

NOTES

The Sages penalized her – קנסיה רבנן: One explanation is that this penalty refers to her inability to marry another man without first receiving a bill of divorce. However, most commentaries accept the Jerusalem Talmud's interpretation that they penalized her to provide a clear sign that the first man cannot remarry her.

The first clause, where she violated a prohibition – רישא דעבדא איסורא: Both reasons are necessary, i.e., the concern about what others will say, as well as the fact that she performed a forbidden act. If only one element is present, she does not require a bill of divorce (*Tosafot Yeshanim*). For a slightly different version of this interpretation, see *Tosefot HaRosh*. Many commentaries accept Rashi's claim that the word: Rather, should be omitted from the Gemara, as this is the continuation of the previous explanation, not a new opinion (Rashba). However, others claim that according to the second interpretation, the main reason for the penalty is to provide a sign that she is forbidden to her first husband (Ritva). According to this opinion, the term: Rather, should be included in the text of the Gemara.

Unwittingly, his *teruma* is *teruma* – בשוגג תרומתו: The early authorities explain that there are three possible situations here: The first is a situation where one acted entirely unwittingly, e.g., he was unaware that the produce was ritually impure. The second is where one acted unwittingly but was close to acting intentionally, such as in the case of someone who knew the produce was impure but was unaware that it is prohibited to separate *teruma* from impure food. This is similar to the claim of *Tosafot* that one who set aside a serpent melon that turned out to be bitter is virtually an intentional sinner. Finally, there is the case of the intentional sinner who knows that the produce is impure and that he should not be separating *teruma* for pure produce from it (see *Keren Ora*). Based on these categories, his *teruma* is either valid *teruma*, or it is considered *teruma* but he must separate *teruma* again, or it is not *teruma* at all (see Meiri).

HALAKHA

One who separates from the ritually impure in order to exempt the pure – התורם מן הטמא על: It is prohibited to separate *teruma* from ritually impure produce instead of from pure produce. If one did so unwittingly, his *teruma* is considered *teruma*, but if he acted intentionally the produce remains untithed, and he must separate *teruma* again. However, the part he set aside as *teruma* is also *teruma*. The *halakha* is in accordance with the opinion of Rav Natan, son of Rabbi Oshaya, as the Gemara follows his ruling (Rambam *Sefer Zera'im, Hilkhhot Terumat* 5:8).

BACKGROUND

*Griva* – גריוא: According to the Sages, a *griva* is a unit of measure equal to a *se'a* in volume.

שנתן לה אחרון גט – לא פסלה מן הכהונה. מקבל דלא בעינא גט, דאי בעינא גט אמאי לא פסלה מן הכהונה? אלא סיפא אמרי קידושי טעות הוה.

רישא נמי אמרי נישואי טעות הוה! קנסיה רבנן. סיפא נמי ליקנסיה! רישא דעבדא איסורא קנסיה, סיפא דלא עבדא איסורא – לא קנסיה רבנן.

”אין לה כתובה.” מאי טעמא תקינו לה רבנן כתובה – כדי שלא תהא קלה בעיניו להוציאה, הך – תהא קלה בעיניו להוציאה.

”אין לה פירות ולא מזונות ולא בלאות,” תנאי כתובה ככתובה דמי.

”נטלה מזה ומזה.” פשיטא! מהו דתימא ביון דתפשה לא מפקינן מינה, קא משמע לן.

”הולך ממזר.” תנן התיב: אין תורמין מן הטמא על הטמא. ואם תרם, בשוגג – תרומתו תרומה, במזיד – לא עשה ולא כלום. מאי לא עשה ולא כלום? אמר רב חסדא: לא עשה ולא כלום כל עיקר, דאפילו התיב גריוא הדר לטיבליה.

the last one gave her a bill of divorce, he has not disqualified her from marrying into the priesthood, as she is not considered a divorcée at all, this proves by inference that she does not require a bill of divorce from him. The reason is that if she requires a bill of divorce, even if it is only due to uncertainty, why has he not disqualified her from marrying into the priesthood? A bill of divorce of any validity would bar her from marrying a priest. Rather, a bill of divorce given by a man to a woman who is not his wife is clearly of no account, and the reason for the ruling in the latter clause, with regard to betrothal, is that people will say there was no need for a bill of divorce because it was a mistaken betrothal.

