

393. Ex. R. 25, 12; Midr. Teh. (Shoher Tov), Ps. 95, para. 2, p. 420; Kitsur 72, 1; Zohar, op. cit., II, 47A, 89A; Shab. 118B states also that "R. Johanan said in the name of R. Simeon b. Yohai: 'If Israel were to keep two Sabbaths according to the laws thereof, they would be redeemed immediately' "; Lev. R. 3, 1 declares that "Israel are to be redeemed only by merit of the Sabbath"; Also the Yerushalmi, op. cit., Ned. 3, 14, p. 38A, maintains that the commandment of the Sabbath is equal to all the other precepts of the Torah.
394. Hul. 5A. All three deny the Torah; Shab. 118B, strangely enough, states that God forgives the Sabbath observer even though he practices idolatry.
395. Kitsur 72, 2.
396. Zohar, op. cit., I, 48A.
397. Hag. 1, 8; R. Obadiah Bartinoro, commenting on Avot 1, 1, states that the fence (hedge) built about the Torah will prevent its desecration and interprets Lev. 18:30 to read, "make an injunction additional to My injunction."
398. Horowitz, op. cit., pp. 94-5, cites I. H. Weiss, Dor Dor we-Dorshaw II, 50-52 (Wilna: 1911).
399. Distinguished Rabbi of Salant in Lithuania, later head of the famous R. Mailo's Yeshivah in Wilna, and founder of Musarism, a religious-ethical movement in nineteenth century Judaism.
400. Menachem G. Glenn, Israel Salanter (New York: Bloch Publishing Co., 1953), p. 27.
401. Lev. 16:31, 23:32.
402. Glenn, op. cit., pp. 27-28; Yoma 84B maintains that where the possibility of danger to human life exists, the Sabbath laws are rendered inoperative

- and the Sabbath is to be desecrated. Moreover, the Talmud further declares: "One must remove debris to save a life on the Sabbath and the more eager one is, the more praiseworthy is one, and one need not obtain permission from the Bet Din." Furthermore, Yoma 84B states that if a child, a Gentile and a prominent Jew (scholar) were all present, it was incumbent upon the scholar to take the action and violate the Sabbath if need be. Cf. also Maimonides, M. T., Zemanim, Hilkhhot Shabat, 2:3 (Berlin: Julius Sittenfeld, 1862) where the same thought is expressed and the scholar is even forbidden to delay the desecration of the Sabbath.
403. Scripture speaks of the Sabbath as holy unto the Lord (Ex. 31:15, Lev. 23:3) and as belonging to Him (Ex. 31:13).
404. See supra 402. Also Ket. 5A where it states that "one may do any work to save a life on the Sabbath"; "The explicit prohibition of Deut. 4:2: 'Ye shall not add unto the word which I command you, nor shall ye take aught from it,' was easily got over by reliance upon Deut 17:8-11, where implicit confidence in the courts of each generation and obedience to them are prescribed. Thus, paradoxical as it may seem, the Rabbis believed that it was their right and duty to make changes in the Biblical law if imperatively required, while maintaining, nevertheless, that the commands of the Torah were unchangeable and might not be added to or diminished" (Horowitz, op. cit., p. 94).
405. Yoma 8,6 states: "If a man has a pain in his throat they may drop medicine into his mouth on the Sabbath, since there is doubt whether life is in danger, and whenever there is doubt whether life is in danger, this overrides the Sabbath." In Yoma 84A, however, this view of R. Matthia b. Heresh is overridden by the Sages, therefore it remains invalid. The Sages consider his statement too general in nature. The medicines authorized for use must contain curative

properties for each specific disease. While the Sages, for example, permitted blood-letting on the Sabbath as a cure for asphyxia, they did not extend such sanction to medicine in general.

406. "In case of serious illness, if the physicians disagreed as to the need of immediate treatment requiring work on the Sabbath, if even one of them recommended it, no questions should be asked and anyone might perform such work. If a child, for example, was locked up in a room and there was danger that it might die of fright, it was permissible to break down the door in order to release the child. It was forbidden even to hinder or interfere with the desecration of the Sabbath when a life was at stake." (Horowitz, op. cit. p. 190). According to Maimonides, such action would be condoned for to him "the laws of the Torah are not laws of vengeance against the world, but rather laws of pity, mercy and peace." (Maimonides, M. T., Zemanim, Hilkhos Shabat, 2:3).
407. Yoma 84B; Tos. Shab. 16, 16 op. cit.; Mekilta de Rabbi Ishmael on Ex. 31:14, op. cit., III, Tractate Shabbata, p. 199 suggests for us the principle upon which this concept rests when it states: "The Sabbath is given to you, you are not surrendered to the Sabbath." It was probably this concept which Jesus earlier taught as follows: "The Sabbath was made for man, and not man for the Sabbath." (Mark 2:27). The commandments of God -- according to the Sages -- are also to promote life and well-being, a concept based on Lev. 18:5, "Ye shall therefore keep My statutes, and Mine ordinances, which if a man do, he shall live by them." "Not die because of them," said R. Judah. And R. Simeon b. Menassia, commenting on Ex. 31:16, "the children of Israel shall keep the Sabbath," declared, "the Torah said: Profane for his sake one Sabbath, so that he may keep many Sabbaths." (Yoma 85B; Mekilta de Rabbi Ishmael op. cit., on Ex. 31:16, III, p. 199; Maimonides, M. T., Shoftim, Hilkhos Mamrim, 2:4).

408. See supra note 189 on the importance of each person in the scheme of God's creation.
409. Lev. 18:21, 20:2-5; Jer. 32:35; II Kings 23:10.
410. Cf. Josephus, Against Apion, op. cit., Book II, para. 14.
411. See Shab. 128B, 154B-155A.
412. Maimonides in his Commentary on the Mishnah, states that Biblical laws are laws expressly stated in the Torah, laws derived from Scripture by interpretation and certain laws not derived from the Torah but deemed 'halakhot to Moses from Sinai.' (Cf. Horowitz, op. cit., p. 14).
413. Rabbinical laws are new laws, acts of deliberate legislation; in general, all rules not considered Biblical. (Horowitz, op. cit., p. 14).
414. In order to keep the animal alive.
415. According to the rabbinic law this is prohibited because once the utensil (pillows and bedding) is placed under the animal it can no longer be removed on the Sabbath and therefore it is rendered unusable. Consequently, it is no longer in readiness; See note 459. RaSHI also states that it can't be removed and that this is equivalent to the destruction of a building; See also Shab. 43A.
416. Shab. 128B; B. M. 32B; O. H. 305, 19; Maimonides, M. T., Zemanim, Hilkhos Shabat, 25: 26; Cf. also Luke 14:5.
417. Deut. 5:15, 16:12, 24:18, 22.
418. Deut. 5:15.
419. Ex. 5:6-18.
420. Prov. 14:4; see supra note 227.

421. In Deut. 5:14, "cattle" is amplified to mean "thine ox, nor thine ass, nor any of thy cattle." In B. K. 54B, R. Jose queries why "ox and ass" are singled out here, inasmuch as they are included in term "cattle", and explains that "ox and ass" are mentioned in order to explain that all beasts and birds are considered on the same footing with them. RaSHI commenting on Ex. 21:28, 33 also agrees with this concept, and that ox and ass means all animals, beasts and fowl; see also Kitsur 87, 1.
422. Ex. 20:8-10, 23:12; Deut. 5:14.
423. Ex. 16:29.
424. The Karaites, for example, members of a Jewish sect who insist on the literal interpretation of the word "place" refrain from walking out of their homes except to go to the Synagogue; in the Book of Jubilees 4, death was the penalty for anyone who walked any distance on the Sabbath.
425. Eruv. 51A-51B; Maimonides, M. T., Zemanim, Hilkhos Shabat, 27: 1-2.
426. Sotah 5, 3; Authority for this was found in Num. 35:5 "And ye shall measure without the city for the east side 2,000 cubits, for the south side 2,000 cubits, for the west side 2,000 cubits and for the north side 2,000 cubits, the city being in the midst. This shall be the open land about the cities." The boundary beyond this 2,000 cubits where one must not walk on the Sabbath is known as the TEHUM; but by means of an 'Eruv, this boundary can be extended another 2,000 cubits; Cf. R. H. 2, 5; Eruv. 48A; In Josh. 3:4 the phrase "space between you and it" was also considered to be 2,000 cubits. This interval had to be maintained between Israel and the Ark of the Covenant.
427. O. H. 305, 1; 'Sabbath rest' for the beast implied freedom to roam about freely, for as RaSHI commenting on Ex. 23:12 states: "Give it rest by permitting

