

THE CATHOLIC UNIVERSITY OF AMERICA

Tsa'ar Ba'ale Hayim—The Prevention
of Cruelty to Animals: Its Bases,
Development and Legislation
in Hebrew Literature

A DISSERTATION

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BY

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INTRODUCTION

On April 10, 1866, the Legislature of the State of New York granted a charter to the American Society for the Prevention of Cruelty to Animals. Several years earlier, similar organizations were given legal status in many of the enlightened nations of Europe. Throughout the world, men pervious to the evils of the day, lauded the quality of mercy and taught the virtue of tenderness toward defenseless and helpless creatures. Many became enveloped in an emotional hysteria. "However, with the zeal of a newborn crusade, and with a too lofty conception of the importance of their work, they have sometimes allowed animal rights to assume a higher value in the scale than human rights, and have thus often done great harm by reckless words and deeds. Instead of seeking guidance from earlier generations and other peoples, they have presumed rather that until their time humane treatment was common to no other people."¹ Otherwise responsible persons hurled meaningless accusations against the innocent. Certain religious groups, particularly the Hebrews, were condemned. All over, men of good will, well-meaning but uninformed, echoed and reechoed the charge, that the Hebrews preached the doctrine of cruelty to animals: a charge championed by many of the leading personalities of Europe, in whose camp also was found the distinguished German philosopher, Arthur Schopenhauer. Clearly, concisely and effectively he stated his case as follows: "Die vermeintliche Rechtlosigkeit der Tiere ist geradezu eine emporende Roheit und Barberei des Okzidenten, deren Quelle im Judentum liegt."² The pretense that animals have no rights, Schopenhauer maintained, is a Western doctrine, revolting and barbaric, and having its roots in Judaism. Statements of this type, based primarily on abysmal ignorance of the subject, reflect a flagrant distortion of truth. Unfortunately, however, continual repetition, misteaching, and misinterpretation of facts, ultimately become accepted by many as truth. Misinformation can harden the hearts and corrupt the minds of men. Whether or not it formed a part of their intent,

Schopenhauer and others like him have to some extent succeeded in casting a suspicious shadow on the moral and ethical teachings of Israel. So much so, that the writer has seen fit to challenge individuals repeating the Schopenhauer charges, only to discover to his amazement, that they were made by persons having no intimate knowledge of the Old Testament, Talmud or later Jewish literature. Concepts of this type, therefore, were learned only through rote, and not acquired through personal study and knowledge of source materials.

Furthermore, extensive study of the subject has disclosed the unfortunate situation that no comprehensive treatise in English exists and very little in foreign languages is available. This academic shortcoming, in view of the charges mentioned above, inevitably led to the decision to write this paper, the need for which has been and still is great. It should be noted at the outset, however, that the material pertaining to "tsa'ar ba'ale hayim" will be treated in two distinct Books. Book I will deal with its bases and development as reflected in the Biblical, midrashic and talmudic literature; Book II will examine its practical application and will deal with the actual Biblical and post-Biblical legislation relating to the treatment of the beast. Through them, it is hoped, facts and truths will once again be placed in their proper perspective and that the findings based on a scientific examination of the sources investigated will categorically support the contention that in Judaism, kindness and the prevention of cruelty to animals is a Biblical concept and therefore embodied in the very structure of Israel's institutional life.

AIDS TO THE READER

TRANSLITERATION OF HEBREW AND ARAMAIC

The system of transliteration followed herein is based primarily on the one used at the Library of Congress in Washington, D. C., and reflects in general the spoken language of modern Israel. Consequently, no distinction has been made between certain pairs of consonants of similar sounds. Thus, tet (originally emphatic t) and tav are both transliterated as "t"; samekh and sin (originally palatal s) as "s"; and kaf and quf (originally velar k) as "k." Moreover, the dagesh forte is not noted and, therefore, no doubling of consonants is indicated. Absence of dagesh lene, however, in certain letters as bet, kaf and pe is recognized, and employed to distinguish their softer pronunciation (v, kh, f) from their harder counterparts. Titles and quotations from other authors are given in the orthography of the sources cited and words and proper names, for which there is an established English spelling, will be written as usual, e. g., Kabbalah, Zion, Yom Kippur.

ABBREVIATIONS*

Biblical Books.

Gen.	- Genesis	Ezek.	- Ezekiel
Ex.	- Exodus	Hab.	- Habakkuk
Lev.	- Leviticus	Zech.	- Zechariah
Num.	- Numbers	Mal.	- Malachi
Deut.	- Deuteronomy	Ps.	- Psalms
Josh.	- Joshua	Prov.	- Proverbs
Sam.	- Samuel	Ecc.	- Ecclesiastes
Is.	- Isaiah	Neh.	- Nehemiah
Jer.	- Jeremiah	Chron.	- Chronicles

* These represent only a partial list of the works cited and denote merely some of the major sources which have been most frequently referred to in the text.

Names of Tractates in Mishnah, Talmud, Tosefta.

Bekhor. - Bekhorot	Tohor. - Tohorot
Ber. - Berakhot	Yev. - Yevamot
B. B. - Bava Batra	Kerit. - Keritot
B. K. - Bava Kama	Ket. - Ketuvot
B. M. - Bava Metsi'a	Meg. - Megilah
Git. - Gitin	Mid. - Midot
Zev. - Zevahim	Mak. - Makot
Hag. - Hagigah	M. K. - Mo'ed Katan
Hul. - Hulin	Ned. - Nedarim

Sanh. - Sanhedrin
A. Z. - 'Avodah Zarah
Eruv. - 'Eruvin
Pes. - Pesahim
Kid. - Kidushin
R. H. - Rosh ha-Shanah
Shab. - Shabat
Taan. - Ta'anit
Terum. - Terumot

Mishnah - References to the Mishnah are indicated by chapter and section, e.g. Mak. 1, 10.

Tosefta - References indicated as for Mishnah but preceded by the abbreviation Tos.

Talmud of Palestine (Yerushalmi) - References indicated as for Mishnah but preceded by the abbreviation Yer.

Talmud of Babylonia - References indicated only by the name of the Tractate, folio and page, e.g. Ned. 81A.

Midrashim.

Gen. R. - Genesis Rabbah
Ex. R. - Exodus Rabbah
Lev. R. - Leviticus Rabbah

Num. R.	- Numbers Rabbah
Deut. R.	- Deuteronomy Rabbah
Es. R.	- Esther Rabbah
Cant. R.	- Canticles Rabbah
Ruth R.	- Ruth Rabbah
Lam. R.	- Lamentations Rabbah
Ecc. R.	- Ecclesiastes Rabbah
Shim'oni	- Yalkut Shim'oni
Tanḥ.	- Midrash Tanḥuma
Mekhilta	- Mekhilta de-Rabi Yishma'el
Midr. Teh.	- Midrash Tehilim
Sifre	- Sifre de-ve Rav
Av. de-R. Nat.	- Avot de-Rabi Natan

Codes.

1. The Shulḥan 'Arukh (final comprehensive code of Jewish Law) of R. Joseph Karo is cited according to its four parts by section and paragraph; each part is abbreviated as follows:
 - O. H. - Oraḥ Ḥayim
 - Y. D. - Yoreh De'ah
 - E. H. - Even ha-Ezer
 - H. M. - Hoshen Mishpat
2. The term Kitsur is used to indicate the Kitsur Shulḥan 'Arukh (abridged code of law) of Solomon Ganzfried (1804-1886). It will be cited by section and paragraph.
3. The Mishneh Torah of Moses Maimonides (RaMBaM) is referred to as M. T., and followed by the name of the Book, the Topic, chapter and section, e.g. M. T. Zemanim, Hilkhot Shabat 2:3.

BOOK I

BASES AND DEVELOPMENT IN BIBLICAL,
MIDRASHIC AND TALMUDIC LITERATURE



PART I

CHAPTER I

PROVIDENTIAL SOLICITUDE FOR THE BEAST

It is significant, that the status of vegetation in the scheme of the world's creation is manifestly lower than that of the living creature. Nowhere do we find that God blessed the vegetation, although He was obviously happy over its creation³; the lower life on the other hand, though later created, received His special blessing.⁴ Thus, from the very outset, the Bible admits, the animal kingdom occupies an exalted position in God's realm. Reinforced by this concept, is it any wonder that the Hebrew sages emphasized the doctrine that providential solicitude for the lower animals was not unlike that for man? Though man, they conceded, was neither subservient nor subordinate to them,⁵ but rather commissioned to exercise "dominion over the fish of the sea, and over the fowl of the air, and over every living thing that creepeth upon the earth,"⁶ yet they assented, the wall of partition between man and beast was rather thin and the legal rights and privileges of the latter must neither be neglected nor overlooked.

Does not the Bible itself treat them as humans with whom the Lord can execute treaties and covenants? "As for me," saith the Lord, "behold, I establish My Covenant with you, and with every living creature that is with you, of the fowl, the cattle and every beast of the earth with you; of all that go out of the Ark, even every beast of the earth."⁷ As God had mercy on Noah and established His Covenant with him no more to destroy the earth by flood, so also did He have mercy on every living creature that is upon the earth. And does not God through the prophet Hosea guarantee unto Israel security from the ravages of beast and man? "And in that day will I make a covenant for them with the beasts of the field, and with the fowls of Heaven and with the creeping things of the ground. And I will break the bow

of Macedon, the Midrash relates, once visited King Katsia¹⁶ to observe his methods of justice. As they were conversing together, a man came with a complaint against his neighbor. "This man," he stated, "sold me a dunghill and I found a treasure in it." The buyer argued further: "I bought a dunghill only"; the vendor on the other hand maintained: "I sold the dunghill and all it contained." Said King Katsia to one: "Have you a son?" "Yes," replied he. "And have you a daughter?" he asked the other. "Yes," came the answer. "Then marry them and let the treasure belong to both." He noticed Alexander sitting astonished, and asked him, "Have I then not judged well?" "Yes," he replied. "Had this happened among you, how would you have judged?" "I would have slain both and kept the treasure for myself." "Does the rain descend in your country?" asked King Katsia. "Yes." "Does the sun shine?" "Yes." "Have you small cattle, sheep and goats?" "Yes," replied Alexander. "By Heaven!" exclaimed Katsia, "it is not for your sake, but for the sake of the cattle, as it is written, 'man and beast Thou preservest, O Lord!'¹⁴ man for the sake of the beast Thou preservest, O Lord." Thus, the sages approved the words of this African pagan.