The Gemara asks: If so, in the first clause too, they will say it was a mistaken marriage. The Gemara answers: The Sages penalized her<sup>N</sup> by requiring her to receive a bill of divorce, lest people say she divorced this man and went back and married the first one. The Gemara counters: If so, in the latter clause of the mishna let us also penalize her. The Gemara responds: The first clause involves a situation where she violated a prohibition<sup>N</sup> through her intercourse, and therefore the Sages penalized her. Conversely, in the latter clause, when she did not violate a prohibition, as she simply became betrothed, the Sages did not penalize her.

§ The mishna taught that this woman does not have, i.e., she is not entitled to, the payment of her marriage contract. The Gemara explains: What is the reason that the Sages instituted a marriage contract in general, for an ordinary woman? So that she will not be demeaned in his eyes such that he will easily divorce her. The necessity to find money for her marriage contract will prevent a hasty decision to divorce her. However, in the case of this woman, on the contrary, the Sages actually prefer that she will be demeaned in his eyes such that he will easily divorce her, as the marriage was forbidden and she may not remain with him. Consequently, they eliminated her marriage contract to encourage him to divorce her.

§ The mishna further states that she does not have claim to profits, or sustenance, or worn clothes. Why not? Because the stipulations in the marriage contract, i.e., all the rights of a wife stemming from the stipulations that are part of a marriage contract, are considered like the marriage contract itself. Since she has no marriage contract, she does not have the stipulations in a marriage contract either.

§ The mishna also teaches that if she took any of the above from this man or from that one she must return anything she took. The Gemara comments: This is obvious. Since she is not entitled to these articles, of course she must give them back. The Gemara explains: It is necessary, lest you say that since she has already taken hold of them we do not remove them from her possession, as this is merely a penalty and she obtained nothing that did not legally belong to her. The *tanna* therefore teaches us that the court requires her to return even these items.

§ The mishna taught that the child of either of the men is a *mamzer*. To clarify this issue, the Gemara cites a different discussion. We learned in a mishna elsewhere (*Terumat* 2:2): One may not separate *teruma* from ritually impure produce in order to exempt ritually pure<sup>H</sup> food, and if he separated *teruma* from impure food unwittingly, his *teruma* is considered *teruma*.<sup>N</sup> If he acted intentionally, he has done nothing, that is, his action is of no effect. The Sages debated: What is the meaning of the expression: He has done nothing? Rav Hisda said: He has done nothing at all, meaning that even that *griva*<sup>B</sup> of produce he set aside as *teruma* returns to its former untithed state, as his entire act is completely disregarded.

**התורם** – One who separates a serpent melon, etc. – **קישות וכו'**: Some commentaries differentiate between one whose actions were completely in error and one who did something unwittingly. If he never meant at all to separate inferior produce, it is not *teruma*, but if he acted unwittingly and yet could have known the produce was bad, it is reasonable that the produce should remain *teruma*. Although technically he already separated *teruma*, nonetheless the Sages penalized him by compelling him to set aside *teruma* once again (*Tosafot*; *Rashba*).

**נקוב ואינו נקוב** – **Perforated and not perforated** – The *halakha* is that a perforated pot is considered attached to the earth even if it is not actually placed on the ground, as it receives its sustenance from the soil. Conversely, a non-perforated pot is not considered part of the ground by Torah law, which means that all obligations that refer to the produce of the land do not apply to the contents of this pot. However, the Sages decreed that certain *halakhot*, such as *teruma*, do apply to a pot of this kind, as though it were growing from the ground. Since *teruma* separated from a non-perforated pot is *teruma* by rabbinic law, and this *teruma* does not count toward untithed produce by Torah law, he must separate *teruma* a second time.

