

CHAPTER IX

SHEHITAH 640

No discussion of "Tsa'ar Ba'ale Hayim" can be considered truly complete without at least some mention of Shehitah, Serus 641 and Ever min ha-Hai. 642 Of such great import, in fact, are these concepts to the writer that he, originally, planned to examine each one separately and in detail. However, despite the voluminous notes which were amassed concerning them, he now believes their detailed individual treatment to be unnecessary and superfluous. For unlike the material of the preceding chapters, much of which was culled for the first time from many and varied sources, the basic material pertaining to them has been already published, and is consequently generally available to the public at large. 643

Acts of Serus and Ever min ha-Hai certainly would not be in harmony with the principle of kindness and the prevention of cruelty to animals. Mosaic and talmudic prescriptions, therefore, against such practices are quite understandable to the average individual and in keeping with the Biblical tradition. But Shehitah, on the other hand, despite the innumerable testimonials paid to it on the part of medical men and physiologists throughout the world, as a method of humane slaughtering, continues to represent to many, a cruel and barbarous ritual. If this latter concept were true, however, Shehitah would be completely incompatible with the general tenor of the Biblical teaching and contrary to the spirit and intent of the ancient Hebrew sages who promulgated it. To the Jew of old it was "halakhah le-Mosheh mi-sinai," commanded by God Himself to Moses at Sinai, 644 and therefore, viewed not as a further step in the commercial preparation of meat for marketing purposes, but rather as an act charged with great religious significance. All life, whether human or not, is part of the Divine spark and cannot be extinguished except through religious sanction reflecting the will of the Lord. 645 Viewed in this light Shehitah as a religious act must have

been unthinkable to the ancient teachers unless allied to the Mosaic concept of "tsa'ar ba'ale hayim" and consequently they ordained that person only to be shohet (slaughterer), who possessed a reverential and kind nature; for such an individual, they felt, could be trusted to slaughter animals without cruelty and brutality. 646 Talmudic law further charges the shohet with five specific requirements to guarantee that the Shehitah be accomplished as quickly and as free from pain as possible. 647 Infringement of any one of these regulations invalidates the act and renders the animal neveilah 648 and unfit for human consumption. The shohet, moreover, is compelled to examine his halaf (knife) thoroughly prior to each slaughtering. 649 Should the blade possess a perceptible notch or lack the smoothness and sharpness of the surgeon's knife it must be declared unfit for use. 650 With a knife at least twice the width of the throat of the animal or fowl to be slaughtered, the throat is cut by a forward and backward movement, cutting through the trachea (windpipe) and the oesophagus (gullet). Any additional movement of the knife causes the Shehitah to be defective. As is well-known, an act such as this, an incision produced by a swift sharp knife is hardly felt. Thus, the severing accomplished in a matter of seconds must be practically painless. Shehitah furthermore, severs the giant carotid arteries and the jugular veins and since the sharp blade is free of all notches and marks, it encounters only cartilaginous rings of the trachea and flesh or muscle tissue, and the flow of blood is swift and in great volume. As a result, therefore, because of this profuse loss of blood, loss of consciousness can easily ensue, effectuating an absence of all feeling.

Thus, the various regulations comprising the Shehitah method of killing of animals appear not only to be in harmony with the principle of prevention of cruelty but seem to have been dictated by it. This statement, in fact, becomes even more apparent when we consider the teachings of Rabbah b. Abbuha. To Rabbah, cutting the throat produced an easy death and he therefore ruled that criminals who were condemned by the sword should receive such an incision. "Whence is it deduced that execution by the sword 651 must

be at the neck?" queries the Talmud.... "R. Nahman answered in the name of Rabbah b. Abbuhah: Scripture said, 'but thou shalt love thy neighbor as thyself,' 652 choose for him an easy death." 653 Thus, by implication, the Jew was admonished to execute his condemned neighbor in a merciful manner, by the fatal cut in the neck. The term "easy death" is further explained by RASHI to mean "with a blade on the side of the neck where the vital organs are, in order that he should die more quickly." 654 And by Maimonides, the physician, the humane aspect of Shehitah was stated as follows: "The commandment concerning the killing of animals is necessary, because the natural food of man consists of vegetables and of the flesh of animals; the best meat is that of animals permitted to be used as food. No doctor has any doubts about this. Since, therefore, the desire of procuring good food necessitates the slaying of animals, the law enjoins that the death of the animal should be the easiest. It is not allowed to torment the animal by cutting the throat in a clumsy manner, by poleaxing, or by cutting off a limb whilst the animal is alive." 655

CHAPTER X CONCLUSION

History indicates clearly that the Jews were the first people to consider animal welfare from an ethical and moral standpoint. Examination of the Biblical, talmudic and medieval jurisprudence concerning the lower creatures reflects a coherent system of human legislation whose purpose is to defend the sub-human creation and to make humans more humane. As fellow workers in the vineyard of the Lord, their status and rights must be assured; as God's creatures also they too were assigned a function in creation. A function whereby, according to Scripture, they would serve the needs of man. But God, the Jew holds, requires in turn for their faithful service, that man obligate himself towards them, to consider their welfare and treat them with kindness and benevolence. Ever since the dawn of Judaism down to this very day its devotees have been taught to practice "sa'ar ba'ale hayim." Statements, therefore, such as the one cited from Scho-penhauer in the Introduction to this paper, are based on ignorance of the subject and reflect a distortion of the truth. On the other hand, the findings, based on a scientific examination of the materials investigated in the foregoing chapters, 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.

NOTES TO INTRODUCTION

1. Joseph Hurewitz, "The Care of Animals in Jewish Life and Lore," in Leo Jung, editor, The Jewish Library, 1st Series (New York: The MacMillan Co., 1928), pp. 97f.
2. Isak Unna, Tierschutz im Judentum (Frankfurt-am-Main: J. Kauffmann Verlag, 1928), p. 6.

BOOK I

NOTES TO PART I

CHAPTER I

3. Gen. 1:11-12.
4. Ibid. 1:20-25; Cf. J. H. Hertz, Hamishah Humshe Torah 'im ha-Haftorot (New York: Metsudah, 1941) note to Gen. 1:22, p. 4: "No blessing was bestowed upon the vegetation, as its growth is dependent upon sun and rain, and not upon its own volition."
5. To the ancients of many countries certain animals were divinities incarnate, as APIS, the Holy Bull of the Egyptians.
6. Gen. 1:28. Unless otherwise indicated, translations of Biblical verses throughout this paper are taken from The Holy Scriptures (Philadelphia: The Jewish Publication Society of America, 1917).
7. Gen. 9:9-17.
8. Hosea 2:20; Is. 2:4 further assures partial security to all, for nations "shall beat their swords into plowshares and their spears into pruning-hooks."
9. Cf. Is. 11:6; Job 5:23 additional covenant with beasts.

10. Jacob A. Raisin, Humanitarianism of the Laws of Israel (no. 6, Popular Studies in Judaism, Cincinnati: The Tract Commission, 193-?), p. 3.
11. Deut. 28:9.
12. Sotah 14a; Shab. 133B; Ecc. R. 7, 2(3); Sifre Deut. 85A, para. 49; Moses Maimonides (RaMBaM), M. T., Mada' Hilkhot De'ot 1:6 (New York: Shulsinger Bros. Publishing Co., 1947), p. 23. Unless otherwise indicated, translations of both the Babylonian Talmud and the Midrash Rabbah are taken from The Babylonian Talmud (London: The Soncino Press, 1935/52) and the Midrash Rabbah (London: The Soncino Press, 1939).
13. Ps. 104:21-9, 145:16, 147:9.
14. Ibid. 36:7; Neh. 9:6; Cf. RaSHI (R. Shelomah Yitshaki, 1040-1105) On Num. 8:17.
15. Gen. R. 33, 1; Lev. R. 27, 1; Shim'oni on Ps. 36:7, para. 727 (N. Y. /Berlin: Horev Publishing Co., 1926), p. 909; Tanh. Emor, para. 6.
16. "A legendary King, so called because he was thought to live at the end (Kets) of the world. Apparently the African interior is meant" (Note 3 to Gen. R. 33, 1, p. 258).
17. Gen. 8:1; Ps. 145:9; Tanh. Noah, para. 6 (New York/Berlin: Horev Publishing Co., 1924), p. 35; J. Wohlgemuth, Das Tier und seine Wertung im alten Judentum (Frankfurt-am-Main: J. Kauffmann Verlag, 1930), p. 94.
18. Shim'oni on Gen. Noah 8, op.cit., p. 30.
19. Ber. 4B.
20. Job 12:10; Cf. Lev. 24:18; M. Stern, Sidur Safah Berurah (New York: Hebrew Publishing Co., 1928), p. 106.
21. Raisin, op. cit., pp. 12 and 21.

22. Ibid., p. 22.
23. B. M. 85A; Yer. Kil'ayim 9,4; Gen. R. 33,3.
24. Gen. R. 33,3; Shim'oni on Ps. 145, op. cit., p. 968; Cf. B. M. 85A: The Talmud states that when Rabbi Judah declared to the calf, "Go, for this wast thou created," the Heavenly Hosts thereupon decreed, "Since he has no pity, let us bring suffering upon him." The Talmud also refers to his daughter as a maid-servant, who while sweeping the house, wanted to sweep out (not kill) some weasels (a creeping thing in the classification followed in the Midrash). Because he had mercy on the weasels, declares the Talmud, the Heavenly Hosts said: "Since he is compassionate, let us be compassionate to him."; Garmaliel, the grandfather of Judah The Prince taught: "Whosoever has compassion on his fellow creatures, on him will God have compassion." (Tos. BK 9,30; Sifre Deut. 96).
25. Unna, op. cit., pp. 14 ff.; Sanh. 1, 4 and Sanh. 2A state: "The death sentence on the wolf, lion, bear, leopard, hyena or serpent (which killed a human being) is to be passed by twenty-three judges. R. Eliezer says: 'Whoever is first to kill them (without trial) acquires merit.' R. Akiba, however, holds that their death is to be decided by twenty-three."; Infra notes 74-79; It should be noted that the animal is entitled to a fair and equitable trial and no less than twenty-three judges are required to pass sentence. Capital punishment for both beast and man is identical. Unless otherwise indicated, translations from the Mishnah throughout this paper are taken from Herbert Danby, The Mishnah (London: Oxford University Press, 1950); For relationship between cruelty to animals and cruelty to man, see note 212.
26. Raisin, op. cit., p. 21.
27. Ps. 11:5.
28. Ibid 78:70; II Sam. 7:8.

