Support for the Poor in the Mishnaic Law of Agriculture: Tractate Peah

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NOTES TO INTRODUCTION

1. At first consideration, the offering left in the rear corner of the field, peah, seems to break with this principle of random selection. As we shall see, peah must be designated by purposeful and carefully planned actions of the householder. Nonetheless, the produce designated as peah is separated from the rest of the crop merely by its accident of growing in the rear corner of the field. The farmer's act of designating the produce merely indicates to the poor that the grain he has left standing indeed has the status of a poor-offering. See below, note 6.

2. Seven of the Division's eleven tractates deal with the Temple or priestly rations: Demai, Terumot, Maasrot, Maaser Shen, Hallah, Orlah, and Bikkurim. Of the remaining four, Berakho is unrelated to the overall theme of agriculture, while Kilayim and Sheb'it take up agricultural issues mentioned in Scripture.

3. The Holiness Code (Lev. Chs. 17-26) makes it clear that both the poor and the priests possess none of the Land. In the case of the priests, it is evident that, in compensation for this lack, ordinary householders must render to the priests a portion of their crops. See also Lev. 27:30; Num. 18:8-24.

4. For a discussion of the Biblical promise of prosperity to all Israelites living in the Land, see Brueggemann, The Land, pp. 48-50.

5. See for example, M. Maas. Chs. 2-3; Jaffee, Tithes, pp. 63-105.

6. In the case of peah, the householder himself, through quite deliberate action, must designate the produce for the poor (see T. 2:7-8). The crucial fact, however, is that he plays no role in determining which produce the poor will receive. How so? As T. 1:6K-L explicitly state, the farmer must designate whatever grows in the rear corner of the field, regardless of its quality or amount.

7. The notion that God's choice is reflected through random chance is expressed fully in the following passage of the Talmud of the Land of Israel:

Y. San. 6:3

You find that: when Achan committed sacrilege, Joshua began to attempt to appease the Holy One, blessed be he, saying to him, "Lord of the world, Tell me who this man is [who committed sacrilege]."

God said to Joshua, "I am not going to inform on any creature, and not only so, but if I did so, I should turn out to commit an act of slander. But go and arrange the Israelites in their tribes, and cast lots on them. Forthwith, I shall produce him."

This is in line with that which is written, "So Joshua rose early in the morning and brought Israel near, tribe by tribe, and the tribe of Judah was taken; and he brought near the families of Judah, and the family of the Zerahites was taken; and he brought near the family of the Zerahites man by man, and Zabdi was taken; and he brought near his household man by man, and Achan the son of Carmi, son of Zabdi, son of Zerah of the tribe of Judah, was taken" (Josh. 7:16-18).

Achan said to Joshua, "Are you going to seize me by a mere lot? In this entire generation, there are only two who are truly faithful, you and Phineas. Cast lots between yourselves, and one of you will be trapped by the lot! Not only so, but your teacher, Moses, died only thirty or forty days ago. Now did Moses, our rabbi, teach us, 'By the testimony of two witnesses [will the accused by put to death]' (Deut. 17:6)? Now have you already begun to err?"
At that moment Joshua foresaw through the Holy Spirit that he would eventually divide up the Land of Israel by lots.

That is in line with the following verse of Scripture: "Joshua cast lots for them in Shiloh before the Lord; and there Joshua apportioned the land to the people of Israel, to each his portion" (Josh. 18:10).

[So Joshua reasoned:] "Will you then say on this basis that we are giving a bad name by casting lots? And not only so, but if the lots now are confirmed, then all Israelites will say, 'The lots were confirmed in a capital case, all the more so in property cases [e.g., such as in the division of the Land].' But if the lots now are nullified, then all the Israelites will say, 'In a capital case the lots were nullified, all the more so in property cases!'" [Hence, the lots must validly reveal God's will] (Neusner, Talmud, Vol. 31).


9. The tractate makes a second point in connection with each of the poor-offerings, namely, that this food must be of an anomalous nature. How does this anomaly arise? When the farmer either reaps his field, cuts a few stalks, or binds a sheaf of grain, he claims ownership of the produce. Food that previously had belonged to God alone is not partially acquired by the householder for himself and for his household. The anomaly arises when the farmer drops or leaves behind some of the food he reaps. This produce, which escapes from the farmer's possession at just that moment when he attempts to effect full acquisition, must be given to the poor. The poor-offerings thus are anomalous because the householder first acquires ownership of them but then does not retain them in his possession.

10. See M. 4:6-8 for an example of this explicit comparison between poor-offerings and priestly rations.

11. See Sarason, Demai, pp. 3-6; Jaffee, Tithes, pp. 5-6.

12. T. 1:5 makes it clear that the farmer is supposed to leave grain standing as peah when he reaps his field. He then must designate this food as peah. Nonetheless, if he does not set aside the produce while reaping, he must separate and designate the appropriate portion as peah during binding or threshing.


14. As a free-standing unit, the discussion of Scripture could have been placed either before the definitions at A or, as the framers have chosen, after them. Their choice seems to me to bear no meaning.

15. See Noth, Leviticus, pp. 139-141; IB Leviticus, pp. 197-198.

16. See Noth, Leviticus, p. 141. On the prohibition against the priests' ownership of a portion of the Land of Israel, see Num. 18:20, 24; IB Numbers, pp. 229-233.


19. Of course, not every tractate of Mishnah stands so close to Scripture's rules. For examples, see Neusner's discussions in "Scripture in Appointed Times," p. 112, and in Judaism, pp. 167-229.

20. The Roman numerals correspond directly to the parts of the outline above.
21. We may assume that such Israelite groups as the Essenes at Qumran and the early Christians certainly were aware of Leviticus' and Deuteronomy's injunctions regarding poor-support. The fact that they knew the same Scriptural rules as Mishnah's framers, yet did entirely different things when dealing with poor-relief, again shows the wide range of options available in treating this topic.

22. See Nickelsburg, pp. 55-56.


24. See Vermes, pp. 163, 169-175.


27. See the Community Rule, 6:11-14; Vermes, *DSSE*, p. 82.

28. The only exception to this notion is represented by M. 8:17, which discusses the soup-kitchen and communal fund. But the main thrust of the tractate is to focus on the individual's gifts to the poor.

29. Supporting the poor with whatever gift one could afford would signal the compassion needed to live a life suitable for the new order. See Batey, p. 24; Johnson, p. 76.

30. See also Hengel, *Property*, p. 11.

31. See Batey, p. 21.


33. See Batey, pp. 56-59.

34. Now this restatement of the Biblical rules in fact represents a remarkable choice on the framers' part, for this was by no means their only option concerning poor-support. In some tractates, the framers work out issues not at all suggested by Scripture, or merely relevant to Scripture in the most general way (consider, for example, Tractate Parah). Similarly, some tractates begin with Scripture's facts, but move in essentially unprecedented directions (Tractate Shabbat, for example). See Neusner, *Judaism*, pp. 221-222; Neusner, *Scripture and Appointed Times*, pp. 110-111, 113, for a comprehensive treatment of Mishnah's various relationships to Scripture.

35. See E.D. Hirsch, *Validity*, who persuasively argues that the proper reading of prose texts consists of a search for the author's intended meaning. Hirsch effectively counters the view of "new criticism" that we must banish all considerations of the author's meaning. For a full statement of the opposing view, see Fish, *Is There a Text in This Class?*, pp. 22-67.

36. Other exegetical traditions have claimed that meaning is carried not through syntax and literary form, but through other means. As we shall see below, this claim, typical of rabbinic commentaries, produces entirely different results from analysis of Tractate Peah.

37. Neusner, *Purities*, Vol. XXI, pp. 164-234, amply describes the five syntactic patterns that characterize all of Mishnah's rules. This limited repertoire of rhetorical forms indicates the care with which the framers formulated their material.

38. Again, see Neusner, *ibid.*, on the various literary patterns characteristic of Mishnaic discourse.

40. See Porton, "Dispute." Further examples of the dispute form are found at M. 2:1, 2:4, 3:2, 3:4, 3:6, 4:5, 4:9, 4:10, 4:11, 5:3, 5:4, 6:1-2, 6:5-6, 7:3, 7:6, 7:7, and 8:5.

41. Other examples of simple repetition are found at M. 3:7-8 and 6:5-6.

42. Another example of a triplet is found at M. 4:8.

43. Many of Tractate Peah's thematic units correspond directly to the chapter markings in standard editions of Mishnah. Some, however, comprise only a part of a chapter or cross the divisions of chapters. Nonetheless, I follow the standard chapter markings because these are uniform in all editions and allow me regular breaks to discuss the tractate's unfolding.

44. My translation is literal insofar as I attempt to reproduce Hebrew word order. But my overall approach is to provide a "free" rendition, one that adds explanatory language as needed, seeks to translate the sense of a phrase (even if this means translating two occurrences of a single word differently), and attempts to reproduce metaphor and idiom where possible. On this approach to translation as it applies to ancient translations, see Barr, "Typology of Literalism."

