

## Exodus 21:33–22:15; cf. 21:16

### Introduction

Over the last couple of months, we've been working our way through the "Book of the Covenant." The Book of the Covenant has two parts: the **Words** and the **Rules** (or, the **Ten Commandments** and the **Righteous Judgments**). The "righteous judgments" model how the Ten Commandments are to be applied in the life of God's people, and especially what true justice and righteousness looks like when the commandments are broken.

So, we've just finished a whole collection of laws (or case studies) relating to the treatment of **human life**. Now we come to a new collection of case studies relating not to the treatment of *human life*, but to the treatment of our neighbor's **property**. This distinction is important, because it helps us to see that human life cannot ever be another person's "property." In particular, it helps us to see that in all the laws that have to do with slaves God is making no concessions whatsoever to the idea that the life of a slave could be considered the "property" of his master. In fact, for anyone who would traffic in human life by kidnapping and selling people into slavery, the penalty is clear: Death.

- Exodus 21:16 — Whoever steals a man and sells him, and anyone found in possession of him, shall be put to death.

God makes no concessions to the treatment of human life as property; *slaves* are never to be considered "property." But if there's a distinction between the laws relating to human life, and the laws relating to property, there's also a distinction between the laws relating to property and the laws that follow *after*, relating to "social justice." This is important because these laws begin with the following case-study:

- Exodus 22:16–17 — If a man seduces a virgin who is not betrothed and lies with her, he shall give the bride-price for her and make her his wife. If her father utterly refuses to give her to him, he shall pay money equal to the bride-price for virgins.

Some people feel like this "righteous judgment" of Yahweh is a concession to the idea that women are "property." But this is not *at all* the case, as we'll see more clearly when we come to these verses. For right now, we simply point out that this law concerning the payment of a bride-price is **not part** of the collection of laws regarding "property" It comes *immediately after*, but it's still not *part* of the property laws. But how do we know this, since there aren't any inspired headings in the Hebrew text that signal the shift from laws regarding **human life** to laws regarding **property** to laws regarding **social justice**? Is there anything in the text itself (besides the subject matter) that tells us where the section on property begins and where it ends? Well, Exodus 22:33-22:15 divides naturally into eleven parts. In every single one of these eleven sections, we find the Hebrew word "**shallem**." In fact, that word, "*shallem*," appears seventeen times exclusively in these 19 verses,<sup>1</sup> and never anywhere else before or after in the entire book

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<sup>1</sup> See page 9

of Exodus. So, it's this Hebrew word "*shallem*" that clearly sets the boundaries for this section of laws regarding **property**.<sup>2</sup> As we'll see, this is going to be a really, *really* important point.

**I. Exodus 21:33–34** — When a man opens a pit, or when a man digs a pit and does not cover it, and an ox or a donkey falls into it, the owner of the pit shall **make restitution** [*shallem*]. He shall give money to its owner, and the dead beast shall be his.

One commentator writes: "The reasons for digging a pit in antiquity were many. They are known to have been used as receptacles for grain storage, as cisterns, latrines, refuse dumps and robber pits." (Currid) So it's pretty easy to imagine what happens: Someone digs a new pit, or opens an already existing pit, and then for whatever reason fails to cover the pit when he's finished. His neighbor's ox or donkey comes wandering along and falls into the uncovered pit and dies. When this happens, the owner of the pit is required to make restitution (*shallem*). He didn't *wish* any harm to his neighbor's animal, but neither did he show that he **cares** sufficiently for his neighbor's rights and his neighbor's well-being. And so because of his negligence, his neighbor has suffered a significant loss.

The basic, root meaning of the word for restitution (*shallem*) seems to be to "complete" something – to make something "**whole**" or "**entire**" *again*. (cf. Currid) So, the point of making restitution is to fully **even** everything out again so that there is fairness, and equity, and justice, and righteousness. The point of restitution is to fully and completely "**right** the wrong" that's been done to one's neighbor. Because this was a case of negligence (with no purposeful intent), the amount of restitution that's required to make everything "even," and complete, and whole again is 100% – an ox for an ox. The owner of the pit buys the dead ox from its owner for the price he would have paid if it was still alive and healthy. The dead ox is now his, while the former owner can now go buy another *live* ox.

**II. Exodus 21:35** — When one man's ox butts another's, so that it dies, then they shall sell the live ox and share its price, and the dead beast also they shall share.

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<sup>2</sup> Enns writes, "This section extends not simply to verse 15, as is indicated by the NIV [*and* ESV; NASB; NRSV; HCSB; NET; NCV; NLT; NKJV] headings, but through verse 17. The NIV is somewhat generous in its estimation of the status of certain classes of women in Israelite society. The only reason for separating the case of a virgin from the cases of property in verses 1-15 is the assumption that virgin daughters are more than simply property."