- that it pluck and eat grass from the ground. Or (perhaps) it is not (so) but he should tie it within the stall? (Then) you would have to admit (that) this is no rest but suffering."
428. Kitsur 87, 1.
429. O. H. 305, 11; Tos. Shab., op. cit., 4, 5; Amulets or appurtenances worn by animals as panaceas, however, were not allowed on the Sabbath. Animals, it was felt, as humans, are affected by evil spirits and witches (See Yoma 83B et. seq.). To counteract this, many persons placed amulets containing Scriptural verses on their beasts. But the O. H. 305, 11 and Tos. Shab. 4, 5, strictly interdict this. The Tosefta states: "A horse may not go out wearing a fox's tail (see also Shab. 53A) or a scarlet band between the eyes (Shab. 53A).... an animal may not go out on the Sabbath wearing an amulet, even written by an expert and on this point the law is stricter with an animal than a human." Shab. 6, 2 condones the wearing of an amulet for humans on condition that it had been "prepared by one that was skilled." No sanctity was attached to them. Shab. 115B requires that in case of fire they must not be rescued even though they contain the Divine Name.
430. Shab. 51B and Shab. 5, 1 query: "With what (burdens) may cattle go out (on the Sabbath) and with what they may not go out?" and then lists certain animals with permissible burdens. RaSHI, commenting on Shab. 51B states that ornaments which are part of the animal's way of living or considered peculiar to them, are not to be deemed as burdens. The Mishnah and Gemara also hold to the same concept.
431. Shab. 51B and RaSHI comments; Kitsur 87, 1 states: "If it (the ornament) is there for guarding it, then it is considered like a garment in the case of a human being, and it is permissible to let it go out therewith." Ibid. 87, 3 and Shab. 53A suffer the ass to go out with a saddle cushion (Shab. 5, 2) to protect it from

the cold, because it is natural with it to catch cold and in case of extreme cold, a blanket can be placed on the horse to protect it from harm and in summer it can be put on as a means of protection against flies that torment it (so comments also the Be'er Hetev on the O. H. 305, 8). The Kitsur 87, 3 further states that "it is prohibited to remove the cushion on the Sabbath, either from an ass or from a horse, since the animal suffers no pain on account of that." (Cf. O. H. 305, 7-9). "When two feet of a horse are tied together," the Kitsur 87, 7 further states, "while grazing in the pasture so that it should not run away, it is permissible, providing foreleg is not tied to hindleg, and excluding the bending one leg upward and tying it because this causes suffering to the animal and should be forbidden even on a weekday." (Cf. O. H. 305, 14).

432. Shab. 24, 1; In Shab. 153A it is pointed out that in the case of the ass we are under an obligation that it should rest (Ex. 20:10) but not so in the case of the gentile. In Shab. 153B, R. Adda explains that while the ass is lead laden, (contrary to Ex. 20:10) the individual is not culpable if he places it upon her while she is walking, and there is no removal, because this does not constitute labor. Only "removing and depositing" together constitute work.

433. Barthoro commentary on Shab. 24, 1; Cf. O. H. 266, 9; One is forbidden to remove the weight of more than 15 sa'in (measure of grain) on the Sabbath. But because of tsa'ar ba'ale hayim, in this case, it is permitted. (Magen Avraham commentary on the O. H. 266, 9; Israel Mordecai ben Ze'ev Joseph, Sefer Shulhan ha-Shabat, p. 220, para. 2 -- Warsaw; Dubersh Tursh, 1892).

434. Yerushalmi, op. cit., Betsah 5, 2, p. 63A; Sanh. 46A states that during the Syro-Grecoan domination an offender against this law was arraigned before the judicial court and sentenced to death by stoning; In Yev. 90B the opinion is given that although the man

was stoned, he did not deserve the penalty, but the exigencies of the hour demanded it; Book of Jubilees 50:11-13 requires the death penalty for riding a beast on the Sabbath; According to the O. H. 305, 18 (Isserles' gloss) it is forbidden to ride in a wagon drawn by animals on the Sabbath even when the driver is a non-Jew. Shab. 94A, however, assumes that every living creature is buoyant and therefore can carry itself. Hence, when ridden by a man, the horse or ass is not carrying a burden. Consequently, that the rider may cut a twig for use as a whip and thereby violate the Sabbath. (Betsah 36B; Magen Avraham and Isserles' gloss on O. H. 305, 18); See note 436; The O. H. 524, 1 forbids riding on an animal even on a festival. Very interesting is the Sabbath rule that whoever climbs up into a tree intentionally must remain there until nightfall (Magen David commentary on O. H. 305, 18). Should one climb up on an animal this precept does not apply because of tsa'ar ba'ale hayim, and the individual must descend immediately. (O. H. 305, 18; Sefer Shulhan ha-Shabat, op. cit., p. 220, para. 1).

435. O. H. 305, 1; Kitsur 87, 2.

436. O. H. 246, 3; Kitsur 87, 10; Cf. also A. Z. 15A; According to Maimonides, M. T., Zemanim, Hilkhot Shabat 20:3-4, Jews were not allowed to hire their animals to the stranger, because they would work them on the Sabbath, except the horse, because it was not used for heavy burdens, but rather only for riding. According to a talmudic interpretation, this is not a violation of the Sabbath (see note 434). In Pes. 4, 3 and A. Z. 1, 6, Ben Batyra permits a horse to be sold to gentiles, possibly because of the same reason.

437. Technically known as Nolad (newly-created). See Shab. 121B, 124B, and Betsah 2B.

438. Kitsur 88, 4.

439. Betsah 3A-B; O. H. 322, 1.
440. Kitsur 88, 4.
441. Ibid.; The O. H. 322, 3 however states that the fruit fallen on Sabbath is forbidden during the day but permitted to be handled in the evening; Cf. Betsah 2B-3A.
442. Shab. 122A; Shab. 16, 8; Kitsur 90, 14-15; Ibid. 73, 1 states: "It is forbidden to allow a non-Jew to do work for a Jew on the Sabbath, it being based upon the precept that 'no work should be done' (Ex. 12:16) which implies even though by a non-Jew." The Jew could not perform this work, for although tsa'ar ba'ale hayim is a Mosaic decree so is the prohibition for the Jew to work on the Sabbath. The prohibition for a non-Jew to work is rabbinic and therefore permitted to be modified when faced by a Biblical precept.
443. According to Shab. 95A the Jew who milks on the Sabbath is "liable on account of unloading." RaSHI and Tosfot explain the passage to mean that "unloading (mefarek)" is a derivative of threshing (Dosh), one of the thirty-nine forbidden classes of work (Shab. 7, 2; Maimonides, M. T., Zemanim, Hilkhot Shabat 7:1). As in threshing, the chaff is separated and unloaded from the grain, so the milk is separated and unloaded from the cow. Consequently, the Sefer Shulhan ha-Shabat, op. cit., p. 221, para 8, deems milking to be forbidden by the Torah itself, but permits it by a non-Jew because of tsa'ar ba'ale hayim; Cf. the O. H. 305, 20. The Jew, however, is not authorized to handle the milk on that day. The Be'er Hetev and the Magen Avraham commenting on the O. H. passage further state that geese are permitted to be fattened once on that day because of tsa'ar ba'ale hayim, to relieve them of their suffering. Shab. 24, 3 permits the placing of water before geese, fowls and Herodian doves, which are domesticated but not before bees and doves in the dovecots, because they can find water for themselves.

444. Objects technically known as "Muktseh" (lit. "set aside"), and which are not to be used or handled on the Sabbath or Holy days, though their use does not constitute actual labor.
445. Technically known as "Muktseh Mahmat Mi'us," e.g. an earthen lamp. Shab. 44A states that R. Judah forbids this. Note 10, p. 202 (Soncino edition) further states that the "reference is to an old lamp which is muktseh on account of repulsiveness." So also is "offensive smelling straw." Shab. 150B declares it to be muktseh. Note 7, p. 766 refers to it and states that this "may not be handled in any case, as it is muktseh on account of repulsiveness." Talmudic law, however, follows the teaching of R. Simeon who permits the use of such things (considered Muktseh Mahmat Mi'us) on the Sabbath, but forbids them on festivals (Shab. 44A; O. H. 310, 1; Hayeh Adam, Hilkhot Shab. 65, 2).
446. Technically known as "Muktseh Mahmat Mitsvah," e.g. a shofar, an esrog or a lulav.
447. Technically known as "Muktseh Mahmat Isur," e.g. fish caught by a minor or a gentile on the Sabbath; a candlestick which must not be moved because a candle is burning on it, or fruit torn from a tree. Cf. Hayeh Adam, op. cit., 65:4.
448. Technically known as "Muktseh Mida'at," e.g. an animal harness or food for an animal which was not prepared on Friday. Cf. Shab. 24, 4. Permitted things are considered those which are specifically "prepared or set in readiness" prior to the Sabbath or festivals and to be used specifically for such Sabbath or festivals, known as "Mukan."
449. Kitsur 88, 2; Items considered useless to man and beast are forbidden.
450. A shrubby plant, with deep and straight roots, probably cistus (Marcus Jastrow, Dictionary of Talmud Babli, Yerushalmi, Midrashic Literature and

Targumim - New York: Pardes Publishing House, 1950).

