the prevailing status of all of the produce, as I have explained in my commentary. This interpretation is interesting in that it both upholds the MS. reading at D, and explains the connection of these pericopae to the laws of M. Chapter Ten. It seems to me, however, that Lieberman reads more into the text of T. than is acceptable. That this is the case is highlighted by the fact that Lieberman does not explain why D does not read simply "if it imparts flavor,"

expected in cases dealing with the problem as Lieberman sees it. There is, further, no basis for the assumption that the term "mortar" refers specifically to a container of spices.

³⁰Lieberman, TK, I, p. 437, follows E in deleting the word "forbidden," stating that the reference is to meat of sin offerings. The point in all events is the same, and I prefer to follow the reading of the parallel passage at T. Hul. 7:7, as well as the reading of V and ed. princ.

³¹At J-K, MS. E repeats F-G. This is a scribal error.

³²The claim of J-L, that the status of uncleanness of food is neutralized when the food is mixed with clean edibles is in line with the position of the House of Hillel, M. 5:4. The Shamaites will not agree.

³³In each of these cases olives in one condition, crushed or whole, are pickled with olives in a different state of preparation. The laws of neutralization therefore do not apply.

³⁴My interpretation of the pericope follows y. Ter. 10:7, accepted likewise by Maimonides, Bert and TYY. Note MR, who reads M. 10:7 in light of M. 10:1's distinction between produce which is cut up when it is prepared with heave-offering and that which is whole.

³⁵Maimonides and Bert interpret matters differently. They hold that what I take to be references to quantities of unclean fish, at C and in the opinions of Judah and Yose, indicate, rather, quantities of brine derived from unclean fish. The issue, then, is the proportion of unclean brine which must be present in the mixture in order to render unclean the clean fish pickled in that brine. While this interpretation attempts to take seriously the contention of A, that at issue here is the status of the clean fish, and not of the brine (see the continuation of my comment in the text), it does not take seriously M.'s own reference, at C, to the quantity of unclean fish in the mixture and, at E, to the status of the brine. Cf., T. 9:1H, which may be the source of Maimonides' and Bert's exegesis.

³⁶As is clear from M. 10:7D, the unclean brine will in all events render unclean the clean fish which is pickled in it. So the force of B-G is to make the point called for by A. See, however, T. 9:2, which will not agree with this claim.

³⁷Cf., Sens, who also refers to the problem of the superscription of this pericope. It appears from his comment that he adopts the reading of T. 9:1A, which claims that this superscription is comprised of two separate rules.

³⁸HY states that on the basis of M., T. should be corrected to read *any keg*. This is a good example of the traditional harmonization of M. and T., which misses the point of T.'s function as critical commentary to M.

³⁹Bert, TYY and Albeck state that Sadoq disputes A. A, they say, holds that brine from unclean locusts is itself unclean, but, as I have said (following y. Ter. 10:8), does not impart susceptibility to uncleanness. Sadoq, they claim, holds that the brine of unclean locusts neither is unclean itself, nor imparts

susceptibility to uncleanness. This interpretation must be rejected, since the pericope is not set in the form of a dispute.

⁴⁰ TYY notes that M. Sheb. 7:7 and 9:5, as well as M. Ter. 10:7, all are contradictory to A. He resolves the contradiction by stating that M. 10:10 refers to cases involving vegetables. He claims that the requirement to separate heave-offering from these is rabbinic in origin, and not biblical. TYY further states that the rules governing mixtures of heave-offering and unconsecrated produce are rabbinic. He thus concludes that the reason for the rule of A is that a rabbinic prohibition, in this case, the rule for mixtures, does not extend to agricultural offerings which themselves are rabbinic in origin. While this reasoning is common in the two *Talmudim*, it is not a viable interpretation of M. That document itself knows no distinction between rabbinic and biblical law. A different approach is taken by MR, who notes the contradiction posed by the rule of M. 10:7. He states that as regards the law, olives, which have a strong flavor, are comparable to leeks. This does not seem to me to solve the problem. Note also GRA and TYT. They follow y. Ter. 10:9 in claiming that here the term pickling actually refers to boiling (see M. 10:11). There is, self-evidently, no basis for this in the text before us.