As we have established above, this is simply, and categorically untrue. There *is* a clear textual basis for separating the case of a virgin from the cases of property (cf. *shallem*). In addition, the "assumption" that virgin daughters are more than simply property is biblically grounded.

Enns goes on to say this: "The specific law in verses 16-17 has more in common structurally with what precedes than with what follows. These two verses close the preceding unit with the same Hebrew syntax as verses 1-15 (the formula 'if... then...'). This ceases abruptly in verse 18 when commands are used."

By arguing in this way, however, Enns shoots himself in the foot. The introductory particle *ki* (if/when) is also used *throughout* the section of laws that Enns categorizes as relating to human life. Therefore, this structural commonality does not prevent Enns from making fundamental distinctions when it suits him. Enns also overstates his case when he refers to the *formula* "if...then..." as there is no grammatical apodosis anywhere in the Hebrew of these verses (it's simply assumed). The repetition of the Hebrew particle "*ki*" in verse 16 is *naturally explained* by the simple fact that it introduces another *case law* (contra vv. 21:18, 21, 22, 28-31; 23:1-3, 6-9). For the participial introduction to the case law in 22:20 compare with 21:12, 15, 16, 17. And finally, notice that when two case laws suddenly reappear at 23:4-5 we also have the sudden reappearance of the Hebrew particle "*ki*"!

This time, there was no negligence on anyone's part. This was something no one could have foreseen, and that no one could have reasonably avoided. Therefore, in order for everything to be **even**, the loss is to be shared equally between the owner of the live ox and the owner of the dead ox. **Because** there was no negligence and no one "responsible," no restitution (no *shallem*) is necessary. When we're the ones who've suffered loss, we always want to assign blame, and find someone at fault. But the point here is that sometimes no one is at fault, and we have to surrender to the reality that it was **God**, and God alone who let my neighbor's ox kill my ox.

**III. Exodus 21:36** — Or if it is known that the ox has been accustomed to gore in the past, and its owner has not kept it in, he shall **repay** [*shallem*] ox for ox, and the dead beast shall be his.

So here's another case of negligence. The owner knows that his ox has been accustomed to gore in the past, and he didn't keep it in. He didn't *wish* any harm to his neighbor's animal, but neither did he show that he *cared sufficiently* for his neighbor's rights and his neighbor's well-being. So once again, in order to fully and completely right the wrong that's been done to his neighbor, the owner of the ox shall repay (or "make restitution"; "*shallem*") ox for ox, and the dead beast shall be his. Because this was a case of negligence (there was no purposeful intent), the amount of restitution that's required to make everything "even," and complete, and whole again is a simple 100%. From cases where there was only negligence or even no negligence at all, we move on now to cases where there was purposeful intent to steal a neighbor's property.

**IV. Exodus 22:1** — If a man steals an ox or a sheep, and kills it or sells it, he shall **repay** [*shallem*] five oxen for an ox, and four sheep for a sheep.

When a man **purposefully steals** an ox or a sheep, what he's attempting to do is **enrich himself** at his **neighbor's expense**. Therefore, in order to make everything "even," and complete, and whole again it must be at **his expense** that his **neighbor is enriched**. Furthermore, since he's already killed or sold the animal that he stole, he's clearly gone past the point of no return. So, in order to fully and completely right the wrong that he's done to his neighbor, he must make restitution (*shallem*) in the amount of 500% for a stolen ox and 400% for a stolen sheep.<sup>3</sup> See how the tables are turned, and now it's as if he's the one who's been robbed by his neighbor! The extra amount of restitution for an ox seems to reflect the fact that a stolen ox means time and labor that's been lost while a stolen sheep does *not* result in any loss of time or labor. (Are we learning **wisdom**?)

Being in the midst of a "sandwich" here, we're going to skip ahead to the top slice of bread in verse 4 before we come back to the filling in verses 2-3).

**V. Exodus 22:4** — If the stolen beast is found alive in his possession, whether it is an ox or a donkey or a sheep, he shall **pay** [*shallem*] double.