451. Shab. 128A; To the modern mind the statement that ostriches eat fragments of glass must sound fabulous. To the ancients, however, the ostrich had a voracious appetite and would eat everything it could acquire. Yer., op. cit., M. K. 3, 7, p. 83A states that it snatched a pair of phylacteries for purposes of consumption, Yer., op. cit., Yoma 4, 4, p. 41 maintains that it swallowed gold pieces the size of olives and then ejected them in polished condition, the Shim'oni, op. cit., on I Sam. 15:33, p. 724, para. 123 and Midr. Shemu'el, op. cit., 18, 6, p. 101 declare that it consumed the flesh of the slain Agag.
452. Supra. note 445.
453. Shab. 128B; Even uncovered water -- which under normal circumstances one was admonished not to allow to remain overnight, lest a snake drink of it and thereby poison the water (see Shab. 109B) -- was allowed, for "it is fit for a cat." Rabbi Simeon b. Gamaliel, however, did not permit this because of possible danger to human beings (Shab. 128B).
454. See note 448. The fodder in this case was deemed to be muktseh because it was stored away for later use.
455. Shab. 122A; Even grass cut on the Sabbath was muktseh and could not be handled. See note 448, this fodder was also muktseh in that it was not prepared or set in readiness prior to the Sabbath; Cf. also O. H. 324, 13.
456. Kitsur 87, 13; Supra note 427.
457. Kitsur, loc. cit.; A territory which is neither "public nor private" (a neutral zone) is known as "karmelit" ('Eruv. 9, 2). Four kinds of localities determine the various rules which govern the carrying (movement)

from one place to another on the Sabbath. According to Tos., op. cit., Shab. 1, 1 these are: a. Reshut ha-Rabim, a public domain; b. Reshut ha-Yahid, private territory; c. Makom Patur, free domain, open unforbidden territory; d. Karmelit, neutral ground which possesses characteristics of public and private territory, e.g., private property such as meadows which are not fenced in and public property such as alleys and canals which are avoided by general traffic (Cf. Shab. 101A).

458. O. H. 305, 18; Sefer Shulhan ha-Shabat, p. 220, paras 1-2. According to both the Mishneh Berurah, op. cit., 65 and the Magen Avraham 9 on the Orach Hayim passage this procedure is permissible, and a part of the body allowed to come into contact with the burden even though it be muktseh, because of "tsa'ar ba'ale hayim." The Mishneh Berurah further comments that the head, not hands which would normally be used for such purposes, is to be utilized in order not to make the act too simple to execute. The person must not forget that the burden is muktseh and therefore should remove it from the animal in a way other than the normal method.
459. Shab. 154B; O. H. 266, 9; As indicated in note 415, the pillows are thereby also made muktseh and rendered unusable for the Sabbath Day. Although rabbinic law forbids this as a general precept, it is here permitted because of tsa'ar ba'ale hayim; Tiferet Yisra'el Introduction to the Seder Mo'ed, 266, 9, page 20 (Mishnayot Seder Mo'ed, -- Wilna: Widow & Brothers Romm, 1908); The statement, "it is forbidden to bother oneself on the Sabbath for the enjoyment of the beast," (Kitsur 87, 14) does not refer to such cases. The Kitsur gives us as an example of enjoyment the hanging of "a feed-bag or a vessel around a beast in order that it may eat therefrom. For bullocks, however, and foals which have short necks so that it would cause them suffering to eat from the ground, it is permitted to hang around them a vessel with food when they are in a

court, but they should not be allowed to go out there-with as it is then considered a burden." (See also O. H. 305, 10).

460. Supra note 397.
461. Avot 4, 2.
462. "A bundle of fodder which is not knotted permanently (i. e. doubly knotted) may be unknotted and given to the cattle." (O. H. 324, 4; Kitsur 87, 12); The tying and untying of knots are generally not proper on the Sabbath. In fact, R. Meir says: "None is accounted culpable because of any knot which can be untied with one hand." (Shab. 15, 1); Bundles when tied are not fit for fodder, therefore, they may be untied. Shab. 155A, Soncino Note 7, p. 792.
463. Rabbi Judah maintains that, "we may indeed turn something into fodder, but may not take trouble over fodder." (Shab. 155A). Consequently, the spreading out of normal fodder would be superfluous indulgence and that would be forbidden. However, young shoots, unless spread out, are unfit as fodder and therefore permitted. Only after spread out are they turned into fodder; Cf. Shab. 24, 2.
464. O. H. 324, 6; The Be'er Hetev commentary on the O. H. passage as well as Kitsur 87, 12, specify that the cucumbers are to be hard; Cf. Shab. 24, 4, "They may chop up gourds for the cattle."
465. Shab. 155B; O. H. 324, 11; Kitsur 87, 18; But for other forms of living beings -- as fish, doves and bees -- which are independent of man and/or which can acquire their own nourishment, the Jew is forbidden to violate the Sabbath. Before such creatures, the law states, "it is even forbidden to throw the food." This, notwithstanding, we have the statement of Jacob b. Moses Molin (d. 1427) cited as Maharil (Halachoth Hol ha-Moed -- Warsaw; 1874) and as quoted by Israel Abrahams, Jewish Life in the Middle

Ages (Philadelphia: Jewish Publication Society, 1896), p. 373 as follows: "On festivals they strolled by brooks and streams, and watched the fishes disporting themselves in the water. They carried food with them which they threw into the streams, and derived a simple pleasure from the pastime, even though it was not strictly in accordance with Jewish ritual law."

466. Pes. 118A on Ps. 136:25-26; Seder Eliyahu Rabah XV, ed. M. Friedmann (Vienna: 1902), p. 70.
467. S. Y. Agnon, op. cit., p. 278. Cites as his source the Leket Yosher by Joseph ben Moses, Bavarian talmudist, student of Israel Isserlein, born about 1420, died after 1488 (Berlin: Mekitse Nirdamim, 1903).
468. O. H. 332, 3; Shab. 53B; Kitsur 87, 24; Shab. 128B also states "an animal, beast or bird may be made to walk in a courtyard but not in the street."; Sefer Shulhan ha-Shabat, p. 221, para. 7.
469. O. H. 332, 4; On the significance of permitting the non-Jew to perform work on the Sabbath, see supra 442.
470. O. H. 332, 2; But smearing only for the sake of enjoyment is forbidden; See supra 429.
471. Be'er Hetev 3 on O. H. 305, 8; See supra note 431.
472. Shab. 16, 2; O. H. 334, 1; The Rabbis feared that Jews would forget the Sabbath and extinguish a fire on that day in order to save their property. They therefore decreed that it is forbidden to save even articles permissible to handle, except a minimum of food enough to sustain both man and beast. If the fire started on Sabbath eve before the meal, he may save food for three meals; if in the morning, 2 meals; and if in the afternoon, one meal.

473. Born, Germany 1280, died Spain 1340. Son of Rabbi Asher ben Yehi'el (ROSH) famed authority on Jewish jurisprudence. Known as Ba'al ha-Turim, because of his systematic arrangement of the Babylonian and Jerusalem talmudic law, together with the decisions of earlier sages preceding him, into four parts, (Arba' Turim) each part dealing with its particular branch and class. Cf. note 628.
474. Tur Oraḥ Hayim 332, 1; Distinction is made between actual delivery and assistance. Delivery is forbidden on the Sabbath (O. H. 332, 1) as well as on festivals (Shab. 18, 3 and O. H. 523, 3). But assistance is authorized on festivals. However, inasmuch as assistance was not specifically interdicted on the Sabbath, the decision to prohibit or permit such activity was difficult. The ROSE (R. Asher ben Yehi'el) could not decide the question, but his son, the Ba'al ha-Turim decreed that this was permissible. (Magen David on O. H. 332, 1).
475. "To clear them of mucus" (Shab. 128B, p. 641, note 1, Soncino).
476. "In giving birth" (Shab. 128B, p. 641, note 4, Soncino).
477. "Water in which the placenta was soaked." (Shab. 128B, p. 641, note 5, Soncino).
478. Shab. 128B.

CHAPTER VIII

479. Cf. John H. Moore, The Universal Kinship (Chicago: C. H. Kerr & Co., 1908) p. 146. Moore cites Darwin, Expression of Emotions in Men and Animals (New York: 1899) as one of his authoritative sources.
480. Supra Chapter VI.
481. Lev. R. 27, 11.

482. Ibid.; Deut. 22:6; Lev. R. (Soncino ed.) p. 355, note 5 states as the purpose of this precept: "Teaching kindness to animals."
483. Lev. 22:28.
484. In Ex. 23:5 in lieu of "sheep" Scripture reads "ass." For use of "ox and ass," used as a generic term to denote all animals see notes 421 and 625.
485. In Ex. 23:4 the text reads "going astray" in place of "driven away." The implication in Exodus is that the animal had not wandered far away and it would be little trouble to bring it back. Here, however, "driven away" implies (as Nachmanides on Deut. 22:1 renders the term "running away") that it has gone a long distance and considerable effort is required to restore it to its owner. Cf. also A. Cohen, The Soncino Chumash (London: The Soncino Press, 1947) note to Deut. 22:1.
486. B. M. 30A, Sanh. 18B and Sifre, op. cit., on Deut. 22:1, 115A, para. 222 indicate that one may refrain from this kindness to the beast under certain circumstances as e.g., when "one is a Kohen (priest) and the lost animal is in a cemetery; or when one is an old man, and it is inconsistent with his dignity to lead the animal home; or if one's own work was more valuable than his neighbor's (i.e., the value of the time he would lose in returning it exceeded that of the lost animal)."
487. Deut. 22:1.
488. RaSHI on Deut. 22:1.
489. B. M. 27B attempts to explain the phrase to mean "and it shall be with thee until thy brother require it," as the finder obviously will not restore the animal until its owner demands it. According to the Talmud the text means that the claimant must be examined in order to determine whether he is the

rightful owner or not. See also RaSHI on Deut. 22:2 and B. M. 2, 7.