45. Of course, this translation also allows the reader to identify phrases that do not fit within an established pattern. By recognizing such glosses or appendices we can more easily see the central theme of the unit itself.

46. It should be noted that textual variants in Tractate Peah rarely are of importance for the interpretation of a passage as a whole. For the most part, the variants concern only the spelling of a word or the presence or absence of particles, conjunctions, and articles.

47. See M.D. Herr, EJ, Vol. 15, p. 1284, for the consensus view of Tosefta's age and location of redaction.

48. See Neusner, Purity, Vol. 21, passim, on the relationship between the syntax of Mishnah and Tosefta. My translation and commentary follow the critical text prepared in Lieberman, TZ, and the analysis in Lieberman, TK.

49. Herr, E.J., Vol. 14, p. 1518, states, "Since it appears that the Sifra [and Sifre, see p. 1520] in the present form... were not known to the two Talmuds, it would seem to have been compiled and arranged in... (the Land of) Israel not earlier than the end of the fourth century C.E."

50. I hasten to add that neither view is inherently better. Rather, the concerns of the academic community differ from those of the primarily theological community I have just described. In the framework provided by the university, how any rule fits within its larger literary and conceptual context is paramount; the message of the framers' essay, likewise, is my first priority.

NOTES TO CHAPTER ONE

1. Two contradictory positions are expressed at M. 1:3A-B: First, *peah* may be any portion of a field's produce, and second, *peah* must be left standing in the rear corner of the field. According to both opinions, however, each field must have a distinct portion of its produce designated as *peah*. This common proposition forms the basis of all of Chapter Two, which is devoted to defining a field for the purposes of designating *peah*.

2. See Maimonides, *Commentary*. 
3. Bert, GRA, TYY, Danby, p. 10, and Lieberman, TZ, p. 41, all state that rywn may mean the number of times an Israelite must appear in the Temple-court during each of the three pilgrimage festivals (so Y. Peah 1:1 [15a]). Maimonides, Commentary, points out, however, that in Mishnah rywn refers to the offering that the pilgrim brings, but not to the pilgrim himself (see also Kasovsky, Conc. Mish., IV, p. 1630ff; M. Hag. 1:1-2). Additionally, since the term follows two other offerings in our list (M. 1:1B1-2), it seems clear that it refers to the appearance-offering. Bert, who cites both possibilities, claims that the confusion stems from M. Hag. 1:2, which in fact lists a specific measure for the appearance-offering. Bert believes the commentators attribute a different meaning to the word in its present context in order to prevent the two rules from contradicting each other.

4. Maimonides, Commentary, and Bert distinguish between righteous deeds that are accomplished by rendering physical assistance, and those accomplished through giving money. According to these commentators, only physical actions have no limit; monetary gifts are limited to one-fifth of a person's wealth. This distinction is not at all indicated in the text. TYT, GRA, and MR, by contrast, state that whether a righteous deed is accomplished through physical action or through giving money, no limits govern its performance (see B. Ket. 50a, the basis of this view).

5. See Maimonides, Commentary.

6. Proper analysis of a Mishnaic list must pay attention not only to the superscription, but also to the interplay of the elements themselves. This view is fully articulated in Jaffee, "Lists," pp. 19-20; see also Jaffee, Tithes, p. 16.

7. Maimonides, Commentary, asserts that all five elements of the first list in fact do form a unity. In his view, the list contains those acts that are deemed more meritorious the more generously they are performed. For the case of offerings, that is, the greater the value of the item designated, the better. Similarly, with regard to righteous deeds and study of Torah, one receives greater rewards the more one accomplishes. This view may be rejected, however, on two grounds. First, no mention is made in the list itself about the rewards or merits one receives for performing these actions or offerings. This notion seems to be introduced here on the basis of the second list, which explicitly deals with the rewards for one's actions. Second, this principle does not account for the exclusion from the list of the other possible elements. Certainly charity is more praiseworthy when given in greater amounts, yet it is not included on the list.

8. Perhaps B4-5 were added to the core of this first list on the basis of materials present in the second. This would account for the repetition between the two lists, as well as for the fact that the first list is not uniform. See Bauer, Die Mischnah, p. 10.

9. I follow Lieberman, TK, p. 126, who identifies qpn as punishment received in the world-to-come, and pyrwt as the consequences of one's actions in this world. See M. 1:1C.

10. See Jastrow, II, P. 1303-4, s.v. spr, Hithpa.

11. Reading Imper with E, ed. princ.

12. Again reading with E, ed. princ.

13. Lieberman, TK, p. 127, claims that pyrwt here refers to an action produced by a good or an evil intention. See the parallel passage at B. Qid. 40a.

14. TYY claims that B should be read as a stich separate from C:

B. "And even though they said, '[They may designate as peah no less than one-sixtieth of a field's produce,' cf. M. 1:2A], still peah has no fixed measure [as an upper limit]."

This interpretation harmonizes M. 1:1's rule that peah has no measure with M. 1:2A, which states that the proper amount of peah is at least one-sixtieth of a field's yield. Since this explanation ignores the continuation at C, however, it may be rejected.
15. I translate ĉ̄nwh in accordance with M. 6:7 (see also Sens, MS, TYT). In that context, the word clearly means "crop." Along these lines, Kohut, Aruch, IV, p. 224, s.v. ĉ̄nwh, and Jastrow, II, p. 1092, s.v. ĉ̄nwh, link the word with Biblical Hebrew ĉnbh, "yield of a vineyard." I reject the alternative suggestion of translating ĉ̄nwh = "poverty" as in TYY and Danby, p. 11, since Mishnah never uses the word with that meaning (see Kasovsky, CM, III, p. 1389, s.v. ĉ̄nwh).

16. Bert, MS, and GRA all harmonize M. 1:1 and M. 1:2. They claim the rule that no measure pertains to peah (M. 1:1) refers only to a measure specified in the Torah, the written law. The contrary rule that one must designate one-sixtieth of the field's produce (M. 1:2) they characterize as a rabbinic injunction. Thus the two rules are not contradictory; rather they refer separately to the written Torah and to the oral one. This notion, of course, is not indicated by the text at all, and is merely an attempt to eliminate contradictions within Mishnah.

17. Lieberman, TK, p. 126, attempts to account for the measure provided at A, one-sixtieth of a field's produce, on the basis of the amounts required for other agricultural offerings. He claims that all offerings must comprise at least this amount of the yield (cf. M. Ter. 4:3). His explanation is not satisfactory, however, for he never explains why one-sixtieth is an appropriate minimum for any offering.

18. TYT correctly points out that A and B-C must be independent of each other, for they repeat precisely the same point. That is to say, the notion that one must designate one-sixtieth (or more) of his field's yield is repeated at C1, which states that the farmer must designate an amount of peah befitting the size of his field.

19. Maimonides, Gifts 1:15, claims that A and B-C are fully continuous and harmonious. He views A as providing the minimum amount of produce that may be designated as peah. B-C then require the farmer to designate more than this amount under certain conditions. This harmonization is not contained within the text, which quite clearly contains two distinct rules.

20. Swp (rear), tblh (front), and 'ms̄h (middle) are used in this context to refer to parts of the field that correspond to the farmer's actions during the harvest (Albeck, p. 42). The farmer begins harvesting his crop at the front of the field and continues up and down the rows (the middle). He works his way toward the rear of the field, ending his harvest in the rear corner. Thus the location of these parts of the field are determined by where the farmer begins reaping the produce.

21. So Maimonides, Commentary, and MR. But Sens and Bert claim that one need not leave any produce as peah at the rear of the field unless he has left less than the appropriate measure (one-sixtieth of the crop) in the middle or front of the field. Only in such a case, they argue, must the householder designate additional produce at the rear of the field, in order to bring the total amount of peah up to one-sixtieth of the crop. This interpretation seems to be based on an attempt to harmonize A and B, which appear to me to be contradictory rules.

22. Maimonides, Commentary, Bert, MS, and GRA all suggest that ūyyr should be read as hšyr, "allow to remain." M. 1:3C then would read:

C. R. Judah says, "If [the farmer] leaves one stalk [at the rear of the field], he relies upon it [to fulfill his obligation] regarding peah."

These commentators all interpret Mishnah in light of T. 1:5F-G, which harmonizes M. 1:3A-B and C-E. Read in this way, Judah (C-E) takes a position midway between the anonymous rule at A and Simeon's lemma at B. That is, Judah rules that while peah validly may be designated in any part of the field (as at A), a symbolic amount of produce, one stalk, must be left in the field's rear corner (as at B). I have chosen to follow Sens, MR, and Albeck, p. 42, and to translate ūyyr as "retain," based on Mishnah's usage of this word in other contexts (see M. 3:7-8A; M. B.B. 9:6; T. 1:5E-G).

23. I follow Sens and MR, who suggest that the pericope is composed of two completely independent rulings, A-B and C-E. Most commentators, by contrast, view the pericope as three continuous rules (A, B, C-E). See above, note 22.


26. So Maimonides, Commentary. See also Kohut, Aruch, VIII, p. 106, s.v. §mr, and Bauer, Die Mischna, p. 13, who translate gehütet and aufbewahrt wird, respectively.