Innumerable additional instances reflecting providential solicitude for the beast can be cited. We are informed, for example, that because of the "clean animals" God held back the waters of the flood. Should a human board a ship together with an animal, a Midrash explains, and a storm suddenly break out, the poor beast would certainly be cast overboard, in order that the others might survive. But the Lord, it states, does not act so. The Lord, the Father of Mercies, considers the plight of all His creatures.¹⁷ As He had mercy on Noah, so also did He show mercy to the beast, as it is written, "and God remembered Noah, and every living thing, and all the cattle that were with him in the Ark."¹⁷ Were it not for the "clean animals", we are further reminded at this point, the waters of the flood would not have abated.¹⁸

Is it any wonder then, that the Talmud asserts that he who recites Psalm 145 completely thrice per day, is assured of his share in the world to come?¹⁹ This noble hymn of

and the sword and the battle out of the land, and will make them to lie down safely."⁸ Assurance of security is hereby given land, beast and humans through immunity from hostile elements in nature and from hostile man whose weapons of warfare would be broken forever. Immunity, in part, would be the natural result of the covenant executed between man and beast.⁹

"Traces of a goodly amount of legislative protection of birds and beasts and even reptiles," states Dr. Raisin, "may be found among all peoples since the dawn of civilization. Unfortunately, these considerations were prompted rather by superstitious fear than by a real solicitude for the handiwork of God. Nor did they have anything to do with gentleness and humanity."¹⁰ Hebrew protective legislation, however, was inspired for the most part either through direct Biblical injunctions or through the examples set by God in His relation to the lower creatures for men to follow. The injunction, "and thou shalt walk in His ways,"¹¹ was generally interpreted to read: "As He is called gracious, so shalt thou be gracious; as He is called merciful, so shalt thou be merciful."¹² As God is solicitous for the dumb animals, therefore, the sages reasoned, so should man be likewise. Man, they conceded, must be God's imitator; a God conceived not only as the Omnipotent Power of the Universe, but also as the kind Creator of all, who personally, without any intermediary, looks after the welfare of His creatures. Does not the Psalter give substantiating evidence that God not only sends nourishment to the domestic animals, but furnishes drink as well, for all beasts of the field? "The young lions," declares the Psalmist, "roar after their prey and seek their food from the Lord."¹³ Even the creeping things in the sea wait for the Lord to give them their food at the right time. What the Lord gives them satisfies them. Should He, however, hide His face, they vanish.¹³

Not only has the Lord deemed it just to preserve both man and beast,¹⁴ but, according to rabbinic interpretation, He sends His rains and sunshine not for the sinful people, but rather because of the innocent animals.¹⁵ Alexander

harm, and are not needed for food or medicine should not be killed. The dumb animal (the weasel) does not belong to the harmful animals and such animals are defended and protected from death. To save a calf that we need for nourishment is not required of us. Rabbi Judah was not punished for a crime, but was punished because he had shown mercy and pity to the animal, many persons would have learned a good lesson thereby. It would have been merciful on the part of R. Judah to at least delay the slaughtering for a few days and those who might have seen Rabbi so conduct himself, would have learned therefrom to be merciful. Those, however, who saw Rabbi surrender the animal and take no pity on it, despite its seeking protection, those would become hard-hearted in their relations both to man and beast."²⁵

Such teachings of mercy and kindness, the sages supplemented and reinforced with numerous suggestions from the storehouse of Jewish history. They reiterated the Biblical episodes and expatiated on the fact that all the truly good and great of their people were first schooled in and fitted for their tasks, by being shepherds of flocks.²⁶ We are told, in fact, that even the manner in which one tends his flocks is of prime importance; that just as--as stated earlier--the relationship between God and beast is one of love, mercy and consideration, so must it be between man and beast and by this standard they agreed, are the righteous tested. And such were the criteria, the Midrash narrates, whereby the fitness for leadership of both Moses and David was determined. Both, traditionally, were righteous; both personified the spirit of Judaism and the ideal toward which all strove. Both, therefore, were the logical means through whom the Midrashic sages interpreted the words of the Psalmist, "The Lord trieth the righteous."²⁷ How? By tending flocks. David, they reasoned, was brought from the sheepfolds²⁸ to care for Israel "because he used to stop the bigger sheep from going out before the smaller ones, and to bring smaller ones out first, so that they should graze upon the tender grass, and afterwards he allowed the old sheep to feed from the ordinary grass, and lastly he brought forth the young, lusty sheep to eat the tougher grass. Whereupon, God said: 'He who knows how to look after sheep, bestowing upon each the care it

praise, calling upon all mankind to glorify God's greatness, celebrates His providential care for all His creation. To the Hebrew mind, such care did not by any means halt the physical well-being of the body, but included also the spiritual well-being of the soul; for into His hand was committed the soul of every living thing for safekeeping.²⁰

It can be stated categorically, that the entire animal world reminded the Rabbis of the Talmud of the loving-kindness of the Lord. As He was attentive, considerate, and "the Good Shepherd, so were the Jewish Worthies--in keeping with the conceptions based" as already stated "on Imitatio Dei-- good shepherds all."²¹ And just as they approved of the African pagan who told Alexander the Great that God protects his empire not because of Alexander, but because it contains a multitude of innocent cattle, so also did they condemn no less a saint and scholar than Judah ha-Nasi.²² Rarely could a more touching story be found in the annals of any religion than that told of Rabbi Judah the Prince.²³ Rabbi Judah was sitting and studying the Torah in front of the Babylonian Synagogue in Sepphoris, when a calf passed before him on its way to the slaughter and began to cry out as though pleading, "Save me!" Said he to it, "What can I do for you? For this you were fashioned." As a punishment for his heartlessness, he suffered toothache for thirteen years. One day, a creeping thing ran past his daughter who was about to kill it, when he said to her, "my daughter, let it be, for it is written, 'and His tender mercies are over all His works.'" Because the Rabbi prevented an act of cruelty and unkindness on the part of his daughter, he was once again restored to health.²⁴

Noteworthy in this connection is the discussion found in the Opinions of the Ga'on R. Sherira. Inquiry is made of the Ga'on as follows: "If R. Judah was punished because he handed a calf over to the slaughterer, and was again rewarded because he protected a dumb creature from death, should we not learn from this not to slaughter any animal and also not to kill harmful animals?" The Ga'on answered: "Animals that are harmful as snakes, lions, wolves, must always be killed; on the other hand, animals that do us no

deserves, shall come and tend my people,' as it says, 'from following the ewes that give suck, He brought him to be shepherd over Jacob His people.'²⁹ Also Moses was tested by God through sheep. Our Rabbis said that when Moses, our teacher, peace be upon him, was tending the flocks of Jethro in the wilderness, a little kid escaped from him. He ran after it until it reached a shady place. When it reached the shady place, there appeared in view a pool of water and the kid stopped to drink. When Moses approached it, he said: 'I did not know that you ran away because of thirst; you must be weary.' So he placed the kid on his shoulder and walked away. Thereupon God said: 'Because thou hast shown mercy in leading the flock of a mortal, thou wilt assuredly³⁰ tend My flock Israel.'³¹

Such was the Lord's interest in His lower creation in the days of Moses; similarly also did He manifest concern in the days of Jonah. The Lord sent Jonah to prophesy the overthrow of Nineveh and the destruction of its sinful inhabitants. Whereupon the King of that city decreed that "neither man nor beast, herd nor flock taste anything; let them not feed, nor drink water, but let them be covered with sackcloth, both man and beast and let them cry mightily unto God."³² The Lord heard their cry and had pity on the repentant Ninevites as well as on their multitude of cattle as it is written, "and should not I have pity on Nineveh, that great city, wherein are more than six score thousand persons and also much cattle?"³³ Inferences of God's mercy can also be gleaned from Talmudic and Midrashic narratives concerning Nineveh. The people of that ill-fated area, the Talmud informs us, found themselves truly in a terrible situation. Their dilemma caused them to be at once repentant and merciful, arrogant and cruel. Consequently at one point, "they bound the animals and separated them from their young and said, 'Master of the Universe, if Thou wilt not have mercy upon us, we will not show mercy to these.'"³⁴ God, in the abundance of His great mercy, could not bear the pain of these innocent defenseless creatures and so spared the city.

But the Psalmist, probably most of all, reflects the quintessence of providential concern for the lower forms of living beings. To him the Lord is forever attentive, to support and protect them; continually considerate for their welfare and comfort. Continually as intimated above, does He concern Himself in the search for their nourishment. "He giveth to the beast his food; and to the young ravens which cry."³⁵ As the Lord in His infinite wisdom created all things for Himself,³⁶ so does He in His infinite mercy hover over the creatures of His pasture. The Lord, as the Psalmist indicates, provides nourishment to those unable to provide for themselves; so that He sends food to the abandoned young birds that are unable to seek for themselves, especially the raven, whose mother turns it out at an early age.³⁷

The Bible then, is replete with utterances of God's love for the animal world; a love for the beast and fowl which inevitably inspired similar expressions in the Talmud. To the Hebrew sages, not only does He "sustain all creatures from the horns of wild oxen to the eggs of vermin,"³⁸ but has literally created Leviathan to sport therewith.³⁹

"The beneficent regulations of the Bible," the rabbis emphasized, "were prompted not by selfish considerations, but by motives of mercy and loving-kindness."⁴⁰ And as already stated, they supplemented and reenforced Biblical concepts and speculated upon their meanings and interpretations. Accordingly, they declared Moses and David worthy to lead Israel not only because they stood the acid test discussed above, but also because they personified the Almighty in the verse, "the righteous taketh knowledge of the cause of the poor."⁴¹ "What is meant by this verse?" they queried. How is the Lord righteous? "The Holy One, blessed be He," R. Jonah lectured, "knoweth that a dog's food is scanty, therefore He makes him retain his food in his stomach for three days."⁴² Similar is God's concern for the wild goats. These poor animals fear the others and consequently do not dare stop to drink for fear of attack. God, therefore, makes the wind pass through their horns, causing a ringing sound, thereby causing their enemies to

flee.⁴³ In His considerateness for their welfare, the Lord ordained a short tail to the animal that feeds among thorns; a long neck to the one which seeks to pick the high leaves; the camel to endure thirst; and a midwife for the hind when it calves.⁴⁴ The Lord realized that dependence on humans in the case of childbirth would create a heavy burden on the poor beast, so He created them independent in this respect.⁴⁵ The Lord further ordained that they should require neither shade and shelter from heat and storm, nor preparation of the food supplied them for their diet, through their natural habitat. Neither do they have to prepare weapons with which to fight against their enemies, for they are provided with natural safeguards: the ox has horns; the boar has tusks; the porcupine has quills; the turtle has a shell. Nor do they need to make themselves any garments, for their garments too are given them through nature.^{45a} God, the Midrash teaches, is merciful to the beast as He is to man.⁴⁶

The essential characteristic of the true Jew, the sages taught, was to be found in the quality of mercy (rahamanut), even as God is described as Av ha-Rahamim, the Father of Mercies. They believed that the best service one could render Him is in being kind to His handiwork.⁴⁷ With such a background, is it any wonder that "tsa'ar ba'ale hayim" legislation should make its initial appearance, not in the nineteenth century, but rather back in the days of the Bible and Talmud?

