The Sanctity of the Seventh Year

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Published by Brown Judaic Studies

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The Sanctity of the Seventh Year: A Study of Mishnah Tractate Shebiit.

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The chapter as a whole concerns the problem posed by a farmer who during the seventh year engages in activity that is permitted, but nonetheless appears to be committing a transgression. A person who gathers stones from a field for use in construction, for example, may look to others as though he is clearing the land for cultivation. Gathering stones is problematic because, though technically permitted, it may lead others to commit actual transgressions. Mishnah's authorities therefore rule that Israelites must avoid even the appearance of cultivating the land during the seventh year, in addition to observing the restrictions of the Sabbatical year in fact. Though this rule has a clear practical purpose, to prevent possible violations of the law, it also points toward a deeper principle. For Mishnah's framers, appearing to violate the laws of the seventh year is forbidden because this would undermine Israel's conception of itself as a community sanctified by God's laws. That is, an Israelite who appears flagrantly to transgress the restrictions of the seventh year acts as though those laws did not apply to him. In doing so, he separates himself in the eyes of others from the community of Israel, which is commanded by God to observe the law. Thus, in the view of Mishnah's framers, all Israelites have a responsibility to demonstrate to one another that they are not transgressors, as well as to uphold the law in fact. This single principle of law is developed in the chapter's two distinct thematic units, M. 3:1-4, on manuring fields, and M. 3:5-10, on removing stones from a field. Let us now briefly review the details of these laws.

We deal first with farmers who wish to store manure in their fields during the Sabbatical year for use as fertilizer during the eighth year. This is permitted provided that the farmer indicates that he does not intend to fertilize his field during the Sabbatical year itself. It must be apparent to all that he is only storing manure for later use. He shows this in one of three ways, by placing the dung in large storage heaps (M. 3:2, 3:3A-B,D,F), by piling the manure slightly above or below ground level (M. 3:3C,E,G), or by restricting the size of the area covered with dung (M. 3:4). This discussing of manuring fields is introduced at M. 3:1, a ruling that permits farmers to bring manure into their fields only late in the Sabbatical year, when the ground has dried out. This assures that the dung will not actually fertilize the soil during the seventh year.

The central point of M. 3:5-10 is that people who collect stones for use as building materials during the Sabbatical year must do so in a manner that indicates that they are not preparing the ground for cultivation. They may gather only large stones, which clearly will be used for construction (M. 3:5-7, 3:8E-3:9), or they must leave a layer of
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76 Rubble on the ground (M. 3:7E-H). This shows that their intent is not to clear the field for planting. By the same token, a person who clears stones from land which ordinarily is not cultivated need not scruple about appearing to violate the law (M. 3:10A-B, 3:6G-N, 3:7I-J). One rule, M. 3:8A-D, though related topically to the present discussion, makes a separate point. Farmers may not repair damaged terraces during the sixth year, for in doing so they prepare the land for cultivation during the Sabbatical year. Fixing terraces during the seventh year itself, however, is permitted. This is done solely to make the land ready for planting during the eighth year. This ruling further illustrates the central principle of Chapters One and Two, that Israelites may not perform agricultural activities during the sixth year which benefit the land only during the Sabbatical year.

3:1

A. From what time [during the Sabbatical year] do [Israelite farmers] bring manure out [to their fields to store it there] in dung heaps [for use as fertilizer, during the following year, not during the seventh year itself, which would be forbidden]?

B. "From the time [during other years of the Sabbatical cycle] when workers (מברץ מברץ; 3 MSS. read: סברץ סברץ, "transgressors of the laws of the Sabbatical year") cease [spreading manure in their fields]," the words of R. Meir. [From this point on, the manure which the farmer places in heaps in the field will not have the effect of fertilizing the crops of the seventh year, which would be forbidden].

C. R. Judah says, "From the time when the [ground] moisture (מدراج) dries up." [Since at this point the ground no longer will absorb the nutrients from the manure, the farmer will not be engaged in fertilizing.]

D. R. Yose says, "From the time when [the ground hardens] forming clumps (מראש)."

M. 3:1

A farmer during the Sabbatical year wishes to store manure in his field for use as fertilizer during the following year. This poses a problem, for even though storing the dung in itself is permitted, the farmer's action may have the secondary effect of fertilizing the crops of the seventh year. The question under dispute is when during the Sabbatical year farmers may begin to store up manure in their fields without thereby enriching the produce of that year. Meir, B, looks to the point during other years of the Sabbatical cycle when farmers ordinarily quit fertilizing their crops. In general, farmers stop spreading manure toward the end of the growing season, when the dung no longer would benefit the crops growing in the field. At the corresponding point during the Sabbatical year, Meir assumes, manure may be stored in the field without improving the crops of that year. Judah and Yose, on the other hand, hold that the conditions in the field during the Sabbatical year itself are decisive. Once the ground has dried out, placing dung in the field no longer will have the effect of enriching the soil (C,D). The farmer
then may begin to stockpile his manure. Judah and Yose, who both adopt this view, appear to differ from one another only in a matter of formulation.5

3:2

A. [In accordance with the rule of M. 3:1], how much manure [may they bring out to a field during the Sabbatical year]?
B. Up to three dung heaps per seah-space [of land],
C. each [dung heap containing no less than] ten baskets [of dung],
D. each [basket containing a volume of no less than] a letek [that is, fifteen seahs, of dung],6
E. They may add to the [number of] baskets [above 10 per dung heap],
F. but they may not add to the [number of] dung heaps [above three per seah-space].
G. R. Simeon (G7, K: Judah) says, "Also: [They may add to the number] of dung heaps."