27. The proper names of the trees listed at E:

'swg (sumac) = Rhus Coriaria; E3, XV, p. 311; LÖw, Flora, I, pp. 200-202;

'bwrwyn (carob) = Ceratonia Siliqua; E3, V, p. 201; LÖw, Flora, II, pp. 393ff;

'pzw (walnut) = Juglans Regia; E3, XIII, pp. 625-626; LÖw, Flora, II, pp. 41-42;

'sqdym (almond) = Amygdalus Communis var. Dulcis or Amara; E3, I, p. 666, LÖw, Flora, III, pp. 242ff.;

'gpnym (grapevines) = Vitis Vinifera; E3, XIII, pp. 619-620; LÖw, Flora, I pp. 48-51;

'rwnnym (pomegranate) = Punica Granatum; E3, XIII, p. 841; LÖw, Flora, III, pp. 80ff.;

'zytm (olive) = Olea Europaea; E3, XIII, pp. 623-624; LÖw, Flora, II, pp. 287-293;


29. See M. 3:2, which presents a dispute concerning whether the farmer must designate peah from each patch he harvests or from only one patch on behalf of the entire field.

30. I follow Albeck, p. 42, who claims that all of the fruit of each tree listed at D-E ripens at one time, as a single crop. Unlike other trees, then, this fruit is harvested as a single crop (cf. M. 1:4B4), and so is subject to the law.

31. tmr (fig tree) = Ficus Carica, E3, VI, p. 1273; LÖw, Flora, I, pp. 224 ff. Lieberman, TK, p. 132, supplies the language needed to understand this stich.

32. $z$yzyyn (Jujubes) = Zizyphus Vulgaris; E3, IX, p. 788; LÖw, Flora, III, pp. 138-141.

33. I follow Lieberman, TK, pp. 132-133, who explains that bnwt swh refers not to the bleached color of the fruit, but to the tree-bark's color.

34. bhlybyyn (peas) = Lathyrus Sativus; E3, XIII, pp. 619-620; LÖw, Flora, II, p. 437.

35. On the meaning of myrwh, see Maimonides, Commentary, and Bert.

36. So Bert.

37. Produce that is edible, privately owned, and grown from the ground is subject to the separation of tithes (M. Maas. 1:1; Jaffee, Tithes, pp. 28-30). Such produce does not become subject to the law, however, until the farmer processes it, thus indicating his claim of ownership (cf. Maimonides, Commentary; Sens; M. Maas. 1:6; Jaffee, Tithes, pp. 43-51).

NOTES TO CHAPTER TWO

1. See Chapter One, n. 1.

2. Peah is designated from produce standing in the field, but agricultural offerings given to the priests are designated at the threshing floor. This hints at a fundamental distinction between poor-offerings and priestly dues. As we shall see (M. 4:1, 8:11), poor-offerings have no consecrated status. Priestly rations, by contrast, are deemed holy. For further discussion of this matter, see above, pp. 72-74 and 138-139.
3. For an example of another case in which natural categories are decisive, see M. Ter. 2:4. One may not separate heave-offering from one kind of produce on behalf of another kind. Moreover, such a separation is not valid even post facto. That is to say, in cases where taxonomic categories determine the validity of the offering, human actions are completely disregarded. See Peck, Terumot, pp. 92-93.

4. M. Men. 10:8 explicitly refers to the use of young grain as fodder. Maimonides, Commentary, however, claims that it should be interpreted as grain that is not fit for any purpose, "waste." Following his view would not affect the substance of the law or of my comment.

5. As my interpolations at C-D indicate, the central issue here is whether or not an area that already has been harvested becomes analogous to uncultivated land. For this interpretation, see TYT.

6. At M. 1:3, sages and Simeon dispute whether or not peah is specific to the rear corner of each field. Both sides agree, however, that a separate portion of produce must be designated on behalf of each field. The motivation for this view is probably Scripture, which states, "You should not harvest the corner of your field" (Lev. 19:9). See Maimonides, Commentary.

7. MR suggests that the ambiguity arises here because cutting young grain does not constitute "harvesting," but is viewed as thinning out the crop. This action cannot establish a field's boundaries, he claims, unless the farmer indicates his intention by ploughing the area. I follow TYT.

8. Tosefta here reverses "private path" and "public path" in its quotation of M. 2:1A-B. See Lieberman, TK, p. 134.

9. Maimonides, Commentary and Gifts 3:19, interprets A-B in light of T. 1:8b. According to that pericope, an irrigation ditch establishes a boundary only if it is sufficiently large that the farmer cannot reach across it.


11. So Maimonides, Commentary.

12. On the translation of this phrase, see Danby, p. 11.

13. Löw, Flora, II, pp. 402-404, discusses the extensive root systems of carob trees. He claims that their roots can extend as far as fifty meters. See also E1, V, pp. 201-202.

14. The mention here of Gamaliel and his father shows that the Patriarch's actions, by virtue of his office alone, provide a sufficient precedent for legal rulings. On the common use of Gamaliel's actions as precedents for anonymous legal rules see Kanter, Gamaliel, pp. 238-242; 247-248.

15. See Kanter, Gamaliel, pp. 25-26. He correctly notes that Gamaliel's lemma (M. 2:4F-G) must have been formulated independently of its present context.

16. Several commentators, notably Bert and TYT, attempt to harmonize the two contrasting opinions present in Gamaliel's ruling. See below, n. 18.

17. While E+G and F+H provide contrasting definitions of an orchard, they are not in standard dispute form. That is to say, the two opinions do not respond to a common superscription nor to each other. For further information of the dispute as a standard form, see Porton, "Dispute," pp. 18-19.

18. I have interpreted "in every direction" in accordance with the meaning given by Jastrow, II, p. 1458, s.v. rwh ii, and Kasowsky, CM, IV, p. 1660, s.v. rwh. Compare Maimonides (Commentary), Bert, and GRA. These commentators harmonize the two parts of Gamaliel's lemma, claiming that bkd rwh means "in each individual direction." Following this explanation, a separation portion of produce was designated for olive trees.
on each side of the farm. This is in line with Gamaliel's ruling for carob trees: all trees planted in close proximity to one another comprise a single orchard. Nevertheless, the two parts of Gamaliel's ruling must be in opposition to one another, or we cannot account for Eliezer's finding it necessary to correct them (cf. H).

19. At A-B TYY adds the underlined phrases:

A. One who sows his field with [only] one type of seed, even if he brings the crop to the threshing floor in two lots [that he harvested at separate times].

B. designates one [portion of produce as] peah [from the entire crop, while at the threshing floor].

Contrary to the bulk of the tractate, this commentator believes the peah is designated at the threshing floor, not from unharvested produce in the field (see Chapter Two, n. 2; and below, M. 4:1). In his view the condition of the produce prior to the designation at the threshing floor is inconsequential. Even if the produce derives from two separate fields, it has been brought together at the threshing floor as a single crop from which only one portion need be designated as peah. This interpretation, however, is not hinted at by the text. Furthermore, it cannot account for the second rule, C-D, that a farmer must designate two portions of produce as peah from two separate species that have been brought to a single threshing floor.

20. Jastrow, I, p. 689, s.v. lblr, connects lblr with the Latin librorius, a legal copyist. See Lewis and Short, p. 1061.

21. The "Pairs" usually are thought to be the men listed by twos in M. Abot 1:4, 6,8,10,12, as well as M. Hag. 2:2. See Bert, Danby, p. 446, n. 7, and Neusner, Pharisees, I, pp. 61-158, for further information.

22. Sens correctly claims that human action determines the boundaries of a field only if the chapter's earlier definitions (see M. 2:1) are ambiguous.

23. Maimonides, Commentary, Sens, and Bert provide the interpolation at M. 2:7A1. In contrast they note that an Israelite householder who hires gentiles to harvest his field indeed does become liable to designate peah.

24. Maimonides, Commentary and Jastrow, II, p. 1423, s.v. grsm, link grsmwh with BH krsmwh, to bite or nibble.

25. So MR. But MS and Bert read "...for the obligation to designate peah on behalf of the grain that has been harvested devolves upon the standing crop." In their view the farmer must designate peah for the entire field, not because he completes the harvest, but because the thieves obviously will not give to the poor any portion of what they have stolen. As I have shown, however, the judgement depends on who harvests the rear corner of the field.

26. At M. 1:3 Simeon and sages dispute whether or not peah is specific to the rear corner of the field. The entire discussion in this pericope assumes Simeon's theory is valid. He rules that none but the grain growing in the field's rear corner can satisfy Scripture's requirements.

NOTES TO CHAPTER THREE

1. So Sens. Maimonides, Commentary, claims that this refers to a householder who plants some patches of his field and leaves other portions unsown. This interpretation may be rejected, however, on the basis of the context supplied at E.