29. Ps. 78:71.
30. Lit. 'by thy life, 'as thou livest.'
31. Ex. R. 2, 2; Hurewitz, op. cit., p. 113; M. M. Kashner, Hagadat Pesah Eretz Yisre'elit (New York: American Biblical Encyclopedia Society, Inc., 1950) p. 118.
32. Jonah 3:7-8.
33. Ibid., 4:11.
34. Talmud 16A; A. Jellinek, Bet ha-Midrash, Midrash Jonah, vol. 1, 2nd Ed. (Jerusalem: Bamberger and Wahrmann, 1938) p. 102.
35. Ps. 147:9; Cf. Job 38:39 "Will thou hunt the prey for the lioness? Or satisfy the appetite of the young lions?"; Luke 12:24; Cf. Matthew 6:26.
36. Prov. 16:4; Gen. R. 10, 7.
37. Pirke de-Rabbi Eliezer, trans. and ed. by Gerald Friedlander (London/New York: Kegan Paul, Trench, Trubner & Co. Ltd./The Bloch Publishing Co., 1916), p. 156.
38. A. Z. 3B; Shab. 107B.
39. Ps. 104:26; A. Z. 3B; "A huge sea monster, real, according to some, but according to others, imaginary. We have here a magnification of God's power in sporting with the mightiest, as men do with their animal pets" (Note 6 to A. Z. 3B, p. 9).
40. Raisin, op. cit., p. 15.
41. Prov. 29:7.
42. Shab. 155B.

43. Shim'oni on Ps. 104, para. 862, op cit., pp. 951f; Wohlgemuth, op. cit., pp. 116f.
44. Raisin, op. cit., p. 21.
45. Job 39:1-4; Ex. R. 1, 16; Sotah 11B.
- 45a. Joseph Albo, Sefer ha-'Ikarim, ed. I. Husik (Philadelphia: The Jewish Publication Society of America, 1930) Vol. 3, pp. 2f.
46. Tanh., Noah para. 6, op. cit., p. 35.
47. Stern, op. cit., pp. 192 and 202; Cf. Jerusalem Targum to Gen. 1:2, "and the Spirit of Mercies from before the Lord breathed upon the face of the waters"; Raisin, op. cit., pp. 17 and 22.

CHAPTER II

48. Ps. 145:9.
49. Num. 22:22-34.
50. Gen. 3:14-15; Ex. 19:13 further indicates that beasts are accountable for their own actions.
51. Ps. 140:12; Gen. R. 20, 1.
52. Gen. R. 20, 2: "A froward man soweth strife, and a whisperer separateth familiar friends (Prov. 16:28). 'A froward man' refers to the serpent, who spake per-versely of the Creator; 'And a whisperer' because he whispered words against the Creator."
53. From the beginning of Genesis up to this point, the Divine Name occurs 71 times; thus the sages reasoned, was the serpent judged by a full court (Gen. R. 20, 4).
54. Cf. infra notes 88-89 on retribution.
55. Gen. 2:16-17.

56. Gen. R. 20, 8.
57. Cf. Job 29:18.
58. Gen. R. 19, 5.
59. Gen. 6:7; Sanh. 108A, RaSHI and Philo give as one possible interpretation that everything was created for the sake of man, and since he was to be destroyed, there was no need for these also. But "Jonah 4:11, where the innocence of the animals as well as of the little children, is invoked by the Prophet in his plea for Ninevah, suggests that in the Biblical view all life, whether human or animal, forms one organic whole" (Hertz, op. cit., note on Gen. 6:7, p. 20).
60. Gen. 6:12; RaSHI states, "Even cattle, beasts and fowl consorted with those who were not of their own species" (on Gen. 6:12); Gen. R. 28, 8, "All acted corruptly in the generation of the Flood: the dog copulated with the wolf, the fowl with the peacock"; Gen. R. 37, 33; B. K. 80B; Pes. 112B; Sanh. 108A; Tanh. Noah 12, op. cit., pp. 40f; Shab. 52A; Pirke Rabi Eli'ezer 14.
61. Gen. 1:25.
62. V. Aptowitzer, "The Rewarding and Punishing of Animals and Inanimate Objects," (cites Recanati to Deut. 22; 6) in Hebrew Union College Annual, Vol. III (Cincinnati: HUCA, 1926), p. 134.
63. Sanh. 108A.
64. Zephaniah 1:3; Aptowitzer, op. cit., p. 135.
65. Gen. R. 28, 6; "That is, there was abundant prosperity, which led to evil." (Sanh. 108A); Cf. preceding quote with Hosea 13:6 and Deut. 32:15.
66. Aptowitzer, op. cit., p. 134.

67. Sanh. 108B states: Three copulated in the Ark and were punished, the dog, raven and ham. The dog was doomed to be tied; the raven expectorates his seed into his mate's mouth, and Ham was smitten in his skin; Gen. R. 36, 7 cites further punishments given to Ham and the dog in retribution for their copulation together; Aptowitz, op. cit., p. 135 (note no. 38) states: "In the Yerushalmi, the punishment of the raven is striking ugliness. A similar story is found in the popular belief of the Arabs, according to which the raven was cursed by Noah by being given its blackness."
- 67a. Gen. 9:3.
68. Lit. "your blood according to your own souls." The Rabbis understood these words literally, i. e. your life-blood and based on them the prohibition of suicide (Hertz, op. cit., note on Gen. 9:5, p. 32); Gen. 9:5; Cf. Gen. R. 34, 13.
69. Ex. 21:28-32.
70. Some Rabbinic exegetes, as Nachmanides (RaMBaÑ) maintain that the beast has no intelligence so that he can be neither rewarded nor punished. He is to be stoned, however, to implant horror against murder, and though it has no moral sense, it was, nevertheless, the cause of the death of a human, made in the image of God. But RaSHI and Ibn Ezra disagree with the RaMBaÑ. RaSHI states his case as follows: "Since the generation of the flood sinned, they were cast off as food to the wild beast to rule over them. Therefore, He was compelled to warn the beasts not to kill people." (on Gen. 9:5); Supra note 59.
71. A play on the word bahemah (in whom) read as if it were bethemah (cattle).
72. Ex. 36:1.
73. Gen. R. 48, 3; Tanḥ. va-Yakel 4, op. cit., p. 334 states, "that God did not only give humans wisdom but

- also the domestic and wild beasts as well"; Eruv. 31B infers that elephants and apes can be used as messengers; Ḥul. 57B states that ants carry out transactions with each other; Num. R. 20, 14 considers the ass the most stupid of beasts; B. K. 35A refers to the ox as smart; In Git. 68B the woodpecker unable to get to its nest because it was blocked by glass, brought the Shamir to split it and thereby gained access to it. It also uses the Shamir to split rocks on mountains where there is no cultivation. It then takes seeds from trees and sows them between the rocks and thereby cultivates the area; National Geographic Society News Bulletin, cited in Note 264, discusses also individual and concerted intelligent action exhibited by birds.
74. Sanh. 1, 4; Mekilta de Rabbi Ishmael, ed. J. Z. Lauterbach, Tractate Shirata, Chapter 2 (Philadelphia: The Jewish Publication Society of America, 1933), p. 21.
75. 'Eduyot 6, 1; Ber. 27A; "a cock pierced the skull of a child." (Note 2 to Ber. 27A, p. 163).
76. Sanh. 1, 4; To be killed the animal must be tried and condemned before a court of twenty-three judges.
77. Lev. 19:18.
78. Raisin, op. cit., p. 18.
79. Aptowitz, op. cit., (cites Tos. B. K. 2, 2 and Babli 24a), pp. 136f.
80. B. K. 4, 6; Because there was no intention to kill, but the owner must pay the ransom price for the dead; Cf. Sanh. 9, 2.
81. Gen. 1:20 et. seq.
82. Cf. Deut. 16:20; Cf. Micah 6:8.
83. Lev. 20:15, 18:23; Ex. 22:18.

84. Sanh. 54A; Sanh, 7, 4; Cf. II Sam. 24:17.
85. Deut. 22:25-27; Sanh. 54A.
86. Sanh. 55A.
87. The Mu'tazilite Kalām teaches a parallel doctrine.
88. Saadia Gaon, Emmot ve-De'ot (Book of Beliefs and Opinions), trans. by Samuel Rosenblatt (New Haven: Yale University Press, 1948), p. 175 states: "Should their slaughtering (the beasts), however, entail pain over and above that which is experienced in natural death, God would be fully aware of it and He would, of course, in such event compensate the beasts in accordance with the excess of the pain.
89. Moses Maimonides, Moreh Nevukhim (The Guide for the Perplexed), trans. by M. Friedlander (New York: Pades Publishing House, 1946-7), p. 286 states: "But the idea that irrational living beings should receive a reward, has never before been heard of in our nation"; Albo, op. cit., p. 19 states, "In the lower animals the only perfection that is expected of them is the perfection of existence; as soon as they come into existence, the good of which they are capable is attained and completed and no other good is expected of them." p. 39, "As for irrational animals . . . they are devoid of reason." p. 110, "Reward and punishment for lower animals concerns itself merely with preserving their species."; Aptowitzer, op. cit., pp. 117 et seq.
90. Maimonides, Moreh Nevukhim, op. cit., p. 286.
91. Gen. 4:5; Also Cf. Zephaniah 1:2-6.
92. Gen. 6:19; Ex. 12:12, 12:29, 7:18, 21, 8:13-14, 9:3, 6, 9-10, 22, 25, 11:5; Judges 20:48; I Sam. 15:3, 22:19.
93. Ralsin, op. cit., pp. 5f.

CHAPTER III

94. J. H. Hertz, Pirke Avot (New York: Behrman House, Inc., 1945), note to Chapter 1:3, p. 15; RASHI on Lev. 22:33; Sifra on Lev. 22:33, p. 99B.
95. Ps. 145:9.
96. Gen. 4:8.
97. Gen. R. 22, 12; "R. Judah explains that Cain's fear was due to the animals, seeing that there were no men on earth." (Note 2 to Gen. R. 22, 12, p. 191).
98. The Sage arrived at this interpretation by reading 'Lakhen, 'Lakh ani, 'to thee I (say)' (Note 3 to Gen. R. 22, 12, on Gen. 4:15, p. 191).
99. R. Nehemiah, in whose name this was said, arrived at this conclusion by reading 'Lakhen' as Lo khen, 'not so' (on Gen. 4:15).
100. Deut. 21:23 can be assumed the reason for this action.
101. Tanh., Gen. para. 10, op. cit., p. 24; Aptowitzer, op. cit., p. 133; Cf. J. H. Hertz, Hamishah Humshe Torah 'im ha-Hafrotot, op. cit., note to Gen. 3:21 "The beginning and the end of the Torah is bestowal of loving-kindnesses; at the beginning God clothes Adam; and at the end He buries Moses"; Sotah 14A.
102. Pirke de Rabbi Eliezer, op. cit., Chapter 21, pp. 156f; Ps. 147:9; Aptowitzer, op. cit., p. 133; Koran, Sura 5:31.
103. Tanh., Noah 5, op. cit., p. 34; Wohlgemuth, op. cit., pp. 100-113.
104. Aptowitzer, op. cit., p. 134; Gen. 7:2 refers to the animals in the Hebrew idiom as "Ish" (man) and "Ishtoh" (his wife).