CHAPTER II

THE BEAST HELD ACCOUNTABLE FOR ITS ACTIONS

From the previous discussions, one cannot deny that God takes a personal interest in the welfare of the lower orders of life. To the ancient Hebrews, therefore, Jewish theology was summed up in the words of the Psalmist: "The Lord is good to all, and His tender mercies are over all His works"⁴⁸; the Lord, they were certain, would plead their cause and punish those who took advantage of their helplessness.⁴⁹ The same Lord who remembers both man and beast in His righteousness and justice, will also punish them in His judgment. As man is held strictly accountable for his actions, so does the Lord hold the beast likewise. Was not the serpent, they reasoned, found guilty of luring Eve into eating from the "Tree of Knowledge?" Did not God's curse subsequently fall upon it? Does not the Bible declare, "Because thou hast done this, cursed art thou from among all cattle, and from among all the beasts of the field; upon thy belly shalt thou go, and dust shalt thou eat all the days of thy life. And I will put enmity between thee and the woman, between thy seed and her seed; they shall bruise thy head, and thou shalt bruise their heel."⁵⁰ The serpent appears frequently in rabbinic literature and characterized as destructive, treacherous, craftiest of all animals, and the personification of all things evil and venomous. Of all animals, it is the only one that does injury without gain for itself, hence it became the symbol of slanderous conduct. According to the Midrash, "a slanderer shall not be established in the earth,"⁵¹ alludes to the serpent in the days of the Millennium.⁵¹ The serpent sinned against the Almighty and uttered slander against its Creator.⁵² Consequently, it was tried by a Sanhedrin of seventy-one members.⁵³ Found guilty of a grave transgression, God's wrath fell upon it and immediately meted out in retribution the punishment it so justly deserved.⁵⁴

Unfortunately, however, not only was it the cause of its own destruction, but also that of the birds, cattle and beasts of the field. Genesis Rabbah explains the verse,

"Of which I commanded thee saying"⁵⁵ as follows: "I commanded thee to forbid it to the cattle, beasts and birds; yet not only didst thou not forbid them, but thou even gavest them and they ate thereof."⁵⁶ It would appear, therefore, inasmuch as the lower animals were not instructed to desist from eating from the Tree of Knowledge, that they would not be subject to any retribution should they do so. But we are informed such was not the case. They allowed themselves to be led astray; therefore, the death penalty was decreed upon them. The Midrash states, "She (Eve) gave the cattle, beasts, and birds to eat of it. All obeyed her and ate thereof, except a certain bird named Hol (Phoenix)."⁵⁷ The School of R. Jannai and R. Judan ben R. Simeon differ: The School of R. Jannai maintained: It lives a thousand years, at the end of which a fire issues from its nest and burns it up, yet as much as an egg is left, and it grows new limbs and lives again. R. Judan ben R. Simeon said: It lives a thousand years, at the end of which its body is consumed and its wings drop off, yet as much as an egg is left, whereupon it grows new limbs and lives again."⁵⁸ Thus, while the others perish, the Hol continues on eternally.

Moving on to the age of the deluge, we find the world still enveloped in sin. The lower creatures no less than humans succeeded in arousing the anger of the Lord. Clearly and distinctly the Bible declares, "And the Lord said, I will blot out man whom I have created from the face of the earth; both man and beast and creeping thing, and fowl of the air; for it repenteth me that I have made them";⁵⁹ "for God saw the earth, and behold it was corrupt; for all flesh had corrupted their way upon the earth."⁶⁰ Granting that the generation of the flood transgressed all laws; that the people were corrupt and wicked, in what then did the lower animals sin? "Just as among the human beings the men associated themselves with strange women, so the animals also united themselves with strange kinds, as it is said, 'And God made the beast of the earth after its kind, and the cattle after their kind, and everything that creepeth upon the ground after its kind; and God saw that it was good.'⁶¹ God spoke: You may join yourself to your own kind, but to a strange kind you may not join yourself."⁶² The beasts

and animals as well as man, claimed R. Yoḥanan, intermingled themselves with other species. Beasts and animals copulated with each other, and all of these were brought in connection with man, and man with them all.⁶³ The birds perished, states the Midrash, because they permitted themselves to be fattened up for the sinful human beings. Genesis 6:7, the Rabbis believed, found its parallel in the words of Zephaniah. Speaking in the name of the Lord, the prophet thunders, "I will consume man and beast, I will consume the fowls of the Heaven, and the fishes of the sea, and the stumblingblocks with the wicked."⁶⁴ It was they (the animals, etc.) the Midrash tells us, which caused the wicked to stumble, for one would catch a bird and say to it, 'Go, fatten thyself, and then return,' whereupon it would go, fatten itself, and then return."⁶⁵

Rabbinic tradition has it that only those animals and birds that were pious and that were deemed worthy, entered the Ark; such creatures did not associate themselves with strange kinds.⁶⁶ Nevertheless, though seemingly in the best of company, some have set aside their high principles and did not abstain from sexual intercourse. Such, for example, were the dog, the raven and Ham, and accordingly were held accountable for their actions and received their punishment.⁶⁷

Turning our attention now to the postdiluvian period, we note that the blessing bestowed upon Adam is once again repeated to Noah and his sons as the progenitors of a new race. Authority is also extended to utilize for food "every moving thing that liveth";^{67a} beast, fish and fowl. They are specifically forewarned that the Lord will require "your blood of your lives"⁶⁸ and will further require the same "at the hand of every beast."⁶⁸ Emphatic and definite divine sanction is thereby given to the Mosaic law which states that "if an ox gore a man or a woman that they die, the ox shall be surely stoned and its flesh shall not be eaten."⁶⁹ Thus the beasts of the field are held strictly accountable and personally responsible for their individual actions.⁷⁰

The Casuists of the Midrash and Mishnah reiterated these Biblical episodes and expatiated on the proposition that to suffer retribution the beast had to be endowed with reason and understanding. Those who were occupied with the construction of the Tabernacle, the Midrash explains, were equipped with intelligence and perception. However, such attributes were given "not only to the men, but even to the cattle, and beast, for it says, 'in whom' (bahemah)⁷¹ the Lord had put wisdom and understanding,⁷² and this implies that wisdom was given to man and beast."⁷³ With concepts such as these, reinforced and strengthened by Biblical precedence sanctioning retribution, it was easy for talmudic sages to supplement and to add to them a little of their own. Accordingly, they extended the death penalty to include not only domestic animals that have killed a human, but also to the beasts of the field; to the wolf, the lion and the bear, the leopard, the panther, or the serpent.⁷⁴ The Talmud even states "that a cock was stoned in Jerusalem because it killed a human being."⁷⁵ However, in all cases the beast was entitled to a fair trial.⁷⁶ "An ox could not be condemned to death until, after a strict examination, his guilt was established beyond the shadow of a doubt. The same procedure which was followed in case the master had committed the crime was prescribed on behalf of the animal. If his owners taught him to kill as a source of amusement or revenue for themselves, he should be acquitted. There were some who would not pass a sentence of death even on a lion, a bear, a wolf, a leopard and a snake, save in the presence of a legally constituted court; and who applied the verse, 'Thou shalt love thy neighbor as thyself'⁷⁷ ---which was construed that the human criminal should be dealt with as mercifully as possible--- also to the animal criminal."⁷⁸ The conviction of an animal "habitually wont to cause injury must take place before a regularly constituted court and in the presence of the animal itself."⁷⁹ And the execution of an animal, that has killed a human being, takes place only in a case where the animal has killed 'intentionally', but if 'unintentionally', it is not liable for punishment." "If an ox rubbed itself against a wall," explains the Mishnah, "and it fell upon a man and

killed him; or if it intended to kill a beast but killed a man, or an untimely birth but killed a child that was likely to live, it is exempt from death by stoning."⁸⁰ Compared therefore to Sanhedrin 9,2 we have here the same requisite for conviction as that for human beings. The Sages, in their sense of fairness, held both man and beast innocent when "intent" could not be proven; neither was held accountable for manslaughter, nor did the principle of retribution in such instances require the life of the killer. The beast, created by the same fiat with which God made man, received also, we are told, His special blessing.⁸¹ Consequently, they too were worthy of equitable and dispassionate treatment. They too were entitled to mercy, kindness and justice.⁸² Such Biblical concepts of *tsa'ar ba'ale hayim* inevitably found their way into the daily lives of the people. Little Rabbinic legislation was therefore needed, but rather a more detailed interpretation of the already existing and accepted Mosaic Code; and to this end the sages of the Talmud devoted considerable time, energy and instruction. However, blessed with keenness of insight and an acute sense of fairness, they could not at all times agree wholeheartedly with the traditional law of Moses. They could not, for example, approve the regulation that "if a man lie with a beast, he shall surely be put to death; and ye shall slay the beast."⁸³ Admitting that man has sinned, the Mishnah asks: "Wherein has the animal offended?"⁸⁴ They searched both their conscience and Scripture and finally arrived at the answer. The animal must die, they concluded, because through it "man was enticed to sin."⁸⁴ As if this reason were not enough, the Rabbis further explained: "Scripture ordered that it should be stoned so that the animal should not pass through the streets whilst people say, this is the animal on account of which so and so was stoned."⁸⁴ Thus the poor beast was doomed to die; thus at times responsibility and accountability for actions seem stricter for the beast than for man. Further proof for this can be found in Deuteronomy. Compare Leviticus 20:15 with the following statement. "But if the man find the damsel that is betrothed in the field, and the man take hold of her, and lie with her, then the man only that lay with her shall die. But unto the damsel thou shalt do nothing; there is in the damsel no sin worthy of death.