Everything here is the same as before except that the stolen beast is *still alive* and *still in the possession of the thief*. Since the thief had not yet gone past the point of no return, the amount of restitution will only be 200% – *two* animals to replace the *one* he stole. Can you see how this

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<sup>3</sup> In Leviticus and Numbers, we learn that someone who would *voluntarily* restore what he took by robbery (or by some other illegitimate means) must make restitution in the amount of 120%. (Lev. 6:4-5; Num. 5:6-7)

makes everything perfectly **even, and complete, and whole** again? I was willing to benefit myself at my neighbor's expense (one sheep gained for me, one sheep lost for him). But now my neighbor has actually benefited at my expense (one sheep gained for him, one sheep lost for me). Once again, we see that the point of this restitution (of *shallem*) is to fully and completely "*right the wrong*" that's been done to one's neighbor. Now, we'll go back to the filling in the sandwich:

**VI. Exodus 22:2-3** — If a thief is found breaking in and is struck so that he dies, there shall be no bloodguilt for him, but if the sun has risen on him, there shall be bloodguilt for him. He shall **surely pay** [*shallem shallem*]. If he has nothing, then he shall be sold for his theft.

First of all, we see just how sacred human life really is – that even the life of a thief is to be carefully protected and guarded and preserved. Second of all, we have to remember that the point of this broadly stated law is to teach *wisdom*. So if it could somehow be proven that you knew the intentions of the person breaking and entering in the middle of the night (that his intention was clearly theft and not murder), you wouldn't be let off the hook for his death just because he was breaking and entering in the middle of the night. But in the case that the thief is caught without any further harm being done, the ruling is that he shall **surely** make restitution. The Hebrew, here, is emphatic: "*shallem shallem*." Perhaps some people might have wanted to be more lenient to the thief. After all, maybe he resorted to stealing from his neighbor only because he was poor. But what's assumed here is that the poor man should still have had other options. One of the main options was selling himself into the service of another man's household until all his debts were paid. So, *in light of these things*, God is clear: poverty must never be any **excuse** for stealing. (cf. Prov. 6:30-31) Therefore, in order to make everything *even*, and complete, and whole again—in order to fully and completely *right the wrong* that he's done to his neighbor—there's only one option: The thief **shall surely** make restitution (*shallem shallem*). Indeed, "if he has nothing, then he shall be sold for his theft" (so he can make restitution).

The amount of restitution isn't spelled out here. We know it's *at least 100%*, but is it possible that the exact amount in each situation (whether 100% or 200% or 400% or 500%) depends on the motives, or the financial condition, of the thief? Remember, the point of these case laws is to teach the people **wisdom** so that true righteousness and justice will be done in *every* conceivable circumstance and situation.

**VII. Exodus 22:5-6** — If a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds in another man's field, he shall **make restitution** [*shallem*] from the best in his own field and in his own vineyard. If fire breaks out and catches in thorns so that the stacked grain or the standing grain or the field is consumed, he who started the fire shall **make full restitution** [*shallem shallem*].

Since these are once again cases of negligence, the amount of restitution required to make everything "even" is once again only 100%. The offender, here, didn't *wish* any harm to his neighbor's fields or vineyards, but neither did he show that he cared sufficiently for his neighbor's rights, and his neighbor's well-being. But there's a "catch" here. Since the field or the vineyard that's grazed by someone else's animal had not yet been harvested, how can we know how much was really lost? The solution to this problem is that when the harvest arrives,

the offender must make restitution from whichever of *his* fields or vineyards has the *highest* yield. Are we learning **wisdom**?

In the case of a fire that's not kept contained, so that it breaks out and destroys a neighbor's stacked or standing grain, the one who started the fire was required to make **full restitution**. Here's our second example of "*shallem shallem*." In other words, the point is never "just" 100%, but a **full and complete** 100% whatever that looks like depending on the circumstances! "*Shallem, shallem*" emphasizes the absolute necessity of restoring everything *in full* – the wrong done to one's neighbor *must* be righted *in full*.

After case studies involving negligence, we come back again to purposeful intent.

**VIII. Exodus 22:7–8** — If a man gives to his neighbor money or goods to keep safe, and it is stolen from the man's house, then, if the thief is found, he shall **pay** [*shallem*] double. If the thief is not found, the owner of the house shall come near to GOD to show whether or not he has put his hand to his neighbor's property.

Once again, because the thief was trying to profit off another man's loss, the only way to make things "even" is to have the victim profit at the expense of the thief. If the wrong is to be fully and completely righted, the amount of restitution must be **double** what was taken (200%). If no thief is found, then the person who was entrusted with his neighbor's property must come near to God to show whether or not he stole it. Commentators disagree about what this means, but the main point is that restitution (*shallem*) *must always* be made – full justice *must* be done.

**IX. Exodus 22:9** — For every breach of trust, whether it is for an ox, for a donkey, for a sheep, for a cloak, or for any kind of lost thing, of which one says, 'This is it,' the case of both parties shall come before GOD. The one whom GOD condemns shall **pay** [*shallem*] double to his neighbor.