⁴¹ A different approach is that B was formulated at the time of the redaction of the pericope, in reaction to the juxtaposition of the otherwise contradictory rules at A and C-F.

⁴² See Feliks, *Agriculture*, p. 118. He cites Löw, *Flora*, I, p. 214.

⁴³ *Allium porrum capitatum*; Feliks, *Plant World*, p. 174.

⁴⁴ Feliks, *Agriculture*, p. 118, n. 18, states that Judah's point is that of the things listed, porret alone has such a strong flavor that it falls under the law of M. 10:10C-F. I do not see how the language of T. supports this interpretation. For further discussion of Judah's position, see Lieberman, TK, I, p. 444.

⁴⁵ My interpretation follows HD and Maimonides, *Heave-offering* 11:4. See Lieberman, TK, I, p. 445, who cites these same authorities and discusses the issue in terms of whether or not pickling improves the taste of the onions in the status of heave-offering. Since T. phrases matters in terms of the status of the vinegar, this issue seems to me to be irrelevant to the point of the pericope.

⁴⁶ For a more complete formal description of M. 10:11, including a statement of the differences in formulation between Aqiba's opinion and A-B+C-D, see Primus, *Aqiba*, p. 69.

⁴⁷ Bert, TYY and Maimonides state that the several laws of this pericope comprise qualifications of the rule of M. 10:10. Yose in particular, they say, disputes the anonymous authority of that pericope, claiming that beets in the status of heave-offering, not leeks, render forbidden the unconsecrated produce with which they are cooked. Since M. 10:10 and Yose here refer to different methods of preparation, however, I see on the surface no dispute between the two rules. The source of Bert, TYY and Maimonides' view probably is y. Ter. 10:9's statement that M. 10:10 actually refers to the case of foods which are boiled together, the same method of cooking mentioned here (see above, n. 40).

⁴⁸My interpretation of Aqiba's position follows Sens and Bert. Maimonides states that Aqiba refers to a case in which permitted meat is cooked with, and so flavored by, produce in the status of heave-offering. This approach, based on a unitary reading of the pericope, is not called for by the language of Aqiba's statement. See MR, cited at length by Primus, p. 68. MR gives an overview of the two traditions of exegesis of this pericope.

⁴⁹In explaining this pericope, Lieberman, TK, I, p. 445, follows Maimonides' interpretation of Aqiba's position. See above, n. 47.

⁵⁰Lieberman, *loc. cit.*, states that Aqiba's view holds only for the case of vegetables, the separation of heave-offering from which is ordained by rabbinic law, but not by Scripture. I already have discussed the problematic nature of this approach to the exegesis of M., above, n. 40.

⁵¹On variant readings and interpretations of the pericope, see Lieberman, TK, I, p. 446.

⁵²E orders the laws of the pericope differently than V, the order of which I have preserved. E places J first, followed by G-I, K-L and finally D-F. There is no difference in meaning. For a complete list of other sources which follow the order of E, see Lieberman, TK, I, p. 447. Lieberman also discusses the implications of this ordering for b. Hul. 98a's interpretation of D-I.

NOTES TO CHAPTER ELEVEN

¹The pericope probably originates as a doublet, A-B+C paralleled at D+E. The third case then was appended for reasons of substance. This case breaks the prevailing form. It lacks a clause which balances C and E, and provides, rather, Judah's dispute.

²See MR and b. A.Z. 38b.

³Judah's "for it improves it (*mšbyhw*)" is not set in contrast to B's "since this ruins them (*m'bdn*).". The technical opposite of the root *SBH* is *PGM* (T. 8:9bK-M), not *'BD*. This being the case, A-E should not be interpreted in light of Judah's principle, as if A and D simply offer cases in which the flavor of the food is spoiled. This is not what is suggested by the language of B.