For he found her in the field; the betrothed damsel cried and there was none to save her."⁸⁵ Leviticus 20:15 requires both man and beast be put to death; Deuteronomy 22:25-27 requires only the life of the man. It can be argued, however, that while the damsel cried, the animal did not protest. By inference, therefore, the damsel derived no enjoyment from her forced submission. Raba, on the other hand, declares, "The Torah ordered that the animal should be destroyed, because it too derived pleasure from sin."⁸⁶

Analysis of the foregoing discussion has convinced the writer, that to the Hebrew mind of the Talmud and Midrash, the lower forms of creation were as humans subject to retribution.⁸⁷ "This doctrine found adherents likewise among the Rabbanites⁸⁸ and the Karaites. Other Jewish scholars, on the other hand, emphatically reject this teaching as contrary to reason."⁸⁹ Maimonides, the first to establish this assertion, declares that "The wise men mentioned in the Talmud do not notice it; only some of the later Ge'onim were pleased with it when they heard it from the sect of the Mu'tazilites, and accepted it."⁹⁰ The writer certainly is not one to disparage the personality of the RaMBaM nor cast aspersions on his great contributions. Certainly, the writer fully agrees, that he is and will remain the great authority on Hebrew Biblical thought and theology. Yet, in this particular instance, investigation of the facts will reveal that the author of the Moreh Nevukhim is in error. The Bible as well as the Talmud and Midrash are replete with utterances, narratives and fancies, as discussed herein, reflecting the rational status of animals. True it is that in the scheme of God's creation, man is a nobler and more perfect object than all, yet man and beast were regarded as interrelated; each one affected the other. "Through the disobedience of the serpent, Adam and Eve were doomed to suffering and death; and when the 'wickedness of man became great upon the earth,'⁹¹ animals, too, suffered as a consequence. The plagues which afflicted the land of Egypt were sent upon men and animals alike;⁹² and the wickedness of Ninevah, like that of Sodom and Gomorrah, would have incited God's wrath upon all. He preserves not

only Noah, but 'two and two of all flesh wherein there is life'⁹² and blesses them both once more with the same ancient benediction. He spares not only the repentant Ninevites, but their multitude of cattle."⁹³ It appears illogical to suppose that the sages of the Talmud and Midrash neglected to recognize this apparent theological concept of interrelationship between man and beast. It appears equally logical that the acceptance of this concept would inevitably include the beast on questions concerning the doctrine of retribution. From the serpent episode in Genesis, for example, it is clearly seen that the actions of one affect the fate of the other. Such being the case, is it not to the advantage of man to include the beast in a scheme of retribution, and thereby hold it also accountable for its actions? This, the sages did, and which can be testified to, by innumerable references. Does not Mosaic Law already contain many regulations on "kindness and the prevention of cruelty to animals?" Are not both man and beast held accountable for their actions? And, having once accepted the "theory of interrelationship" and extended "retribution" to the animal world, it was an easy matter for the sages to further develop the doctrine of "Tsa'ar Ba'ale Hayim."

CHAPTER III

RELIGIOUS NATURE OF THE BEAST

With the previous discussions as supporting evidence, it can now be categorically stated that providential solicitude for the beasts pervades throughout Bible, Talmud and Midrash; and that, should they for a moment act contrary to God's will and justice, they are held strictly accountable for their actions. They, as man, are subject to retribution; they, as man, are subject to reward and punishment. Jewish teaching maintains further that it is not wrong to hope for God's reward for righteous living.⁹⁴ Admitting, therefore, that the beast too is subject to retribution, why not extend reward to it also for righteous living? But to do this, the beast had to be endowed with a religious nature. Like men, they must engage in prayer and fulfill the will of the Master of the Universe; the Omnipotent Power, who is good to all and whose tender mercies are over all His works.⁹⁵ Thus, the sages of the Talmud and Midrash conferred upon the lower forms of animal life, a religious nature similar to their own.

Turning the pages of Scripture back to antedeluvian days, we note that Cain committed the first recorded murder.⁹⁶ Whereupon the Midrash explains in the name of R. Judah: "The cattle, beasts and birds assembled to demand justice for Abel."⁹⁷ However, Cain succeeded in enlisting the help of the Lord who assured him that he need have no fear of the animals.⁹⁸ And to the animals God said, "Cain's judgment shall not be as the judgment of other murderers. Cain slew, but had none from whom to learn the enormity of his crime, but henceforth, all who slay shall be slain."⁹⁹ Thus the beasts and birds were appeased. But another Midrash tells us that the corpse lay just where it had been cast, since Cain did not know what to do. Thereupon God sent two clean birds to the tragic scene; quickly they set about to execute His will and to see to it that the body be buried as soon as possible.¹⁰⁰ One bird killed the other,

then dug a hole, and placed the dead bird therein. Cain followed this example. He dug a grave and buried Abel. For this lesson of lovingkindness to another living creature, the birds were found worthy of having their blood covered up when slaughtered.¹⁰¹

Another version records that it was a raven that buried a dead raven, and therefore God bestowed upon the ravens a goodly reward in this world. This reward consists herein that God therefore provides nourishment for the young brood which is deserted by the parent ravens.¹⁰²

Continuing on to the days of the Deluge, the Tanhuma notes that those animals that entered the Ark were righteous.¹⁰³ Unfortunately, "the text of the Tanhuma in both editions is incomplete. The complete text and, in many of the details, the more accurate text, has been retained in Recanati to Deuteronomy 22:6. Inasmuch as this text contains many an observation which is important in connection with our subject, we shall present it here in its entirety: 'Just as among the human beings the men associated themselves with strange women, so the animals also united themselves with strange kinds, as it is said, And God made the animals after their kinds (Genesis 1:25). God spoke: You may join yourself to your own kind, but to a strange kind you may not join yourself. However, the animals and the birds that went into the Ark were pious ones that did not associate themselves with strange kinds. R. Pinhas ha-Kohen, the son of Hama, says: With reference to the animals it is said: according to their families (Genesis 8:19). Have the animals then families, that the Scripture should be able to say according to their families? But those animals which associated themselves only with their own kinds were deemed worthy of going into the Ark, as it is said, And God remembered Noah and all the animals (Genesis 8:1). When he remembered Noah, why did He remember also the animals? But God, praised be His name, does not deprive any creature of its reward; even the mouse which guarded its family and did not intermingle itself with a strange kind received its reward. But the people of the generation of the deluge intermixed their

families, and also animals and birds intermixed their families, for why did the animals perish with them? But it was because the animals too were corrupt in their deeds, inasmuch as they united themselves with strange kinds: the horse with the ass, the lion with the ox, and the serpent with the tortoise. R. Pinhas ha-Kohen says: Just as the pious from among the human beings went into the Ark, so also of the animals only the pious ones, as it is said, "according to their families." "104

But these remarks endowing the beasts and birds with a pious and righteous character are only a few representative of many found in the storehouse of traditional literature. The dog, for example, was rewarded for fulfilling the word of the Lord. "And Moses said: Thus saith the Lord: About midnight will I go out into the midst of Egypt; and all the first born in the land of Egypt shall die. . . . And there shall be a great cry throughout the land of Egypt. . . . But against any of the Israelites shall not a dog whet his tongue, against man or beast."105 Accordingly, the dogs honored and glorified the word of God and refrained from barking at the children of Israel during the Exodus from Egypt. As a reward for their piety, the Torah commanded, with respect to terefah¹⁰⁶ and nevelah¹⁰⁷: "'Ye shall cast it to the dogs.'108 Said the Holy One, blessed is He: You owe it to them. When I slew the Egyptian firstborn on the fateful night of Passover, and the Egyptians with a great wail of agony began to bury their dead, the dogs barked at them, but they did not whet their tongues against you, as it is written, 'But against none of the Israelites will a dog whet his tongue.' Hence you must repay them, in keeping with the Scriptural command, 'Ye shall cast it to the dogs.' "109

Similarly did the Lord reward the asses for executing their part so faithfully and well. It will be recalled that it was the will of the Almighty that prior to their departure the enslaved Israelites were to despoil the Egyptians. Accordingly therefore "they asked of the Egyptians jewels of silver and jewels of gold, and raiment. And the Lord gave the people favor in the sight of the Egyptians, so that they let them have what they asked. And they despoiled the Egyptians."110 Once in their possession, however, how

were these precious metals to be transported? The asses answered the call and the problem was resolved. Thus through their desire to serve the Lord and to do His will, His plan materialized. As reward for this pious act, Heaven decreed that "the firstling of an ass thou shalt redeem with a lamb."111 "Said R. Hanina: I asked R. Eliezer, 'Why were the first-born of asses different from the first-born of horses and camels?' -- He replied: 'They (the asses) helped the Israelites when they departed from Egypt, for there was not an Israelite who did not possess ninety Libyan asses laden with the silver and gold of Egypt.' "112

The birds too performed the will of the Almighty. The Israelites had left the borders of Egypt behind them and were on their way to the Promised Land. In the Wilderness of Sin, between Elim and Sinai, the Congregation murmured against the leadership of Moses and Aaron. "Would that we had died by the hand of the Lord in the Land of Egypt, when we sat by the flesh-pots, when we did eat bread to the full; for ye have brought us forth into this wilderness, to kill this whole assembly with hunger."113 Thus did the chosen of God repay their chosen leaders. "Then said the Lord unto Moses: Behold I will cause to rain bread from heaven for you; and the people shall go out and gather a day's portion every day. . . . And it shall come to pass on the sixth day that they shall prepare twice as much as they gather daily."114 For the following day was the Sabbath unto the Lord and the people were cautioned that no manna would be found.115 To prove false the words of Moses, Dathan and Abiram, the Midrash explains, went forth secretly out of the camp and scattered manna over the desert. But the birds came to glorify and honor the word of God and to uphold the integrity of Moses. They gathered and ate it before the people could come for it.116 And thereby foiled the evil plan of the two wicked men of the Tribe of Reuben.

Thus the birds and beasts executed faithfully the will of the Lord. Some, however, served Him so well that they became prototypes for righteous living and religious behavior. As the birds taught Cain to bury the dead,117

so did the frogs teach Ḥananyah, Misha'el and Azaryah the proper method to sanctify God's name. Why were they willing to be cast into the fiery furnace? What prompted them to sacrifice their lives for the sanctification of the Divine Name? ¹¹⁸ Thaddeus of Rome supplies the answer. Their action, he maintains, was dictated by the behavior of the frogs in Egypt. The frogs, they reasoned, were not commanded concerning the sanctification of the Divine Name, yet it is written of them, "and they shall come up and go into thy house..." and into thine ovens, and into thy kneading troughs. ¹¹⁹ When are the kneading troughs to be found near the oven? Obviously, when the oven is hot. ¹²⁰ Man, unlike the frogs were commanded to sanctify the name of the Lord. Thus Ḥananyah, Misha'el and Azaryah willingly submitted to the will of the barbaric Nebuchadnezzar and kept their faith in the ultimate justice of their Maker. Surely, they argued, if the frogs were not burnt, how much more so will this be in the case of the faithful servants of God. ¹²¹ Surely He will maintain continual vigilance over them and not forsake them in their hour of need. Surely, they too, will not be burnt.