## HALAKHA

**One who separates a serpent melon and it was discovered to be bitter** – **התורם קישות ונמצאת מרה** – In the case of one who separated a serpent melon as *teruma* and it was subsequently found to be bitter, or a watermelon that was later found to be bad, or a barrel of wine, which was subsequently discovered to contain vinegar, for other barrels of wine, if it was known to have been bad when he set aside the *teruma*, it is not *teruma*. If it was damaged at a later point, it is *teruma*. In a case of uncertainty his *teruma* is *teruma* but he must separate *teruma* once again (*Rambam Sefer Zera'im, Hilkhhot Terumat 5:22; Shulhan Arukh, Yoreh De'a 331:65*).

**One who separates from a vessel that is not perforated** – **התורם משאין נקוב** – If one separates *teruma* from produce that grew in a non-perforated vessel for produce that grew in a perforated vessel, his *teruma* is *teruma* but he must separate *teruma* again (*Rambam Sefer Zera'im, Hilkhhot Terumat 5:16*).

## BACKGROUND

A serpent melon [*kishut*] that was discovered to be bitter – **קישות ונמצאת מרה** – There are a number of opinions as to the identification of the *kishut*. According to most contemporary researchers it is the Armenian cucumber, also known as the serpent melon, *Cucumis melo* var. *flexuosus*. Its sweet taste lasts for only a limited period of time, and as it ripens it turns bitter or sour. Consequently, one who tithes this vegetable must take into account that the serpent melons he is tithing might be bitter if they have passed a certain stage of ripeness.



Armenian cucumber

רב נתן ברבי אושעיא אמר: לא עשה ולא כלום – לתקן את השירים, אבל תרומה הוי. רב חסדא לא אמר כרב נתן ברבי אושעיא, דאי אמרת הוי תרומה – וימני דפשע ולא מפריש.

Rav Natan, son of Rabbi Oshaya, said: He has done nothing with regard to preparing the remaining produce from which he separated *teruma*, but the fruit he separated is itself *teruma*. Although the portion he set aside is sanctified as *teruma*, this does not exempt him from separating more *teruma* from ritually pure produce. The Gemara clarifies the two opinions: Rav Hisda did not say his opinion in accordance with the opinion of Rav Natan, son of Rabbi Oshaya, as, if you say it is *teruma*, on occasion he will be negligent and not separate anything more, assuming that if the portion he set aside has the status of *teruma* he must certainly have done everything required.

מאי שנא מהא דתנן: התורם קישות ונמצאת מרה, אבטיח ונמצאת סרוח – תרומה, ויחזור ויתרום? שוגג אמזיד קרמית? שוגג – לא עבד איסורא, מזיד קעבד איסורא.

The Gemara asks: In what way is this case different from that which we learned in a mishna (*Terumat 3:1*): With regard to one who separates *teruma* from a serpent melon<sup>n</sup> [*kishut*] and it was discovered to be bitter,<sup>hb</sup> or from a watermelon and it was discovered to be spoiled, it is *teruma*, and yet he must go back and separate *teruma* from another serpent melon or watermelon. No concern is expressed in this mishna that one might neglect to set aside *teruma* a second time. The Gemara answers: Are you raising a contradiction between the case of an unwitting sinner and that of an intentional sinner? There is a difference between them, as one who was unwitting did not commit a transgression and consequently does not deserve to be penalized, whereas one who was an intentional sinner did commit a transgression.

ורמי שוגג אשוגג, הכא קתני: בשוגג – תרומתו תרומה, התם קתני: תרומה ויחזור ויתרום!

And the Gemara raises a contradiction between this ruling involving an unwitting sinner and another *halakha* of an unwitting sinner: Here, it is taught that if the one who separated ritually impure produce instead of ritually pure produce was unwitting, his *teruma* is *teruma*, which indicates that he does not have to separate *teruma* again. However, there, with regard to rotten fruit, it is taught that it is *teruma* and yet he must separate *teruma* again.