105. Ex. 11:5-7.
106. "An animal torn by a wild beast; any animal suffering from a serious organic disease, whose meat is forbidden even if it has been ritually slaughtered." (Pesahim, Glossary p. 631).
107. "An animal slaughtered in any manner other than that prescribed by Jewish ritual law; the least deviation therefrom, e.g. if the knife has the slightest notch, renders the animal nebelah." (B. K., Glossary p. 724).
108. Ex. 22:30.
109. Mekilta de Rabbi Ishmael, op. cit., Tractate Kaspa, pp. 158f.; M. M. Kasher, op. cit., p. 60.
110. Ex. 11:2-3, 12:35-36.
111. Ibid. 13:13, 34:20.
112. Bekhor. 5B; Mekilta de Rabbi Ishmael, op. cit., Tractate Amalek, Vol. II, pp. 138f.
113. Ex. 16:3.
114. Ibid. 16:45.
115. Ibid. 16:25-26.
116. M. M. Kasher, op. cit., p. 61. Kasher further states: "For this reason it is an old custom among Jews to reward the birds by scattering crumbs for them on the Sabbath when the portion BESHALAH, the portion of the manna, is read." A fuller discussion concerning this episode is found in Kasher's monumental work, Toreh Shelemah, Beshalah, Vol. 14, (New York: Shulsinger Bros., 1951), p. 227 and in Sefer Minhage Yeshurun by Abraham E. Hirschowitz (Wilna: 1899), p. 134 (i.e. 136), para. 25.

117. Supra notes 101-102 (the action of the birds reflects an attribute of God); Sotah 14A states, "Ye shall walk after the Lord your God (Deut. 13:5). The Holy One buried the dead, for is written, 'and He buried him in the valley, ' (Deut. 34:6) so do thou also bury the dead."
118. Daniel 3:19-21; This is one of the great principles of Judaism: a man must by his actions sanctify the Divine Name, i.e. prove his deep conviction of the truth of Judaism even to the extent of suffering for it, and thereby shed lustre and glory upon it (Cf. fate of R. Akiba, Ber. 61B).
119. Ex. 7:28.
120. Pes. 53B; Although frogs shun heat, yet at God's command, they entered into the hot ovens.
121. Ex. R. 10,2.
122. Ex. 8:9.
123. Midr. Teh. (Shoher Tov), ed. Salomon Buber (Wilna: Druck und Verlag von Wittwe und Gebrueder Romm, 1891), Ps. 28, p. 229; Ex. 8:7.
124. Ezek. 39:17-20.
125. Zevahim 116A and Gen. R. 32, 8, state that the animals entered the Ark of their own accord. How much more declares the Midrash, if they were willing to be shut up for twelve months in the Ark, will they be prepared to satiate themselves on the flesh of the ruthless tyrants as stated in the prophetic verse; Cf. other methods to eliminate evil: Deut. 12:29-13:12, Daniel 4:1-30, 5:1-30.
126. Cf. Malachi 2:10; Of interest may be the verse of Robert Browning, "God made all the creatures and gave them our love and our fear - to give sign, we and they are His children, one family here "(Saul VI).

127. Ps. 24:1.
128. Is. 43:20; Cf. also Job 38:41, Ps. 104:21, Ps. 136:25. As in the Bible, so also in the Hagadah does God busy himself more with providing the world with necessities of life rather than with matters of salvation. Gen. R. 20, 9 states: "R. Samuel b. Nahman said, 'It is even greater than redemption, for redemption comes through an angel, whereas sustenance comes through the Holy One. Redemption comes through an angel (as Jacob said): The angel who hath redeemed me from all evil (Gen. 48:16); whereas sustenance comes through the Lord: Thou openest Thy Hand and satisfiest every living thing with favor' " (Ps. 145:16); Cf. infra note 237.
129. Perek Shirah is a chapter of song and praise to God by heavenly and earthly bodies, by plants and dumb creatures. Though not obligatory, it is recited by the pious daily except on the Sabbath. According to Tos. A. Z. 17, the Shirah is ascribed to the animals in one of two ways: the first is that their angels (each creature has a special guardian angel or "mazzal" (constellation) above) speak for them; the second is that the "Shirah" is in the hearts of the creatures and represents what they would say if they could speak (Judah D. Eisenstein, "Shirah, Perek," in Jewish Encyclopedia, 1906 edition, XI, 294-295); The Shirah is given in S. Baer, 'Avodat Yisra'el (Roedelheim: I. Lehrberger Verlag, 1868), pp. 547-552.
130. Lit. "outside"; a teaching or a tradition of the Tana'im that has been excluded from the Mishnah and incorporated in a later collection compiled by R. Hiyya and R. Oshaiah, generally introduced by "Our Rabbis taught" or "it has been taught."
131. Judah D. Eisenstein, loc. cit.
132. Ps. 24:7-10.

- 132a. The writer has been unable to locate exact source for this statement. Cf. however, Zohar va-Yikra III, 22b-23a: "In the hour of grace (about midnight) when God visits paradise to confer with the souls of the pious, a fire proceeds from this holy place and touches the wings of the cock, who then breaks out into praise to God, at the same time calling out to men to praise the Lord and do His Service." This statement, however, can refer to note 136 as well.
133. Gen. 49:18.
134. Prov. 6:9.
135. Ibid. 20:13.
136. Ps. 119:126.
137. Zech. 10:8.
138. Hul. 63A states: "There is a tradition that if it (Raḥam, the Sherakrak (Vulture, Lev. 11:18)) settles upon the ground and hisses, the Messiah will come at once, for it is said, 'I will hiss for them and gather them.' "
139. Is. 42:13.
140. Jer. 22:13.
141. Ps. 29:3.
142. Ibid. 113:2.
143. Ibid. 30:2.
144. Ibid. 150:6; S. Baer, loc. cit.; Louis Ginzberg, Legends of the Jews, Vol. I (Philadelphia: The Jewish Publication Society of America, 1909), pp. 44 et seq.
145. Ecc. 2:1.

146. Albo, op. cit., Vol III, p. 9; According to Baer's note to Perek Shirah p. 547, there is no such statement in Talmud or Midrash; J. D. Eisenstein, loc. cit. states in addition, "The preface to 'Perek Shirah,' which declares that everyone who recites it daily is sure to be a 'ben olam ha-ba' (inhabitant of the world to come) is credited in certain editions to R. Eli'ezer the Great, and also to Rabbi. The preface is probably erroneously copied from R. Joshua b. Levi: 'Whosoever recites the Shirah in this world is entitled to recite it in the world to come.' (Sanh. 91B) . . . in which 'Shirah,' however, refers to the Shirah of Moses at the Red Sea, and not to 'Perek Shirah.' "
147. Lev. 11:16 lit. 'the daughter or issue of the ya'anah' generally translated as 'the ostrich.'
148. Hul. 64B.
149. J. D. Eisenstein, loc. cit., (cites Is. 33:3 and Sanh. 95B).
150. Loc. cit., (cites A. Z. 24B).
151. Cf. I Kings 5:13; Ginzberg, op. cit., Vol. 5, p. 61.
152. Raisin, op. cit., p. 8.
153. Hul. 7A-7B; Cf. Moses Gaster, Ma'aseh Book, Vol. I (Philadelphia: The Jewish Publication Society of America, 1934), p. 95; Gen. R. 60, 8.
154. Ta'anit 24A; Cf. Gaster, op. cit., p. 70.
155. Avot de-Rabi Natan, ed. S. Schechter, Perek 8 (Vienna: Maurice Knoepfmacher, 1887), p. 38; In Time and Eternity, ed. Nahum Glatzer (New York: Schocken Books, Inc., 1946), p. 57.
156. Raisin, op. cit., p. 7.

NOTES TO PART II

CHAPTER IV

157. Works of Philo Judaeus, trans. C. D. Yonge, Vol. 4, (London: George Bell and Sons, 1890), p. 3; Ibid. Vol. 3, pp. 153f; Frederick H. Martins, "Religion and Philosophic Thought," in J. A. Richards, editor, The Outline of Knowledge, Vol. II (Kingsport, Tenn.: The Kingsport Press, 1924), p. 52; Such concepts were the bases also for the subsequent marriages and unions between man and beast.
158. J. Frederic McCurdy, "Animal Worship," in Jewish Encyclopedia, op. cit., I, 605 states: "Among the ancient Arabs, demons of all sorts and grades, generally representing the denizens of the desert, were known as 'JINN'; the generic Hebrew designation seems to have been 'SHEDIM,' a word also used by the Babylonians for a large class of animal demons."
159. Deut. 32:17; Cf. also 11:28; Ps. 106:37; It would appear this verse-- i.e. the mentioning of other gods-- is in conflict with Ex. 23:13, "make no mention of the names of other gods, neither let it be heard out of thy mouth." According to tradition, however, only three things were therein prohibited: first, using the name of other gods as a designation of an appointed meeting-place; second, praising other gods; third, swearing by the name of other gods (Mekilta de Rabbi Ishmael, op. cit., Tractate Kaspa, Chapter 4, 14-30) pp. 180-181; Sanh. 63B.
160. J. Frederic McCurdy, loc. cit., states: "In Moslem legend Balkis, the Queen of Sheba wedded to Solomon, had hair on her ankles, and was thus shown to be by descent a 'Jinnie'-- of this race may be the Sa'irim, or hairy creatures of the Hebrews."
161. Is. 34:14, 13:21; Sa'ir lit. hairy, goat, satyr; Lilit, lit. night-demon; Eruv. 18B states that during the 130 years after his expulsion from the Garden of Eden,

Adam begot ghosts, male and female demons (Gen. 5:3: "And Adam lived 130 years and begot a son in his own likeness, after his own image"; it was assumed, therefore, that until that time he did not beget after his own image), while Gen. R. 20. 11 indicates that Eve bore demons to male spirits during this same period. This seems to correspond to the view in *Ḥagigah* 16A that demons are half human. In three aspects they resemble the ministering angels and in three they reflect man. Like man, they eat and drink, propagate and die; *Avot de-Rabi Natan*, *op. cit.*, Perek 37, p. 109 states that Shedim can alter their forms, can see but cannot be seen; For variant theories on origin of demons, harmful spirits, etc., *cf.* *Avot* 5, 6, B. K. 16A, *Sanh.* 109A, *Gen. R.* , 5; *Eruv.* 100B refers to Lilit as a woman with long hair; *Shab.* 151B states that everyone who sleeps in a house alone is seized by Lilit; B. B. 73A declares in the name of Rabbah, "I saw how Hormin (name of a demon) son of Lilit was running on a parapet and a rider, galloping below on horseback could not overtake him"; *Targum Job* 1:15 (In *Biblia Polyglotta*, Tom 3, 1645 ed., Paris, p. 208) speaks of Lilit as the Queen of Zemar-gad whose army killed the youth; B. B. 25B compares the raging of the East Wind through the world to that of a Sa'ir (demon); R. C. Thompson, *The Devils and Evil Spirits of Babylonia*, Vol. I, (London: Luzac, 1903/4), p. XXIII states: "Lilu, some form of ghost with feminine counterpart Lilitu. . . . were all borrowed from the Sumerians." In his book, *Semitic Magic, its Origin and Development* (London: Luzac, 1908) p. 66, Thompson indicates that Lilit used to be connected with lailah (night) but modern authorities associate it with Lulu (wantoness) and refer to her as the demoness of lust; M. A. Levy, "Ueber die von Layard aufgefundenen chaldaeischen Inschriften auf Topfgefaessen," in *Zeitschrift der deutschen morgenlaendischen Gesellschaft*, IX, (Leipzig: 1855), pp. 470 and 484 believes that Lilit was worshipped by the Jewish exiles in Babylon.