Not only did the frogs thereby fulfill the bidding of their Creator, but also taught man how to properly sanctify His name and were therefore subsequently rewarded. With the exception of those frogs that entered the ovens, all the others in Egypt died, as it is written, "and the frogs died out of the houses, out of the courts, and out of the fields." ¹²² Those, however, that entered the ovens did not; they returned to the waters, as stated, "and the frogs shall depart from thee, and from thy houses, and from thy servants, and from thy people; they shall remain in the river (Nile) only." ¹²³

By the same fiat with which the birds and beasts championed the cause of the righteous, they also punished the wicked and godless. "And thou, son of man, thus saith the Lord God: Speak unto the birds of every sort, and to every beast of the field: Assemble yourselves and come; gather yourselves on every side to My feast that I do prepare for you, even a great feast upon the mountains of Israel, that

you may eat flesh and drink blood. Ye shall eat flesh of the mighty and drink the blood of the princes... and ye shall eat fat till ye be full, and drink blood till ye be drunken, of my feast, which I have prepared for you. And ye shall be filled at my table." ¹²⁴ Thus did the prophet summon the lower forms to carry out the desire of their Master, the Ruler of the Universe. Thus were they commanded to gorge on the flesh of tyrants and thereby eliminate evil from the face of the earth. ¹²⁵

But the birds and beasts go still further. They know well that the Lord above is their guardian angel; the Father and Creator of all; ¹²⁶ the Master of the world, and of they that dwell therein. ¹²⁷ They, therefore, not only do the will of their Savior, but bestow honor upon Him as well. Speaking in the name of the Lord, the prophet declares: "The beasts of the field shall honor Me, the jackals and the ostriches; because I give waters in the wilderness, and rivers in the desert." ¹²⁸ In Perek Shirah, the dumb animals are assigned portions of Scripture and endowed with the power of speech so that they give voice to that which is in their respective hearts. ¹²⁹ This Shirah, as indicated in part by the strange names of birds mentioned therein, is evidently an ancient baraita, ¹³⁰ which has been more or less modified in the course of time. ¹³¹ Since it will be treated in more detail later, it will suffice at this point to merely indicate several verses of its contents. "When God at midnight goes to the pious in Paradise, all the trees therein break out into adoration, and their songs awaken the cock, who begins in turn to praise God. Seven times he crows, each time reciting a verse. The first verse is: 'Lift up your heads, O ye gates; and be ye lifted up, ye everlasting doors, and the King of glory shall come in. Who is the King of glory? The Lord strong and mighty, the Lord mighty in battle.' ¹³² The second verse: 'Lift up your heads, O ye gates; yea, lift them up, ye everlasting doors, and the King of glory shall come in. Who is this King of glory? The Lord of Hosts, He is the King of glory.' ¹³² The third: 'Arise, ye righteous, and occupy yourselves with the Torah, that your reward may be abundant in the world hereafter.' ^{132a} The fourth: 'I have waited for

sages and later scholars this spiritual and religious affinity between man and beast assumed special import and significance. So much so that Joseph Albo asserts that Perek Shirah must not merely be recited by rote, but must be actually understood with the mind, as stated, "I said in my heart",¹⁴⁵ Albo further attempts to explain why the Rabbis assured all who meditated daily over the Shirah, a share in the world to come.¹⁴⁶

Though the Talmud does not specifically refer to it, one can discern many unmistakable traces concerning it therein. It mentions, for example, that an egg of an unclean fowl is forbidden by Mosaic law and indicates the "bat ha-ya'anah"¹⁴⁷ as such a fowl. But this interpretation is challenged with a counterquotation from the prophet Isaiah, "The beasts of the field shall honor Me, the jackals and the benot ya'anah. And if you were to say that it (the term bat) refers to the egg, can an egg sing hymns unto the Lord? Surely an egg cannot be classed among those that may say the 'Shirah'!"¹⁴⁸

"Rabbi Isaac Nappaḥa asserted that the crushing defeat of Sennacherib's army before Jerusalem was due to the Shirah of the beasts of the field, to whose voices the Almighty opened the ears of the Assyrians. 'At the noise of the tumult the people fled; at the lifting up of thyself (by the recitation of the Shirah) the nations were scattered.'¹⁴⁹ In I Samuel 6:12, referring to the kine that drew the cart in which the Holy Ark was conveyed from the country of the Philistines, R. Meir interprets 'wayishsharnah' (they took the straight way) as 'they (the kine) sang the Shirah'; according to one Rabbi, it was Psalm 98; while R. Isaac Nappaḥa puts into their mouths verses in classical Hebrew."¹⁵⁰

The conception that birds and animals "chant praises to the Lord is genuinely Jewish,"¹⁵¹ and as can be determined from the above discussion, occurs frequently in the Biblical, midrashic and talmudic literature. Nor did it appear unnatural to the Hebrew intellect, since the lower animals and humans originally spoke a common language; and after the fall of man the lower species were still in possession

Thy salvation, O Lord!¹³³ The fifth: 'How long wilt thou sleep, O sluggard? When wilt thou arise out of thy sleep?'¹³⁴ The sixth: 'Love not sleep, lest thou come to poverty; open thine eyes, and thou shalt be satisfied with bread.'¹³⁵ And the seventh verse sung by the cock runs: 'It is time to work for the Lord, for they have made void thy Law.'¹³⁶

'The song of the vulture is: 'I will hiss for them, and gather them; for I have redeemed them, and they shall increase as they have increased.'¹³⁷--- the same verse with which the bird will in time to come announce the advent of the Messiah, the only difference being that when he heralds the Messiah, he will sit on the ground and sing his verse, while at all other times he is seated elsewhere when he sings it.¹³⁸

'Nor do the animals praise God less than the birds. Even the beasts of prey give forth adoration. The lion says: 'The Lord shall go forth as a mighty man; He shall stir up jealousy like a man of war; He shall cry, yea, He shall shout aloud; He shall do mightily against His enemies.'¹³⁹ And the fox exhorts unto Justice with the words: 'Woe unto him that buildeth his house by unrighteousness, and his chambers by injustice; that useth his neighbor's service without wages, and giveth him not his hire.'¹⁴⁰

'Yea, the dumb fishes know how to proclaim the praise of their Lord. 'The voice of the Lord is upon the waters; the God of glory thundereth, even the Lord upon many waters.'¹⁴¹ while the frog exclaims, 'Blessed be the name of the glory of His kingdom forever and ever!'¹⁴²

"Contemptible though they are, even the reptiles give praise unto their Creator. The mouse extols God with the words: 'I will extol Thee, O Lord, for Thou hast raised me up, and has not suffered my enemies to rejoice over me.'¹⁴³ And the cat sings: 'Let everything that hath breath praise the Lord; Praise ye the Lord!'¹⁴⁴

Thus do the beasts of the field and fowl of the air give concrete expression to their inward thoughts and manifest a religious nature equal to that-of-man. To many of the

of languages which many a wise man understood.¹⁵¹ Granting then the possibility of both religious and linguistic intercourse between man and beast, it became quite simple for some to include the beast within the framework of Judaism. Particularly, since the beasts and birds were objects of providential solicitude. God, the Psalmist reminds us, is good to all and His tender mercies are over all His works. Such categorically accepted concepts supplied the ancient Hebrews with never-failing fountains of inspiration. In their hymns and prayers as well as in their instruction the Rabbis were ever fond to point a moral and adorn a tale from the animal kingdom.¹⁵² Since this phase too will be treated later, it will be sufficient at this time merely to state a tale or two which reflect both religious instruction and which in addition personify the religious nature of the beast.

Rabbi Pinhas, the Talmud tells us, happened to come to a certain inn. They placed barley before his ass, but it would not eat. It was sifted, but the ass would not eat it. It was carefully picked; still the ass would not eat it. Perhaps, suggested R. Pinhas, it is not tithed? It was at once tithed, and the ass ate it. He, thereupon, exclaimed, "This poor creature is about to do the will of the Creator, and you would feed it with untithed produce!"¹⁵³

Similarly did the ass of R. Yose act righteously. When it was hired out for a day, the people who hired it would place, in the evening, the hire on its back and the ass would make its way home to its master. If, however, the money was too much or too little, it would not go. One day a pair of sandals were left on its back and the ass would not move until they were removed and only then did it proceed.¹⁵⁴

"A story is also told of Rabbi Hanina ben Dosa's donkey, which robbers stole. They tied him fast in a courtyard, and set before him straw, oats and water. Yet, he neither ate nor drank. They said: 'Why should we hold on to him? That he die and fill our yard with his stench?' So they opened the door and let him out. And he trotted until he

arrived at R. Hanina ben Dosa's home. And when he got there, the Rabbi's son heard a voice and said: 'Father, this voice sounds like the voice of our beast.' The Rabbi said: 'My son, open the door for him, for he is hungry unto death.' He went and opened the door, and put out straw, oats and water for him; and he ate and drank. And it was said: As the first righteous were devout, so also their beasts were devout, just as they."¹⁵⁵

As stated earlier, the spiritual and religious affinity between man and beast inevitably assumed a particular significance. Both were to a degree dependent upon each other; both were in the service of God. Though man was permitted dominion over the fish, fowl and beast of the field, yet, was he commanded to be humane. Mosiac law required that though man be the master, he was not to be the tyrant; he may use but not abuse his power. Now, that the lower forms, endowed with a religious character, "supplied the theme for their most ardent invocations, a subject for their prayers and meditations, a text for their exhortations, and symbol for the fulfillment of their future expectations,"¹⁵⁶ it was logical and natural that the sages should pay particular attention to their comfort and welfare. Thus, the religious character of the beast contributed to the development of the concept "Tsa'ar Ba'ale Hayim."