490. Deut. 22:2; According to Lev. 5:20-24, failure to restore the lost animal is accounted as theft, and if the finder is found to have "sworn falsely, he shall even restore it in full, and shall add the fifth part more thereto."
491. Sifre, op. cit., on Deut. 22:2, 115A, para. 223.
492. Ibid. on Deut. 22:1, para. 222.
493. B. M. 27A; If the finder had occasion to shear these animals while in his possession. Moreover, B. M. 2, 7 declares: "Whatsoever (the beast) works and eats, let it work and eat (while it is in the finder's care; its labor repays the cost of its fodder); but whatsoever does not work but eats, may be sold, for it is written, 'and thou shalt restore it to him.' " The thought being that "it is better to restore its entire value rather than the beast itself less the cost of its keep." (H. Danby, The Mishnah, note 5 on B. M. 2, 7).
494. Deut. 22:4.
495. Both RaSHI and Ibn Ezra on Deut. 22:4 maintain that one is not obliged to lift up the animal unless the owner is willing to help. So also B. M. 2, 10 and the Mishnah to B. M. 32A but in addition state: "Yet if he (the owner) was old or infirm he is bound (to do it himself)."
496. B. M. 31A, 32A; Financial loss is suffered when the animal falls under its burden and assistance is required to unload it.
497. Ibid.; Aaron ha-Levi of Barcelona, Sefer ha-Hinukh op. cit., 541.

498. Moses Maimonides, M. T., Nezikin, Hilkhoh Rotseah 13:13 (Berlin: Julius Sittenfeld, 1862); H. M. 272, 10 (Lemberg: 1864).
499. Ex. 23:4.
500. Yet Philo maintains that such action will result in the dissolution of the enmity, for "the man who has received a benefit is willingly induced to make peace for the future as being enslaved by the kindness shown to him; and he who has conferred the benefit, having his own good action for a counsellor, is already almost prepared in his mind for a complete reconciliation." (Works of Philo Judaeus, Volume III, p. 439, trans. from the Greek by C. D. Yonge - London: Henry G. Bohn, 1855); Cf. also B. M. 32B, Tosefta B. M. 2, 26 and Aaron ha-Levi of Barcelona, Sefer ha-Hinukh, op. cit., 80, p. 20 where such action is proposed to subdue the evil inclination; "The greatest hero, say the Rabbis, is he who turns an enemy into a friend, and this can only be done by deeds of loving-kindness. 'If thine enemy be hungry, give him bread to eat, and if he be thirsty, give him water to drink. . . . and the Lord shall reward thee.' " (Prov. 25:21-22; Cf. Joseph H. Hertz, op. cit., note to Ex. 23:5).
501. Mal. 2:10.
502. J. M. Powis Smith, The Origin and History of Hebrew Law, (Chicago: University of Chicago Press, 1931), p. 34.
503. The "surely" here represents a duplicated verbal form in the Hebrew; by rabbinic interpretation this enjoins repeated action if need be, in fulfilling the commandment. (H. Danby, op. cit., note 6 to B. M. 2, 10). Consequently, B. M. 2, 10 states: "If he unloaded it (an ass fallen under its load) and loaded it (afresh) and again unloaded it and loaded it, even four times or five, he is still bound (to continue) for it is written, 'thou shalt surely release (help) it with him.' "

504. Ex. 23:5.
505. Jerusalem (known also as Palestinian, but not to be confused with the fragmentary version found in printed Bibles and also named Targum of Jerusalem) Targum called Pseudo-Jonathan on Ex. 23:5 states: "If you see the ass of your enemy whom you dislike because of the wickedness which you know to be in him, lying under his burden, and refrain from approaching him, you should abandon at once the hatred in your heart against (him) and release and take care of the ass." (Pseudo-Jonathan; Targum Jonathan ben Usiel zum Pentateuch, ed. Dr. M. Ginsburger, p. 140 - Berlin: S. Calvery and Co., 1903); Cf. also Targum of Onkelos on Ex. 23:5: "If you see your enemy's ass prostrate under his burden, you must not forsake him, you shall surely abandon that which is in your heart against him and shall release it to him." (Mikra'ot Gedolot, Sefer Shemot, Targum Onkelos on Ex. 23:5, p. 80A - New York: Pardes Publishing House Inc., 1951).
506. R. Shneur Zalman, 1747-1812, the great hasidic rabbi, states: "If horses are pulling a wagon and they come to a bad spot or to a high mountain and they cannot go on without help, one is bound to help even an alien in order to avoid pain to living things; lest the alien driver should beat them excessively to make them pull beyond their strength." (Shneur Zalman, Shulhan 'Arukh, Hoshen Mishpat, Vol. 5, Hilkhot 'Ovre Derakhim ve-Tsa'ar Ba'ale Hayim, Section 8, p. 48 - Stettin: R. Grossman, 1864); B. M. 32B also declares: "One must busy himself with an animal belonging to a heathen just as with one belonging to an Israelite. Now, if you say that (relieving) the suffering of an animal is a Biblical injunction, it is well; for that reason he must busy himself therewith as with one belonging to an Israelite."
507. Ex. 23:4-5 and Deut. 22:1-4.

508. B. M. 30B-32B.
509. Lev. 22:27; Ex. 22:29; Cf. also Deut. 22:6-7, which reflects consideration to be accorded to a mother bird.
510. Ex. 13:2; That the Lord requires the first born of cattle is also derived from the reading of Lev. 22:28-29.
511. Deut. R. 6, 1.
512. Cf. infra, note 518.
513. Famous Alexandrian Jewish philosopher (20 B.C.E. - 40 C.E.) and author of allegorical commentaries on the Pentateuch.
514. A parallel thought is found in the O. H. 330, 7-8 which considers the plight of the human mother at such times and declares: "One may bathe a newly-born child (on the Sabbath), cut the navel-string, and do everything it requires. But if the child cannot live (eight month baby) it is forbidden to handle him, but the mother should bend over him and suckle him because of the milk causing her pain"; Cf. also Shab. 135A.
515. Commenting on the word "under" in "seven days it shall be under the dam" the Mikilta de Rabbi Ishmael, Tractate Kaspa, Mishpatim 19, p. 97B and the Me'ir 'Ayin note 33 interpret this to mean that the young animal is nursing under the dam (Sefer Mekhilta de-Rabi Yishma'elim Tosfot Me'ir 'Ayin - New York: Om Publishing Co., 1948). See also Sifra on Lev. 22:27, op. cit., p. 99A for similar thought.
516. Maimonides in his Moreh Nevukhim, op. cit., Part III, Chapter XXXII, p. 322 also states that when "an animal of the class of mammalia is born, it is extremely tender and cannot be fed with dry food. Therefore, breasts were provided which yield milk and the young can be fed with moist food."

517. Works of Philo Judaeus, op. cit., Volume III, pp. 440-442.
518. As indicated in the text to note 512, other authorities explain the seven-day waiting period differently. Most feel that this period is necessary to preclude the possibility of an imperfection. Maimonides, in his Moreh Nevukhim, op. cit., Part III, Chapter XLVI, p. 360, states: "It is ordained that the offerings must all be perfect and in the best condition in order that no one should slight the offering or treat with contempt that which is offered to God's name. This is the reason why no animal could be brought that was not yet seven days old. It is imperfect and contemptible, like an untimely birth." Targum Pseudo-Jonathan on Lev. 22:27, op. cit., p. 212, and Aaron ha-Levi of Barcelona, Sefer ha-Hinukh, op. cit., 293, which agree with Maimonides (RaMBaM); RaSHI on Ex. 22:29 states that the seven-day period is "a warning to the priest that if he desires to hasten his sacrifice he shall not offer it before the 8th day, for it would be lacking the required time." RaSHI also draws on Hul. 38B to explain "when it is brought forth" (on Lev. 22:27) and states that this excludes a fetus extracted by means of a Caesarean section; According to Philo and RaMBaM note 516, the new born animal needs its mother's milk to sustain itself. Consequently, without it, it could not live and would have to be sacrificed immediately upon birth.
519. Lev. 22:28; Hul. 5, 1 and Hul. 78A maintain that animals used for ordinary consumption are also included.
520. Targum Pseudo-Jonathan on Lev. 22:28, loc. cit.
521. Prov. 12:10.
522. Lev. R. 27, 11; Tanh. on Emor. op. cit., p. 39B, para. 13.

523. Aaron ha-Levi of Barcelona, Sefer ha-Hinukh, op. cit., 294; J. L. Saalschutz, Das Mosaische Recht, (Berlin: Verlag von Carl Heymann, 1853) pp. 178-179.
524. Shab. 151B maintains that man becomes a prey for the animal if he lowers himself to the level of an animal. Thus, the more urgent is the need to maintain high standards. Cf. also RaSHI on Gen. 1:26.
525. Works of Philo Judaeus, op. cit., Vol III, p. 443.
526. Gen. R. 86, 2 tells of the "cow which was resisting being dragged to the abattoir. What did they do? They drew her young one before her, whereupon she followed, albeit unwillingly."
527. Moses Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XLVIII, p. 371.
528. Of significance is the Hebrew word for 'it' in this case, 'oto,' lit. 'him.'
529. Hul. 79A.
530. Hul. 5, 5 states that one day means "the day together with the night that went before." This is based on Gen. 1:5.
531. Y. D. 16, 2; Maimonides, M. T., Kedushah, Hil-khot Shehitah 12:11; So also the ROSH (Asher ben Yehi'el, 1250-1327, German born talmudist and later the acknowledged leader of the entire Spanish Jewry) and the RaSHBA (Solomon ben Adret, 1245-1310, a native of Barcelona and prolific writer in all fields of Rabbinic literature). Both agree with R. Hananiah. RaSHI on Lev. 22:28, however, draws from Hul. 78 the interpretation that "it is permissible to kill the male parent and its young."
532. Inasmuch as the Hebrews were accustomed to eat meat the following day, the presumption was that

they would slaughter the animals on the day of their purchase. This information was necessary in order not to violate the law of "it and its young."