2. So Bert. I reject Maimonides' interpretation of ml'it yd (see Commentary) as "from a single place" because the rule then would not parallel the other parts of the discussion (cf. M. 3:3 I, which also speaks of the purposes for which part of the field is harvested).
3. Bert points out that these rules (I-M), while entirely consonant with the surrounding material's meaning, depart from its form. This formal balance, at B-C, F-G, and Q-R, is established by the phrases "from each and every one [of the plots]" and "from one [plot] on behalf of all [of the plots together]." At J, L, and M, however, the formula shifts to "from the former by themselves and from the latter by themselves." Accompanying this stylistic shift is a change in the formal structure of the rules. Note that I-M alone is not framed as a dispute. It therefore appears that these rules, while carrying forward the present investigation, are not original in this context.

4. This section on parent-onions seems to have been included here simply because of the mention of onions at M. 3:3. The rules thus support a theory of redaction based only on topic. Mishnah's usual theory, we recall, takes into account both topic and underlying principle.

5. I follow the interpretation of this crux in Sens.

6. Reading hyw lw with E, ed. princ.

7. Lieberman, TK, pp. 138-139, claims that this assumption is necessary because the farmer thins out only the poorest quality plants which could not be preserved in storage (see M. 1:4-5). Nothing in the text supports this assertion and it would not affect the validity of the assumption that these onions are exempt from designation as peah because they could not be stored. Only on the basis of such an assumption does Judah's qualification make sense following M. 3:3D.

8. So Sens. Jastrow, II, p. 1374, s.v. qlb, claims that qlb y 'yl does not refer to trees at all, but rather to "the stems of plants in his field [without the soil]." In this context, however, the term must refer to the live, growing part of the trees, the subject of the pericope.

9. The situation is analogous to M. 2:7-8, where the farmer sells part of the produce of his field but does not sell the field itself. In both cases, the sale has no effect on the status of the field (although at M. 2:7-8 the sale does affect who must designate peah). See MR.

10. So Maimonides, Commentary, and Danby, p. 13.

11. A prozbul transfers title of a loan to a court. To prevent this loan from being cancelled by the Sabbatical year, the borrower must own at least a tiny piece of land. Because he owns this land, the loan is deemed secure and is not actually outstanding during the Sabbatical year (M. Sheb. 10:2). See Newman, Sabbatical Year.

12. In addition to presenting two theories of real estate, the pericope also offers two readings of M. 1:4-5's definition of what produce is subject to the laws of peah. Specifically, M. 1:4B3 claims that all food grown from the Land is subject to the law. Of the two positions advocated here, only Aqib a reads this criterion literally. The other authorities interpret "land" to mean a sizable portion of real estate.

13. Maimonides, Commentary, links all of the measurements at A-D to the amounts of food that must be given to each poor person as part of poorman's tithe (M. 8:5). His explanation is not sufficient, however, for M. 8:5 never mentions "an area that measures six-by-six handbreadths" (C) or "an area that produces enough to require two sickle strokes" (D). Instead, I follow Sens and TYT who explain these rulings principally in light of M. KIl. 2:10.

14. At E., Maimonides, Commentary, and Bert ignore the phrase "any land at all," and translate instead:

   E. "[If] he had consigned to his wife some land [constituting an equal share in the state with his sons], she forfeits..."

According to this interpretation, as I have explained above, the woman's marriage settlement must be forfeited because her share of the estate almost certainly will be greater than two-hundred gup, her total claim on the estate. I have chosen not to follow this interpretation, however, for it ignores the central principle of the triplet; even a minuscule area of land has unlimited value.
15. Maimonides, Commentary, points out correctly that the issue of the pericope as a whole is whether or not a small piece of land can indicate the householder's intention for his entire estate. Nevertheless, both Maimonides and Bert wish to harmonize the three cases. These two exegetes claim that the rules regarding one's wife (D-F) or one's slave (G-K) apply only when the householder is deathly ill (as at A-C). This harmonization is not indicated by the text, which provides a fresh superscription for each case (D, G) and does not repeat the key phrase, "while upon his death bed." In addition, see MS and MR, who explicitly state that the householder at D-E is not ill.

16. So Bert. MR claims that the householder's statement that he retains one ten-thousandth of his property refers explicitly to the slave. I reject this suggestion, for the text does not make this claim and is fully comprehensible without the interpolation.

NOTES TO CHAPTER FOUR

1. The notion that the poor must have free access to their produce applies to gifts other than peah. M. 5:6, for example, claims that poor people must be allowed to collect freely all that which God gives them.

2. Human action also initiates the system of tithes. Jaffee, Tithes, pp. 1-6, makes the point that produce becomes subject to the separation of tithes only after a farmer claims it for purposes other than a random snack. God's representatives, the priests and Levites, have no claim on the tithes until an Israelite first takes the produce. Similarly, the restrictions of the law of gleanings do not apply until the householder has acquired ownership of the produce.

3. In order to acquire possession of something, Mishnah requires one physically to take the object into his possession. Without this action, no claim of ownership is established (see M. B.M. 1:3-4; Sheb. 10:9).

4. For a discussion of the Biblical depiction of the Land of Israel as a source of affluence and success, see Brueggemann, The Land, pp. 98ff.

5. M. Maas. 1:1 states that only privately owned food is subject to the separation of tithes. See Jaffee, Tithes, pp. 28-30.

6. So Maimonides, Commentary, and Bert.

7. Bert, TYT, and Albeck, p. 49, propose that this passage reflects an important secondary concern for the welfare of the poor. While the poor attempt to climb the trees, they might push and shove each other so that some of them fall. In particular, these exegetes claim, this reasoning stands behind Simeon's insistence that the householder distribute peah designated from nut-trees with smooth trunks (D). This notion, which is not indicated by this pericope at all, seems to have been imported here from M. 4:4. That rule explicitly claims that the safety and welfare of the poor are of central concern in determining how peah should be allocated.

8. See M. Arak. 7:5, which states, "A person may not consecrate something that he does not own."

9. On the proper acquisition of movables see M. Sheb. 10:9; M. Qid. 1:4; M. B.M. 4:2; and M. B.B. 5:7, 9:7.

10. My interpretation of A-B follows GRA. But Maimonides, Commentary, and Bert interpret at B:

   B. he is entitled to no part [of the peah, neither that which he properly acquired, nor that which he unfairly tried to gain].
These two commentators then ask why the poor person should not be allowed to keep the produce that he originally picked and threw over the remaining grain. With regard to this food, at least, he seems to have accomplished a proper act of acquisition. Both exegetes follow T. 2:1, and claim that the produce is taken from the poor person as a penalty for his impertinent actions. While this interpretation is a plausible extension of Mishnah, we must note that the text itself gives no indication of this explanation.

11. M. 4:1, we recall, states that the householder must himself harvest and distribute peah from produce growing on trees and trellises. In light of Mishnah's explanation at C, MR asserts that protecting the poor from dangerous situations is the underlying concern at M. 4:1 and in this entire chapter. See above, pp. 73, n. 7.


13. M. I:4 states that only produce used for human consumption is subject to the laws of peah.

14. Simeon's view that a jointly owned field is an integral whole accurately reflects M. 3:5. If individuals jointly own a single field, together they are responsible for designating one portion of peah.

15. The triplet at A-G explicitly mentions sheaves only at C-D and E-F+G. On this basis, I follow Maimonides, Commentary, in interpolating the issue of the law of the forgotten sheaf at A-B. But see MR, who claims that A-B refers not only to forgotten sheaves, but to all other poor-offerings as well. The formal balance of this triplet, however, indicates that the particular interest here is the law of the forgotten sheaf.

16. See M. Maas. 1:5-8; Jaffee, Tithes, pp. 43-51.

17. Albeck, p. 50, claims that the law of the forgotten sheaf applies immediately after the produce is harvested, without regard to when it is bound into sheaves. This view seems to ignore the operative language at B and C, "after it was bound," which implies that the moment of binding is crucial. See also Albeck's comments to M. 5:7-8, pp. 54-55.

18. As Maimonides, Commentary, and Bert point out, the person at A-C must be an ordinary householder. If he were poor, he would have the right to collect the poor-offerings for himself and to give them to whomever he wished.

19. Eliezer (B) apparently carries forward the common Mishnaic principle that a person's agent may perform any action on his behalf. See, for example, M. Ber. 3:5.

20. All privately owned produce of the Land of Israel must be tithed, in accordance with M. Maas. 1:1. See Jaffee, Tithes, pp. 28-30.

21. Contrary to the remainder of the pericope, B claims that all produce that falls to the ground during the harvest has the status of gleanings. Nevertheless, this does not seem to be evidence of a theory separate from the one I have explained, for this general statement is followed closely by the qualifications in the units at C-E and F-L. See Maimonides, Commentary.

22. Albeck explains C-E's ruling on the basis of a theory entirely different from that which I have expressed. In his view, only produce that falls while the householder actually is reaping it enters the status of gleanings (p. 51). The produce at C-E, he claims, fell after the householder had harvested it and so did not become subject to the law. His view is unacceptable in light of F-G and H-I, which holds that only what the farmer first claims (by harvesting), and then drops, is governed by the law of gleanings. I follow Bert and MR, who state that the focus of C-E is the constraint that the thorn places upon the householder. This seems to be the only element at C-E that might account for a ruling different from that of F-G.
23. T. 2:13 makes this point in a general way about all poor-offerings. Householders may not give the produce to chosen individuals, for they thereby would determine what produce was destined for the poor (see M. 4:1-2).