M. 3:2

During the Sabbatical year farmers must store manure in a manner that indicates that they do not intend to fertilize their fields, which would be forbidden. By piling substantial quantities of dung in a few large heaps, the farmer signifies that he is storing this manure for use during the following year. This is permitted, as we know from M. 3:1. A secondary dispute at E-F vs. G considers whether a farmer who wishes to store more than the specified quantity of manure (B-D) may make additional dung heaps in the field. Covering a larger portion of the field with dung might create the impression that the farmer was engaged in fertilizing. For this reason, E-F restricts the number of dung heaps that a farmer can make within each seah-space of land. By limiting the surface area covered with manure, the farmer shows that he is not using it as fertilizer. Simeon, G, on the other hand, argues that the number of heaps within the field is of no consequence. Piling dung in large mounds in itself indicates that the farmer is storing it for later use.

A. [During the Sabbatical year] they do not gather grass [which grows] on dung,
B. but they may gather [loose pieces of] straw [which have been mixed in with the dung],
C. They add straw or stubble [to a dung heap] in order to increase [its volume],
D. They add water [to a dung heap] so that it will decompose (so E, V: ḫyrḥ; ed. princ.: ḥyrḥ, "it will sprout").
E. And they hoe it so that it will swell.
F. "They do not add to [the number of] baskets or to [the number of] dung heaps [above the numbers specified in M. 3:2] (E omits: or to the dung heaps)," the words of R. Meir.
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G. R. Judah says, "They may add (E omits:) to the [number of] baskets but they may not add to the [number of] dung heaps."

H. R. Simeon says, "Also: [They may add to the number] of dung heaps" [=M. 3:2E-G].

I. [And, in the view of all authorities, piling manure in a field during the Sabbatical year is permitted] only if there are at least three dung heaps in a seah-space.

T. 2:14

Manure which a farmer stores in his field during the Sabbatical year may contain seeds that subsequently sprout greens. This grass, like that which grows from the ground, is subject to the restrictions of the Sabbatical year and so may not be harvested. People may collect straw from a dung heap, however, for this has not sprouted from the dung, but merely was mixed in with it (A-B). The point of this rule is that a dung heap in certain respects shares the status of the ground on which it sits. That which grows from it, like that which grows from the ground itself, is governed by the laws of the Sabbatical year. The rules which follow, C-E, qualify this principle. Unlike the ground, a dung heap may be hoed and watered during the Sabbatical year. This is part of the process of preserving the manure and is not done in order to cultivate the field.

At F-H+1, three Ushans dispute the rule of M. 3:2E-G. The positions of Judah (equivalent to the anonymous rule of M. 3:2E-F) and Simeon are familiar from Mishnah and need no further explanation. Only the view attributed to Meir (F) is new. He argues that the quantity of dung specified in M. 3:2A-D constitutes the maximum which a farmer may accumulate in his field. Increasing this amount, he assumes, might make it appear that the farmer wishes to fertilize his field. The gloss at I makes the point that the farmer must make at least three piles, in order to show that he is engaged in storing manure.

3:3

A. [During the Sabbatical year] a man constructs within his field three dung heaps per seah-space, [as specified by M. 3:2B-D].

B. "(G, S add: And) [if a farmer has too much manure to fit into three piles of the size specified at M. 3:2, then he may construct] more than that [number, that is, more than three heaps per seah-space]. (B, N read: mnhsyb: "More than [three, he must form them in the manner of] quarried stone, [one basket on top of another]", the words of R. Simeon, [which correspond to his view at M. 3:2G].

C. But sages forbid [the construction of more than three dung heaps per seah-space] unless the farmer either deepens [the ground where the manure is deposited by] three [handbreadths] or raises [the ground by] three [handbreadths. By piling the manure in this unusual manner, the farmer indicates that he is storing it, not using to fertilize his field].

D. A person [who does not have enough dung to form three piles of the size specified at M. 3:2B-D] places [all] the manure in his possession in one large pile ('wrs).
E. R. Meir forbids [the farmer from doing this] unless he either deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths].
F. If one had a small amount [of manure, he forms a single pile and] continues to add to it.
G. R. Eleazar b. Azariah forbids the [farmer from doing this] unless he either deepens [the ground by] three [handbreadths] or raises [the ground by] three [handbreadths], or unless he places [the manure] on rocky ground.