⁴My interpretation follows Lieberman, TK, I, pp. 451-2, MB and HD. HY claims the issue here is whether the wine improves or spoils the flavor of the brine. Eliezer, HY holds, says that it spoils the flavor of the brine, and therefore does not impart to that brine its status (see T. 8:9bK-M). I prefer to read the pericope in terms of the issue of M. 11:1.

⁵Bert, TYY and Sens interpret M. 11:1A in light of this pericope. See Lieberman, TK, I, p. 454, who refers to the question of whether T. agrees or disagrees with M., but who reaches no conclusion of his own.

⁶See Green, "Techniques," p. 8.

⁷Maimonides, Bert, TYT and Albeck follow y. Ter. 11:2 in taking the logical view that Joshua exempts the individual only from the added fifth. Thus the non-priest must replace that which he wrongly ate. Since he is not culpable for eating consecrated food, however, he need not pay the penalty of the added fifth.

⁸According to the commentators cited in the previous note, Joshua's position is that the fruit juice is not equal to the original fruit, and therefore, while deemed to be heave-offering, does not have a consecrated status at all (cf., MR). The distinction seems to me to be artificial. It is more likely that Joshua and Eliezer agree on basic facts, and dispute the correct interpretation of those facts. The viability of this approach to exegesis is indicated by the fact that in M. Chapter Eight and here, Eliezer and Joshua are shown to have cogent legal positions.

⁹The discontinuity between the two parts of the pericope is highlighted by the fact that it is irrelevant to D-F that the produce is in the status of heave-offering. This is, however, a fact necessary to A-C. See Green, p. 9.

¹⁰C-G apparently was left out in E through homoeoarchton.

¹¹Apamea is a town in Syria. See Smith, *Historical Atlas of the Holy Land*, p. 24. See also Aruch, I, p. 188, and Maimonides to M. Hal. 4:11.

¹²Both Albeck, p. 211, and Lieberman, TK, I, p. 457, state that the consideration here is the form in which the various types of produce normally are consumed. See MS, who notes that processing diminishes the quantity of the consecrated produce. This seems to me to be the basic consideration here, as I indicate in the continuation of my comment.

¹³Bert states that this rule has scriptural basis. He cites Num. 18:12, in which God designates for the sons of Aaron the best of the oil and wine of the people of Israel. Bert's point is that since wine and oil are specifically referred to as priestly dues, grapes and olives may be given in this form to the priest. As is usually the case, however, M. knows of no basis in Scripture for its rule.

¹⁴*Prosopis stephaniana*; Albeck, p. 211, and Lieberman, TK, I, p. 359.

¹⁵This same notion has been illustrated for the case of fenugreek, M. 10:5-6, above, p. 274-275. See also M. Ma. 5:8, which refers to parts of produce which, because they are not eaten, are not subject to the separation of heave-offering and tithes.

¹⁶Each of the rules at A, B-C+D, E-F+G, H and I-J is based on the pattern *substantive + permitted/forbidden*. A is a fitting introduction to all of these rules, for it adds "to non-priests" required for the sense of the other rules, yet not explicitly stated in them. As we shall see, the expansion of the form at C-D and E-F is in light of the particular substance of those cases. K and L-M, on the other hand, do completely break the basic form. They are included here because they make the same point as A-J.

¹⁷For a more complete discussion, see Lieberman, TK, I, pp. 458-63.

¹⁸For a full discussion of this point, see Lieberman, TK, I, pp. 463-64. MB, followed by HY, simply states that these types of pits are "valuable." I assume that MB means "valuable as food," such that the point is as I have explained it.

¹⁹See Lieberman, TK, I, p. 466, who offers an extended discussion of this term.

²⁰The exact sense of the phrase is obscure. Lieberman does not comment.

²¹T. Uq. 2:10 states that even if the peels of musk-melons contain food, they are not susceptible to uncleanness as foods. This is contradictory to T. 10:2D-E, which assumes that the peels of musk-melons are themselves food. I cannot account for this contradiction. Lieberman likewise notes the problem, yet offers no explanation.