533. Mishnah to Hul. 83A; Hul. 5, 3.
534. Hul. 115A.
535. Ibn Ezra on Ex. 23:19 states that the "Ishmaelites sought to make the meat of the kid sweeter by cooking it in the milk of its mother." So too the RaSHBaM (Samuel b. Meir, grandson of RaSHI): "It was customary among the surrounding nations to boil the young animal in its mother's milk. The Torah considered this a gluttonous way of eating and so prohibited it."; Cf. also Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XLVIII, p. 371; Cf. Cyrus H. Gordon, Ugaritic Handbook, Vol II (Rome: Pontificum Institutum Biblicum, 1947), No. 52, line 14; See note 547.
536. Ex. 23:19, 34:26; Deut. 14:21.
537. Works of Philo Judaeus, op. cit., Volume III, p. 445.
538. Hul. 114B; RaSHI on Deut. 14:3.
539. The prohibition appears all the more proper in view of the love which the dam and its young bear each other. As Van Lennep puts it: "When toward evening the flock is seen coming home from the mountain, the kids are all shut up in one of the folds, and there is a general bleating of the mothers and the little ones, who are impatient to meet each other. The former are now all driven into another enclosure, across the door of which the shepherds sit down, side by side in a row, with their backs to the fold. Each one is provided with a vessel or a dish. The kids are then let out of their own fold, and there is a general rush of their dams to get to them by dashing through between the shepherds." (Henry J. Van

Lennep, op. cit., Vol. I, p. 206).

540. Ex. 23:19 - Und sollst das Boecklein nicht kochen, dieweil es an seiner Mutter Milch ist. Ex. 34:26 --Du sollst das Boecklein nicht kochen, wenn es noch an seiner Mutter Milch ist. Deut. 14:21 --Du sollst das Boecklein nicht kochen, weil es noch seine Mutter saeuget. (Heilige Schrift in Martin Luther's Uebersetzung - Philadelphia: John E. Potter & Co.).
541. Pes. 44B; Hul. 108A; Cf. RaSHI and Tosfot ad. loc.
542. Moses Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XXXI, p. 322.
543. Maimonides ridicules those who believe the Commandments have no rational basis and states that according to them man is more perfect than God. "What man says or does has a certain object whilst the actions of God are different. He commands us to do what is of no use to us, and forbids us to do what is harmless. Far be this! On the contrary, the sole object of the Law is to benefit us. Thus we explained the Scriptural passage, 'for our good always, that He might preserve us alive, as it is this day.' " (Deut. 6:24)-- Moreh Nevukhim, Ibid., p. 321).
544. Cf. Ex. 34:13; Lev. 20:23; Deut. 12:31.
545. Moses Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XXIX, p. 317.
546. So also the RaSHBaM on Ex. 23:19, "On the three festivals many animals were slaughtered, so the Torah took the opportunity of repeating the prohibition to express disapproval of the evil practice."
547. Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XLVIII, p. 371; Commenting on Deut. 14:21, Reider states significantly: "The heathenish practice

of boiling a kid in its mother's milk is found as a milk charm in one of the ancient tablets recently discovered at Ras Shamra in Syria and dated as early as the 15th Century B.C.E. (Syria, XIV, 1933, 130, 1.14B; comp. also commentary Ibid., p. 140). Sir James Frazer (Folklore in the Old Testament, III, 110ff.) points out similar practices among savage tribes and semi-civilized peoples. Max Radin (American Journal of Semitic Languages XL, 1923-24, 209ff) endeavored to trace this custom to the Orphic-Dionysiac ceremonial in ancient Greece where, as it now appears, it had been borrowed from Syria." (Joseph Reider, Deuteronomy with Commentary - Philadelphia: The Jewish Publication Society of America, 1948); See note 535.

548. Maimonides, M. T., Kedushah, Hilkhoh Maakhalot 'Asurot 9:1-2.
549. Deut. 14:3.
550. Hul. 114B; RaSHI on Deut. 14:3 states: "cooking meat in milk is a thing which I have declared abominable to you; and it forewarns here against eating it."
551. Targum Pseudo-Jonathan on Ex. 23:19, op. cit., p. 141.
552. Ibid., on Deut. 14:21, p. 327.
553. Targum of Onkelos, op. cit., on Ex. 23:19 (pp. 81A-B), on 34:26 (p. 120A) and on Deut. 14:21 (Mikra'ot Gedolot, Sefer Devarim p. 38A - New York: Pardes Publishing House Inc., 1951).
554. Jonah Ibn Jannah (also known as Abulwalid Mervan), a physician by profession, was probably the greatest Hebrew philologist of the Middle Ages, and it was he who first cited the thirty-two midot; the Talmud itself does not cite them. Ibn Jannah was born at Cordova in 990 and died at Saragossa in the year 1050.

555. Cf. Ber. 63B; R. Eli'ezer was a tanna (a mishnaic teacher) of the second century.
556. Midah 10 states: "Dabar shehu' shanui." Repetition is made use of to bring out a point. (H. L. Strack, Introduction to the Talmud and Midrash, p. 96 -- Philadelphia: The Jewish Publication Society, 1945); RaSHI makes frequent use of R. Eli'ezer's midot in his commentaries on the Bible and Talmud, e.g. on Gen. 2:8, Ex. 14:24 and on Horayot 3A.
557. Hul. 115B; RaSHI on Ex. 23:19; Y. D. 87, 1.
558. Hul. 98B, 108A; Pes. 44B; A. Z. 67B.
559. Because it had absorbed milk to an extent which made the taste of the milk appreciable.
560. Hul. 8, 3; Hul. 98A.
561. Y. D. 93, 1.
562. Ibid. 88, 1 in fact forbids one to place the meat of animals and fowl upon a table at the same time with cheese (term used to indicate milk products) lest both be eaten together (Cf. also Hul. 8, 1 and Hul. 104B), and 89, 4 further requires that even a different table-cloth be used for meals at which meat is eaten and those at which cheese is to be consumed.
563. Hul. 113A-B states: "Whence do we know this? - R. Eli'ezer said, 'because the verse says, 'and Judah sent the kid of the goats' (Gen. 27:9, 38:17, 20), here it was a 'kid of the goats,' but elsewhere, wherever 'kid' (alone) is stated, it includes the young of the cow and ewe.'"; See also RaSHI on Ex. 23:19 and 34:26.
564. Hul. 104A states: "Every kind of flesh is forbidden to be cooked in milk: some (the flesh of cattle) being forbidden by the law of the Torah and others (the flesh of wild beasts and fowl) by the enactment of

the Scribes." RaSHI on Ex. 34:26 also infers from H̄ul. 113 that the ban against seething fowl in milk is derived from the words of the Scribes. The Torah, however, is silent on the question of eating. Maimonides (M. T., Kedushah, Hilkhot Maakhalot 'Asurot 9:4) and the Y. D. 87, 3 therefore maintain that the prohibition against eating such creatures in milk is of rabbinic origin.

565. Chief representative of this school of thought is R. Yose the Galilean (third generation Mishnaic scholar 120-140 C.E.). H̄ul. 8, 4 declares: "R. Jose the Galilean says: It is written 'Ye shall not eat of anything that dieth of itself' (Deut. 14:21) and in the same verse it is also written 'Thou shalt not seethe a kid in its mother's milk'; therefore whatsoever is forbidden under the law of 'anything that dieth of itself,' it is forbidden to seethe the same in milk. It might be inferred that a bird, which also is forbidden under the law of carrion (nevelah) is forbidden to be seethed in milk; but Scripture says, 'in its mother's milk'; thus a bird is excluded since it has no 'mother's milk.' " And in H̄ul. 116A: "In the place of R. Jose the Galilean they used to eat fowl's flesh cooked in milk." So also did Joseph the Fowler serve R. Levi a peacock's head cooked in milk (Ibid.). Cf. H̄ul. 104B: "Has not Agra the father-in-law of R. Abba recited that a fowl and cheese may be eaten without restriction? A fowl and cheese, yes; but meat and cheese, no!"
566. Deut. 22:6-7; This law, according to S. R. Driver, is peculiar to Deuteronomy, and generally considered to rest upon a humanitarian motive, to direct regard to be paid to the parental relation in animals. Then Driver quotes the interesting statement from Fenton (Early Hebrew Life, p. 48) as follows: "It rests upon the idea that one may have 'right of user' in the bird to the extent of sharing in its produce; but one may not claim entire possession of it" (S. R. Driver -- A Critical and Exegetical Commentary on Deuteronomy, p. 251 -- New York: Charles Scribner's Sons, 1902).