The question, familiar from M. 3:2, is how a farmer can store manure in his field during the Sabbatical year without appearing to fertilize his land. Two opposing views on the matter are presented in three disputes at B vs. C, D vs. E and F vs. G-H. Simeon, in line with his position at M. 3:2G, claims that simply piling the dung in heaps, rather than spreading it around, indicates that it is in storage for use during the following year. On his view, reflected also in the anonymous rules at D and F, the number and size of these piles is of no importance. Sages (C), Meir (E) and Eleazar b. Azariah (G-H) hold that farmers must take further precautions to avoid the appearance of performing a transgression. By piling the manure either slightly above or slightly below ground level, the farmer makes it clear that he is not fertilizing the topsoil. Eleazar adds that a farmer who piles dung on rocky soil, which is not arable, clearly would not be suspected of fertilizing the land.

A. One who uses his field as a fold [for his flock during the Sabbatical year, so that, as a result, the animals drop dung throughout the field] (hmdyr 't ṣdhw), makes an enclosure [that measures] two seah-spaces in area. [By limiting the surface area covered with dung, the farmer indicates that his intention is not to fertilize the land, in violation of the law].
B. [After the enclosed area is filled with manure he creates a second fold adjacent to the first. How so?] He removes three sides [of the original enclosure] and leaves the middle side [that is, the fourth side, in place. With the other three sides of the original fold he creates a second enclosure of the same size.]
C. The result is that he encloses within a fold [an area totaling] four seah-spaces.
D. Rabban Simeon b. Gamaliel says, "[He may continue to create enclosures in this manner and so enlarge the area until it measures a total of] eight seah-spaces."
E. [If] his entire field was four seah-spaces in area,
F. he sets aside a small section [of the field, which he does not enclose within the fold,] so as [to avoid] the appearance [of committing the transgression of fertilizing his field during the Sabbatical year].
H. And he removes [manure] from within the enclosure and places it in his field in the accepted manner of those who handle manure [during the Sabbatical year, that is, in accordance with the rule of M. 3:1-3].

M. 3:4

A farmer who, during the Sabbatical year, uses his field as a fold for livestock may appear to be fertilizing the land. By allowing the flock to spread manure over only a limited area, four seah-spaces in all, the farmer gives public evidence that he is not engaged in the performance of this transgression. Gamaliel, D, disputes a matter of little importance, the precise size of the area which may be included within the fold. At E-G+H, a secondary unit of law, we consider the problem posed by a farmer whose entire field measures only four seah-spaces. If he were to use this entire area as a fold, in line with the rule at A-D, he would appear to be fertilizing. He therefore leaves a small portion of his field outside the enclosure, to show that he is not engaged in manuring any part of the field.

At H, the discussion shifts from problems of appearing to violate the law, to the matter of preventing actual transgressions. The farmer may not allow the dung which the animals leave in the pens actually to fertilize the field. Rather, he must collect the manure and store it in heaps, in accordance with the procedures spelled out at M. 3:1-3.

A. One who uses his field as a fold,
B. makes an enclosure two seahs in area [=M. 3:4A-B],
C. [When the enclosure] is filled [with manure],
D. he removes [manure] from within the enclosure and forms dung heaps in his field in the accepted manner of those who handle manure [=M. 3:4I with slight variations],
E. And he proceeds to make another enclosure.
F. Said R. Judah, "To what case does this rule apply?"
G. "To a case where his flock was small.
H. "But if his flock was large,
I. "even [an enclosure] one kor in area, or two kors in area is permitted."
J. R. Simeon b. Eleazar says, "[One desiring to use his field as a fold] sinks a stake in the middle [of the field] and surrounds it with four enclosures in its four sides."
K. "If his entire field was two seahs in area,
L. "he should not enclose all of it.
M. "Rather he sets aside a small section [of the field]
N. "so as [to avoid] the appearance [of committing a transgression]," the words of R. Meir [=M. 3:4G-H].
O. R. Yose (E: sages) permits [the farmer to use his entire field as a fold].

T. 2:15
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P. He removes [his flock] from one enclosure,
Q. and places [it] in another enclosure (E: this enclosure).
R. "[He may do so] only if he does not return them to the original enclosure," the words of R. Meir.
S. And sages permit [him to return them].

T. 2:16

T. (Ed. princ. omits 2:17) He removes [his flock] from one field,
U. and places [them] in another field.
V. [He may do so only if he does not return them to the original field," the words of R. Meir.
W. And sages permit [him to return them].

T. 2:17

X. He removes [his flock] from one enclosure,
Y. and places [them] in another enclosure.
Z. "[He may do so] only if there is not a space of [more than] eight seahs between [the first enclosure] and the other [enclosure]," the words of R. Dosethai b. R. Judah.
AA. R. Yose b. Kipper says in the name of R. Eleazar, "[There must not be a space of more than] two seahs [between them]."
BB. And within these two seahs he milks [his flock] and shears them,
CC. and he transfers [his flock from one enclosure to the other] (wmknys wmwsv'; lit., "he takes them out and brings them in) by way of a path (drk clyyh) [which connects the two enclosures].