²²See Lieberman, TK, I, p. 467. On the cultivation and use of legumes in ancient times, see White, pp. 189-90.

²³MR states that this qualification applies also in the case of A-C. His reason is the one I have given.

²⁴Heave-offering of the tithe normally is separated from first tithe by the Levite. It is given to the priest. In the case of produce purchased from an individual who is not trustworthy as regards the separation of tithes, we assume that first tithe was not separated from the produce. The householder who wishes to tithe the produce, therefore, himself takes from the produce heave-offering of the tithe and gives it to the priest. See Sarason, pp. 8-9.

²⁵On the liability of vetches to the separation of heave-offering and tithes, see Bert, MS and TYY. On the cultivation and consumption of vetches in the Roman world, see Pliny, *Natural History*, XVIII, 37, and Theophrastus, *Enquiry*, II, iv, 2. These authors bear out M.'s notion of the two possible uses for vetches.

²⁶Maimonides cites Lev. 22:11, which states, *If a priest buys a slave as his property for money, the slave may eat of it (i.e., holy things)*. The priest's beast is comparable to the slave.

²⁷This is in line with Lev. 22:11, which reads, *A sojourner of the priest's or a hired hand shall not eat of a holy thing*. The rules of this pericope in general thus derive from a simple reading of Scripture.

²⁸Another common use for oil is anointing (T. 9:7H-M). This is not permissible in the case of unclean oil, which would render the priest unclean.

²⁹"For sick people," (A4) is discontinuous with the first three items in A's list, which refer to public places. I assume that A4 is included because in this case again, oil will benefit not only the priest, but also the sick person and others who might visit.

³⁰This interpretation depends on my rendering of *bršwt* (B and D) as "in the presence of," and not as "with the permission of" (see Jastrow, p. 1499, s.v. *ršwt*). In this I follow Bert, *Sens*

and TYY (who suggests that the priest must both be present and offer permission). I disagree with Maimonides who states that only the permission of the priest is required. This seems insufficient, since the heave-offering is consecrated for the priest's own use.

³¹y. Ter. 11:7 interprets the pericope by reading into it the question of the likelihood that non-priests will dirty themselves with the consecrated oil, e.g., by adjusting the lamp. This would constitute an improper waste of the heave-offering. According to y., Judah (F) holds that at a wedding feast, at which people wear fine clothes, it is unlikely that they will dirty themselves with the oil. The heave-offering therefore may be kindled in that place. This is not the case for a house of mourning, where people are not well dressed and are likely to adjust the lamp. Yose (G), on the other hand, takes into account the fact that the people at the wedding feast are active, and therefore likely to knock over the lamp and waste the oil. This is not the case in a house of mourning. For this reason, heave-offering may be kindled there. Meir (H) and Simeon (I) take intermediate positions, based on the considerations offered by Judah and Yose. While y.'s interpretation is plausible, it has no grounding in the language of M., and there cannot be shown to represent the sense intended by the redactor who formulated the dispute. Since M.'s own language offers no clues to the meaning of the dispute, its correct interpretation must be left in question.

³²Neither Lieberman, HY, HD or MB explains the rule.

³³MS. E and ed. princ. have at B-D the reading that V (which I translate) gives for F-H.

³⁴E and ed. princ. read "in the case of tithe," and continue at F-H with what V has at B-D. This is the version of the pericope found at b. B.B. 97a.

³⁵The translation of N-X is that of Neusner, *The Tosefta*, vol. 6, p. 273.

³⁶*Sesamum indicum* (Lieberman, TK, I, p. 477, citing Löw, *Flora*, vol. 3, p. 1f.).

³⁷Lieberman, TK, I, p. 479, follows RiDBaZ (to Maimonides, *Heave-offering* 11:4) in stating that the reason for A is that pulse is of low quality and therefore ruins the grain with which it is cooked. (This is forbidden on the basis of the rule of M. 11:1.) While reasonable, this interpretation is not acceptable because it has no basis in the specific language of the pericope before us, and indeed ignores D-E.

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