567. Henry J. Van Lennep, op. cit., p. 303.
568. Ibid., p. 288.
569. John H. Moore, op. cit., pp. 178-181.
570. Ex. 19:4.
571. Ibid. 14:19-20.
572. RaSHI on Ex. 19:4; Tanḥ. on 'Ekev, op. cit., p. 103B, para. 2.
573. Prov. 31:8.
574. Ibid. 12:10.
575. Lev. R. 27, 11 on Lev. 22:28; Cf. also Tanḥ. on Emor, op. cit., p. 39B, para. 13 and Deut. R. 6, 1 on Deut. 22:6.
576. Deut. 22:7 states: "Thou shalt in any wise let the dam go." The Hebrew term used is 'shaleah te-shalah.' In this connection Deut. R. 6, 7 reads: "The Rabbis say: 'Why is the word shalah repeated? To tell you that if this precept comes your way a second time, do not say, 'I have already done my duty,' but every time it comes your way, you must fulfill it.' " For additional comment on this concept see supra note 503.
577. For Maimonides' comments on Lev. 22:28 supra note 527.
578. Moses Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XLVIII, p. 372.
579. Ber. 5, 3; Meg. 4, 9; The prayer would continue "and therefore have mercy upon us." This would imply that Deut. 22:6-7 was commanded us in order to record God's mercy. Tosfot Yom Tov on Ber. 5, 3 however, states that this was not so; otherwise

- God would not allow birds and beasts to be killed. The passage is to be accepted simply as a decree of God and not merely as an act of mercy. So state also the Barinoro on Ber. 5, 3, Nachmanides (RaMBaN) on Deut. 22:6, and the Sefer ha-Hinukh on Deut. 22:6-7, QP. cit., p. 123. It is interesting to note that while Maimonides assigns a reason for Deut. 22:6-7 in his Moreh Nevukhim, he follows the reasoning of the Mishnah in his M. T., Ahavah, Hilkhoh Tefilah 9:7.
580. Ber. 33B.
581. Talmud of Jerusalem, Ber. 5, 3, translated (from the French of) Dr. Moses Schwab, (London: Williams and Norgate, 1886), p. 106.
582. Ga'on - illustrious. The title bestowed upon the head of the early medieval rabbinic academies in Babylon. Saadia (829-942) was the first of the Jewish medieval philosophers. His outstanding scholarship in all phases of Jewish learning won for him the coveted post as head of the ancient academy at Sura.
583. Saadia maintains that there are three good deeds which if performed -- even by an unbeliever -- will be requited in this world. The first is the honoring of parents (Ex. 20:12); the second is the verse above and the third is dealing honestly in your business affairs. "A perfect and just weight shalt thou have." (Deut. 25:15). Adherence to these precepts will prolong one's days upon the earth.
584. Deut. 22:7.
585. Saadia Gaon, Ernmot ve-De'ot (New York: Om Publishing Co., 1947), Treatise V, p. 113.
586. Moses ben Nahman, 1194-1270. Born in Gerona, Spain, and a physician by profession, he was one of the outstanding Talmudic scholars and Bible commentators of the Middle Ages.

587. Nachmanides on Deut. 22:6.
588. In his Moreh Nevukhim and as quoted in note 578, Maimonides first maintains that the reason for Deut. 22:6-7 is not to cause grief to cattle and birds, then continues: "When in the Talmud (Ber. 33B) those are blamed who use in their prayer the phrase, 'thy mercy extendeth to young birds,' it is the expression of the one of the two opinions mentioned by us, namely, that the precepts of the Law have no other reason but the Divine will. We follow the other opinion."
589. Quoted by Nachmanides on Deut. 22:6 and taken from Maimonides, Moreh Nevukhim, Part III, Chapter XLVIII.
590. Ibn Ezra on Deut. 22:6.
591. Samuel ben Meir (RASHBaM) on Deut. 22:6.
592. Samuel David Luzzatto 1800-1865. Born in Trieste, he devoted his entire life to the study of philology, literature, philosophy and history, and at the Rabbinical College at Padua, Italy, he taught Bible, history and religious philosophy. Among those influenced by him were such distinguished Hebrew scholars as Zunz, Geiger and Graetz.
593. Don Isaac Abarbanel (known also as Abravanel) 1437-1508. Born in Lisbon, he served as treasurer to King Alfonso V of Portugal, and upon the death of the latter, Don Isaac became the financial advisor to Ferdinand and Isabella of Spain. When the Jews were expelled from Spain he refused the personal exemption offered him and fled with his people to Naples. As a philosopher, he defended the principle of free will and rejected the influence of Aristotle and Plato on Jewish thought. As one who sincerely felt the pulse of his suffering fellow-Jews, he wrote three works to bolster their faith in the coming of the Messiah.

594. Ex. 20:12.
595. Deut. R. 6, 2; Tanh., op. cit., on 'Ekev, p. 103B, para. 2 and on Tetsch, p. 115A, para. 2; Hul. 142A.
596. Avot 2, 1; Hul. 12, 5 and RaSHI on Deut. 22:7 prognosticate that if length of days were ordained for observing so minor a commandment as Deut. 22:6-7, how much greater will be the reward for fulfilling weightier ones. Maimonides, however, knows of no relative values for the positive precepts. He states: "One must be as attentive to a commandment which he regards as minor -- for example, rejoicing during the festivals, learning the Holy Tongue (Hebrew) -- as to a commandment of whose major importance we have been informed - for example, the law of circumcision, fringes (Num. 15:37-41), the paschal offering. For as regards 'positive commandments,' we have never been informed what is the reward set aside by the Lord, blessed be He, for each of them; and that is why we must be attentive to all of them." ((Maimonides' Commentary as quoted by Judah Goldin, The Living Talmud (New York: New American Library, 1957), pp. 78-79, from the Vilna edition of the Talmud with corrections of E. Baneth)).
597. Is. 40-12.
598. In that it is the easiest to perform.
599. Deut. R. 6, 2; Pesikta Rabati, op. cit., Chapter 23, p. 121B; Mahzor Vitry on Avot 2, 1, ed. S. Hurwitz (Berlin: H. Itzkowski, 1896-1897), pp. 493-494; Tanh., op. cit., on 'Ekev, p. 103B, para. 2.
600. The rewards of long life on earth for observing Ex. 20:12 and Deut. 22:6 are clearly stated. Yet, Kid. 39B cites the parable of the father who requested that his son ascend to the loft and bring him young birds. His son thereupon ascended, dismissed the dam, took the young but upon descending fell and was

- killed. "Where," does the Talmud ask, "was this man's happiness (well-being). Where is this man's prolonging of days?" The Rabbis therefore concluded that the reward for his kind deed will come only in the next world, and not now. It was a similar incident, according to the Yerushalmi op. cit., Hag. 2, 1, p. 77A, and Ruth. R. 6, 4 that shattered the faith of Elisha ben Abuyah and turned him into an apostate. Both sources relate the incident that while Elisha was studying in the plain of Gennesareth (a Hellenization of Kinnereth) he saw a man ascend and take the dam with the young and descend safely. The following day, he saw another man ascend who took the young, but let the dam go, but when he descended a snake bit him and he died. Thereupon he questioned the justice of this in light of Deut. 22:6-7. But as in Kid. 39B, so also the Midrash and Yerushalmi state the reward of length of days and well-being will come in the world of eternity; The Targum Pseudo-Jonathan on Deut. 22:6-7, op. cit., p. 338, states: "That it may be well with you in this world and that you may prolong your days in the world to come."
601. Saadia Gaon, loc. cit.
602. Literally, speakers, lecturers, interpreters. The class of Talmudic authorities who lived after the final redaction of the Mishnah and whose discussions on the opinions of the authors of the Mishnah and Boraita (called Tannaim) are deposited in the Gemara, thus adding a second element in the development of the oral law known as Talmud.
603. Shab. 63A; Samuel ben Meir (RaSHBaM) on Gen. 37:2, outstanding exponent of the "Peshat" method, declares that one should always remember that the sages have said that a Biblical passage must not be deprived of its original meaning. The RaSHBaM then makes the interesting statement that he discussed the question of "Peshat" with his grandfather RaSHI, who confessed to him that should time permit,

he would revise his commentaries in order to stress "Peshat" more than he had before.