T. 2:18

T.'s version of M. 3:4 (A-E) is followed by a long series of rules for creating a fold during the Sabbatical year. Judah (F-I) rejects the rule of M. 3:4B-C, which limits the size of a fold that a farmer may make during the Sabbatical year. He is not concerned that a farmer who makes a large enclosure will appear to be using the animals to fertilize his field. Since the farmer's intention is solely to create a fold, he need not worry about appearing to commit a transgression. Simeon b. Eleazar (J) offers an alternative to Simeon b. Gamaliel's procedure (M. 3:4E) for creating four adjacent folds. At K-N vs. O, Meir and Yose dispute whether a farmer may convert his entire field into a fold during the Sabbatical year. Meir, in line with M. 3:4F-H, holds that this is forbidden, since it looks as though the farmer is fertilizing his field during the Sabbatical year. Yose, like Judah (F-I), regards the intention of the farmer, not the way his action appears to others, as probative. He may use his entire field as a fold so long as he does not intend to fertilize it.
The dispute between Meir and sages (P-R vs. S) concerns the procedure for using two adjacent folds. Meir prohibits the farmer from moving his flock back to the area occupied by the first enclosure after the second has filled with manure. By reconstructing this fold, he would appear to be creating a third enclosure, in violation of M. 3:4A-D, which permits him to make only two. Sages, however, are concerned only that the farmer does not create a third enclosure on new, previously unused land. Returning the flock to the first enclosure, then, is permitted, for in doing so no new land will be covered with manure.\(^1\) T. 2:17 merely repeats this dispute and should be omitted, in accordance with *ed. princ.*

The point of the dispute at X-Z vs. AA is clear. The two enclosures need not be adjacent, but only in close proximity to one another. This prevents animals from spreading manure randomly over a large area as they are transferred from one to the other. I cannot account for the difference between the specific distances proposed by Dosethai and Yose. The gloss at BB-CC addresses the same concern. The farmer may milk and shear his flock outside of these folds, for the amount of manure left in the open field will be negligible.\(^1\) Nonetheless, he transfers them between the two enclosures along a path, to prevent the animals from shitting all over the field.

A. They construct enclosures using all [types of materials];
B. with (1) stones, (2) matting, (3) straw, (4) reeds and (5) stalks.
C. [They may make an enclosure] even with three ropes, one on top of another,
D. so long as there is not a space of [more than] three handbreadths between [one] rope (E: reed) and another
E. [that is, sufficient space] for a lamb to enter.

T. 2:19 (=T. Kil. 4:3)

Farmers may construct a fold in any manner which assures that livestock cannot escape from it.

A. On Sabbaths, festivals or the intermediate days of festivals, they [that is, gentile workers] do not drive a flock into a fold [on behalf of Israelites,]
B. even [if they do so] as a favor.
C. [For example,] if they [that is, the flock,] came [into the fold] of their own accord,
D. they [that is, the gentiles,] do not assist them.
E. And it is not permitted to appoint a [gentile] guard [to keep the flock within the enclosure]
F. or to move the flock [on Sabbaths or festivals from one place to another within the fold].
G. (E omits: G-J) If they [that is, gentile workers] were driving a flock into a fold on Sabbaths or on festivals,
H. it is permitted [for them to do so].
I. And it [also] is permitted to appoint a guard
and to move the flock [from one place to another within the fold].

Rabbi says, "They drive a flock into a fold on the Sabbath as a favor, on a festival [in exchange] for his meals, and on the intermediate days of a festival [the gentile worker may do so] even if he receives his [regular] salary."

T. 2:20 (b. M.Q. 12a)

The question at hand is whether on Sabbaths and festivals a gentile may do work on behalf of Israelites that they themselves are forbidden from doing. Before we turn to the substance of the matter, however, we must distinguish the several units of law which comprise the discussion before us. The anonymous rule at A-B together with Rabbi's lemma at K present a dispute. This is apparent from the parallel language and structure of the two rules, each of which refers to Sabbaths, festivals and the intermediate days of festivals. The intervening materials at C-J break this pattern and so constitute a separate discussion. As we shall see, this block of material in fact is composed of several distinct rulings: C-D, which glosses A-B, and E-F+G-J, a matched pair of rules which directly contradict one another.

The rule at A-B claims that under no circumstances may gentiles perform forbidden labor for Israelites on Sabbaths and festivals. Since Israelites themselves may not tend their flocks on these days, they also may not benefit from the labor of gentiles. Rabbi, K, disagrees, for he holds that the law regulates only the conduct of Israelites on these holidays. Moreover, different rules govern the labor of gentiles on Sabbaths, on festivals and on the intermediate days of festivals, for these days possess varying degrees of sanctity. On the Sabbath, Israelites may ask a gentile to tend their flocks so long as they do not engage in an ordinary business transaction, while on the intermediate days of festivals, business is permitted in the usual manner.