24. Primus, Aqiba, pp. 18-19, phrases the discussion at F-L solely in terms of the completion of the harvest. In his view any produce that falls after the completion of the harvest has the status of gleanings. This accurately reflects the facts, but misses a crucial point. The completion of the harvest is important only because it means that the householder has acquired ownership of the produce. As I have explained, this initiates the system whereby God claims some produce for the poor.


27. See B. Hul 132b. The gifts listed as examples at T. 2:13 (the shoulder, the two cheeks, and the stomach) are given to the priests from and unconsecrated animal that an Israelite slaughters.

28. See M. Maas. 5:7, which explicitly states that ants stole any grains of produce found in their holes.

29. So Bert.

30. For the notion that we must prevent householders from taking produce that might be reserved exclusively for the poor, see MR.

31. Lieberman, TK, p. 154, reads nqdryn, as in E. This changes the meaning of neither the text nor the commentary.

NOTES TO CHAPTER FIVE

1. For rules governing the consecrated status of heave offering, see M. Ter. 4:7-10:12.

2. Haas, Second Tithe, pp. 1-3, explains that second tithe may be exchanged for other produce because it has a lesser degree of sanctity than other priestly rations. This lower amount of holiness means that the produce is attached less strongly to a single individual who designates the produce from his crops.

3. For the use of sheaves in transporting produce to the threshing floor, see White, Roman Farming, p. 184. He first states that baskets were used for this purpose, but immediately thereafter refers to the sheaves that contain the produce.

4. For this meaning of kdy npylh, see M. B.M. 9:5, Y. B.M. 9:5 [12a], Jastrow, II, p. 924, s.v. npylh, and Maimonides, Commentary. Bert and TYT hold that this phrase means "the amount [of produce] that normally falls [as gleanings]." This interpretation is problematic, because it contradicts Mishnah's use of the phrase in other contexts. Furthermore, it harmonizes Simeon's opinion with the anonymous rule at E. According to this latter view, Simeon merely holds that the farmer gives to the poor the amount of gleanings that the field probably would produce, precisely the amount specified at E. On formal grounds, however, we expect Simeon to dispute E (see Porton, "Dispute," pp. 22ff). I therefore have chosen the present translation on both formal and substantive grounds.


6. The procedure interpolated at H is required to solve a problem arising from Mishnah's phrasing. Without this addition, it reads:
The problem now is clear. A full stalk of grain in the status of gleanings fell into the heap, yet in exchange the poor person will receive less than a full stalk. In order to prevent the poor person from being cheated, Y. 5:2 [18d], followed by all commentators, suggests the procedure I have indicated. Tithes are separated from one stalk on behalf of another that the poor person will receive.

7. Maimonides, Commentary, says that the determining factor is the stalk's appearance. If it looks like the remaining standing crop (i.e., if it is approximately the same height as the standing crop, B), it is exempt from the law of gleanings. This interpretation, however, ignores C-F, which explicitly state that the decisive factor is the farmer's act of harvesting.

8. At M. 3:1-4, the Shammaites hold that a field consists of whatever area of land the farmer harvests as a single unit. His action, not the physical characteristics of the land, is decisive. This basic principle also is operative here. What the farmer does during the harvest determines how the law is to be applied.

9. Bert, TYT, and Albeck, p. 52, hold that M. 5:2A-F actually refer to the law of the forgotten sheaf. The produce belongs to the householder, they say, because of the standing crop nearby (cf. M. 6:8, which states that sheaves forgotten near a standing crop are not subject to the restrictions of the law). The ruling is included here, says Albeck, because it deals with cases of doubt, the subject of M. 4:11-5:2. This interpretation seems to me unlikely. The rule is placed between two other laws that clearly do treat the law of gleanings (M. 5:1, 5:2G-K), and should be read in that context.

10. See M. Mid. 5:4, Jastrow, I, p. 523, s.v. ṭpoph. Maimonides Commentary, presents another possibility. He claims that ṭpoph means "inferior barley," and so interprets at A:

A. "They may not [irrigate by] turning [a water wheel] in [a field planted with] inferior barley," the opinion of R. Meir. [This is because irrigation will cause excessive damage to the barley, so that the poor will not receive useful produce.]

According to this reading, however, sages' view no longer responds to A. For a possible explanation, see below, n. 12.

11. So Albeck, p. 53.

12. Lieberman, TK, p. 155, reads at B:

B. But sages permit [the irrigation], for it is impossible [for householders properly to tend their fields without it].

That is, following K and P, he reads ṭypSR [_decorator] ʾpyʾ ṭpSS. I have translated the text before me, without correction. The substance of the law is unaffected by the variant reading.


14. M. Hal. 1:3 states that all poor-offerings are exempt from the separation of tithes. See also M. 1:6.

15. Two secondary interpretations of this principle are possible. First, we have the notion that a landowner by definition is not a poor person, and so may not gather poor-offerings. This interpretation is made less likely by the rule at D-E. Here sharecroppers own a portion of the field, yet explicitly are deemed poor. Second, our concern may be to assure that these agricultural offerings are differentiated from that which the field's owner retains, as required for all offerings (cf. M. Ter. 4:5, M. Bik. 2:4). That is to say, a person may not keep offerings required of produce he owns, even if he otherwise
is entitled to them. For example, a priest or Levite must give to another the tithes separated from a field that he owns, even though he otherwise has a right to gather this produce for himself (cf. M. 1:61-3). Similarly, a poor person must allow other poor people to collect poor-offerings designated from a field he owns. While this explanation is plausible, it seems secondary to the concern that all poor people have free access to poor-offerings. M. 5:6, which follows our pericope, takes up precisely this issue of free access. The continuity in underlying principles makes it clear that the pericope's primary point is that the poor must be allowed to gather the food without external interference.

16. See Albeck (p. 53), and Jastrow (I, p. 120, s.v., āryś, ii).

17. So Albeck, p. 54, and Danby, p. 16, n. 1, who interpret āwylm as "poor people." This, they say, is an antithetical use of "those who ascend" for "those who have descended" in fortune. Maimonides, Commentary, interprets the phrase to refer to the returnees from the Egyptian exile, who received gifts from God upon their return to the Land of Israel. In the context of this pericope, however, only the former interpretation is appropriate.

18. Read āryśyn for āryśyn (E, ed. princ, Lieberman, TZ, p. 50). Note that M. 5:5D-E states that a sharecropper may not collect poor man's tithe from a field he sharecrops. Gleanings, however, are allowed to him because they are not part of the produce which the sharecropper owns. Cf. M. 5:5, below.

19. Delete whckwrwt, a variant spelling of the word that follows, whbkwrwt (see Lieberman, TK, p. 157).

20. In order to allow Tosefta to correspond fully to Mishnah, I have separated T. 3:1 into four parts. Tosefta itself makes no such distinction.

21. So V. E, ed. princ., and Y. 5:7 read "is subject." However, that reading contradicts the general theory developed in M. 5:7, and in the pericope itself (cf. F-H; the use of the particle p at F implies that the proceeding is a negative construction). Y. explains its reading on the basis of Deut. 24:19, which states, "and you have forgotten a sheaf in the field,...." According to the Talmud, the law of the forgotten sheaf does not apply to sheaves once they are transported to the city, and so the farmer's actions while in the city have no effect on sheaves in the field. Thus even if the householder in the city remembers the sheaf which his workers have forgotten, the sheaf is deemed subject to the law. I have translated the text before me, since it is consistent with M.'s theory and since it shows no hint of the distinction between city and field. See Lieberman, TK, p. 158ff.

22. So Jastrow, I, p. 616, s.v. kwtbCh.


25. The interpolation is supplied by Maimonides, Commentary, TYT, and Bert. Since the householder intends to keep these bundles of produce in the field, we know that they are not forgotten.

26. White, Roman Farming, p. 426, states that a roofed structure was used to prevent damage caused by rain to produce stored until threshing. Following Albeck, p. 55, I assume that a grain-heap was used for similar storage. If the farmer leaves some sheaves in this heap, the law does not apply. The sheaves are not forgotten, but merely remain in storage.

27. I follow Maimonides, Commentary, who says that the end of processing (gmr mlkh) refers to storage immediately before threshing the produce. Compare Jastrow, I, p. 255, s.v. gmr.

28. For problems of text and meaning, see Lieberman, TZ, p. 50; TK, pp. 161f, whom I follow.
1. In many places I translate יָשָׁב (usually rendered "forgot") as "left behind," because the law clearly assumes that the sheaf was not forgotten and does not fall into the category of the forgotten sheaf.