Associated also with demons, and reflecting in part their animal nature was their characteristic "hairy" (sa'ir) appearance. 160 Through the prophet Isaiah, God pronounces judgment upon Edom and in His wrath dooms her lands to waste and desolation, a place wherein "the Sa'ir shall cry to his fellow; yea, the Lilit (night-monster) shall repose there; and shall find her a place of rest." 161

As stated above, demons were capable of assuming various postures and shapes. Presumed to possess such attributes, in addition to many others, the serpent occupied a most exalted position among the early Semites. Shrouded in mystery-- by virtue of its subterranean abode and presumed kinship with many sorts of elusive beings-- and accepted as the primal tempter of man, it became endowed with a malefic character. But as the serpent was maleficent, so was it also beneficent. Not only was it the sentinel and guardian of human homes, the kind protector against ubiquitous evil spirits, but the seat of healing power as well. Thus, the latter qualification-- though only by way of speculation and conjecture--- may possibly have been the cause for the brazen serpent of the desert period. Israel, it will be remembered, was marching southward to compass the land of Edom. As they journeyed from Mount Hor to the Red Sea, the people renewed their murmurings against the Lord and Moses. They charged once again that their deliverance from bondage meant nothing more than death in the wilderness; that the desert offers them neither bread nor water and that their souls take no delight in the manna from heaven. 162 As punishment for their little faith, "the Lord sent fiery serpents among the people, and they bit the people; and many people of Israel died. And the people came to Moses, and said: 'we have sinned, because we have spoken against the Lord, and against thee; pray unto the Lord, that He take away the serpents from us.' And Moses prayed for the people." 163 God, thereupon, hearkened to the cry of the repentant Israelites and subsequently bade Moses erect a lofty pole upon which he was to set the image of a fiery serpent. 164 "And it shall come to pass, that everyone that is bitten, when he seeth it shall live. And Moses made a serpent of

PART II

CHAPTER IV

ATTITUDE TOWARDS ANIMAL WORSHIP, DEMONS AND EVIL SPIRITS

Modern science supposedly has proven through the logic of Evolution that man and beast are kindred. Millennia earlier, however, primitive man arrived at somewhat the same conclusion. Some, confirmed and acknowledged such relationship in their religious concepts through the worship of certain beasts, as the progenitors of their race; others, recognized in them great living powers, and consequently made their bodies the abode of human souls, gods and spirits. 157

Animals so endowed were invested with demoniacal powers. Possessed with superhuman attributes and capable of assuming various forms and shapes at will, they frequently became objects of superstitious worship. Every condition and activity of human life became subject to their influence, and consequently, they were feared as foes or prized as allies. 158

Though large portions of the ancient Semitic population were so infected, little Biblical evidence exists pertaining to such animal cults in Israel. However, these concepts certainly were not foreign to them. Moses clearly reminds the newly emancipated Hebrews that fear and worship of idols and demons were not in the tradition of their ancestors, and sharply reprimands them for such conduct. In his song of farewell to the people he guarded so long and so well, the ancient lawgiver declares as follows: "They sacrificed unto demons (Shedim), no-gods; gods that they knew not; new gods that came up of late; which your fathers dreaded not." 159

brass, and set it upon the pole... when he looked unto the serpent of brass he liveth. ¹⁶⁵ The writer --- from an analysis of both Biblical and post-Biblical evidence --- cannot agree with those who maintain that this serpent episode reflected animal worship and ophiolatry in Israel. It was erected upon the expressed command of God who would not tolerate nor condone such practices on the part of his Chosen People. ¹⁶⁶ Rather must it be recognized symbolically as the Mishnah indicates: "Now did the serpent kill or did he keep alive? No. what it indicates is that when Israel turned their thoughts above and subjected their hearts to their Father in Heaven, they were healed, otherwise they pined away." ¹⁶⁷

But although "tradition has ascribed this cult of the brazen serpent to the desert period, it is not altogether impossible that this tradition may have some historic basis in a primitive serpent-cult existing among some element, some clan or tribe of pre-historic Israel. Excavations in Palestine have brought to light a number of bronze serpent images dating from the pre-historic period, i. e. from before the advent of the earliest Semites, the forerunners of the Canaanites and Phoenicians, about 2500 B.C.E. This indicates that the cult of the serpent was observed by the pre-Semitic, pre-historic inhabitants of Canaan and that from them it passed to the Canaanites, and from them in turn to the Israelites after their settlement in Palestine. The fact that the traditional Israelite serpent image was made of bronze, rather than iron, which came into use in Palestine only about 1200 B.C.E. tends to confirm the assumption of the great antiquity of this cult, and that it was of non-Israelite origin." ¹⁶⁸

Analysis of the foregoing discussion together with its indicated notes, therefore, point clearly to the proposition that while demons were well-known in the days of the Bible, Talmud and Midrash, they were not generally accepted as objects of worship; that while little positive evidence exists to demonstrate such worship as native to Israel, much inferential evidence can be cited which reflect disgust and obhorrence of it in their religious writings. So it was also

that King Hezekiah (721-693 B.C.E.) "broke in pieces the brazen serpent that Moses had made," ¹⁶⁹ and which had been preserved in the Temple up to his reign. The serpent had ceased to symbolize the beneficence of the Lord and had assumed in the eyes of many the healing power itself. ¹⁷⁰ Consequently, it too became an object of worship and therefore had to be destroyed. ¹⁷¹

Many, also during the primeval period, considered certain animals as sacred, by virtue of an alleged kinship between them. Such sacred animals were judged "unclean" for general consumption and occupied an exalted position within the animal world. ¹⁷² Recognized as members of a most coveted category and held strictly distinct from the "clean" animals, they were reserved for the more noteworthy occasions. At such events, and amid great religious orgies, their flesh was finally consumed. Thus, the people ratified their union or covenant with its animal kindred and by partaking of the flesh, derived some communion with the super-natural life. ¹⁷³

Such practices were entirely inconceivable to the Hebrew tradition and completely contrary to the Mosaic Code. Only in a period of political and religious confusion when Hebrews and heathens mingled together, could such conduct have been made possible. History, unfortunately, records the appearance of such confusion "immediately preceding and subsequent to the overthrow of the Jewish state, and the destruction of the Temple by the Babylonians in 586 B.C.E. Various strange foreign rites at that time crept into the religious practice of Israel. Among these were certain mystery cults, in which the eating of various unclean animals, particularly the swine and the mouse, as well as wringing of the neck of the dog, seem to have played a peculiar role (Isaiah 65:4, 66:3, 17). Likewise in this same period, various animals and reptiles were depicted upon the inner walls of the Temple in the customary Assyro-Babylonian manner (Ezekiel 8:10). All this, however, does not imply necessarily that these creatures were actually worshipped. Moreover, all this was, as the Biblical evidence indicates, but a temporary aberration in the religious practice of Israel; it disappeared quickly, leaving almost no trace." ¹⁷⁴

This, then, was the general attitude of Israel towards evil spirits and animal worship throughout the ages. Nowhere in the Scriptures nor in the post-Biblical literatures do we find such worship inherent to the basic concepts of the Hebrew faith. 175 Yet, the Hebrew, as the heathen, admits kinship between man and beast. But though their relationship--- i.e. their kinship--- to the lower life appears similar and identical in terminology, the interpretation and effects of their affinity to them are conversely dissimilar and different. To the heathen certain animals considered kindred, were endowed--- as already stated--- with supernatural attributes and were therefore worshipped as superior beings. The Hebrew, to the contrary, retained his control over all the living creatures inhabiting God's cosmos, 176 and continually emphasized his preeminence over them. 177 Thus, while both adhered to a common basic doctrine, they were antithetical in practice and ceremony. Obviously, therefore, though each accepted the "kinship concept," each enjoyed its own peculiar interpretation of its meaning and demands. Assuming, then, that the Hebrews rejected the heathen rationale discussed above, how then did they view the notion that man and beast are kindred? How did such relationship manifest itself as a further basis in the development of "tsa'ar ba'ale hayim?" Affinity between the two, therefore, will be treated in the following chapter.

CHAPTER V

AFFINITY BETWEEN MAN AND BEAST

Biblical and post-Biblical doctrines neither teach nor tolerate the concept that the lower forms of life personify divinities incarnate. 178 Nowhere do such thoughts find expression in the laws of Israel; yet, a special affinity between man and beast does exist in Jewish literature and teachings. The innumerable references to the animal world already indicated in the foregoing chapters have undoubtedly inspired a deep concern for their welfare and comfort; a concern which developed increasingly as the years elapsed; a relationship which strengthened as the Jews employed members of the animal kingdom as inspiration for their prayers, as prototypes for their exhortations and as paragons for instructional purposes. So prominent was the beast and fowl in their religious literatures and so intimate appeared the kinship between them that frequently the Jew had to be reminded "that man who is the end of all the lower creatures, is nobler and more perfect than all, since in him are combined all the earlier forms." 179

Though man and beast are considered mortal, 180 and reliant on the Lord for food, 181 and in general enjoy a common destiny, 182 the Psalmist clearly declares: "Thou hast made him but little lower than the angels, and has crowned him with glory and honor. Thou hast made him to have dominion over the works of Thy hands; 183 Thou hast put all things under his feet." 184 Man, therefore, was created nobler and more perfect than all and consequently assumed his superior position vis-a-vis his fellow creatures. Man, combined in him all the particular perfections of the other animals and was accordingly endowed with more general comprehension and greater intelligence than they. 185 But as though this were not sufficient, the Midrash explains, man unites within himself both heavenly and earthly qualities. "I will create him," proclaims the Lord, "as partaking of both the celestial and the terrestrial worlds, for the sake of peace." 186 Four attributes of the higher beings

exalted and coveted category within God's cosmos. Thus, did the Lord pave the way for the advent of the human being, the climax of His creation.²⁰¹

Having now resolved to create man, the Almighty asked counsel of all around Him, before proceeding to execute His purpose.²⁰² "The Creator therefore turned to the animals and said, 'cooperate with me in forming a higher being to whom each of you shall donate a desirable characteristic.... the tiger, courage; the lion, bravery; the eagle, diligence, and so forth. Thus, will man not only be akin to you, but will also represent the finest in you.'"²⁰³ Thus, yet prior to the creation of man, was kinship established between him and the beast. So engrained was this concept in the minds of the talmudic scholars, that they offer us a most interesting statement. "If the Torah had not been given," R. Yohanan advises, "we could have learned modesty from the cat, honesty from the ant, chastity from the dove, and good manners from the cock."²⁰⁴ Man, therefore, being the sum total of their finest qualities and created in the image of God,²⁰⁵ was acknowledged their superior in the scheme of God's creation. "The king of the wild animals," the Talmud declares, "is the lion; the king of the cattle is the ox; the king of the birds is the eagle; and man is exalted over them."²⁰⁶ Man, the sages consequently interpret, not only assumed dominion over the lower forms, but was extolled above all as well. But "the Holy One, blessed be He," the sages continue, "is exalted over all of them and over the whole world."²⁰⁷ As God therefore controls the world, so does man control the lower life; as God "guides his world with loving-kindness and His creatures with tender mercies,"²⁰⁸ so must man, because of his resemblance to Him act likewise to his inferior brothers. As man was ordained to possess the rights of the ruler, so must he also fulfill the duties of the ruler.²⁰⁹ Considered as part of the human community²¹⁰ and subject to the same physical suffering as all sentient life, the beast was bestowed with moral rights; rights which, in Mosaic law, already acquired the status of legislation. Judaism required kind and solicitous treatment for the dumb; careful consideration for their welfare and comfort. So that when the prophet Ezekiel thunders against the leaders of Israel, he compares them