Two separate glosses, C-D and E-F, provide further illustrations of the opening rule (A-B). An Israeli may not allow gentiles voluntarily to perform forbidden labor for him, even if the work itself is very minimal (C-D). Nor, clearly, may an Israeli engage gentiles to assist him in herding his animals on Sabbaths or festivals (E-F). G-J, as noted above, directly disputes E-F. I cannot account for this ruling, which probably should be omitted following the Erfurt manuscript. The pericope as a whole never mentions the laws of the Sabbatical year and has been placed here because it addresses the topic of M. 3:4 and T. 2:19, driving a flock into a fold.

A. [During the Sabbatical year] a man may not begin to open a stone quarry in his field, [for in doing so he may appear to be clearing the land for cultivation,]

B. unless the field contains [enough stones to construct] three piles [of hewn blocks,]

C. each [pile] three [cubits long] by three [cubits wide] by three [cubits] high,
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D. [so that] their measure is [equivalent to] twenty-seven stones. [That is, each pile would contain no less than twenty-seven blocks, each measuring one cubic cubit].

M. 3:5

This issue, as at M. 3:1-4, is how a person may perform a permitted activity during the Sabbatical year without appearing to engage in forbidden cultivation. In the case at hand, a farmer who removes stone from a field during the Sabbatical year may appear to be cultivating the land in preparation for planting. This would be forbidden. By removing substantial quantities of rock, however, the farmer indicates that his only intention is to quarry, not to clear the land.¹²

A. [During the Sabbatical year] a man may not begin to open a stone quarry in his field,
B. unless it contains [enough stones to construct] three piles [of hewn blocks],
D. (E omits:) Said R. Judah,
E. "To what case does this [rule, A-C], apply?"
F. "To the case where one intends to prepare [the land as] a field [that is, to prepare it for cultivation]."
G. "But, in the case where one does not intend to prepare [the land as] a field,
H. "even a major act of cultivation (dbr mrwbh)¹³ is permitted."

T. 3:1

I. Said Rabban Simeon b. Gamaliel, "To what case does this [rule, A-C], apply?"
J. "To the case where one does not (E reads: does) intend to prepare [the land as] a field,
K. "But, in the case where one intends (E reads: does not) to prepare [the land as] a field,
L. "even the most minor act of cultivation (kllhw) is forbidden."

T. 3:2

Judah and Simeon b. Gamaliel dispute the theory underlying the rule of M. 3:5A-C, cited at A-C. Since Simeon endorses the view which I adopted in my comment to Mishnah, I deal with his ruling first.¹⁴ He maintains that Mishnah's rule refers to a person who intends to quarry his field, not to cultivate it. The point of the law is that a farmer may not quarry his field during the Sabbatical year in a manner which appears to violate the law. On the other hand, if one intends to prepare the ground for cultivation, he may not clear stones from a field at all. This would be a flagrant violation of the law (K-L).

On Judah's view, however, we deal with a farmer who wishes only to cultivate the ground. The purpose of the law, then, is to prescribe a procedure by which a farmer may
clear his field of stones without in fact violating the law. He quarries a large quantity of stone, for this in itself is permitted even though it has the secondary effect of preparing the land for cultivation (F). It follows from this position that a farmer who wishes only to quarry his field need not scruple about violating the restrictions of the law. Since he is engaged in a permitted activity, he is free to work the field as he wishes (H).

A. A rock which lies [partly buried] in the ground,
B. and [its] tip (E: 'ygr; V: 'ygdl) juts out from it [that is, through the earth]--
C. if it [that is, the tip, considered by itself] is of this measure [that is, one cubic cubit; cf. M. 3:9],
D. it is permitted [to remove it].
E. And if not [that is, if the tip of the rock is smaller than this,]
F. it is forbidden [to remove it].

T. 3:3

A farmer may remove a rock from his field during the Sabbatical year only if he knows for certain that it is one cubic cubit in measure, as required by M. 3:5. T. illustrates this point by taking up the case of a rock lodged in the ground only part of which is exposed. Only if the visible portion meets Mishnah's requirements may the farmer remove it from his field.

3:6

A. [As regards] a wall consisting of ten stones, [each of which is so large that it can] be carried [only] by two men--
B. lo, these [stones] may be removed [from the field] during the Sabbatical year. [The size of the stones indicates that the people are collecting them for use in construction, not clearing them away to prepare the land for cultivation].
C. [The preceding rule applies only if] the height of the wall is ten handbreadths [or more].
D. Less than this, [that is, if the wall is less than ten handbreadths high,]
E. he may chisel15 [stones from the wall]
F. but he may level [the wall] only until it is one handbreadth from ground level, [but not raze it to the ground. This again indicates that he is not clearing the land under the wall for cultivation].
G. To what does this [rule, A-F,] apply?
H. [To a case of removing stones] from within one's own [field].
I. But from that of his neighbor, he may remove any amount he wishes. [Since a person would not be suspected of cultivating his neighbor's field, in this case he will not appear to be engaged in a transgression.]
J. To what case does this [rule, A-F,] apply?16
K. To a case in which he did not begin [to remove the stones] during the year preceding the Sabbatical, [but rather during the Sabbatical year itself].