604. Deut. 25:4; Whether the animal belongs to a Jew or not, matters not. As long as the Jew employs it in threshing, it must not be muzzled (B. M. 90A; M. T., Mishpatim, Hilkhot Sekhirut 13:3; H. M. 338, 5); The H. M. 338, 2-3, and the Kitsur 186, 1 state that this law applies to any animal whether or not it be unclean and whether or not it be engaged in treading or in any other work pertaining to the growth of the field; "The custom of threshing corn in the manner alluded to, prevails still in the East. The ears of corn are spread out upon the threshing floor, the oxen, yoked together in pairs, are led by a rope, or made to move around a pivot in the center, and their hoofs passing over the ears, separate the grain from the husk" (Driver, Deuteronomy on Deut. 25:4; Cf. also Hastings, Dictionary of the Bible I, 50).
605. Deut. 22:10.
606. William E. H. Lecky, op. cit., Volume II, p. 162.
607. Gen. 1:30.
608. Although Gen. 1:28 gives man dominion over all the lower life, man as discussed herein, is forbidden to deprive them of their needs. According to the Psalmist the final word is with the Lord for "the earth is the Lord's and the fulness thereof, the world and they that dwell therein." (Ps. 24:1, 50:12, 89:12).
609. Primatt, op. cit., p. 147 cites Josephus, Antiquities of the Jews, Book IV, Chapter 6, as follows: "it is unreasonable to deny anything a part of the fruit of its own labors"; Abarbanel on Deut. 25:4 states that this decree is already indicated in Ex. 23:11 (But the seventh year thou shalt let it rest and lie fallow, that the poor of thy people may eat; and what they leave the beast of the field shall eat). In Deut. 25:4 he declares that Scripture tells us that not only in the

- year of Jubilee, but at all times, animals should enjoy the produce when they help in the fields; Cf. Ex. R. 31, 7 for story of a tantalized donkey which was unable to get the food it craved; See note 613.
610. The heave-offering. That portion of the harvest which Israelites had to give to the Priests (Num. 18:8ff; Deut. 18:3ff). Also referred to the tithe given to the Priests by the Levites and which was given originally to the Levites by the Israelites (Num. 18:25ff).
611. Terum. 9, 3; Cf. B. M. 90A.
612. Joseph H. Hertz, op. cit., note to Deut. 25:4.
613. Deut. 23:25-26; B. M. 87B; Although muzzling is also prohibited in the case of humans (H. M. 337, 1) greater legal protection apparently is extended to cattle. I. Jakobovits, Chief Rabbi of Ireland commenting on Deut. 25:4, states that in the event of muzzling, "the biblical penalty of flagellation is only in respect of animals, but not for the imposition of similar restraints on human workers (Sifre and RaSHI; Maimonides, Hil. Sekhirut, 13, 2). ----- This discrimination, it has been suggested, is due to the fact that 'a human worker is different, because he is gifted with intelligence' ('Arukh ha-Shulhan a.1, 2). For a similar reasoning, see also David ibn Zimra, Responsa RaDBaZ, part i, no. 728." (I. Jakobovits, "The Medical Treatment of Animals in Jewish Law," in The Journal of Jewish Studies, Volume VII, Nos. 3 and 4, 1956, p. 220). Flagellation is not the punishment for the muzzling of humans, for humans presumably endowed with intelligence, are considered to be able to endure more suffering than the irrational beast.
614. Deut. 24:15.
615. Ex. R. 31, 7; Supra note 328.

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616. B. M. 90B.
617. Maimonides, M. T., Mishpatim, Hilkhoh Sekhirut 13:3; H. M. 338, 2-3 also finds one guilty who shouts at his beast and thereby causes it not to eat. By so doing, he is said to be muzzling his beast by the use of his voice and for this too, the offender incurs punishment.
618. Shab. 128B.
619. H. M. 338, 2, 7; Maimonides, M. T., Mishpatim, Hilkhoh Sekhirut 13:3; Gen. R. 41, 5 and RASHI on Gen. 24:32 state another valid reason for muzzling by declaring that Abraham's cattle would go out muzzled so as not to graze in the fields of others.
620. Derived from Ex. 23:5. Although in B. M. 32A-B it is a matter of dispute among some Sages as to whether this concept is of Biblical or rabbinic origin, Hebrew law accepts the more stringent view that inflicting pain on animals is a breach of Biblical law (H. M., 272, 9, Isserles' gloss; Maimonides, M. T., Nezikin, Hilkhoh Rotsseh 13:9 and Karo's Kesef Mishnah commentary a. 1.); Supra note 297.
621. Num. R. 17, 5.
622. Ibid., 10, 1.
623. Claude R. Conder, Tent Work in Palestine, Volume II (London: Richard Bentley and Son, 1879), p. 260.
624. Ibid., p. 258; Henry J. Van Lennep, op. cit., Volume I, p. 75 states: "The ox is still inferior in size and is not infrequently seen yoked with the ass." The Jewish Encyclopaedia, op. cit., Volume X, p. 90, also reads: "The yoking together of ox and ass is not seldom seen today."
625. Deut. 22:10; The Sages considered the ox and the ass to be generic terms to include all animals, beasts

- and birds of different species. For this see B. K. 54B, B. K. 5, 7, and RASHI on Deut. 25:4 and 22:10. The ox and ass they felt, were singled out because of their general use and importance in the daily lives of the people (B. K. 5, 7). Evidences of this can be seen in Job 24:3 where the wicked are described as "they drive away the ass of the fatherless, they take the widow's ox for a pledge." Job, himself, owned no less than 1,000 yoke of oxen and 1,000 she-asses (Job 42:12). Num. 31:33 relates that the Israelites captured from the defeated Midianites 61 thousand asses together with 72 thousand oxen. Further evidence of their common use can be noted in Num. 16:15 and I Sam. 12:3. Neh. 7:66-69 moreover, narrates that the remnant of captive Hebrews who returned to Jerusalem from Babylon brought with them as many as 6,720 asses (approximately 1 to each household) but only 736 horses, 245 mules and 435 camels. Most significant, however, is the fact that the ox and the ass are distinctly mentioned in the Decalogue. As the Jew was not to covet his neighbor's house, his wife or his servants, so also was he not to covet his ox nor his ass (Ex. 20:14).
626. Animals authorized for consumption. Lev. 11:2-3 states that such animals part the hoof (are cloven-footed), and chew their cud.
627. Works of Philo Judaeus, op. cit., Volume III, p. 446.
628. Rabbi Jacob ben Asher (known as the TUR) born in Germany 1280 and died in Toledo, Spain 1340. Son of Asher ben Yehiel (known as the ROSH) the leader of Spanish Jewry. The TUR, one of the greatest Talmudists of his time, followed up the work of Maimonides' Mishneh Torah by his publication of a new systematic code called the Arba' Turim, the four rows; an allusion to the four rows of stones which were set in the breastplate of the High Priest (Ex. 28:15-20) called the "Turim" and which, according to tradition, was used as an oracle for decisions and judgments. Jacob Karo later adopted his system of

arrangement in his "magnum opus," the Shulhan 'Arukh. In his commentary on the Bible the TUR followed the mystic current of his time by using the method of the Kabbalah in playing with letters and their numerical values in order to derive ethical teachings. Universally, he is known by the appellation of Ba'al ha-Turim, in honor of his distinguished work.

629. Ba'al ha-Turim on Deut. 22:10 in Mikra'ot Gedolot, op. cit., Sefer Devarim, p. 56A.
630. Supra note 625.
631. Ibn Ezra on Deut. 22:10 in Mikra'ot Gedolot, Sefer Devarim loc. cit.; Works of Philo Judaeus, op. cit., Volume III, p. 446 states: "They are unequal in point of strength, he takes care of that which is weaker, in order that it may not be oppressed and worn out by the greater power of the other."
632. Lev. 19:19; Ex. 22:18, Lev. 18:23, 20:15-16 even decree death for humans who lie with beasts. According to Sanh. 8, 7 and Bartinoro commentary to this passage as well as Kerit. 1, 1 the offender will earn extirpation (Keritot) in addition to death. His "soul will be cut off from among his people." (For this expression see Gen. 17:14; Ex. 30:33, 38 and 31:14; Lev. 7:20-21, 25, 27 and 17:4, 9; Num. 9:13 and 15:30); A. Z. 2, 1 also prohibits cattle to be left in the inns of idolaters, since they are suspected of copulation.
633. Sanh. 60A.
634. Aaron ha-Levi of Barcelona, Sefer ha-Hinukh, op. cit., 590.
635. Lam. R. 1, 30.
636. Kitsur, op. cit., 191, 4.

637. Moses Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XLIX, p. 377.
638. Thomas Forster in his Philozoa; Or Moral Reflections on the Actual Condition of the Animal Kingdom (Brussels: Deltombe and Co., 1839), p. 65 even takes exception on interbreeding larger and smaller dogs. He states: "There is great cruelty often practiced in producing breeds of dogs; the larger sorts should be prevented from intermarrying with the smaller; for, in this case, difficult parturition or death may be the portion of the mother, while the life of the offspring will be uncertain."
639. Moses Maimonides, Moreh Nevukhim, op. cit., p. 378; B. K. 5, 7.

CHAPTER IX

640. Denotes slaughtering (for food) by cutting the throat; Lev. 1:5, 11 and 3:2, 8, 13 use the term 'shahat' in connection with sacrifices. Leviticus states that the animals are to be killed but does not indicate the manner in which the killing is to be done. Shehitah is based on Deut. 12:21: "thou shalt kill of thy herd and of thy flock... as I have commanded thee" (Hul. 28A), and believed to be the method of slaughter that God had previously taught Moses and implied in the Biblical verse (see note 644). Hul. 27A, by speculating on the etymology of 'shahat' and 'zavaḥ' (Deut. 12:21) draws the conclusion that animals should be slaughtered by cutting the throat.
641. - i. e. castration, forbidden in Lev. 22:24; E. H. 5:11 (Lemberg: Druck und Verlag von David Balaban, 1911) and Maimonides, M. T., Kedushah, Hilkhot Isure Bi'ah 16:10 extend the proscription against castration of men and animals to include fowl as well. E. H. 5:12 even forbids castration by means of drugs; The fact that RaSHI interprets this verse to include also unclean animals would seem to indicate that the prohibition had been ordained.

specifically for the sake of the animals.