(i.e. the angels) were therefore bestowed upon him and four of the lower creatures. Like the animals: "he eats, and drinks, procreates, excretes and dies." Like the angels: "he stands upright, speaks, understands and sees... Said the Holy One: 'Behold I will create man in my image and likeness; thus, he will partake of the character of the celestial beings; while he will procreate as is the nature of the terrestrial beings.'"¹⁸⁷ Thus was man created a "little lower than the angels"; thus was he clothed with a divine character. But why then, if this be true, the sages query, did the Lord create him last? The Lord had endowed the human with divine attributes and blessed him with greater intelligence than all; should he consequently, therefore, "become too pompous and proud," the Talmud states, "he may be reminded that even the gnats preceded him in the order of creation."¹⁸⁸

However, though last in creation, man was first in thought. Man, we are informed, was contemplated yet prior to the creation of the world; and the world came into being only to sustain him and to serve his needs.¹⁸⁹ To accomplish this, the Midrash relates, all other creatures were required to alter their normal ways, should Israel throughout its history ever be in need of their aid. Agreements to this effect were accordingly consummated between the Lord and the lower forms. "Not with the sea alone,"¹⁹⁰ R. Jeremiah taught, "did God make a stipulation, but with everything which was created in the six days of creation, as it is written, 'I, even my hands, have stretched out the heavens, and all their hosts have I commanded.'¹⁹¹ I commanded the sea to divide, the heavens to be silent before Moses, as it says, 'Give ear, ye heavens, and I will speak.'¹⁹² I commanded the sun and the moon to stand still before Joshua¹⁹³; I commanded the ravens to feed Elijah¹⁹⁴; I commanded the fire to do no hurt to Hananiah, Mishael, and Azariah¹⁹⁵; I commanded the lions not to harm Daniel¹⁹⁶; the heavens to open before Ezekiel¹⁹⁷; the fish to vomit forth Jonah.¹⁹⁸ Being a composite, therefore of all beings, celestial and terrestrial, and in whose interest all must direct their energies, man would naturally be loved by all; and should he at any time commit a transgression, all would be interested in his welfare and preservation.²⁰⁰ Thus, was man destined to occupy an

to shepherds who maltreated and neglected the welfare of their flock. "Ye did eat the fat, and ye clothed you with wool, ye killed the fatling, but ye fed not the sheep. The weak have ye not strengthened, neither have ye healed that which was sick, neither have ye bound up that which was broken, neither have ye brought back that which was driven away, neither have ye sought that which was lost; but with force have ye ruled over them and with vigor."²¹¹ Though allegorically employed, neglect of the sheep portrays and reflects current popular thinking then existent; consideration for the welfare and suffering of these subordinate creatures was expected and required from all. But it would be inaccurate to assume, as some may do, that such concepts were peculiar only to that day. A millennium earlier, in the days of the patriarchs, kindness to animals seemed to have played an important role in the life of the people. So engraved was this in the consciousness of the early Hebrews, that they considered it a prime requisite for positive character and a trait particularly desirable in neighbor and consort; for one void of mercy they felt, was not only void of feeling, but heartless toward man as well.²¹² So it was that Eli'ezer, sent in search for a wife for Isaac, halted his caravans at a well and prayed as follows: "So let it come to pass, that the damsel to whom I shall say: Let down thy pitcher, I pray thee, that I may drink; and she shall say: Drink, and I will give thy camels drink also; let the same be she that thou hast appointed for Thy servant, even for Isaac."²¹³ Soon thereafter the Biblical narrative relates, Rebecca appeared and fulfilled the prayer of the faithful Eli'ezer. Thus was she found worthy to be chosen the wife of Isaac and the successor to the pious Sarah.

But as Rebecca was imbued with feeling for the dumb animals, so also did she transmit same to her son Jacob.²¹⁴ The Lord, it will be remembered, appeared to him and bade him depart from Padan-Aram, whereto he had fled to escape the wrath of Esau, and return to the land of Canaan.²¹⁵ Accordingly, Jacob, accompanied by his wives, children and cattle, forsook the home of Laban and commenced the long trek back to the land of his fathers. But as Jacob realized the dangers and hardships that were in

store for him as he journeyed alone to Padan-Aram, and consequently at that time lifted up his voice in prayer,²¹⁶ so did he now sense similar trepidation and prayed likewise.²¹⁷ But this time the scene was altered. This time he was not alone. The responsibility was great and his plight was extremely precarious. "Deliver me, I pray Thee from the hand of my brother, from the hand of Esau; for I fear him, lest he come and smite me, the mother with the children."²¹⁸ To appease Esau, therefore, Jacob had sent messengers before him to the land of Se'ir, carrying gifts. Thus did Jacob attempt to find favor in the eyes of his brother and make him forget the grudge he bore him so long. But from the Biblical narrative it can be inferred that Jacob's efforts were both unnecessary and needless. Esau cared little about them for he said: "I have enough; my brother, let that which thou hast be thine."²¹⁹ But as if this were not sufficient to indicate his good will, Esau further declared: "Let us take our journey, and let us go, and I will go before thee."²²⁰ Jacob, however, politely rejected this kind and gracious proposal. Rebecca had taught the lesson well; comfort of and concern for the welfare of the cattle had to be considered at all times. Rarely can one find more compassionate words uttered. "My Lord," he said, "knoweth that the children are tender, and that the flocks and herds giving suck are a care to me; and if they overdrive them one day, all the flocks will die. Let my Lord, I pray thee, pass over before his servant; and I will journey on gently, according to the pace of the cattle that are before me and according to the pace of the children, until I come unto my Lord unto Se'ir."²²¹ Is it any wonder then, that Lecky clearly declares, that tenderness to animals is one of the most beautiful features in the Old Testament?²²²

Upon this moral insight of the early Hebrews, the Rabbis of the Talmud placed great emphasis. They supplemented and reenforced at times, even what appears to be general Mosaic statements, so as to give them some moral content; some lesson to be learned; some thought upon which to expatiate and expound the teachings of mercy and loving-kindness. "And I will give grass in thy fields

for thy cattle, and thou shalt eat and be satisfied"²²³ was construed to imply that man must neither eat nor drink before first providing for his animals.²²⁴ So important was this latter concept to the sages of the Midrash, that through the following legend they taught the importance of this moral obligation to the beast. "Abraham said to Melchizedek,²²⁵ 'How is it you came forth safely from the Ark?' 'By reason of the charity we practiced there.' 'But what charity was there for you to practice? Were there any poor in the Ark? Only Noah and his sons were there, so to whom could you have been charitable?' 'To the animals, beasts and birds. We did not sleep but gave each its food throughout the night.' "²²⁶

With doctrines such as these, culled from the annals of Jewish lore, affinity between man and beast inevitably assumed greater proportions. In addition, the Hebrew had been from time immemorial an agriculturist; together with his beast, a partner in the field; together they sweated to till the ground. The farmer, more than any other, realizes the worth of his ox. "Where no oxen are," declares King Solomon, "the crib is clean; But much increase is by the strength of the ox."²²⁷ Through the ox, man is provided with food necessary to carry on his daily existence; man, therefore, naturally would feel dutybound to repay the beast in the method he knows best, through love, mercy and kindness. Thus, the relationship already established between the two increased as the years elapsed; thus, it continually deepened, to the extent that both continued to enjoy a common destiny.²²⁸ So intimate was this relationship, that in poetic imagery, the prophet Jeremiah holds the beast accountable for the sins of man. In retaliation for the iniquities of Israel, the Lord caused a severe drought to come upon Judah. Not only do the "nobles send their lads for water" who return "with their vessels empty,"²²⁹ but the "hind in the fields calveth, and forsaketh her young, because there is no grass. And the wild asses stand on the high hills, they gasp for air like jackals; their eyes fail, because there is no herbage."²²⁹ But as they share a common misfortune, so also do they rejoice together. "Behold, the days come, saith the Lord, that I will sow

the house of Israel and the house of Judah with the seed of man, and with the seed of beast. And it shall come to pass that like as I have watched over them to pluck up and to break down, and to overthrow and to destroy, and to afflict; so will I watch over them to build and to plant."²³⁰ So did the prophets of Israel emphasize a common fate and destiny between man and beast. But most expressive, however, is this destiny revealed in the words of Ecclesiastes: "For that which befalleth the sons of men befalleth beasts; even one thing befalleth them; as the one dieth, so dieth the other; yea, they have all one breath; so that man hath no preeminence over the beast;²³¹ for all is vanity. All go into one place; all are of the dust, and all return to the dust. Who knoweth the spirit of man whether it goeth upward, and the spirit of the beast whether it goeth downward to the earth?"²³² Though Ecclesiastes here clearly and completely appears to repudiate man's higher spiritual assertions, he nevertheless affirms the physical and biological affinity between man and the lower forms.

Examination of the Biblical and post-Biblical evidence, therefore, leads but to one conclusion: of the two, man is the superior, the more perfect and nobler creature, yet both are considered kindred and interrelated. Both, the children of a common Creator.

Such being the case, was it any wonder that Israel prayed for the beast as for himself? Does not the Psalmist declare that "the earth is the Lord's and the fulness thereof, the world and they that dwell therein?"²³³ Does not the Lord sit in the heights of the universe, and distribute food to all creatures?²³⁴ does He not preserve²³⁵ and rule²³⁶ over all? Does He not send His rains to benefit both man and beast jointly?²³⁷ The Lord is Father to all and consequently deserves the praise of all. In the name of all creatures, therefore, the Jew raises his voice in prayer and proclaims: "The breath of every living being shall bless Thy name, O Lord our God, and the spirit of all flesh shall continually glorify and exalt Thy memorial, O our King."²³⁸ And as he prays, he pleads for both to be imbued with a sincere religious spirit, to do the will of their Creator.