L. But if he did begin [to remove stones] in the year preceding the Sabbatical, he may remove any amount he wishes [during the Sabbatical year].

M. 3:6

A person may tear down a stone fence during the Sabbatical year to use the stones for construction, provided that he does not appear to be clearing the field for cultivation. This principle, familiar from M. 3:5, is expressed through the two-part rule at A-C and D-F. Removing large numbers of sizable stones from a field during the Sabbatical year is permitted, for it is apparent that the farmer intends to use these stones for construction (A-C). If a person wishes to tear down a smaller wall, however, he must do so in a manner which indicates that he does not wish to clear the land, that is, by leaving a layer of stones behind.

Two formally parallel qualifications of this rule, G-I and J-K, make a single point. A person who clearly is not preparing his field for cultivation may remove any amount of stone, large or small. A man who tears down his neighbor's wall, for example, would not be suspected of violating the law, since one does not customarily cultivate his neighbor's land (H-I). Similarly, if one begins removing stones from a field during the sixth year, Mishnah's framers assume that his intent is to use the stones forthwith, not to clear the land for cultivating during the Sabbatical year.

A. [During the Sabbatical year] they do not remove a fence which [stands] between two fields [in order to cultivate these two plots of land together,]

B. whether it is a fence of wood or a fence of stone.

C. To what does this [rule, A-B,] apply?

D. [To the case of] one who intends to prepare a field [for cultivation].

E. But [if he removes the fence] for the wood, it is permitted.

T. 3:16

People may not dismantle a fence during the Sabbatical year in order to cultivate the field. Gathering materials for construction, on the other hand, is permitted. This notion, that the intention of the farmer determines whether his action is permitted, contrasts sharply with the view of M. 3:6, that one must avoid even the appearance of committing a transgression.

3:7

A. Stones which a plow moved,

B. or that were covered [in the ground] and were uncovered [after plowing].--
C. if there are among them two [stones so large that they are] capable of being carried [only] by two men,
D. lo, these [stones] may be removed.
E. One who clears stones from his field,
F. removes the topmost ones and leaves those which are touching the ground.
G. (O², Ca, M, Z omit: G-H) And so [in the case] of a heap of pebbles (P, K omit) or a pile of stones--
H. one removes the topmost ones and leaves those which are touching the ground.
I. If there is beneath them [that is the pebbles or stones] a [large] rock (O² omits) or straw,
J. lo, these [stones also] may be removed.

M. 3:7

Principles familiar from the preceding rules are applied to a new case: a farmer who wishes to remove from his field stones that lie loose on the surface of the ground. The point, once again, is that he may do so only if the stones are large enough for him to use in construction (A-D). In this case, it is apparent that he is not clearing his field for cultivation.

The formally quite separate pair of rules at E-F and G-H reiterate the point of M. 3:6F. One who gathers stones from his field for use in construction must leave a small layer of rocks on the ground. This indicates that his intention is not to clear his field for cultivation. The qualification of this rule, at I-J, is obvious. A farmer may clear away stones that lie on a rock or on straw. Since he does not in fact prepare any land for planting, he will not appear to be violating the law.

A. Stones [which have become] fixed [in the ground] (tw’!bwt) which a plow moved [=M. 3:7A]--
B. if there are among them two stones which are capable of being carried [only] by two men,
C. lo, these [stones] may be removed. (=M. 3:7C-D)

T. 3:4a

A spells out the fact implicit in Mishnah’s rule. The stones referred to at M. 3:7 are lying on the surface and so are subject to a separate rule from those which comprise a wall (M. 3:6) or a quarry (M. 3:5).

3:8-9

A. During the year preceding the Sabbatical, after the rains have ceased, they do not build terraces (mdrygwɔ)¹⁷ on the sides of ravines,
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B. for this prepares [the ravines for cultivation] during the Sabbatical year, [when working the land is forbidden].

C. However, during the Sabbatical year, after the rains have ceased, one may build terraces.

D. for this prepares [the ravines for cultivation] during the year following the Sabbatical [when working the land is permitted].

E. And [during the Sabbatical year when a farmer builds a retaining wall for a terrace,] he may not support [it] with dirt, [for in doing so he would appear to be engaged in an act of cultivation].

F. But [rather one who wishes to build a retaining wall during the Sabbatical year] constructs a rough embankment (hys) [using only stones. Since the farmer does not move any dirt, he will not appear to be leveling the land, in violation of the laws of the seventh year].