התם שוגג קרוב למזיד, דאיבעי ליה למוטעמיה.

The Gemara explains: There, his was an unwitting act that is close to an intentional one, as he should have tasted it first to ensure that he was separating quality fruit. His failure to do so renders him virtually a willful sinner, and therefore the Sages penalized him by obligating him to set aside *teruma* again. In the case of impure *teruma*, in contrast, he may not have been able to investigate the matter when he separated the portion.

ורמי מזיד אמזיד, הכא קתני: במזיד – לא עשה כלום, התם תנן: התורם משאין נקוב על נקוב – תרומה, ויחזור ויתרום!

And the Gemara also raises a contradiction between one case involving an intentional sinner and another case of an intentional sinner. Here, it is taught that in the case of an intentional sinner who separates *teruma*, he has done nothing. There, we learned in a mishna (*Demai 5:10*), that with regard to one who separates *teruma* from produce growing in a vessel that is not perforated,<sup>h</sup> for produce that grew in a perforated<sup>n</sup> vessel, which is considered connected to the ground, it is *teruma*, but he must go back and separate *teruma* a second time. This ruling is based on the principle that anything that grew in a pot without a hole does not require separation of *teruma* by Torah law. In this case, the fact that he must again set aside *teruma* does not mean that the portion he separated is not consecrated at all.

בתרי מאני – ציית, בחד מאני – לא ציית.

The Gemara answers: In a case involving two vessels he will listen. Since the difference between the two vessels is clear to the eye, if the owner is told he must separate *teruma* again, it can be assumed that he will comply. In contrast, in the case of one vessel he will not listen, as ritually impure and pure produce look the same to him. Consequently, if he is informed that he must set aside *teruma* a second time despite the fact that the produce he already set aside has the status of *teruma*, he will take no notice.

ולרב נתן ברבי אושעיא דאמר לא עשה ולא כלום – לתקן שירים, אבל תרומה הוי.

The Gemara asks another question: And according to the opinion of Rav Natan, son of Rabbi Oshaya, who said that he has done nothing with regard to preparing the remaining produce but it is nevertheless *teruma*,

HALAKHA

From a perforated pot for that which is from a non-perforated pot – מן הנקוב על שאין נקוב: If one separates *teruma* from produce that grew in a perforated vessel for produce that grew in a non-perforated vessel, it is *teruma*, but it may be eaten only after *teruma* and tithes have been separated for that *teruma* itself from elsewhere (Rambam *Sefer Zera'im, Hilkhot Terumot* 5:16).

One who separates *teruma* from poor-quality produce for superior-quality produce – התורם מן הרעה על היפה: It is permitted to separate *teruma* from good produce for the bad, provided that they are of the same type, i.e., together they do not constitute diverse kinds. In contrast, one may not separate from the bad for the good. However, if he did so his *teruma* is *teruma*, apart from one who separates from vetch for wheat, as vetch is unfit for human consumption (Rambam *Sefer Zera'im, Hilkhot Terumot* 5:3).

Forbidden to a *mamzeret* – אסור בממזרת: If a man went overseas and his wife married another man under the mistaken impression that he was dead, and her first husband returned and had relations with her before she received a bill of divorce from the second man, the Sages decreed that their child is a *mamzer*. Since he is not a *mamzer* by Torah law, it is forbidden for him to wed a *mamzeret*. He may marry only a woman who, like him, is forbidden by rabbinic law (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 15:22; *Shulhan Arukh, Even HaEzer* 4:16).

NOTES

*Teruma* and tithe from another place – תרומה ומעשר אחר ממקום אחר: See *Tosafot* and *Tosafot Yeshanim* for an explanation of why the mishna specifies that he must separate *teruma* from elsewhere, rather than from this portion itself. Others claim that the phrase: Another place, does not preclude him from separating *teruma* from that same portion if he so chooses (Ritva and Meiri, in accordance with Rashi in *Kiddushin*).