162. *Num.* 21:4-5.
163. *Ibid.* 21:6-7; *Num. R.* 19, 22 states that the serpent was the first to speak slander. Because, therefore, the people did not learn their lesson from it, God said: "Let the serpent who was the first to introduce slander come and punish those who speak slander." The Midrash also declares, that though "the serpent eats all the daintiest things in the world, his food changes to dust ('Dust is the serpent's food,' *Is.* 65:25). The people ate manna which changed into many tastes (The taste that each desired to experience). Let the serpent who eats many kinds of foods and has but one taste, come and punish those who eat one kind of food and experience the tastes of many."
164. According to *II Kings* 18:4, this serpent was known as "Nehushtan." The form of this word suggests that the name belongs to a much earlier period. Possibly it became known as "brass serpent" because "naḥash" can be translated both as brass, as well as serpent. Perhaps in the ancient Semitic cult "neḥushtan" indicated some species of totem-pole which was headed by a serpent.
165. *Num.* 21:8-9.
166. *Ex.* 20:3-6, 20:20, 32:1-14, 23:13; *Deut.* 4:15-19.
167. *R. H.* 3, 8; *R. H.* 29A; *Cf.* also *Wisdom of Solomon*, 16:5-13.
168. J. Morgenstern, "Animal Worship," in *The Universal Jewish Encyclopedia*, 1939. I, p. 320.
169. *II Kings* 18:4; *Ber.* 10B states that the Rabbis approved three acts executed by Ḥezekiah, one being the destruction of the brazen serpent.
170. *Supra* note 165.

171. Cf. parallel thought note 228.
172. The Mosaic Laws in Lev. 11:1-46 and Deut. 14:3-21 pertaining to "clean" and "unclean" animals--as permitted or forbidden food--do not imply sacredness as a prerequisite for any special or privileged treatment accorded those recognized as "clean"; Sacredness based on kinship was the basis of totemism in many primitive communities.
173. J. Frederic McCurdy loc. cit.
174. J. Morgenstern, loc. cit.; Josephus refutes the accusation that the Jews worshipped the head of an ass in the Temple and states that such a charge represents "the most palpable lie in the world. For 'tis well known that we make use of the same laws to which we have perpetually adhered" (Works of Flavius Josephus, Dr. Hudson ed., Against Apion, Bk. II, pp. 764-765). Josephus probably is referring to the fact that in the Mosaic Code the ass is considered an unclean animal and consequently not suitable for any purpose in the Hebrew ritual worship (Cf. Ex. 34:20, 13:13).
175. The Talmud, on the contrary, recognized in such evil practices and beliefs the disruption of the Hebrew faith. It therefore exonerates those who sin because of them and enacts legislation accordingly in both Mishnah and Gemara; Shab. 2, 5 states: "If a man put out the lamp on the Sabbath from fear of the Gentiles or the thieves or of an evil spirit.... he is not culpable"; Eruv. 41B declares: "Three things deprive a man of his senses and of a knowledge of his Creator, these are they: idolators, an evil spirit and oppressive poverty"; Eruv. 4, 1 also legislates: "If a man was taken out (beyond the Sabbath limit) by Gentiles or an evil spirit, he may only move within four cubits, etc."; Tanh., Mishpatim 19, op. cit., pp. 275f infers in fact that divine protection is secured against the mazikin (harmful beings) through obedience to God's commandments. Special

- guard (through many angels) is assured the faithful through the performance of all the precepts as it is stated, "For He shall give His angels charge over thee, to keep thee in all thy ways." (Ps. 91:11). Assigned angels, informs the Midrash, act as guardians against the harmful spirits in fulfillment of the verse: "A thousand shall fall at thy side and ten thousand at thy right hand." (Ps. 91:7). On the numerical strength of demons and devils cf. Git. 68A, N. T. Mark 5:9; Works of Philo Judaeus, op. cit., Vol. III, p. 170 states: "The second Commandment prohibits the cleaving to any fabulous inventions about the marriage of gods and the birth of gods."; J. H. Hertz, Hamishah Humshe Torah 'im ha-Haforot, op. cit., note 3, p. 295: "This Commandment (second) also forbids belief in evil spirits, witchcraft and similar evil superstitions."
176. Gen. 1:26; Ps. 8:7.
177. Cf. Ecc. 3:19, ".... so that man hath no pre-eminence over the beast"; Ecc. R. 3, 18(1) interprets Ecc. 3:19 as "the pre-eminence which a man has above a beast is 'no,' i.e. that man is not in some respects as a beast" (Note 1, p. 107). The Midrash queries: "What means No?" And then proceeds to offer various interpretations: "R. Levi and R. Ammi comment. One said: He ordained burial for him; the other said that He ordained the use of a coffin for him." i.e. man's superiority over the animal consists in the manner of disposing the body after death (Note 3, p. 107). Thus, the Rabbis read into the verse (Ecc. 3:19) a contrary meaning; H. and H. A. Frankfort, et al., The Intellectual Adventure of Ancient Man (Chicago: University of Chicago Press, 1946), p. 257 states: "But the very terms of Ecclesiastes' pessimism reveal that the consensus of Hebrew thought was against him. He is at pains to criticize and repudiate an accepted belief."

CHAPTER V

178. Of special interest is the following quotation for its author presumes that until the 19th Century, humane treatment of animals was unknown: "The 19th Century sentiment for animal protection. . . . traces its intellectual ancestry to 18th Century rationalism. Denial of a special divinity to man cleared the way for recognition not only of brotherhood to one's fellowmen, but also of kinship with the animal world." (R. A. Seligman, ed. Encyclopedia of the Social Sciences, Vol. II, 1948, p. 61).
179. Albo, op. cit., p. 5.
180. Ecc. 3:19.
181. Pes. 118A states: "The Holy One, blessed be He, sits in the heights of the universe and distributes food to all creatures." (on Ps. 136:25-26); Seder Eliyahu Rabah XV, ed. M. Friedmann (Vienna: 1902) p. 70; Koran Sura 29:60.
182. Gen. 3:19; Ps. 104:29, 146:4; Job 10:9, 34:15; Ecc. 3:19-20.
183. Jewish tradition maintains that only man was created by the Hand of God, the rest of creation by divine decree. RaSHI states (on Gen. 1:27): "For everything was created by divine decree but he was created by the Hands of God, for it is said 'and Thou hast laid Thy Hand upon me' (Ps. 139:5). He was made with a stamp, they (the Angels) did not help Him in His creation of man"; Cf. Job 10:8 also Ps. 119:73.
184. Ps. 8:6-7; Gen. 1:28; Cf. infra note 189.
185. For intelligence in beasts, see supra note 73; Maimonides, Moreh Nevukhim, op. cit., p. 288, denies animals have intellect; Emunot ve-De'ot trans. by Rosenblatt, p. 181.

186. Gen. R. 12, 8; Lev. R. 9, 9 states: "Then the Lord God formed man of the dust of the ground (Gen. 2:7), i. e. the lower parts of creation; and He breathed into his nostrils the breath of life, i. e. the upper spheres."
187. Gen. R. 14, 3.
188. Sanh. 38A; Lev. R. 14, 1; Cf. Frankfort et. al., op. cit., p. 255, "The Hebrew thinkers meditated upon man that struts about in such pompous mood, arrogantly rivaling the Gods, yet knowing full well he is much less than divine, conscious of his close relation with the beast."
189. Gen. R. 1, 4; Sanh. 98B; Kid. 4, 14; Hul. 89A; Ber. 17B states: "The whole world is sustained for the sake of my son Hanina." Ber. 6B therefore takes the position that the whole world was created for man and that each human is equal to all of it; Sanh. 4, 5 states: "If any man has caused a single soul to perish, Scriptures imputes it to him as though he had caused a whole world to perish; and if any man saves alive a single soul. . . as though he had saved a whole world"; Ecc. R. 6, 11 however, infers that the beast was not created for man, since so many have no relation to him: "For instance, they who rear monkeys, porcupines, sea-dogs; of what use are they?" Such animals can't be eaten and are harmful; Maimonides, Moreh Nevukhim, op. cit., pp. 273-274 and Ibn Ezra (on Genesis 1:1) also deny that creation of the universe was for the sake of man. Saadia Gaon, however states, "Heaven and earth and whatever lies between them have all been created solely on account of man." (Emunot ve-De'ot, trans. Rosenblatt, pp. 181, 323).
190. Ex. 14:27.
191. Is. 45:12.
192. Deut. 32:1.

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193. Josh. 10:12-13.
194. I. Kings 17:4-6.
195. Daniel 3:25.
196. Ibid. 6:21-23.
197. Ezek. 1:1.
198. Jonah 2:11.
199. Gen. R. 5, 5; Jellinek, loc. cit.; Zohar II, (Lublin: Hershenhorn and Shneidmesser, 1903), 198B.
200. Yalkut Re'uvei on Gen. 1:26 (Amsterdam: Emanuel ben ha-Yashish Joseph Attias, 1700), p. 10a.
201. This concept provided the Sages with a further explanation to the query: Why was man created last? Gen. R. 8, 6 states that "God created him with due deliberation: He first created his food requirements, and only then did He create him. Said the angels to the Lord: 'Sovereign of the Universe! What is man that Thou art mindful of him, and the son of man that Thou thinkest of him? (Ps. 8:5, Cf. also Job 7: 17-18). This trouble, for what has it been created?' 'If so,' said He to them, 'Sheep and oxen, all of them (Ps. 8:8), why were they created; why were the fowl of the air and the fish of the sea (Ps. 8:9) created? A tower full of good things and no guests-- What pleasure has its owner in having filled it?' " Thus, all things were first created and placed at the disposal of man to enjoy; Cf. Sanh. 38A for parallel concept; Emunot ve-De'ot, trans. by Rosenblatt, p. 181.
202. Man was thereby cautioned never to scorn the advice of the humble and lowly, for as God does, so must man do likewise (Deut. 28:9).
203. B. Jeuzsohn, Fun Unser Alten Otzar, Yiddish, I 8, (Warsaw: 1932) cited in Louis I. Newman, The Hasidic Anthology 4:7, (New York: Bloch Publishing Co., 1944), p. 14; Frankfort et. al., op. cit., p. 256: "man... conscious of his close relation to the beast. Obvious similarity that exists between them found in 'his 3,000 proverbs, 1005 songs; spoke of trees, beasts, fowl, creeping things and fishes' (I Kings 5:12-13). This clear statement in the account of Solomon's career demonstrates that the Hebrew thinkers recognized our kinship with the lower animals."; Dictionary of Folklore, Mythology and Legend, ed. Maria Leach, Vol. I (New York: Funk and Wagnalls, 1949), p. 61: "From the moment man was aware of himself on the face of the earth he recognized his kinship with the animals and called them brothers. Thus, throughout the folk belief and religions of the world, animals figure as reincarnated ancestors, creators or as aids to a creator, scouts, messengers... there are friendly, helpful and grateful animals, animal guides, tricksters, tutelary animals... That animals can and do speak is a living and unquestioned fact among North and South American Indians, Australian aborigines... agricultural folk in Europe and America still believe that on Christmas Eve the animals speak together in the barn, only no man dare listen."
204. Eruv. 100B; Cf. Job 35:11, "He teacheth us by the beasts of the field, and maketh us wise by the fowls of the heavens"; Cf. also Job 12:7-8.
205. Gen. 1:26-27.
206. Hag. 13B.
207. This rabbinic interpretation centers about the meaning of the verse: "I will sing unto the Lord, for He is highly exalted" (Ex. 15:1).
208. Stern, op. cit., p. 170.