2. Distinguishing characteristics, important as mnemonic devices at E-G and H-J, also play a central role in the rules of lost objects (see for example M. B.M. 2:5). If a lost object has a distinctive feature, we assume that its owner does not give up hope of regaining his property. Whoever finds the object will be able to trace the owner through the special marks. In the present case, the Shammaites hold that a sheaf with distinctive features will be remembered, and so cannot enter the category of forgotten sheaves. See also Lieberman, TZ, p. 51.

3. Ownerless property is exempt from the separation of tithes (see M. Maas. 1:1; Jaffee, pp. 28-30). In light of this fact, one formulation of the issue at A-C is as follows: Are the poor required to separate tithes from produce given to them as a gift? The Shammaites hold that they need not. Food given to them alone may be deemed ownerless, and so exempt from titheing. The Hillelites hold that such property is not truly ownerless, and so the poor must separate tithes. Although this issue may account for the importance of the question posed at A-C, its point in context is different. As I have explained, the pericope's main interest lies in the effect of human intention upon the law.

4. The three disputes before us take up a common theme but do not comprise a triplet. A triplet, we recall, is a set of three rules that express precisely the same point in precisely the same formal pattern. In the present case, however, no stich repeats the language of the corresponding stich in the other disputes. Since the similarity is merely topical but not formal, we have no triplet.

5. הַשָּׁב here means "pick up" (see Jastrow, I, pp. 444-445, s.v. הַשָּׁב). In this context the phrase cannot have its usual meaning in Mishnah, "to acquire possession," because the householder already acquired full possession of the grain when he bound it into a sheaf (as at M. 5:8).

6. The phrase "they agree..." (D) has no possible antecedent other than the Houses (see M. 6:1-2). Furthermore, the protasis at C formally matches the superscriptions of the two Houses-disputes at M. 6:1-2D-F, G-I [i.e., substantive + סְקָנִי + ... + סְקָנִי + ...סְקָנִי[סְקָנִי|סְקָנִי]. On this basis, I claim that C-D conclude the series of Houses-disputes.

7. Bert, TYT, and Albeck, p. 56, read M. 6:3 and 6:4 as a single harmonious pericope. In their view M. 6:3A-B set up rules regarding the "ends of rows" in a field, which follow at M. 6:4. I reject this interpretation of the intervening rule at M. 6:3C-D. Instead, I follow Maimonides, Commentary, and MR, who claim that A-B and C-D address the same issue, how a farmer's intentions may be indicated by his actions. See also Lieberman, TK, p. 166.

8. On B as a citation of M. 6:2H-J, see Lieberman, TZ, p. 51.


10. So Y. 6:2[29a]; E, V, and ed. princ. read "are not." See Lieberman, TK, p. 163.

11. V mistakenly reads at D "the bottom sheaf." In line with E, ed. princ., and Lieberman, TZ, p. 51, this phrase must be shifted to F.

12. So E, ed. princ.; see preceding note.

13. The notion that one must act directly upon an object in order to indicate his intentions for it is also expressed at M. 4:13. As we recall, the pericope states that a poor person may acquire ownership of peah only by physically taking it. Merely covering it with his cloak does not sufficiently indicate his intention to acquire it. See above, pp. 74-75. See also M. Sheb. 10:9, which requires an explicit act in order to indicate acquisition.
14. Although the pericope presents two divergent opinions on the same problem, it does not comprise a true dispute. As I have explained, the two rulings do not respond to each other, but merely treat a single situation. Porton ("Artificial Dispute," p. 18) says that "in a true dispute both comments should deal with the problem set forth in the superscription, and the two comments should respond to each other." The present pericope meets the first of these requirements, but not the second. In form, then, I classify it as an artificial dispute.

15. See Jastrow, II, p. 1109, s.v. Crb (i).


17. Maimonides, Commentary, Bert, TYT, and MR all interpret the pericope in light of T. 3:4b, which claims that the focus of the rule is the direction that the workers move when gathering the sheaves (cf. B). This interpretation is not supported by the text. Instead, I follow Albeck, pp. 56-57, who explains the pericope in terms of the worker's position within each row of the field.

18. Albeck, p. 57, explains that three measures of produce are not subject to the law of the forgotten sheaf because they comprise a small grain-heap. As we recall (M. 5:8), produce placed within a grain-heap is not subject to the law, for the householder has not forgotten it but purposely left it in storage. The text, however, does not mention a storage-heap, and so I have explained the rules only in view of Mishnah's own earlier laws.

19. Maimonides, Commentary, Bert, and MR account for the different views of the Shammaites and the Hillelites by reference to two verses in Scripture. These commentators claim that the Hillelites base their ruling on Lev. 19:9, which states that gleanings must be given to (1) poor people and (2) sojourners. Since two groups are mentioned, two measures of produce are deemed subject to the law. The Shammaites, on the other hand, base their lemma on Deut. 24:19, which states that forgotten sheaves must be given to (1) sojourners, (2) orphans, and (3) widows. Since this verse refers to three groups, three measures are deemed subject to the law. This interpretation in no way is reflected by Mishnah itself.

20. See Kanter, Gamaliel, pp. 48-49, who states that the issue here "appears to be an offshoot of a problem extensively discussed at Yavneh: whether individual items of acts are to be considered separately or together in the application of a law." In the present case, we wish to know whether distinct sheaves each must contain the requisite two seahs, or whether several sheaves might combine so that they are excluded from the category of forgotten produce. Here we may carry the reasoning a step further. The dispute focuses on whether or not we take account of the farmer's actions in binding grain into separate sheaves. The alternative, presented by Gamaliel, is that all produce left behind in the field forms a single mass, even if contained in separate sheaves. His notion, it seems, is that the farmer has left behind a large amount of a single species of produce; hence we may assume that the food has not been forgotten. The dispute before us, therefore, presents options familiar from other contexts in the tractate (see M. 3:1-4, 6:1-2). In this case, as in others, we wish to know whether the farmer's actions are decisive or whether natural categories--defined, for example, by the limits of one particular species--determine the application of a law.

21. In the debate at F-I Gamaliel agrees with the general principle of M. 6:5, but endorses the opinion of neither House. The Hillelites claim that three sheaves left together in a field are deemed outside the law. The Shammaites exclude any group of four sheaves left behind in a field. Gamaliel, however, rules that two sheaves are exempt from the law, merely by virtue of the fact that they appear to be stored. Thus, he agrees with M. 6:5 in principle, but not in detail.

22. On this meaning of 1ph see Maimonides, Commentary, and Jastrow, I, p. 587, s.v. 1pyh, ii. But compare M. 5:3 and M. Shab. 17:6, where the same word refers to the pitchers on a water wheel (so Maimonides, Commentary to M. 5:3).
23. Jastrow, II, p. 1092, s.v. "wh, I, claims that the word means God's response to prayers for fertility (see Maimonides, Commentary; Hos. 2:33). More likely perhaps is the second possibility he mentions, that the phrase is linked to BH'ih, "a full crop." On this meaning, see Bauer, Die Mishnah, p. 47, who translates "[gutes] Gerstenkorn," and M. 1:3.

24. Maimonides, Commentary, and Bert link this rule to M. 5:2, a pericope that refers to a single stalk of unharvested grain that stands near an unharvested crop. In their view, M. 5:2 provides an example of the present issue, namely, how an unharvested crop might prevent produce left nearby from becoming subject to the law of the forgotten sheaf. See my argument against this view, above, p. 89-92.

25. MS claims that the sheaf and the standing crop must be of the same species. This supposition, however, is not reflected in the text at all. Furthermore, when the householder returns to harvest the standing crop, he will have the opportunity to collect any sheaves left nearby, whether or not they belong to the same species. Accordingly, such sheaves cannot fall into the category of the forgotten sheaf.

26. Maimonides, Commentary, and Bert both claim that Scripture's own formulation implies that the law of the forgotten sheaf applies to standing crops. These commentators cite Deut. 24:19, which states that the law applies to produce "...forgotten in the field." But it is unlikely that the verse is meant to include all produce remaining in the field, whether or not bound into sheaves. The beginning of the verse explicitly states, "when you forget a sheaf in the field,..." thus implying what the bulk of the tractate takes for granted: Only sheaves are subject to the laws of forgotten produce.

27. The householder's action of harvesting produce initiates the system of agricultural offerings. This notion, presented here for the case of forgotten sheaves, is common throughout this tractate. See for example, M. 4:10, which treats the laws of gleanings. See also M. Maas. 1:1; Jaffee, Tithes, pp. 28-30.


29. On problems of text throughout this pericope, see Lieberman, TZ, p. 52, and TK, p. 168.

30. So E, Lieberman, TZ, p. 33.

31. In order to make the rule at C-E balance B, Lieberman, TK, p. 168, suggests the long interpolation at E. Although not indicated by the text, it is necessary in order to understand these rules.

32. Maimonides, Commentary, claims that each of the three pairs of produce listed at A-C presents precisely the same case of ambiguity. In each case, he says, we speak of produce of a single species, some harvested and some unharvested. In his view, therefore, garlic and onions (C) actually refer to two different types of tubers, some of which are uprooted and some of which remain in the ground. While this interpretation results in a harmonious list of four elements, all harvested and unharvested, I reject it because it does not take account of the fact that garlic and onions, as a pair, are one of Mishnah's stereotypic ambiguities. Maimonides would separate this pair in order to produce a smooth and even list. The interpretation that I follow is presented by most commentators, notably Bert and MS. See also Albeck, p. 58.