Why a bearing of sin, etc. – נשיאות חטא למה וכו': The Gemara here assumes that if the separated portion does not have the status of *teruma* then no sin has been committed. The early authorities point out that this issue itself is far from clear, as at the beginning of tractate *Temura*, Abaye and Rava dispute whether or not the action of an individual who violates a Torah command is valid. According to one opinion, although his action is ineffective, the very attempt to transgress is itself the sin for which he is punished. Here too, one can say that the possibility of sin is unrelated to the status of the food as *teruma*. The answer given is that the expression: Bearing of sin, indicates that the transgression is still in effect, which would not be the case if the sanctity of *teruma* did not apply (*Tosafot Yeshanim*). Others maintain that the separation of *teruma* in this case differs from other prohibitions, as, if the consecration does not take effect he has not in fact performed any action at all (Rosh).

מאי שנא מהא דתנן מן הנקוב – על שאין נקוב תרומתו תרומה, ולא תאכל עד שיוציא עליה תרומה ומעשר ממקום אחר!

שאני הכא, דמדאורייתא תרומה מעלייתא היא, כדרבי אלעאי, דאמר רבי אלעאי: מנין לתורם מן הרעה על היפה שתרומתו תרומה – דכתיב "ולא תשאו עלי חטא בהרימכם את חלבו ממנו".

ואם אין קדוש – נשיאות חטא למה? מיכן לתורם מן הרעה על היפה שתרומתו תרומה.

אמר ליה רבה לרב הסדא: לדידך דאמרת לא עשה ולא כלום כל עיקר, דאפילו הוא גרידא הדר לטיבליה, מאי טעמא – גזירה דלמא פשע ולא מפריש, מי איבא מידי דמדאורייתא הוי תרומה ומשום דלמא פשע אפקיה רבנן לחולין, וכי בית דין מתנין לעקור דבר מן התורה?!

אמר ליה: ואת לא תסברא? והתנן: הולד ממזר מזה ומזה, בשלמא משני ממזר, אלא מראשון אמאי? אשתו היא, וישראל מעליא הוא, וקא שרינן ליה בממזרת!

אמר ליה: הכי אמר שמואל: אסור בממזרת, וכן כי אתא רבין אמר רבי יוחנן: אסור בממזרת. ואמאי קרי ליה ממזר – לאוסרו בבת ישראל.

in what way is this case different from that which we learned in a mishna (*Demai* 5:10): If one separates *teruma* from that which grew in a perforated pot for that which is from a non-perforated pot,<sup>H</sup> his *teruma* is *teruma*, but it may not be eaten until he removes on behalf of that portion itself *teruma* and tithe from another place?<sup>N</sup> In other words, the portion he separated as *teruma* is not entirely consecrated, as it too is considered untithed produce in the sense that *teruma* must be separated for it. In contrast, one who sets aside impure *teruma* does not have to separate *teruma* from that portion itself.

The Gemara answers: Here, with regard to ritually impure *teruma*, it is different, as by Torah law it is in fact full-fledged *teruma*, but the Sages penalized him by making him separate *teruma* again. This is in accordance with the opinion of Rabbi Elai, as Rabbi Elai said: From where is it derived with regard to one who separates *teruma* from poor-quality produce for superior-quality produce<sup>H</sup> that his *teruma* is *teruma*? As it is written with regard to *teruma*: “And you shall bear no sin by reason of it, seeing that you have set apart from it its best” (Numbers 18:32). This verse that if one separated *teruma* from inferior-quality produce he has committed a sin, which shows that his action is effective, as Rabbi Elai proceeds to explain.