209. J. Scheftelowitz, "Die Grundlagen einer Juedischen Ethik," in Monatsschrift fuer Geschichte und Wissenschaft des Judentums, #56, (Breslau: Koebner'sche Verlagsbuchhandlung, 1912), pp. 487ff.; Cf. supra note 12.
210. Gen. 8:1; Jer. 21:6; Josh. 6:21, 7:24-25; Of particular significance is II Sam. 12:3. Through the parable of the lamb, Nathan rebukes David for the death of Uriah, the Hittite. In tender and affectionate language the prophet speaks of the little lamb which the poor man "bought and reared; and it grew up together with him, and with his children; it did eat of his own morsel, and drank of his own cup, and lay in his bosom, and was unto him as a daughter"; Supra note 59.
211. Ezek. 34:3-4; Cf. Is. 53:7, where the prophet reflects their traditional concern for the sufferings of their fellow-creatures through a most heart-stirring simile, wherein the excruciating distress of the persecuted servant of the Lord is pictured "as a lamb that is led to the slaughter, and as a sheep that before her shearers is dumb."
212. Cf. supra note 31; Scheftelowitz, op. cit., p. 489; Zulma Steele, biographer of Henry Bergh founder and first president of The American Society for the Prevention of Cruelty to Animals, states: "The child that serves its apprenticeship to inhumanity by tearing off the wings of a fly, or robbing a bird of its eggs, when arrived at maturity insults the poor, beats his inferiors and shows the same cruelty intensified by age which characterized his earlier training. . . . Peter the Cruel of Spain, Peter the Cruel of Portugal, Peter the Great as well as Cruel of Russia, prepared themselves for the crimes which soiled their reigns by little cruelties inflicted on inferior animals." (Zulma Steele, Angel in Top Hat (New York: Harper and Bros., 1942), p. 169); The Washington Post, 5-13-54, commenting on the murderer of a 4-year old girl states as follows: "A 15-year-old boy, who began torturing animals at age of 6, . . . Mrs. De Moss said her son's sadistic bent became

- evident when at 6, he began torturing beetles, flies and worms."
213. Gen. 24:14-19; In Genesis 24:25 kindness to animals seems to take precedence over kindness to man for the verse states: "She said moreover unto him: 'we have both straw and provender enough, and room to lodge in.' " Rebecca thinks first of the beasts and then man.
214. Avot 4, 5 emphasizes the principle that learning alone is of little value, unless it leads to teaching, and above all else to practice.
215. Gen. 31:3, 18.
216. Ibid. 28:20-22.
217. Ibid. 32:8-13.
218. Ibid. 32:12; Esau's hatred stems from the fact that through guile, Jacob had taken his blessing and therefore vowed to slay Jacob once the days of mourning for Isaac would be at an end (Gen. 27:41).
219. Ibid. 33:9.
220. Ibid. 33:12.
221. Ibid. 33:13-14; Cf. supra note 213, as Rebecca, so also did Jacob in verse 14 think of the cattle before the children; Cf. also Judges 19:21 for same thought; Gen. 29:7, 37:14.
222. William E. H. Lecky, History of European Morals, 3rd Edition, Revised; Vol. II (New York: D. Appleton and Co., 1903), p. 162.
223. Deut. 11:15.
224. Git. 62A; Ber. 40A; Note the construction of Deut. 11:15, first: "and I will give grass in thy fields for thy cattle," then: "thou shalt eat and be satisfied";

Later rabbinical authorities combine Deut. 11:15 with Ps. 123:2, "Behold, as the eyes of the servants unto the hand of their master, as the eyes of a maiden unto the hand of her mistress; so our eyes look unto the Lord our God, until He be gracious unto us." The thought involved is apparent: God will be gracious to us if we in turn are gracious to those dependent upon us for their sustenance (Moses Maimonides, M. T., Kinyan, Hilkhoh 'Avadim, 9:8-- New York: Shulsinger Bros. Publishing Co., 1947); Eccles. 7:22 further states: "If you have cattle look after them."

225. Jerusalem Targum on Gen. 14:18 identifies him with Shem, eldest son of Noah; Also identified as Shem in note 3 to Ps. 37, Midr. Teh., op. cit., p. 252.
226. Midr. Teh., loc. cit.; Cf. also Sanh. 108B.
227. Prov. 14:4.
228. Cf. supra. note 93; This is not to say that neither Bible nor Midrash reflect the dependent or independent nature of the beast. See notes 184 and 189 for their dependent nature. For independent nature see Gen. R. 20, 8, where Adam is condemned for misleading the beasts and fowl in that he did not transmit to them the prohibition to eat from the Tree of Knowledge, and therefore brought them to sin. Also Gen. 3:14-15 serpent episode, and Num. 22:28-33, Balaam's speaking ass, reflect animal independence. "As soon as she finished speaking," the Midrash states, "she died, so that people should not say: 'this is the animal that spoke, and so make her an object of reverence' " (Num. R. 20, 14; see parallel thought, note 171); Job 39:1-4, Sotah 11B, Ex. R. 1, 16 reflect the independent nature of childbirth in the beast.
229. Jer. 14:3-6; Ezek. 14:13 also intimates that both man and beast must flee together once God's verdict is announced; Cf. also Jer. 27:5-6, 28:14, and Ezek. 38:18-20.

230. Jer. 31:27-28; Gen. 8:1 reflects the Lord's common love for man and beast.
231. Supra. note 177; Being identical in all these respects, the human is placed on no higher level.
232. Ecc. 3:19-21; Some compare these verses to Ps. 49:13, "But man abideth not in honor; He is like the beasts that perish." A noteworthy difference however, is that the Psalmist refers only to men who "trust in their wealth" (Ps. 49:7) and has the conviction "God will redeem my soul from the power of the nether-world" (Ps. 49:16). Kohelet does not go beyond the fact that the same end comes to man and beast (The Five Megilloth, A. Cohen ed., London: The Soncino Press, 1946), p. 129; Ecclesiastes ends with his skeptical question because of the common belief that there was this difference in destiny.
233. Ps. 24:1; Everything belongs to the Lord. Man, therefore, can use but not abuse the lower life; Ex. 19:5.
234. Supra note 181.
235. Supra note 14.
236. I Chron. 29:10-12.
237. Midr. Teh. on Ps. 117:1, op. cit., p. 479 states that rain is more important than the revelation at Sinai, for revelation was only a joy for Israel, but rain is a joy for all the world: for the cattle, the wild beasts and fowl.
238. Pes. 118A identifies this prayer as "The Grace of Song"; Stern, op. cit., p. 170.
239. Stern. op. cit., pp. 311 et. seq., 315.
240. Joel 1:19-20; Conversely in 2:22 Joel bid the beasts rejoice when the Lord had done great things for them; Cf. also II Sam. 24:17, "and David spoke unto the

Lord... 'Lo, I have sinned, and I have done iniquitously; but these sheep, what have they done?'" ; Cf. also Num. 20:4.

241. "Dew and rain are closely related to each other in Hebrew literature as sources of fertility and regeneration of life, Micah 5:6, Ecclus. 18:16, 43:22, Gen. 27:28, Deut. 33:15, 28, Zech. 8:12; the withholding of it, as rain, is a curse, II Sam. 1:21, I Kings 17:1, Hag. 1:10; The summer dew is so copious as to saturate the fleece of wool, Judges 6:37 or the hair of wanderers, Cant. 5:2" (Kaufmann Kohler, "Dew" in Jewish Encyclopedia, op. cit., IV, 552).
242. Philip Birnbaum, ha-Sidur ha-Shalem (New York: Hebrew Publishing Co., 1949), pp. 634 and 636. The translation given here is that offered by Birnbaum whose renditions by his own admission, are made according to their context and do not reflect necessarily their literal counterpart; As on Passover, so also on Hoshana Raba, the Jew with Scroll in hand, chants: "We beseech Thee, O Lord, save man and beast," (J. Davis and Nathan Adler, Maḥzor Abodath Ohel Mo'ed, Sukkoth--London: George Routledge and Sons Ltd., 1908, p. 174).
243. Albert Low, Thierschutz im Judenthume nach Bibel und Talmud (Budapest: Buchdruckerei F. Buschmann, 1890), p. 7: "Was Empfindung besitzt, hat angeborene Rechte auf Schonung, daher auch der Grund unserer Verpflichtungen gegen die Tiere. Das Tier hat das Recht zu leben, zu sein, und seiner Individualitaet froh zu werden, sowie der Mensch auch einer begruendeten Anspruch auf Gerechtigkeit und Rechtschutz hat."
244. Gen. R. 10, 7; Lev. R. 22, 4; Prov. 16:4; Ned. 41A states: "Samuel saw a scorpion borne by a frog cross a river, and then sting a man, so that he died. Thereupon Samuel quoted 'they stand forth this day to receive thy judgements.' " Note 3, p. 131 to this verse states: "Though a scorpion can't swim, he was

carried across by a frog, in order to fulfill God's judgement."

245. Judges 15:4; Ezek. 13:4; Ps. 63:11; Lamentations 5:18; Neh. 3:35; Canticles 2:15.
246. Ezek. 18:2.
247. Prov. 11:8.
248. Lev. 19:36.
249. This parable seemingly omitted in explanation of the three Biblical verses as indicated in Sanh. 38B-39A, is there cited by RaSHI and attributed to Rabbi Meir, collector of 300 fables concerning foxes. Translated versions of fable given here are found in note 14 to Sanh. 39A, pp. 246 et. seq. and the Universal Jewish Encyclopedia, Volume 7, p. 396. Of R. Meir, Sotah 9, 15 states: "When R. Meir died, there were no more makers of parables"; Ecc. R. 1, 3 also ascribes a knowledge of 300 fox fables to Bar Kapara.
250. In Sanh. 98B the verse, "woe unto you, that desire the day of the Lord! Wherefore would ye have the day of the Lord? It is darkness and not light" (Amos 5:18), is explained through the parable of the cock and the bat. "The cock said to the bat, 'I look forward to the light, but of what use is it to you?' To Israel the day of redemption will be a day of light, but the Gentiles have no need for redemption, for to them it will be a day of darkness"; Deut. R. 1, 10 interprets the verse, "and I will make them (va-asimem) heads over you" (Deut. 1:13) to read: if you will not obey the judges, then sin (same word as va-asimem above, but without the YOD) will be on your heads, through the tale of the serpent whose tail said to its head: "How much longer will you walk first? Let me go first." The head replied, "Go." The tail thereupon led. Consequently, the head was dragged through water, fire and thorns. Why? Because the head followed the tail. So it is when people follow their leaders. The latter entreat

God for them and He answers them, but when the leaders permit themselves to be led by the rank and file, they must share the consequences; Cf. also Ecc. R. 5, 14(1) parable of fox and the vineyard in explanation of verse: "As he came forth of his mother's womb" (Ecc. 5:14); See also Es. R. 7, 1 for anecdote concerning a sow, a she-ass and a filly. Through the fate of these three, the rise and fall of Haman is characterized.