G. [As regards] any stone [which is near enough to a person building a wall, as at E-F,] that he can [merely] stretch out his hand and pick up [the stone]--

H. lo, this [stone] may be picked up [from the field and placed in the wall. Since this person removes the stone from the field and adds it to the wall forthwith, it is apparent that he is not engaged in clearing the land for cultivation].

M. 3:8

I. Stones [so large that they can be carried only on one's] shoulder (bny ktp) may come from anywhere [for use in constructing a wall. That is, a farmer may remove such stones even from his own field and need not scruple about appearing to cultivate the land. From the size of these stones it is clear that they will be used in construction].

J. And a contractor (kbln) brings (K: them) [stones of any size] from anywhere. [Since he obviously has been hired to build a wall, he is not suspected of preparing this land for cultivation.]

K. And what [size stones] are [considered] "stones [which must be carried on one's] shoulder?"

L. "Any stone that cannot be picked up with one hand," the words of R. Meir.

M. R. Yose (O2: Judah) says, "Stones [which must be carried on one's] shoulder are what their name implies,"

N. "[that is,] all [stones] that are picked up two [or] three [at a time and carried] on the shoulder."

M. 3:9

A farmer may not repair terraces if he thereby prepares the land for cultivation during the Sabbatical year. This principle of law, familiar from the discussion of Chapters One and Two, is illustrated by the contrasting rules at A-B/C-D. It follows that during the spring of the sixth year farmers may not repair terraces damaged during the rainy
winter season. This would prepare the ground for planting during the Sabbatical year (A-B). They may, however, mend terraces during the seventh year itself. This activity, though performed during the Sabbatical year, prepares the ravines for cultivation during the eighth year alone, when working the land is permitted (C-D).

A secondary issue, addressed at E-F, concerns a farmer who repairs his terraces during the Sabbatical year, as permitted by the rule at C-D. In doing so, he may appear to others to be clearing land, a forbidden activity. In order to avoid this problem, E-F permits the farmer only to bolster the retaining walls, by replacing stones that have washed away. He may not gather dirt from the vicinity to fill in spaces behind the wall, however, for he then would appear to be leveling the ground for cultivation (E-F).

The central point of G-H+I-N, familiar from all that has gone before, is that during the Sabbatical year a person may gather stones only if it is clear that he is not engaged in cultivation. Thus, picking up rocks and immediately placing them in a wall is permitted (G-H). Likewise, people may remove large stones from a field, and contractors may take stones of any size, for these materials clearly will be used for building (I,J).

Meir and Yose (K-L vs. M-N) dispute the precise size of the stones referred to at I. In Meir's view, "stones carried on one's shoulder" refers to any stone too heavy to be removed from the field with one hand. Yose interprets the phrase literally and so maintains that the law applies to a group of stones (Hebrew: bny, plural) which together can be transported only in this way.

A. R. Nehemiah says, "[Contrary to M. 3:8A-B,] they build terraces on the side of (ed. princ.: on top of) ravines in (E: from) the year preceding the Sabbatical.

B. "And during the Sabbatical year one may support them [i.e., the terraces] with dirt,

C. "and he places it [i.e., the dirt] (so Lieberman, TZ, p. 175 who reads: nwtnw; E, V, and ed. princ. read: nwtnn, "he places them the terraces") on the side of (E, ed. princ.: on top of) ravines."

T. 3:4b

Nehemiah rejects the principles of law which underlie two of Mishnah's rulings, M. 3:8A-B and E-F. In his view, the law prohibits farmers from cultivating the land only during the Sabbatical year itself. During the sixth year, however, they may perform agricultural activities, such as the repair of terraces, which benefit the land during the seventh year (A). Moreover, Nehemiah holds that merely appearing to cultivate the land during the Sabbatical year does not in itself constitute a transgression. Farmers may bolster their terraces with dirt during the Sabbatical year, even though this may appear to be a forbidden act of cultivation. In fact, it is part of the process of repairing the terraces, which clearly is permitted (B-C).
One who builds a fence [during the Sabbatical year] between his [property] and the public domain is permitted to dig down to rock level [in order to supply a firm foundation for the fence. Since this land ordinarily is not cultivated, a person who clears this area need not scruple about appearing to work the land].

What should he do with the dirt?

"He piles it up in the public domain and repairs it [that is, he uses the dirt to fill holes in the road]," the words of R. Joshua.

R. Aqiba says, "Just as one does not do damage in the public domain, so too one does not repair it."

What should he do with the dirt?

He piles it up in his own field in the manner of those who store manure [during the Sabbatical year; cf. M. 3:2].

And likewise, [the rule of A.21 applies to] one who digs a well, a trench, or a cave [during the Sabbatical year].