Rabbi Elai elaborates: And if this inferior portion is not sanctified as *teruma* at all, why is there a bearing of sin?<sup>N</sup> If the produce does not have the status of *teruma* he has not done anything, which means that his action cannot be considered a transgression. From here we learn with regard to one who separated from the bad for the good that his *teruma* is *teruma* after the fact. Similarly, the *teruma* of one who separates ritually impure food for pure food is valid *teruma* by Torah law.

After clarifying the opinions themselves, the Gemara analyzes the case in greater detail. Rabba said to Rav Hisda: According to your opinion, that you said he has done nothing at all, meaning that even that *se'a* he set aside returns to its former untithed state, what is the reason for this? It is a rabbinic decree, as perhaps he will be negligent and will not separate *teruma* a second time. However, is there anything that by Torah law is *teruma*, as stated by Rabbi Elai, and yet due to the concern: Perhaps he will be negligent, the Sages removed its status as sacred and gave to it the status of non-sacred food? And can the court stipulate and enact a decree to uproot something that applies by Torah law?

Rav Hisda said to Rabba: And you, do you not hold that the Sages have the power to do so? But didn't we learn in the mishna that the child is a *mamzer* from this one and from that one? Granted, the child from the second man is a *mamzer*, as he was born to a married woman from a man who was not her husband. However, with regard to the child from the first husband, why is he a *mamzer*? After all, she is his wife, and by Torah law their son is a full-fledged Jew. And the Sages' declaration that he is a *mamzer* cannot be seen as a mere stringency, as they thereby permit him to a *mamzeret*. This shows that a rabbinical decree can uproot a Torah prohibition.

Rabba said to Rav Hisda that Shmuel said as follows: It is forbidden for the child of the first husband to marry a *mamzeret*.<sup>H</sup> And similarly, when Ravin came from Eretz Yisrael, he said that Rabbi Yohanan said that the child is forbidden to a *mamzeret*. And if so, why does the mishna call him a *mamzer*? This is to teach us that the Sages are stringent and render it prohibited for him to marry a regular Jewish woman. With regard to the issue at hand, as he may not marry a *mamzeret*, the Sages did not in fact uproot a mitzva that applies by Torah law.



BACKGROUND

A corpse with no one to bury it [met mitzva] – מת מצוה: It is an important mitzva to tend to a corpse, so that it is not left unburied in a degrading state. This mitzva, based on the ideal of human dignity, is so important that even a High Priest and a nazirite, for whom it is prohibited to become ritually impure, are obligated to become impure for a met mitzva.

NOTES

If one calls and others would answer him – קורא ואחרים עונים אותו: Several explanations of this phrase have been suggested that affect the rest of the discussion. Some commentaries, based on the Jerusalem Talmud, claim that it is the one who discovers the body who calls out for help, to no avail (Rambam). Others maintain that the sick man cried out unanswered before his death, either because no one was present, or because the relatives who would take care of him were absent (Rambam).

She would call and they would not answer her – קריא ולא ענו לה: Even if she had no inheritance at all, her relatives would presumably tend to her burial. Here, however, since her inheritance was actively transferred from them to the husband they have no wish to care for her (Tosefot HaRosh). Others similarly explain that as the relatives will not handle her burial she is a full-fledged met mitzva (Ramban). The reason is that in all such cases the priest could theoretically hire workers to care for the dead, but the Torah did not obligate him to do so. Here too, the husband does not have to go to the trouble of finding others to bury her (Rashba; see Tosafot).

ומיטמא לה, והא הכא דמדאורייתא אביה מיטמא לה, ומדרבנן מיטמא לה בעל! משום דהויא לה מת מצוה.

It was stated that the husband of a minor becomes impure for her, even if he is a priest. The Gemara asks: **But here is a case where by Torah law her father, not the man she married, is obligated to become impure for her**, as the latter is not his wife by Torah law, and yet by rabbinic law her husband defiles himself for her. The Gemara answers: This is because she is considered like a corpse with no one to bury it [met mitzva],<sup>B</sup> for which even a priest must become impure. Once she is married, her relatives from her father's family no longer care for her welfare, which means her husband is the only one who is entrusted with her burial.