251. As a result the Jews held his memory in very low esteem (Gen. R. 63, 7) and appended to his name the curse, "may his bones rot" (Gen. R. 10, 3).
252. Ber. 61B states: "They combed his (R. Akiba) flesh with iron combs."
253. Deut. 30:20.
254. Ber. 61B; Joshua b. Hananiah also relied on the Aesopian fable of the lion and the heron (crane) to calm an excited throng protesting reversal of Hadrian's decision to rebuild the Temple. Instigated by the Samaritans, Hadrian reneged on his promise and the Jews were at the verge of rebellion. To quiet them, R. Joshua related the following parable stated in Gen. R. 64, 10: "A wild lion killed an animal, and a bone stuck in his throat. Thereupon, he proclaimed: 'I will reward anyone who removes it.' An Egyptian heron, which has a long beak, came and pulled it out and demanded his reward. 'Go,' he replied, 'you will be able to boast that you entered the lion's mouth in peace and came out in peace.' (unscathed). Even so, let us be satisfied that we entered into dealings with this people in peace and have emerged in peace." R. Joshua thereby stilled the crowd and at the same time illustrated the incomplete kindness of the Romans. Thus, this fable, as in Ber. 61B, was utilized once again as an important medium of instruction in the daily lives of the people.

255. Lev. R. 22, 4.

256. Because of the fable of the trees (Judges 11:8-15) in which Jotham attempts to persuade the people not to elect Avimelech as king and the allegorical answer given by King Jehoash of Israel to Amaziah of Judah (II Kings 14:9) some have argued that the fable has its origin in Israel. But it would be idle to derive the origin of the ancient fable from the Israelites on account of these two examples as Julius Landsberger does in his Fabeln des Sophos (Leipzig: 1859). There is on the contrary, evidence that the Jews after Biblical times adopted fables either from Greece or India (Jewish Encyclopedia, Volume V, p. 324); "Of about 30 fables found in the Talmud and in Midrashic literature, twelve resemble those that are common to both Greek and Indian fable, six are parallel to those found only in Indian fable (Fables of Kybises) and six can be paralleled in Greek" (Jewish Encyclopedia, Volume I, p. 222); B. B. 134A and Sukkah 28A state of Yohanan b. Zakkai, "that his studies included the Scriptures, the Mishnah, Gemara, Halakhot, Hagadot. . . . parables and fox fables." Adept in the use of the fable, he used it frequently to teach man's duty to God and to his fellow-man; See note 249.
257. Job 35:11, 12:7; Albo, op. cit., Volume 3, p. 9 states: "The meaning is that one should consider the fact that every visible creature has something to teach us, a good quality, or a moral lesson, or some wise inference."; In Shevet Musar, Perek 22 (Lublin: J. Hershenhorn and M. Shneidmesser, 1881), pp. 212ff, Elijah Ha-Kohen discusses various ways how man can learn from the beast in general, and from certain lower forms in particular (e.g. the fox, bee, serpent, cat, crab, camel, ant, ox, raven and dove). Man, the author reflects, can better fulfill the teachings of the Torah through lessons taught by other living creatures.
258. Eruv. 100B.

259. This is an interpretation of the spreading of his wings and the bending of their tips toward the ground (Eruv. 100B, note 9, p. 698).
260. When he shakes his head jerking it downwards (Eruv. 100B, note 10, p. 698).
261. Lit. "of that cock"; Eruv. 100B.
262. Loc. cit. 100B; I. M. Casanowicz, "Dove," in Jewish Encyclopedia, op. cit., IV, 644; Cant. R. 4, 1(2) and 1, 15(2). Both also compare in various ways the dove to Israel, which has come to represent the Jewish people symbolically as in Ps. 74:19 ("tor"); Cf. also "yonah" for Israel in Ps. 68:14.
263. Lev. 11:19; Deut. 14:18; Name given to stork denotes piety and benevolence.
264. Hul. 63A; Midr Teh. on Ps. 104, op. cit., p. 444; Of possible interest is National Geographic Society News Bulletin dated 4-3-53 entitled, "Birds Capable of Kind Deeds."
265. Prov. 6:6-8, 30:25; Eruv. 100B endows it with honesty because it takes objection to robbery. In connection with this, Deut. R. 5, 2 quotes R. Simeon b. Halafta as follows: "Once it happened that an ant dropped one grain of wheat and all the ants came and sniffed at it and yet not one of them took it, until the one to whom it belonged came and took it"; Hul. 57B tells of an experiment executed by Simeon b. Halafta to ascertain whether or not ants actually have rulers and as a result the Sage came to the conclusion "that they have no king."; Though some ancients-- Aristotle among them -- believed ants were without rulers, entomologists today assert that they dwell in highly organized communities. "Two of the most common species of the Holy Land (Atta Barbara, the black ant and Atta Structor, a brown ant) are strictly seed feeders, and in summer lay up large stores of grain for winter use" (H. B. Tristram, The Natural

History of the Bible -- London: Society for Promoting Christian Knowledge, 1889), p. 320; Deut. R. 5, 2 offers us various rabbinic speculations as to why Solomon chose the ant as a lesson for the sluggard; Cf. also Shim'oni on Prov. 938, op. cit., p. 977.

266. Prov. 30:27; 30:26 reflects also on the wisdom of the rock-badger (lit. hider). Being exceptionally small, weak and defenseless against most animals, they wisely build "their houses in the crags," and other inaccessible places.
267. Joel 2:7-10; In Joel 2:4 locusts are likened to combat horses, a reference possibly to their potential fierceness.
268. Deut. 32:10-12; Ex. 19:4.
269. Is. 1:2-3; Cf. also Ps. 84:4 in which the Psalmist compares his yearning for God's temple with the longing of a bird for its nest.
270. Jer. 8:7.
271. Ibid. 13:23.
272. Is. 60:8.
273. Ibid. 2:2-3; Micah 4:1-2.
274. Is. 11:6-9.

BOOK II
NOTES TO PART III
CHAPTER VI

275. Prov. 12:10; Ned. 81A, Hul. 71A, Sifre on Deut. 14:4 (New York: Om Publishing Co., 1948) 94B, para. 100, and RaSHI on Deut. 14:4-5 all state that the hayah (wild beast) is included in the term behemah (domestic animal). Unless otherwise indicated, translations of Biblical verses throughout this paper are taken from The Holy Scriptures (Philadelphia: The Jewish Publication Society of America, 1917).
276. Ps. 145:9.
277. Prov. 10:3, 13:25, 27:7.
278. Ecc. 6:9.
279. Crawford H. Toy - A Critical and Exegetical Commentary on Book of Proverbs, (New York: Charles Scribner's Sons, 1902) p. 247ff. Toy further states: "'knows' here = gives attention to, comes into sympathetic relations with (Cf. Deut. 33:9; Job 9:21, 35:15). Soul is the principle of life, common according to OT usage to man and beast; it here signifies not the mere vitality (it is not that the good man refrains from killing his beast), but the sum total of life as experience (Cf. Ruth 4:15; Job 10:1)."
280. Humphrey Primatt, Dissertation on the Duty of Mercy and Sin of Cruelty to Brute Animals, (London: T. Cadell, 1776) p. 208.
281. Ibid. p. 209.
282. Ibid. p. 205; Sefer Orhot Tsadikim (Koenigsberg: H. Gruber, 1858), p. 17 states that cruelty is not an attribute of the righteous.

283. Julius H. Greenstone, Proverbs with Commentary (Philadelphia: Jewish Publication Society of America, 1950), p. 129.
284. Yehudah ha-Hasid, Sefer Hasidim, ed. by Reuben Margolius (Jerusalem: Mosad ha-Rav Kook, 1957), para. 669.
285. Ruth R. 2, 8 states: "R. Jose b. Halafta said: 'Never during my life did I call my wife my wife or my home my home, but I called my wife my home and my home my wife. Nor did I call my ox my ox or my fields my fields, but I called my ox my fields and my fields my ox.' " As the wife is the spirit of the home, so is the field useless without the ox. (Cf. Soncino edition, note 3 on Ruth R., 2, 8, p. 30). Unless otherwise indicated, translations of the Midrash Rabbah are taken from the Midrash Rabbah (London: The Soncino Press, 1939). Also found in Git. 52A, and Shab. 118B.
286. Prov. 16:32.
287. Avot 4, 1. Unless otherwise indicated translations from the Mishnah are taken from Herbert Danby, The Mishnah (London: Oxford University Press, 1950).
288. Shim'oni on Prov. 12:10 (New York: Title Publishing Co., 1944), p. 984, para. 948; Tanh. on Noah (Warsaw: Levine - Epstein), p. 13B, para. 7; Ber. 7A maintains that even God prays. In the name of Rab. R. Zutra b. Tobi said: "Among His prayers is, 'May it be My will that My mercy may suppress My anger.' " The pious were continually admonished, as indicated elsewhere in this paper, to emulate the ways of the Lord.; Cf. also Ecc. R. VII, 10:1. Unless otherwise indicated, translations of the Babylonian Talmud are taken from The Babylonian Talmud (London: The Soncino Press, 1935/52).
289. Yehudah ha-Hasid, op. cit., paras. 44 and 666; See note 311.

290. Shim'oni, op. cit., on Num. Balak p. 528, para. 765 refers to the angel of the Lord who blocked the path of Balaam as 'malokh shel raḥamim.'
291. Ibid. p. 529.
292. Loc. cit.
293. Num. 22:32.
294. Ibid. 22:29.
295. Yehudah ha-Ḥasid, op. cit., para. 666.
296. Num. 31:8.
297. B. M. 32B considers that the prohibition of cruelty to animals is found implied in Ex. 23:5 and Deut. 22:4; Shab. 128B also declares this prohibition to be Biblical in origin.
298. Deut. 12:20.
299. Moses Maimonides (RaMBaM) Moreh Nevukhim (The Guide for the Perplexed), trans. by M. Friedlaender (New York: Pardes Publishing House, 1946), Part III, Chapter XVII, p. 288.
300. Supra note 297.
301. Pes. 118A; Gen. R. 20, 9; Seder Eliyahu Rabah XV, ed. M. Friedmann (Vienna: 1902), p. 70; Cf. also Ber. 29B.
302. Gen. R. 20, 9. R. Samuel reasons that while redemption comes through an angel (Gen. 48:16), sustenance comes through the Holy One (Ps. 145:16).
303. Deut. 11:15; RaSHI on Deut. 11:15 states: "You shall trim your wheat (corn) all the rainy season, and cast it before your cattle, and if you shall withhold your hand from it (stop doing this) thirty days