33. K lacks the rest of D and all of E.

34. Garlic and onions comprise the genus Allium. Onions belong to the species Cepa, while garlic belongs to the species Sativum. See Löw, Flora, II, pp. 125-131.

35. Maimonides, Commentary, Bert, MS, and MR all read Yose's lemma as a dispute of the anonymous rule at A-D. According to them, Yose holds that the pairs of produce listed at A-B do join together unless separated by produce belonging to the poor. On both substantive and formal grounds, however, I read E-H as an independent rule. The issue of ownership, central at E-G, is not in play at A-D, which take up the effects of physical differences. Furthermore, since the two rules respond neither to a common
superscription nor to each other, they do not comprise a single formal unit. We must note that the redactor apparently has placed the two rules side-by-side because they utilize a common apodosis, "...these pairs do/do not join together."

36. Albeck, p. 58, states that the produce listed at A1-2 and B3 is not subject to the law because it is never used as food. According to this interpretation, B4 alone presents a case in which the binding process has not yet been completed. This argument is problematic, for in some cases the laws of poor-offerings govern produce that never is used as food. Parent-onions, for example, are not used as food, yet are deemed subject to the designation of peah (see M. 3:4). Furthermore, it seems likely that all of the elements in the list at A-B are brought together to make a single point: Unbound grain cannot become subject to the law of the forgotten sheaf. See also Maimonides, Commentary, and MS.

37. My interpolation at A2 is not indicated by the text at all. Nonetheless, as TYY correctly points out, it is required by context. In light of this explanation, A1-3 all refer to a single situation: a person harvests and binds, yet cannot clearly see the sheaves in order to gather them.

38. Maimonides, Commentary, reads the three rules at A-B, C-D, and E-F as a unitary essay. He thus claims that the worker mentioned at C-D and E-F is one of the people listed at A. The rules regarding intention at C-F, however, would apply equally well to any harvester, whether blind or not. The unit as a whole thus does not form a clearly defined formal entity. Nevertheless, Maimonides is correct in noting that the rules take up a single topic, the role of intention in the laws of the forgotten sheaf.

39. So Bert and Sens. But Albeck, p. 59, claims that the rule at D should read:

\[
D. \text{[the large sheaves that he leaves behind] are not [subject to the restrictions of the] forgotten sheaf.}
\]

He claims that these large sheaves are mixed among the small sheaves, and so hidden from the harvester's sight, but not forgotten. I reject this possibility, since the large sheaves could not easily be covered by small ones. Since these big sheaves are in plain sight, the law applies to them. The small sheaves that are left behind, however, are not subject to the law. The householder never intended to gather them.

40. This case attracts the interest of Mishnah's framers because, as we recall from M. 5:7, sheaves that are hidden from sight should be exempt from the restrictions of the law. In fact, TYY and Albeck, p. 59, claim that the produce a blind harvester leaves behind should not be subject to the law because it was hidden from sight, not forgotten (cf. M. 5:7). However, neither commentator explains why these sheaves are in fact deemed subject to the law, as B rules. As I have explained, this is because the harvester began to harvest even though he knew that he almost certainly would leave some sheaves behind.

41. So Y. 6:11[19d], followed by all commentators.

42. Lieberman, TK, p. 169, states that the sacrifices offered on behalf of the father are thank-offerings. On the basis of a parallel passage in Ruth Zuta (2:16) he suggests that A should read:

"A certain righteous man forgot a sheaf in the middle of his field. On that very day he prepared a great feast. His son said to him..."

Lieberman says that this alternative better fits the context provided by B. His reading, of course, does not affect the story's main point, which is at C.

43. So E, ed. princ.; V reads: does not transgress.
1. I follow K and most other MSS, which delete "even." This word apparently appears here in the printed versions through dittography from M. 7:23.

2. I follow Y. 7:1[20a] and Bert in interpreting zyt hmnwph bšć tw as a participial construction: "An olive tree that exudes [oil] when ripe." Maimonides, Commentary, however, explains that this phrase refers to a tree growing in the city of Netofa, in Galilee. The former explanation seems to me preferable, for it better suits the present context, which demands that the phrase refer to a tree with distinctive features. Furthermore, as Yerushalmi explains, the city probably was named after its trees, not vice-versa.

3. Maimonides, Commentary, followed by Albeck, p. 59, interprets byšny as referring to a tree transplanted from Beth Shean. I reject this interpretation because of the context provided by the remainder of the stich at G. We expect byšny to complement and balance špkwny, which clearly refers to a tree that produces large quantities of oil. Byšny therefore must follow its simplest meaning, "a dry producer," i.e., one that produces very little oil.

4. The situation at M. 7:2 parallels that of M. 3:1. In both cases two rectangular plots of grain are marked off by olive trees:

5. So MR and Albeck, p. 60, who claim that the tree is exempt from the law because of its special location. Maimonides, Commentary, and Bert hold that the law does not apply, because the tree is hidden from sight (cf. M. 5:7). On the basis of the context provided at M. 7:1, however, I reject their explanation. It seems preferable to explain the present rule in terms of the immediately preceding one than to harmonize it with a pericope from an entirely different chapter.

6. This rule reflects the notion that the householder can render an entire crop subject to the restrictions of forgotten produce merely by beginning to harvest one portion (see M. 6:7-8). Accordingly, olives that remain unharvested on trees that the farmer has already begun to reap can fall into the category of forgotten produce.
7. K lacks both C and D.

8. See Jastrow, I, p. 121, s.v. ırkıbhi

9. I follow MR in interpreting ırkıbhi as a ground-trained vine. Maimonides, Commentary, and Albeck, p. 61, explain that this term refers to a small side-branch of the main vine. Nonetheless, they explain the ambiguity precisely as I have stated it.

10. See White, Roman Farming, who explains how thinning a vineyard of the poorest quality clusters is essential to the growth of that which remains.

11. This issue of when the law of the defective cluster begins to apply also gives rise to the rules at M. 7:7-8. In those pericopae, the law is deemed to apply either when the clusters first appear on the vine (M. 7:8), or when the vineyard is harvested (M. 7:7). Only MR draws our attention to this parallel. The remainder of the commentators attempt to harmonize the present pericope with the rules of peah. They claim that the law of the defective cluster applies as soon as peah has been designated. I can find no support for their view. See in particular TYT.

12. Lieberman (T2, p. 54) claims that the vineyard at A is sold before the defective clusters within it have appeared. This has the effect of harmonizing Tosefta with M. 7:7-8's notion that the law of the defective cluster applies as soon as such clusters appear. His assumption, however, is not indicated by the text. I follow the simple sense of "A gentle who sold his field to an Israelite for harvesting...," which implies that the beginning of the harvest is the moment when the law takes effect.

13. As we recall, M. 7:5 presents a dispute over when the law of the defective cluster takes effect. Tosefta assumes Judah's view (M. 7:5B), that the law applies only after the harvest has begun. Meir (M. 7:5C), by contrast, holds that the law takes effect as soon as the defective clusters appear.

14. TYT claims that krhm, "a vine," refers to all trees that produce edible fruit. Within the context supplied by this chapter, however, it seems clear that we deal only with grape vines (cf. M. 7:3, 7:5-7).

15. The penalty that the householder must pay when redeeming second tithe for his own cash equals twenty-five percent of the purchase price. This is referred to as "the added-fifth" for it equals one-fifth of the final total (i.e., twenty percent of the purchase price + penalty).


17. We note that the Hillelites' view (F) is expressed in an unexpected manner. On grounds of formal balance between the two disputes, F should parallel C, "[The laws of separated grapes and defective clusters] do not apply." Despite the present formulation of their view, it is clear that the Hillelite opinion is meant to serve as the opposite of the Shammaite position. See T. M.S. 5:19.


19. MR points out that Eliezer's view (M. 7:7B) also guarantees the act of designation and differentiation required of all agricultural offerings. Farmers must retain at least a small amount of their produce, or they do not meet the obligation to set aside produce for the poor (see M. 1:3D-E for the application of this principle to the laws of peah).

20. Reading with K. All other MSS. lack: "If so."

21. So Maimonides, Commentary, Bert and TYT.

22. MR says Yosé's lemma implies that the law of the defective cluster does not take effect until the harvest begins. This, says MR, explains why the Temple has a claim on a portion of the defective clusters. The farmer's dedication is valid, for he still
supports the defective clusters at the moment when he dedicates the vineyard. Thus the produce that grew before the dedication, i.e., produce fully within the householder’s control, must be given to the poor. But that part of the defective clusters that grew after the farmer had dedicated his vineyard to the Temple does not belong to the poor. Our understanding of Yose’s lemma does not depend upon this view, yet MR’s interpretation is a logical extension of Yose’s position. For further discussion of this view, see TYT.