ומי הוי מת מצוה? והתניא: אי זהו מת מצוה – כל שאין לו קוברין. קורא ואחרים עונים אותו – אין זה מת מצוה! הכא נמי, כיון דלא ירתי לה קריא ולא ענו לה.

The Gemara asks: **And is she in fact a met mitzva? But isn't it taught in a baraita: Which corpse is a met mitzva? Any corpse that does not have anyone to bury it.** If it was in a place where if one calls and others would answer him,<sup>N</sup> this is not a met mitzva. In contrast, this girl does have relatives who can bury her, if necessary. The Gemara answers: **Here too, since the members of her father's family do not inherit from her, she would call and they would not answer her,**<sup>N</sup> as they have no desire to go to any trouble for her. Since her husband inherits from her, it is his duty to tend to her burial, and he must therefore become impure for her, as she has the status of a met mitzva.

HALAKHA

Which is a met mitzva – אי זהו מת מצוה: A met mitzva is a corpse found on the wayside or in a city of gentiles, in a place where no one is available to bury it, and where the finder cannot call on other Jews to come and help him tend to it. A corpse in this state may not be moved. Rather, the finder himself must take care of it and bury it in its place, provided that it will be preserved there (see Eiruvim 17b). Even if the finder is a priest he must become ritually impure in this situation (Rambam Sefer Shofetim, Hilkhot Evel 3:8; Shulhan Arukh, Yoreh De'a 374:3).

Perek X Daf 90 Amud a

LANGUAGE

Sumakhos – סומכוס: From the Greek σούμαχος, sumakhos, meaning ally.

ואוכלת בגינו תרומה! בתרומה דרבנן. תא שמע: אכל תרומה טמאה משלם חולין טהורים, שילם חולין טמאים, סומכוס אומר משום רבי מאיר: בשוגג – תשלומיו תשלומין, במזיד – אין תשלומיו תשלומין. וחקמים אומרים: אחד זה ואחד זה תשלומיו תשלומין, וחזיר ומשלים חולין טהורין.

It was further taught: **And she eats teruma on his account.** The Gemara explains: This is referring to teruma that applies by rabbinic law, not by Torah law. The Gemara attempts to offer a proof for this claim. **Come and hear a baraita: If a non-priest ate ritually impure teruma of a priest, he must pay him with ritually pure, non-sacred produce.** In a case where he paid with impure, non-sacred food, Sumakhos<sup>L</sup> says in the name of Rabbi Meir that if he did so unwittingly, his payment is considered payment,<sup>N</sup> but if he acted intentionally, his payment is not payment at all. **And the Rabbis say: Both in this case and that one his payment is a valid payment, and the food has the sanctity of teruma, although it is ritually impure, and he must also go back and pay him again with pure, non-sacred food.**

NOTES

If he did so unwittingly his payment is payment – בשוגג: There is a dispute among the early authorities with regard to the meaning of this statement (see Tosafot). Most commentaries maintain that the terms unwitting and intentional refer solely to the payment, whereas the eating itself was unwitting, as whenever a non-priest eats teruma by accident his repayment to a priest, both the principal and the added fifth, is consecrated as teruma. However, some explain

that the issue here is whether he ate the teruma unwittingly or intentionally (Rivan). If a non-priest ate teruma intentionally, then even though he must compensate the priest, like anyone who damages the property of another, the payment is not consecrated. According to this second opinion, the Gemara's comment that he should be blessed if he repays him with impure, regular produce is understandable, as this food is fit for a priest. However, according to Rashi's interpretation this

is difficult, as noted by Rashi himself: If this produce becomes impure teruma upon his repayment, why is he praised? Tosafot and other early authorities explain that he is worthy of a blessing because he himself forfeits more than the value of impure teruma. Others state, as explained in the commentary to the text, that when he set aside this produce it was suitable for the priest, and it is only after it reached the latter's possession that it became unfit for him (Ritva).