- before the harvest, it will not give you less of its corn." (than if you had not fed your cattle with it).
304. Git. 62A; Ber. 40A; Sefer Orhot Tsadikim, op. cit., 16B; Note the construction of Deut. 11:15, first: "and I will give grass in thy fields for thy cattle," then: "thou shalt eat and be satisfied."; Moses Maimonides (RaMBaM), M. T. Kinyan, Hilkhot 'Avadim, 9:8 (Berlin: Julius Sittenfeld, 1862); Yehudah ha-Ḥasid, op. cit. 531 states that in the case of eating, animals come first, for it states, "and he gave straw to the camels" then he put food before him to eat, but in case of drinking, man comes first as it is written, "and she said to him, 'drink and then I will give your camels drink also.'" (Gen. 24:32-33, 18-19); According to the Midrash ha-Gadol on Genesis, edited from various manuscripts by Mordecai Margulies (Jerusalem: Mosad ha-Rav Kook, 1947), para. 727, it was Levi who first opened his sack in order to give his donkey provender and consequently found the money returned to the brothers by Joseph (Gen. 42:27). Some authorities attribute this act of Levi to the fact that he was very pious and would not eat himself prior to feeding the animals entrusted to his care. (Louis Ginzberg, The Legends of the Jews V, p. 348... Philadelphia: The Jewish Publication Society of America, 1947).
305. Yer. Ket. 4, 8 (Kratoshin: Dov Ber Monosh, 1866), p. 29; Ibid. Yev. 15, p. 14B.
306. Kil'ayim 8, 6 states that the dog is reckoned a kind of wild animal and wild animals were not to be fed before man.
307. Jacob Emden, She'elot Ya'AVeTS, I, 17 (Altona: Aaron ben Elijan Katz, 1739).
308. Supra note 275.
309. From Git. 62A (end) we infer that if a person who owns cattle is away from home and is in another's

home, he must not eat there for he did not first feed his animals; O. H. 324, 11 (Wilna: Rosenkranz and Schriftsetzer, 1923), states too that food should be placed before a dog, even on the Sabbath day. Only domestic animals, those dependent on man, are permitted to be fed on the Sabbath.

310. O. H. 167, 6; Ber. 40A; Both the Mishnah Berurah 40 on O. H. 167, 6 (New York: Shulsinger Brothers, 1952) and the Talmud cited give as the reason for this very unusual authorization the fact that man is forbidden to eat before he gives food to his beast.
311. Die Buecher der Geheimnisse Henochs; das sogenannte slavische Henochbuch LVIII, edited by G. Nathanael Bontwetsch (Leipzig: J. C. Hinrich Buchhandlung, 1922), p. 50; Cf. Yehudah ha-Hasid, op. cit., para. 44; 2 Enoch (or the Book of the Secrets of Enoch) 59:5 makes the interesting observation: "And he who does any beast any injury whatsoever, in secret, it is evil practice, and he defiles his own soul." (The Apocrypha and Pseudepigrapha of the Old Testament, ed. R. H. Charles, Oxford: Clarendon Press, 1913).
312. Ecc. R. VII, 1:4; In the context of the Midrash the term benevolence as used here refers to the showing of proper respect to the dead. However, the writer feels, that inasmuch as God requires such action generally as discussed throughout this paper, refusal to act in accordance to His will is tantamount to denying Him.
313. Tos. B. K. 9, 30, edited by M. S. Zuckerman (Pasewalk: A. Schnurr, 1880); B. M. 85A states that because Rabbi Judah had mercy on some weasels which his maid-servant wished to sweep out of his house, the Heavenly Host said: "Since he is compassionate, let us be compassionate to him." Thereupon his health, which suffered as a result of a previous act of cruelty, was restored to him; Gen. R. 33, 3; Shab. 151B interprets the verse: "And

- He shall give thee mercy and have compassion upon thee and multiply thee" (Deut. 13:18) to mean: "He who is merciful to others, mercy is shown to him by Heaven, while he who is not merciful to others, mercy is not shown to him by Heaven"; Sifre, op. cit., Deut. 93B, para. 96; Yehudah ha-Hasid, op. cit., 666; Also Aaron ha-Levi of Barcelona, Sefer ha-Hinukh 80, (Warsaw: Jacob Eliezer Edelstein, 1872) "God will not be merciful to those who are not merciful because they are not worthy of receiving mercy."
314. Tos. Pe'ah 4, 19, op. cit.; See Yerushalmi, op. cit. Pe'ah 1, 1, p. 15A for similar thought.
315. The Testaments of the Twelve Patriarchs; Testament of Zebulun 5:1 (The Apocrypha and Pseudepigrapha of the Old Testament - R. H. Charles, Oxford: The Clarendon Press, 1913).
316. The offering of sacrifices, the performance of charity and the practice of kindness.
317. Prov. 21:3.
318. Hosea 10:12; R. H. 18A states further that men are not forgiven because of their offerings and sacrifices, but only through their Torah and kind deeds. (Based on I Sam. 3:14).
319. Sukah 49B.
320. Midr. Teh. (Shoher Tov), ed. Salomon Buber (New York: Om Publishing Co., 1947) on Ps. 52, para. 6.
321. Pe'ah 1, 1.
322. Sifra on Lev. 25:36 (New York: Om Publishing Co., 1947), p. 109B.

323. T'alanit 9A; Ecc. R. VII, 1:4; Shim'oni on Num. 20:1, op. cit., p. 521, para. 763; Solomon Wertheimer, Seder Bate Midrashot III, 10. (Jerusalem: Moses Lilienthal, Printer, 1894-1895).
324. Num. 20:2-4.
325. Louis Ginzberg, op. cit., Vol. III, pp. 309-310; Shim'oni on Num. 20:3, op. cit., p. 523, para. 763. The Yalkut remarks that the righteous are as concerned about the welfare of their beasts as about themselves. This may be inferred from the fact that Jacob told Joseph to find out "whether it is well with thy brethren and well with the flock." (Gen. 37:14). Interesting also is the statement of RASHI on Num. 20:8, "that it give forth its water; and thou shalt bring forth to them water out of the rock; so thou shalt give drink the congregation and their cattle." Hence (we derive) that the Holy One, Blessed be He has consideration for the wealth of Israel."
326. S. Y. Agnon, Yamim Noraim (Jerusalem: Schocken, 1938), p. 297; Morris N. Kertzer, What is a Jew (Cleveland-New York: World Publishing Co., 1953), pp. 157-158.
327. Louis Ginzberg, Students, Scholars and Saints (Philadelphia: Jewish Publication Society, 1945), p. 183.
328. Ex. R. 31, 7.
329. Humphry Primatt, op. cit., p. 212; Valuable animals, according to Van Lennep, always have their tails tied (Henry J. Van Lennep, Bible Lands and Customs, Vol. 1, p. 217 - London: John Murray, Albemarle Street, 1875). But according to Yehudah ha-Hasid, op. cit., 589 this action causes misery to the animal, for it uses its tail to ward off flies. In this connection, the statement made in Bekhor. 5, 3, concerning the children who, while playing, "tied together the tails of the lambs, and the tail of

- one of them was torn away," certainly reflects the fact that they did not act in accordance with Jewish teaching.
330. The word Torah is left untranslated. It is variously used for the Pentateuch, the Scriptures, the Oral Law as well as for the whole body of religious truth, study and practice.
331. Very exceptional is the statement by the distinguished Sage R. Isserlein (Israel b. Petahyah 15th C.) in his Responsa Pesakim u-Ketavim, para. 105 (Venice: Daniel Bamberger, 1519): "You may cut a bird's tongue to make it speak, and crop a dog's ears and tail to make it pretty, since all these animals were made for man's good. . . . However, we don't do these things because of possible retribution for causing pain to the animals."
332. Joseph H. Hertz, Seder Tefilot kol ha-Shanah. Cites as his source the Orhot Tsadikim, the work of a 15th Century Jewish moralist. (New York: Bloch Publishing Co., 1954), p. 1115; Yev. 79A and Num. R. 8, 4 maintain that Israel is especially distinguished for its compassionate disposition, so that one who is merciful falls under the presumption of being of the seed of Abraham (Betsah 32B).
333. Kitsur 34:1; Cf. Zohar III, 92B (Amsterdam: Johanan Levi and his son Benjamin, 1805); B. M. 85A states that when Rabbi Judah - in answer to a calf's plea to save it on its way to be slaughtered - declared to the calf, "Go, for this wast thou created," the Heavenly Host thereupon decreed, "Since he has no pity, let us bring suffering upon him."; Supra notes 311 and 313; Lack of compassion marks a people as cruel (Jer. 6:23; II Chron. 36:17; Amos 1:11).
334. Yehudah ha-Hasid, op. cit., para. 667f.
335. Ket. 67A, "In accordance with the camel is the burden."

336. Yehudah ha-Hasid, op. cit., para. 44.
337. S. Schechter, Studies in Judaism, 2nd Series. Cites as his sources the Little Sefer Hasidim 13A and Sefer Hasidim (Parma) 477-478. (Philadelphia: The Jewish Publication Society, 1908), pp. 174-5.
338. Yehudah ha-Hasid, op. cit., para. 670.
339. Ibid., para. 665.
340. Ex. 22:30.
341. For which no blame was attached, 'force majeure'; The guardian or herdsman is exempt from repayment in kind.
342. B. M. 7, 10; The Bartinoro (Obadiah b. Abraham 15th C.), distinguished rabbi and commentator of the Mishnah, indicates that cruel treatment could be as the result of hunger, or exposure to excessive heat or cold.
343. Is. 40:11; The shepherd's kindness towards his animals can further be seen in the Biblical metaphors concerning the treatment of God, the Shepherd, towards his flock. Cf. Ps. 23:1 ff, 80:2; Ecc. 12:11; Jer. 31:10; Ezek. 34:11-12.
344. Isaac Loria, Sefer ha-Kavanot (Korzec (Poland): Publisher, Abraham b. Yitshak Isaac, 1784), p. 62B; "The doctrine of transmigration was not accepted by any of the great Jewish writers of the Middle Ages. The mystics, however, employed the belief as the cornerstone of their religious structure." (Israel Abraham, Jewish Life in the Middle Ages, note 3, p. 152. Philadelphia: Jewish Publication Society of America, 1896). Because of their belief in transmigration, the mystics abstained from meat.
345. Menachem G. Glenn, Israel Salanter (New York: Bloch Publishing Co., 1953), p. 97.

346. Jacob Emden, op. cit., I, 110 discusses the question whether the Biblical prohibition of cruelty to animals embraces such lower forms as insects and worms and states that although such killing may not have been prohibited in the law, it would be inhumane to do so and cites Isaac Loria as one who taught his disciples not to kill even undesirable insects.
347. S. Schechter, loc. cit.; Menachem G. Glenn, loc. cit.
348. RaSHI on I Sam. 15:3 states that the Amalekites through magic would turn themselves into animals; Sefer Ketav Tamim, p. 61 found in Otsar Nehmad by Isaac Blumenfeld (Vienna: Israel Kneppelmacher & Sons, 1860) declares that Agag, king of Amalek, would turn himself into an animal; Louis Ginzberg, op. cit., VI, p. 233, writes: "The Amalekites were great sorcerers and used to transform themselves into animals to escape the attacks of the enemies in war. God, therefore, commanded the Israelites to kill all the animals of the Amalekites."
349. Yoma 22B; Ecc. R. VII, 16:1 - VII, 17:1; Ecc. 7:16; Midrash Shemu'el 18, 2, ed. by Salomon Buber (Krakau: Josef Fischer Verlag, 1893), p. 99; Pirke Rabi Eli'ezer 44:49-54 (New York: Om Publishing Co., 1946).
350. Kitsur, op. cit. 29:2.
351. Tanḥ. on Matot, op. cit., p. 95B, para. 7, maintains that the Israelites had more consideration for their cattle than for themselves for they said to Moses: "First we will build stalls for our cattle, then cities for our children." So too RaSHI on Num. 32:16, who infers that the Hebrews paid more attention to their cattle than to their children because they mentioned their cattle first. The Tanḥuma therefore states, "Moses said to them: 'Not so shall you do. Primary things come first. First build cities for your little ones and afterwards sheepfolds for your sheep.'"