"Now, therefore, O Lord, impose Thine awe upon all Thy works and Thy dread upon all that Thou hast created, that all Thy works may fear Thee, and all creatures prostrate themselves before Thee, that they may form a single bond to do Thy will with a perfect heart. . . . and everything that liveth shall give thanks unto Thee forever, and shall praise Thy name in truth."²³⁹ But as the Jew prayed in the name of the lower life, so also did he pray for them. "How do the beasts groan!" cried the prophet Joel unto the Lord, "The herds of cattle are perplexed, because they have no pasture; yea, the flocks of sheep are made desolate. Unto thee, O Lord, do I cry; for the fire hath devoured the pastures of wilderness, And the flame hath set ablaze all the trees of the field. Yea, the beasts of the field pant unto Thee; For the water brooks are dried up, and the fire hath devoured the pastures of the wilderness."²⁴⁰ And on the first day of Passover the Jew entreats the Lord to let fall his dew upon the vegetation, which without it would suffer greatly;²⁴¹ and seemingly desirous to eliminate the cause for Joel's concern above, he argues the case for the welfare of the beast as follows: "Dew will revive those in the clefts of the rocks. . . . Bless our sustenance with dew; let no ill befall our flocks."²⁴²

From the foregoing discussion certain talmudic truths can now be drawn. Foremost of all, it must be categorically conceded, that to the sages of the Talmud and Midrash, man and beast were created kindred; but of unequal status. The lower creatures, they reasoned, were given life in order to serve the needs of man, and to contribute to his comfort and welfare. Man, however, on his part, had to remember forever that they-- the beasts-- are also God's children; that they too possess sensitivity and therefore-- as man-- are entitled to the innate moral rights of consideration, justice and protection.²⁴³ Man, the sages further taught, must in addition realize that "even those things which one may regard as completely superfluous to the creation of the world, such as fleas, gnats, and flies, even they too are included in the creation of the world, and the Holy One, blessed be He, carries out His purpose through everything, even through a snake, a scorpion, a gnat or a

frog."²⁴⁴ Everything therefore, had a particular mission to perform and thereby served the purpose of the Lord. Consequently, proper value and dignity had to be accorded even the smallest creature within God's creation, for even through it, divine doctrines were made manifest. Thus, the lower life were employed as paragons for instructional purposes, and as prototypes through which the Hebrew teachers stressed the importance of spiritual and moral values. Hence, the fox, for example, which in the Bible certainly does not reflect cunning and sagacity, ²⁴⁵ becomes in the Talmud and Midrash endowed with the acumen of an expert casuist. As learned rabbis, it quotes scriptures with ease, and preaches its truths in typical talmudic fashion. A fox, we are told, once craftily induced a wolf to go to a Jewish home on Friday night and share in the preparation of food for the Sabbath; the wolf in return was assured that if he did so, he would be invited to take part in the Sabbath meal. But upon appearing in their midst, the Jews fell upon him with sticks and beat him. He therefore returned determined to kill the fox. But the latter pleaded: 'It is no fault of mine that you were beaten, but they have a grudge against your father who once helped them prepare their food and then consumed all the choice bits.' 'And was I beaten for the wrong done by my father?' cried the indignant wolf. 'Yes,' replied the fox, 'is it not written, "the fathers have eaten sour grapes and the children's teeth are set on edge."²⁴⁶ But come with me and I will show you where you can eat your fill.' He led him to a well which had a beam across it from either end, and from which hung a rope with a bucket attached. The fox entered the upper bucket and descended into the well while the lower one was drawn up. 'Where are you going?' asked the wolf. The fox, pointing to the cheese-like reflection of the moon, replied: 'Here is plenty of meat and cheese; get into the other bucket and come down at once.' The wolf did so, and as he descended, the fox was drawn up. 'And how am I to get out?' demanded the wolf. 'Ah' said the fox, 'now you see that it must be true when it is said, "the righteous is delivered out of trouble and the wicked cometh in his stead."²⁴⁷ Is it not written, "Just balances, just weights?"'

Through such techniques, employed with unique pedagogic skill, did the sages of the Talmud and Midrash illustrate religious ideas, moral maxims and ethical requirements.²⁵⁰ Through the media of the lower life the rabbis were further able to project the normal conditions of daily living and thereby through the subtle art of indirection, influence the actions of their many adherents. The Romans had made life difficult for Jews in general, but towards the pious they were most wicked. Traditional Jews, as the early Christians, were severely persecuted. Under Hadrian, in particular, they were denied the practice of their religion, and the study of their Torah was vigorously interdicted.²⁵¹ But government decrees had little effect upon the talmudic teachers. With firm belief in the justice of their cause and with supreme faith in their Creator, they willingly and voluntarily assented to a martyr's death, rather than bow to the will of their heathen masters.²⁵² So that when Pappus ben Judah met Rabbi Akiba, he found him "publicly bringing gatherings together and occupying himself with the Torah. He said to him: 'Akiba, are you not afraid of the government?' He replied: 'I will explain to you with a parable. A fox was once walking alongside of a river, and he saw fishes going in swarms from one place to another. He said to them: "From what are you fleeing?" They replied: "From the nets cast for us by men." He said to them: "Would you like to come up on the dry land so that you and I can live together in the way that my ancestors lived with your ancestors?" They replied: "Art thou the one that they call the cleverest of animals? Thou art not clever but foolish. If we are afraid in the element in which we live, how much more in the element in which we would die!" So it is with us. If such is our condition when we sit and study the Torah, of which it is written, "For that is thy life and the length of thy days,"²⁵³ if we go and neglect it, how much worse off we shall be!"²⁵⁴ Thus, through this animal fable Akiba ben Joseph taught the importance of Torah to his co-religionists; that its study was vital to the very existence of Israel's institutional life.

But the innovation of the fable served yet another function. Not only was it utilized to interpret and expound upon biblical traditions and current political affairs, but was further employed to illustrate popular proverbs than existent. One day, the Midrash relates, "a certain person was coming from Babylon, and sat down to rest on the road, when he saw two birds fighting with each other, and one of them killed the other. The survivor went and fetched some herb and, placing it on the other, revived her. It will be a good thing, he thought, if I take some of this herb and revive therewith the dead of the land of Israel. As he was running along he saw a fox dead and decaying on the road. It will be a good thing, he thought, if I try it on this fox. He placed it on him and revived him. He went on until he reached the Ladders of Tyre. When he arrived at the Ladders of Tyre, he saw a lion slain and decaying on the road. It will be a good thing, he thought, if I try it on this lion. He placed some herb on him and he came back to life and devoured him. This bears out the popular saying: 'If you have done good to the bad, you have done a bad thing! Do not do good to the bad and no harm will befall you!'"²⁵⁵

The above methods of instruction quickly gained great popular appeal among the masses. Skillfully, the sages adapted foreign fables and wove them into the fabric and framework of Judaism.²⁵⁶ But to the Jewish mind the narrative only was foreign; the concept that God teaches us through the beasts of the earth and makes us wise through the fowls of heaven,²⁵⁷ was a Biblical truth; categorical and undeniable. Animals of various species, the Jew believed, were specially endowed with certain natural positive moral attributes, and placed within God's cosmos as patterns of conduct for man to emulate. Modesty and the decencies of life could be taught by the cat²⁵⁸ for she covers her excrement with earth; good manners, propriety and proper conduct from the cock, who before copulation with the hen, promises to buy her a cloak long enough to reach to the ground.²⁵⁹ When, however, the hen reminds him of his pledge, he shakes his comb and says,²⁶⁰ "May the cat tear off my²⁶¹ crest if I have any money and do not buy you one."²⁶¹; chastity from the dove,²⁶² for its

faithfulness to its mate makes it a symbol of conjugal fidelity and devotion²⁶²; compassion and mercy from the stork, whose name in Hebrew is *Ḥasidah*.²⁶³ And why queries R. *Ḥisda* "is it called *Ḥasidah*? Because it shows kindness (*ḥasidut*) to its companions"²⁶⁴ and acts affectionately towards its neighbors²⁶⁴; industry, foresight and honesty from the ant,²⁶⁵ "which having no chief, overseer, or ruler, provideth her bread in the summer and gathereth her food in the harvest"²⁶⁵; so that Solomon clearly admonishes the slothful as follows: "Go to the ant, thou sluggard; consider her ways and be wise"²⁶⁵; and from the locust, unity and discipline. Individually, but weak and insignificant, the locust emerges dangerous and formidable when united. With no king to lead them, instinctively they divide in bands²⁶⁶ to accomplish their special missions. As soldiers in battle, they march with perfect discipline; "they run like mighty men, they climb the wall like men of war; and they move on, every one in his ways, and they entangle not their paths. Neither doth one thrust another, they march every one in his highway; and they break through the weapons and suffer no harm. They leap upon the city, they run upon the wall, they climb up into the houses; they enter into the window like a thief. Before them the earth quaketh, the heavens tremble; the sun and the moon are become black, and the stars withdraw their shining."²⁶⁷

But the members of the animal world, endowed as they were, with human personality, were neither employed only as protagonists in fable fiction to illustrate some spiritual or moral value; nor were their natural characteristics set only before man as desirable patterns of behavior. But in addition, the subordinate beings served the Jew in still another way. Through the imagery of metaphor and simile, God's tender care of His "chosen people" found tangible and affectionate expression. Through comparison with the actions of the lower species, vis-a-vis their natural surroundings, the intimate relationship between God and Israel was further developed and strengthened. So that when the aged Moses delivered his farewell address to a new generation of Hebrews, he recalled the solicitous concern of the eagle for its young. In simple but heartfelt

words, the ancient lawgiver called upon heaven and earth to bear witness to the loving-kindness of the Lord, and depicted in poetic language the scene how God discovered Israel, "in a desert land, and in the waste, a howling wilderness, He compassed him about, He cared for him, He kept him as the apple of His eye; As an eagle that stirreth up her nest, hovereth over her young, spreadeth abroad her wings, taketh and beareth them on her pinions-- The Lord alone did lead him and there was no strange god with Him."²⁶⁸ And as Moses taught the young Hebrews through illustrations from the life of the animal kingdom, so also did the later Prophets resort to such media when they inveighed against those who failed to keep faith with the Lord, their Guardian. As Moses before him, Isaiah also called upon heaven and earth to give ear and listen "for the Lord hath spoken: Children I have reared, and brought up, and they have rebelled against Me. The ox knoweth his owner, and the ass his master's crib; But Israel doth not know," moans the Prophet, "My people doth not consider."²⁶⁹ Similarly does Jeremiah admonish the men of his day, for not adhering to the traditions of their ancestors. "Yea, the stork in the heaven knoweth her appointed times; and the turtle and the swallow and the crane observe the time of their coming; But My people know not the ordinance of the Lord."²⁷⁰ Sooner, the Prophet believes, will "the Ethiopian change his skin, or the leopard his spots" than they that are accustomed to do evil will again do good.²⁷¹

But Israel one day, the seer guarantees will return to the Lord "as the doves to their cotes"²⁷²; and it shall come to pass in that day "that the mountain of the Lord's house shall be established as the top of the mountains, and shall be exalted above the hills; and all nations shall flow unto it. And many peoples shall go and say: 'Come ye, and let us go up to the mountain of the Lord, to the house of the God of Jacob; and He will teach us of His ways, and we will walk in His paths.' For out of Zion shall go forth the law, and the word of the Lord from Jerusalem."²⁷³ Thus, the millenium will be ushered in; the dawn of a new life, not only for man but for bird and beast as well. Peace and good-will, as in the days of creation, will once again reign supreme among all the inhabitants of the earth. In that