Land adjacent to a public road generally is not suitable for cultivation. A householder who clears this area and builds a fence upon it during the Sabbatical year therefore will not appear to be engaged in forbidden cultivation. This rule sets the stage for the dispute at B–C vs. D–F, the focus of the pericope. A person who removes dirt in the process of building a fence may not deposit it in a field. This might create the impression that he was spreading new topsoil in order to enhance the field's fertility. Thus, Joshua and Aqiba agree that one must avoid the appearance of committing this transgression, though they differ in their views of how best to do so. Joshua (C) holds that people should use the dirt for a clearly non-agricultural purpose, to repair a public road. Aqiba, however, objects that an individual has no right either to disturb or to improve a public thoroughfare, since this property does not belong to him (E). An alternative manner of dealing with the dirt, spelled out in the anonymous rule at E–F, would be acceptable to Aqiba. By piling it in a few large heaps in his own field, in accordance with the procedure specified at M. 3:2 for storing dung, a farmer shows that his intent is not to improve his field, only to store the dirt there.

The gloss at H poses an exegetical problem, for it is not clear to which of the foregoing rules it applies. It may refer to the immediately preceding ruling, at E–F. In that case, its point is that one who digs a well or other hole, whether at the edge of public property or elsewhere, may pile the dirt in heaps in his own field. The fact that the formal pattern of G (present participle + direct object) matches that of A, however, has led me to translate the stich as referring back to the opening rule. On this reading, the gloss returns us to the rules that apply when digging at the edge of public property during the Sabbatical year. Since people generally do not cultivate these areas, one who digs a well, trench or cave on this land will not appear to be violating the law.
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B. R. Aqiba says, "Just as one is not permitted to do damage [in the public domain] so too one may not clear stones [from the public domain; cf. M. 3:10E].
C. "And if he did clear stones,
D. "he should take them to the sea, the river or a dumping ground (lmqwm htrsyn)."
E. They remove stones in order [to clear] a private road, and in order [to clear] a public road, and in order [to clear space for] a (ed. princ. adds: road [used for a] funeral procession.

T. 3:5 (A-D: T. B.Q. 2:12)

T. recapitulates Joshua and Aqiba's dispute of M. 3:10D vs. E, this time with respect to removing stones from a public road. Since their positions are identical to those presented in Mishnah, only the two new rules, C-D and E, require comment. Aqiba holds that one who does remove stones from a public road, in violation of the law, must deposit them in a remote place. His point, presumably, is that this prevents people from creating a public nuisance (C-D). The independent rule at E simply carries forward Joshua's position. The pericope as a whole has no bearing on the laws of the Sabbatical year and appears to be primary to the discussion of T. B.Q. It has been included here only to supplement the dispute in M. 3:10, which itself is tangential to Mishnah's central concern.

A. And [during the Sabbatical year] they place pitcher-shaped vessels [containing dirt] (so Lieberman, Tz, p. 176, who reads: tphym; E, V, and ed. princ.: sphym, "after-growths") on rooftops and maintain them,
B. and they scruple about neither the [restrictions of the] Sabbatical year nor [the restrictions governing] the working of the Land [of Israel].

T. 3:6

The ruling before us is problematic, for the language at A is unclear. One's understanding of the rule depends upon the interpretation of tphym, which refers to pitcher-shaped vessels (A+). If these pots are unperforated, then the soil contained within them is not subject to the rules which govern cultivation of the Land. This would account for the rule that during the Sabbatical year farmers may grow plants in these vessels. This reading creates a problem, however, for it does not explain the stipulation that these pots have been placed on rooftops. Lieberman offers an alternative interpretation of tphym which solves this problem, but assumes a still more complex set of facts. Birds, which use pots of this type as nests, may drop seeds in the dirt. This might cause plants to sprout during the Sabbatical year. The point, then, is that the farmer need not scruple about such matters, even though during the Sabbatical year it generally is forbidden to grow plants on one's roof. This reading, though supported by other rulings in T., appears to me more speculative. Since the pericope bears no relation either to Mishnah or to the surrounding materials in T., however, neither reading can be dismissed as entirely implausible.
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A. Olives [that began growing during the] year preceding the Sabbatical,
B. and continued [growing] during the Sabbatical year--
C. they (1) clear stones [from the ground surrounding the olive tree,] (2) remove thorns,
   (3) fill holes that are under them [the trees' roots, with] dirt, and (4) dig trenches
   from one [tree] to another.
D. And moreover, even in the case of olives [that began growing during the] Sabbatical
   year
E. and continued [growing] during the year following the Sabbatical,
F. it is permitted to do so [that is, to perform the types of labor listed at C.]

T. 3:7 (D-F: Sifra Behar 1:4)

The agricultural activities under discussion are performed for the sake of the tree,
not for the benefit of the fruit growing on the branch. As we recall from M. 2:5Y-Z,
work of this type is permitted even during the Sabbatical year itself, for any benefit to
the fruit is deemed secondary and of no consequence. Farmers thus may tend trees at any
time, whether the olives on the branch are from the crop of the sixth year (A-C) or of the
Sabbatical year (D-F). This rule is only tangentially related to Mishnah, in that it refers
to the activity of removing stones from a field (C1), the subject of M. 3:7-9 and T. 3:5.