352. Ps. 8:6.
353. Gen. 1:27.
354. Ibid. 1:28.
355. Michael Friedlander, The Jewish Religion (London: Shapiro, Vallentine & Co., 1922), p. 319; So, too, the celebrated British historian Lecky: "It is a very unquestionable and a very important truth that cruelty to animals naturally indicates and promotes a habit of mind which leads to cruelty to men, and that, on the otherhand, an affectionate and merciful disposition to animals commonly implies a gentle and amiable nature." (William E. H. Lecky, History of European Morals (3rd Edition) Vol. I, p. 288 -- New York: D. Appleton & Co., 1903); Supra note 212.
356. Joseph H. Hertz, Hamishah Humshe Torah 'im ha-Haftorot (New York: Metsudah, 1941) note to Gen. 18:25; Cf. also Shim'oni, op. cit., p. 523, para. 763 where the term 'gomle hasadim bene gomle hasadim,' (kind and charitable children of kind and charitable ancestors) is used.
357. II Sam. 21:1-6.
358. Yev. 79A; Num. R. 8, 4; Yerushalmi, op. cit., Kid. 4, 1, p. 65B; Ibid. Sanh. 6, 8, p. 23B; "As the Gibeonites displayed a spirit of revenge and vindictiveness they were excluded from, and forbidden even to enter, the assembly of Israel." (Soncino edition, note 2 on Yev. 79A, p. 536).

CHAPTER VII

359. Gen. 2:2-3; Ex. 20:11, 31:17.
360. Deut. 5:15; Neh. 9:9-14.
361. Ex. 20:8; Gen. R. 11, 8 explains the use of "remember" as follows: The Sabbath complained to the Lord:

"All have a partner, while I have no partner!" Thereupon God answered, "The Community of Israel is your partner." At Sinai therefore, the Lord said to Israel: "Remember what I said to the Sabbath, that the Community of Israel is your partner, (hence) 'Remember the Sabbath Day, to keep it holy.'" This identical legend is also found in Pesikta Rabati, ed. M. Friedmann (Wien: Joseph Kaiser, 1880), Chapter 23, p. 117B; According to RaSHI on Ex. 15:25, Maimonides, Moreh Nevukhim, op. cit., Part III, Chapter XXXII, p. 326, Sanh. 56B and Shab. 87B the Sabbath law was already proclaimed at Marah, before the Sinaitic revelation.

362. Not only are we informed that Abraham fulfilled all the laws of the Torah given at Sinai (Yoma 28B and Kid. 4, 14) but all the later rabbinic decrees as well, e.g. he observed even such laws as regulate Sabbath movements by means of an 'Eruv (Gen. R. 49, 2 and 64, 4) and laws concerned with the preparations (performing the ritual of 'Eruv Tavshilin in order to be permitted to cook meals on festival days for the Sabbath on a festival preceding it (Yoma 28B; Tanh. on Lekh Lekha, op. cit., para. 11, p. 21A; Ibid., on Behar, para. 1, p. 43A). Jacob also, we are told, entered Shehem on Friday and his first concern was to lay out the boundaries of the city in order not to transgress the Sabbath laws (Gen. R. 11, 7 and 79, 6). Pesikta Rabati, op. cit., pp. 120B-121A and Gen. R. 11, 7 strangely enough admit that Jacob alone upheld the Sabbath, not Abraham. This thought is also implied in Shab. 118A-B. The Sages derived this concept from the fact that Scripture does not specifically state that Abraham kept the Sabbath, only that -- in general terms -- he kept God's law. Cf. Gen. 26:5, "because that Abraham hearkened to my voice." "But Jacob, of whom the keeping of the Sabbath is mentioned, viz. 'and he rested before the city,' (Gen. 33:18) "means that he entered at twilight and set boundaries before sunset." Kid. 4, 14, however,

- points to the same verse (Gen. 26:5) and maintains that "Abraham performed the whole Law before it was given."
363. Ezek. 20:12, 20; Ex. 31:13. Shab. 10B commenting on Ex. 31:13, "That ye may know that I am the Lord who sanctify you," states: "The Holy One, blessed be He, said to Moses, 'I have a precious gift in My treasure house, called the Sabbath, and desire to give it to Israel; Go and inform them'"; Lev. 22:9.
364. Ex. 31:14, 35:2; Num. 15:32-36 condemns a man who profaned the Sabbath to death by stoning; Sanh. 7, 4.
365. Moses Maimonides (RaMBaM), M. T., Shoftim, Hilkhoh Sanhedrin, 9:1 (Berlin: Julius Sittenfeld, 1862); Cf. George Horowitz, Spirit of Jewish Law, (New York: Central Book Co., 1953), pp. 644-645.
366. Ibid., Hilkhoh Sanhedrin, 10:9.
367. Makot 1, 10; The Jewish Encyclopedia III, p. 558 (New York and London: Funk and Wagnalls Co., 1906); RaSHI commenting on Num. 5:19 makes the interesting statement that in accordance with the commandment capital cases are to first commence with acquittal for the accused.
368. Long before the rabbinic period Jeremiah laments that the Sabbath has been forgotten in Zion (Lamentations 2:6).
369. Amos 8:4-5.
370. Jer. 17:21-22, 27; Shab. 119B states that Jerusalem was destroyed only because the Sabbath was desecrated therein as it is said, "and they have hid their eyes from My Sabbaths, and I am profaned among them." (Ezek. 22:26).
371. Ezek. 44:24.

372. Ibid., 22:8, 15-16; Cf. Lev. 26:33.
373. Is. 58:13-14.
374. II Chron. 36:17-20; Cf. also Jer. 52:6-27.
375. Heinrich Graetz, History of the Jews, Volume I, (Philadelphia: The Jewish Publication Society of America, 1949), pp. 364-5.
376. Ezra 7:1-5.
377. His ancestor Hilkiyah had found a Book of the Law (probably Deuteronomy) in the Temple in the days of Josiah (II Kings 22:8-13; II Chron. 34:14-31) and it was his father Seraiah who was slain by Nebuchadnezzar and whose sons (very probably) carried the Law to Babylon (II Kings 25:18-21; Jer. 52:24-27).
378. Even a promise to observe the Sabbath-year formed part of the covenant upon the return from Babylon (Neh. 10:32). In pre-exilic time the Sabbath-year was not regularly observed.
379. Neh. 13:15-16.
380. Ibid. 13:17-18.
381. Ibid. 13:19.
382. Avot 1, 1 reflects this thought by stating "make a fence around the Law."
383. Abraham E. Millgram, Sabbath, the Day of Delight, (Philadelphia: Jewish Publications Society of America, 1946), p. 345.
384. I Maccabees 2:29 (The Apocrypha and Pseudepigrapha of the Old Testament - R. H. Charles, Oxford: The Clarendon Press, 1913); Book of Jubilees 50:11-13 (R. H. Charles, op. cit.) requires the death penalty for all who "make war on the Sabbath." Only after

Mattathias, High Priest and leader of the revolt against the Syrian oppressors (in consultation with his followers) ruled that in self-defense it was permissible to take up arms, did the people defend themselves. (I Maccabees 2:41; Shab. 19A). According to the Mekilta de Rabbi Ishmael, ed. J. Z. Lauterbach, Volume III, Tractate Shabbata, Chapter 1, p. 204, on Ex. 20:13, (Philadelphia: The Jewish Publication Society of America, 1949) such martyrdom insures "That the Sabbath will never be abolished in Israel." For all institutions - as the Sabbath, circumcision, etc. - for which Israelites have sacrificed their lives, the Mekilta maintains, will be everlastingly established in their midst.

385. In his Antiquities of the Jews, Book XVI, Chapter 2:3-4, Josephus tells of the visit of Emperor Agrippa and Herod to Ionia and of the great numbers of Jews who came before them with complaints that the Greeks had deprived them of their religious law. Agrippa thereupon assigned Nicolaus to plead their cause, who among other remarks, argued that they "would choose to suffer anything whatever, rather than to give up any of the customs of their forefathers that the seventh day we set apart from labour for the learning of our customs and laws." In Book XVI, Chapter 6:2 Josephus further relates the proclamation issued by Caesar Augustus in reply to complaints by the Jews of Asia Minor. "The Jews," he orders, "should have liberty to follow their own customs, according to the law of their forefathers that they be not obliged to appear in court either on the Sabbath-day, or on the day of preparation before it, after the ninth hour." And finally, Josephus in Against Apion, Book II, para. 40, implies that the Sabbath was observed universally. He writes: "Moreover, multitudes have had a great inclination now for a long time to follow our religious observances; nor is there any city of the Greeks, nor any barbarian city, nor any nation, where our custom of resting on the seventh day has not reached." (Flavius Josephus, The Works of Flavius Josephus,

5 volumes. Whiston's translation, revised by Rev. A. R. Shilleto - London: George Bell & Sons, 1889-1890).

386. Sifre, op. cit., on Deut. 33:10 ("they shall teach Jacob Thine ordinances, and Israel Thy law"), 145A, para. 351; Shab. 31A; Yoma 28B.
387. Avot 5, 22. Ben Bag-Bag is said to have been a proselyte (Tosfot to Hag. 9B) and a disciple of Hillel (Shab. 31A; Hag. 9B). In the parallel work Avot de-Rabi Natan, ed. S. Schechter, Perek 12 (Vienna: Maurice Knoepflmacher, 1887), p. 55, this thought is attributed to Hillel; Cf. also James 1:25.
388. Kitsur, op. cit., 72, 1.
389. From an address delivered by Hayim Nahman Bialik at the laying of the cornerstone of 'Ohel Shem, in Tel-Aviv, Palestine, 1929. In Sefer ha-Shabat (Tel-Aviv: Oneg-Shabat Society ('Ohel Shem), 1938), p. 519.
390. O.H. 250, 1; "It is mandatory upon all, even upon one having numerous domestics to do something in honor of the Sabbath, thereby doing homage unto it, as it was the habit of the Rabbis. R. Hisda used to cut the vegetables very thin. Rabah and Rab Joseph used to chop wood. R. Zera was in the habit of lighting the fire. Rab Nahman put the house in order, bringing all the utensils needed for the Sabbath and disposing of the things used during the week. Others should indeed emulate their example and not regard it undignified, for this is indeed his glory, in that he honors the Sabbath." (Kitsur 72, 5).
391. Canticles 1:5.
392. Cant. R. 1, 5:2.