23. Even though grapes cannot be bound into sheaves, they are deemed subject to the laws governing forgotten sheaves. This serves to waste of valuable produce that the farmer leaves behind. See Maimonides, Commentary.


25. Lieberman, TZ, p. 55, reads D-F as secondary to M. 7:8E. He claims that gdwly (at T. 3:15F) refers to a case in which the householder dedicated his vineyard to the Temple after the defective clusters had appeared (cf. gygwlym at M. 7:8E). D-F do not fit this context, however, and Lieberman’s interpretation is unlikely. My translation attempts to make sense of the stich in light of M.-T.’s other rules, which state that the law applies as soon as the defective clusters begin to grow. See M. 7:8A-D.

NOTES TO CHAPTER EIGHT

1. TYT notes that B. Taan. 6b presents the full list, “gleanings, forgotten sheaves, peah, and poorman's tithe,” in place of “gleanings” (as at M. 8:1A). According to this version, he claims, M. 8:1 systematically deals with all poor-offerings mentioned in the tractate.

2. So Y. Peah 8:1, which claims that nwhkwt refers to old people who feel their way with canes. See also Jastrow, I, p. 731, s.v. mwhk.

3. The second rainfall refers to rain of sufficient quantity for new crops to begin to grow at the end of summer. M. Taan. 1:4, 3:1, and M. Ned. 8:5 fix the time when these rains usually fall, the month of Marheshvan, as the beginning of the new agricultural season. See also Jastrow, II, p. 1442, s.v. rbych.

4. M. 1:3 presents this same principle, that the poor must be given an adequate amount of food, with respect to the designation of peah. See also GRA and MR.

5. It seems odd, at first glance, that the poor are deemed credible with regard to olive oil, for this produce already has been processed. We recall, however, that the distribution of poorman’s tithe is part of the normal process of separating tithes (see Sarason, Demai, pp. 1-11). This tithing procedure, in its entirety, is carried out at the threshing floor. In the case of olives, this means that the poorman’s tithe is given out in the form of oil (as at M. 8:3K). On the other hand, olives that are subject to the laws of forgotten produce, that is, those left on the crown of a tree (see M. 8:3L), are taken by the poor before any processing has occurred. We therefore assume that the poor cannot possess oil that derives from this source.

6. So Maimonides, Commentary, and Bert. But compare Jastrow, I, p. 715, s.v. lps, who claims that the phrase means householders give to the poor "a bit of stew."

7. So Maimonides, Commentary, Bert, and MR.

8. So Lieberman, TK, p. 178. On the basis of this contradiction, he states that E-F do not comprise part of Judah’s lemma.

9. Lieberman, TK, p. 178, claims that C-D probably are tacked on to Judah’s lemma, since they deal with the contrast between Israelites and gentiles. This is only tangentially related to the issue at A-B, that poor people are believed only with regard to food of the types that householders usually give them. Nevertheless, says Lieberman, the formal parallelism at B and C indicates that the two rules must be read as a single unit.

11. The commentators offer two distinct interpretations of M. 8:6A. I follow Sens, TYT and Albeck, p. 64, who assume that the priests, Levites and Israelites mentioned are poor people receiving poorman's tithe. The alternative view, taken by Maimonides, Commentary, and by MR, is that priests, Levites and Israelites who are householders all must give the same amount of produce to the poor as poorman's tithe. Following this interpretation, A would read:

E. This measure [for each type of produce, specified at M. 8:5], applies to priests, Levites, or Israelites, [when these householders] distribute poorman's tithe.

I choose the former interpretation, however, since it alone speaks of the equitable distribution of poorman's tithe, the context provided by the pericope's two other rules.

12. So Maimonides, Commentary, Bert., TYT and MR.

13. For the relative values of these measures, see EJ, XVI, pp. 387-388.

14. See also Y. Pes. 10:1[37c], which specifies the amount of food needed for two meals. Cf. MR and TYT, who claim that Yerushalmi's explanation merely carries forward Abba Shaul's lemma (C-D).

15. I cannot account for the fact that the farmer here is allowed to keep for his own relatives 50 percent of the poorman's tithe. MR provides one possible explanation. He notes that so long as the farmer gives away at least as much grain as he keeps, he does not distribute the food in an unfair manner. See also T. 4:2b, which claims that the farmer may retain for his relatives as much as two-thirds of the poorman's tithe.

16. Maimonides, Commentary, and Bert claim that the farmer at D-E does not have enough produce to distribute as poorman's tithe because he saved some of this food for his own relatives (as at B-C). The connection between these two rules is not indicated in the text, however, and appears to be a simple harmonization of the units.

17. So Jastrow, II, p. 1290-91, s.v. gwC. Lieberman (TK, p. 154), on the basis of M. Dem. 6:6, suggests equating "decent people" with "haberim." In his view, we speak of people who wish to avoid giving food to the poor because the poor will not eat the produce in a state of cleanness. Lieberman thus interprets C to mean that these people should give the poor something to eat forthwith, while the food remains ritually clean. I follow Jastrow, however, since the context provided at D fits only his interpretation.

18. So Lieberman, TK, p. 154. On a farmer's right to snack on untithed produce, see also Jaffee, Tithes, pp. 2-3; TK, p. 154, n. 32.


22. See B. Ket. 26a; Lieberman, TK, p. 181.

23. Lieberman, TK, p. 181, states that the New Moon messenger traveled as far as Namarin (Tel Namarin). See also Klein, p. 108.

24. I follow E in deleting this stich, for Tosefta never presents a case in which a stricter rule applies to the holy things of the country than applies to the holy things of the Temple.

26. I follow TYT in explaining that C refers to food. Read in this way, C provides balance for the stichs at A and E, both of which explicitly refer to edibles. Maimonides, Commentary, and Bert., however, state that C refers to giving to the poor person a bed and mattress on which to sleep. I can discern no support for their position.

27. So Jastrow, II, p. 1676, s.v. tmhwy.

28. See Bert and TYT, who claim that a loaf worth a dupondius is sufficient for at least two meals.


30. Lieberman, TK, p. 184, offers a quite different explanation of why strangers are not supplied with clothing. He claims that the verb mkyr, "to know," here means "to know whether or not a person actually is poor." In his view, people that the townsfolk know to be poor are given full support. Strangers, by contrast, might actually be freeloaders who do not require the community's support. To prevent this misuse of public funds, strangers are given only food.

31. So V, ed. princ.; E reads: "on a day to day basis, bkl ywm."

32. So E; V, ed. princ. read: "psy hCyv, the town's poor." On the meaning of psy hCyv, see Lieberman, TZ, p. 57.

33. E reads: "perutah." Lieberman, TK, p. 184, rejects this reading because it obscures the basic difference between the soup-kitchen and the communal fund. He claims that money alone is contributed to the communal fund, while the soup-kitchen is supported by gifts of food.

34. So Lieberman, TK, p. 183.

35. Lieberman, TK, p. 185, notes that the phrase lytr' bfr bsprwy is taken by B. Ket. 66b as referring to a pound of poultry. On the basis of Epstein, Tarbiz 1945, p. 270, however, he provides the interpretation that I follow.


37. On the Jebusites as the original inhabitants of Jerusalem, see IDB 2:807-808, EJ 9:1307-1308. See also Lieberman, TK, p. 187.


39. M. Ket. 5:1 makes the point that two hundred zuz is approximately one year's supply of money. Hence, when a man divorces his wife, he must give her two hundred zuz, so that she may support herself for a full year.

40. At M. 8:9K, ms K reads: "will die of old age...." This brings M. 8:9K in line with the parallel stichs at M. 8:9M, O and T.

41. L-M follow Q in the standard printed versions, but belong here. See Albeck, p. 66.

42. So Albeck, p. 66.

43. Lieberman, TK, p. 188, offers an alternative explanation of A. He claims that, reading with ed. princ., A should be rendered:

A. Charity collectors are not permitted to make change, [so that they do not appear to distribute that which they collect].

This interpretation, however, ignores the explicit explanation at B, and so may be rejected.
44. Second tithe, we recall, must be taken to Jerusalem and consumed within the city. See Haas, Second Tithe, pp. 1-3.

45. Lieberman, TK, p. 190, claims that the descending order of the pericope is broken by G-3. On the basis of B. B.B. 9a, Lieberman says that making others give charity is more meritorious than giving charity oneself. I reject this harmonization, however, for it is not indicated by the text, and breaks the symmetry of the passage.

46. So Jastrow, I, p. 184, s.v. bswrt.

NOTES TO APPENDIX

1. These documents of Scriptural exegesis are generally thought to have been redacted in Palestine, no earlier than the fourth century A.D. See M.D. Herr, E3, Vol. XIV, pp. 1518-1520.

2. A larger polemic underlies Sifra Negaim — namely, that reason unaided by revelation is insufficient as a basis for Mishnah's authority. This notion scarcely occurs in the materials considered here (see Sifre Deut. 283's treatment of M. 6:7). Nonetheless, as we have seen, the materials as a whole are consistent with that claim. See Neusner, Purities, Vol. VII, Negaim. Sifra.