642. Law forbidding a limb to be severed from a living animal; though this law is not distinctly stated in the Mosaic Code, it is, according to Hul. 101B, 102B based on Deut. 12:23; according to Targum Onkelos, op. cit., on Ex. 23:30 and according to Sanh. 56A, Targum Pseudo-Jonathan, op. cit., RaSHI, and David Kimḥi, known as ReDaK, (Perush ReDaK 'al ha-Torah Sefer Bereshit - Pressburg: Anton Edlen von Schmid Press, 1842) and Maimonides, M. T., Kedushah, Hilkhoh Maakhlah 'Asurot 5:1 on Gen. 9:4. So important was this law that Sanh. 56A includes it as one of the 'seven commandments given to the descendents of Noah.' These laws were considered basic to the existence of human society. While Israelites were required to uphold all the laws of the Torah, non-Jews living among Israelites or attaching themselves to the Jewish community were required to keep the seven commandments.
643. An excellent, comprehensive volume (514pp) entitled Sheḥitah was written by Jeremiah J. Berman (New York: Bloch Publishing Co., 1941); Cf. also Oskar Rabinowicz, Einleitung in die Probleme des Ritualen Schlachtens (Wien: Verlag Dr. Heinrich Glanz, 1937); Solomon D. Sassoon, A Critical Study of Electrical Stunning and the Jewish Method of Slaughter (Letchworth, Herts; England: Letchworth Printers Ltd., 1956); J. A. Dembo, The Jewish Method of Slaughter (London: Kegan, Paul, Trench, Trubner & Co., Ltd., 1894). Dr. Dembo, an extremely well-known doctor, was invited by the Standing Central Committee of the Russian Societies for the Prevention of Cruelty to Animals to prepare a report on the different methods of slaughtering for the Congress representing these Societies which was held at St. Petersburg in 1891. Compelled to continue his research he wrote this volume. Written from a strictly scientific viewpoint, it has become basic reading on the subject, and source material

for later writers. While the present writer knows of no volume which deals specifically with "Serus" or "Ever min ha-Ḥai," innumerable references or whole sections pertaining to the three subjects are available in the volumes listed in the bibliographical section.

644. Hul. 27A and RaSHI comments; Hul. 28A; Yoma 75B and RaSHI comments.
645. Yerushalmi op. cit., Shevi'it 9, 1, p. 38B reflects this thought and maintains that even a bird cannot die without God's will. R. Simeon bar Yoḥai had been hiding from the Roman authorities. "When twelve years had passed, Rabbi Simeon said: 'If I do not leave this place I shall not know what is happening on earth.' He went out and sat down at the entrance to the cave. Then he saw a bird-catcher who had a bird in his snare. And suddenly he heard an echo from heaven: 'Freedom!' And the bird was saved. Then he said: 'Even a bird cannot die without the command of God - much less a man.' Then he fled to Tiberias"; Also Gen. R. 79, 6.
646. This concept is reflected in I. Ewen, Fun Rebe's Hauf, (Yiddish), p. 113 (N. Y., 1922) cited in Louis I. Newman, The Hasidic Anthology, 4:6, p. 14. "Several Ḥasidim of Kolomeyer complained to the Sadagurer that the shoḥet was a miserly and inhospitable man. The Rabbi exclaimed: 'And do you eat the meat from his sheḥitah?' This question was equivalent to a prohibition and henceforth no one purchased meat. The shoḥet came to the Rabbi and said: 'Where do you find that a shoḥet must be hospitable?' The Rabbi replied: 'We find in the Talmud that some persons are born with a passion for shedding blood. One becomes a murderer, a second, a soldier, a third a shoḥet (Shab. 156A). The question arises: Why do we make use of meat from an animal killed by a man who is like a murderer? The whole sheḥitah legislation has been formulated in order to prevent brutal treatment of the animal, and what is more

brutal than to let it perish at the hands of a near-murderer? The answer is that a shohet should have a good heart, notwithstanding his love for shedding animals' blood; he thus may be trusted to avoid brutality in shedding this blood. Thus, if a shohet is kind to his fellow-men, he may be trusted to slaughter animals in a mild manner. But if he is unkind, he is in truth a near-murderer who cannot be trusted to observe the kind methods of slaying animals prescribed by law."

647. Hul. 9A: The five requirements are: (1) Shehiyah (delay) - The knife must be kept moving continuously, forward and backward with no moment of delay. (See Y. D. 23, 2). (2) Derasah (pressure) - The cut must be made gently, without any force and the blade must not be pressed or touched (Y. D. 24, 1-6). To preclude the possibility of 'pressing' the Be'er Hetev 3 on Y. D. 24, 5 states that the shohet must not kill while sitting and the Be'er Hetev 32 on Y. D. 1, 8 maintains that the old man whose hands tremble must not slaughter. It can be assumed that the slightest pressure can cause the animal pain. (3) Haladah (digging) - The knife must not be inserted into the flesh instead of drawn across the throat. It must not be placed under a cloth covering the neck. Every part of the knife must be visible at all times (Y. D. 24, 7-11). (4) Hagramah (slipping) - The cut must not be made except between the top of the windpipe and the upper lobe of the lungs (Y. D. 24, 12-13) (5) 'Kur (tearing) - The cut must be made without dislocating the wind-pipe and the gullet (Y. D. 24, 15-16).

648. i.e., carrion, food of animals improperly slaughtered, hence forbidden as not kosher. Also forbidden therefore are animals killed for consumption by means of the hunt because this method renders the animals nevelah ag'well. To take part in the hunt as a matter of sport, to kill or harm them in the tormenting fashion of the chase is forbidden by law. A. Z. 18B and RASHI explain Ps. 1:1, "Happy is the man that

hath not walked in the counsel of the wicked" in terms of disassociating oneself from those who plague beasts by the use of bloodhounds. "Rabbi Meir of Rothenburg known as MaHaRaM (122-1293) in his Responsa writes that life in the future world would be denied to any Jew who indulged in hunting with the aid of bloodhounds" (Quoted in Leo Jung, Jewish Library, First Series, p. 107 - New York: 1928); Piske Tosfot on A. Z. 11A further appears to outlaw hunting as sport for it states that the law forbids one to cause pain to an animal unnecessarily for no gain (Talmud Bavli - Leipzig: Horev Pub. Co., 1925); Rabbi Ezekiel Landau (1713-1793) Chief Rabbi of Prague in his Responsa answered the question of a rich land-owner, who wanted to know whether or not he could hunt on his own land without violating religious law, in part as follows: "In the Torah the sport of hunting is imputed only to fierce characters like Nimrod and Esau... I cannot comprehend how a Jew could even dream of killing animals merely for the pleasure of hunting. When he has no immediate need for their bodies... A distinction is made for the man who makes his livelihood by hunting, and selling furs and skins. His work is proper, for the animal world has been subordinated to man to provide for his needs. But when the act of killing is prompted by that of sport, it is downright cruelty." (Ezekiel Landau, Noda' be-Hudah, 2nd ed., Yoreh De'ah - Wilna: Rosenkrantz and Schriftsetzer, 1904-pp. 5-6, para. 10 also Jeremiah Berman, op. cit., pp. 455-457 and George Horowitz, op. cit., pp. 114-115). Killing animals to serve the needs of man is therefore authorized. Yet, despite this, the O. H. 223:6 states that no blessing is to be recited on putting on leather shoes. According to the Rema gloss (Moses Isserlis) "the customary greeting 'may it get old and may you have a new one' is not said to one attired in new clothing for shoes and clothing are made from the skins of animals. Because another animal must be killed before a new garment can be made (as it is written 'and His mercy is over all His works') many persons are scrupulous not to say it."

649. Hul. 17B indicates several methods of examination. It states: "In the West (Palestine) the knife is usually examined by the light of the sun (in order to detect any notches). In Nehardea it is usually examined with water (by pressing the sharp edge of the knife across a smooth surface of water a notch can be detected by the ripple caused). R. Shesheth used to examine it with the tip of his tongue. R. Aha b. Jacob used to examine it with a hair. In Sura it was said: Seeing that it is to cut flesh it must be examined with flesh (i. e. with the soft flesh of the finger or as R. Shesheth did). Papa ruled: It must be examined with the flesh of the finger and with the fingernail and the examination must be of the three edges (of the knife; the sharp edge and the sides of this edge)."
650. Hul. 10A, 17B-18A.
651. Lit. 'those executed by the sword.'
652. Lev. 19:18.
653. Ket. 37B; Pes. 75A, Sanh. 52B and 45A all state R. Nahman's concept. Sanh. 45A states that all the Sages agree with R. Nahman.
654. RaSHI on Ket. 37B.
655. Moses Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XLVIII. According to Berman this view of Maimonides received wide currency and was quoted in popular sho'etim manuals as follows: "Why indeed is Shehitah performed in the throat and not another part of the anatomy? Because the perpetration of cruelty to animals is forbidden in the Bible itself; and there is no death attendant with less pain than that which comes with being slaughtered at the throat, because then death comes most quickly." (Quoted by Benjamin Winternitz in his commentary on Jacob Weil's "Shehitot u-Bedikot, "and by the "Lekitat Yitshak" on the "Ohel Yitshak" and cited in Jeremiah J. Berman, op. cit. p. 433).

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