These verses describe a situation where *either* someone stole something from his neighbor *or* someone is falsely accusing his neighbor of stealing his property in order to have it "restored." Once again, we don't know for sure what it looked like to bring the case before God, but the main point is that full restitution *must* be made. *Even* if you didn't actually steal something, but only hoped to profit by falsely accusing your neighbor of theft, you were still required to make "restitution" in the amount of *double* what you had been *hoping* to gain at your neighbor's expense. Even the unsuccessful attempt to steal can only be truly righted by restitution (*shallem*) of 200%.

**X. Exodus 22:10–11** — If a man gives to his neighbor a donkey or an ox or a sheep or any beast to keep safe, and it dies or is injured or is driven away, without anyone seeing it, an oath by the LORD shall be between them both to see whether or not he has put his hand to his neighbor's property. The owner shall accept the oath, and he shall not **make restitution** [*shallem*].

The point, here, is that not only was there no ill-intent, but apparently, there wasn't even any negligence. *Because* there was no intent *or* negligence, therefore there's no wrong that needs to

be righted.<sup>4</sup> Because there was no negligence or intent, there's no need for *shallem*. We're reminded again that sometimes no one is at fault, and we have to surrender to the truth that it was God, and God alone who let my property be damaged or destroyed *while it was entrusted to my neighbor for safekeeping*.

**XI. Exodus 22:12** — But if it is stolen from him, he shall **make restitution** [*shallem*] to its owner.

Somehow, the assumption here is that there was negligence on the part of the one who was to keep his neighbor's property safe. Even though the one who was keeping his neighbor's property didn't *wish* any harm to come to it, neither did he show that he *cared sufficiently* for his neighbor's rights, and his neighbor's well-being. Therefore, even though the property was stolen by someone else, because it was his negligence that allowed this to happen he's responsible (assuming the thief hasn't been found) to ***make restitution*** (*shallem*). The wrong must be fully *righted*; the imbalance must be made completely *even*. However:

**XII. Exodus 22:13** — If [the animal] is torn by beasts, let him bring it as evidence. He shall not **make restitution** [*shallem*] for what has been torn.

The man entrusted with his neighbor's animal has no control over whether wild animals try to make a meal of it. But he does have a responsibility to drive the wild animals away as quickly as he can. He may not be successful before his neighbor's animal is killed, but he can still prove that he tried by bringing the evidence of the animal's torn body – which definitely wouldn't still be there if he hadn't intervened.<sup>5</sup> So once again, no intent and no negligence means there's no wrong to be righted – and so therefore, no need for *shallem*.

**XIII. Exodus 22:14** — If a man borrows anything of his neighbor, and it is injured or dies, the owner not being with it, he shall **make full restitution** [*shallem shallem*].

Here's our third case of "*shallem shallem*" – "he shall ***make full restitution***," or, "he shall ***surely make restitution***. I think the point here is that though there ***wasn't even any negligence***, there's still *responsibility* because this man wasn't doing his neighbor a favor by watching over his animal, but rather his neighbor was doing him a favor by letting him *borrow* it. In other words, the borrower takes on himself a greater accountability than the one who's been given his neighbor's animal for safekeeping. Therefore, if something happens to the borrowed animal, then even if there wasn't any negligence, the borrower shall surely make restitution (*shallem shallem*). In order to right the imbalance, *full* restitution is absolutely required.

**XIV. Exodus 22:15a** — If the owner was with it, he shall not **make restitution** [*shallem*];

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<sup>4</sup> The difference between this case law and the case law in 21:35 (both of which assume no criminal intent and no negligence) is that in 21:35 the offending ox was owned by one of the parties in the dispute.

<sup>5</sup> "Thus says the LORD: "As the shepherd rescues from the mouth of the lion two legs, or a piece of an ear, so shall the people of Israel who dwell in Samaria be rescued, with the corner of a couch and part of a bed." (Amos 3:12; cf. 1 Sam. 17:34-35)

We still have a borrower, but in this case the owner was also still involved and present when his animal was injured or killed. Therefore, no purposeful intent + no negligence + no greater level of accountability = no restitution necessary. No imbalance that needs to be made even, and complete, and whole again means, very simply, no *shallem*. Finally:

**XV. Exodus 22:15b** — If it was hired, it came for its hiring fee.

The first way to be in possession of your neighbor's property was to be entrusted with it for safekeeping. The second way to be in possession of your neighbor's property was to borrow it. The third way to be in possession of your neighbor's property was to rent it. The renter was less accountable than the borrower because what we have now is a business transaction. Therefore, assuming there's no negligence involved, should something happen to his neighbor's property, there's also no restitution required. No imbalance to be made even and no wrong to be righted means, very simply, no *shallem*.

### **Conclusion**

Can you see how these sample case laws model the perfect righteousness and justice of **all** God's judgments? As I studied and reflected this past week, I was reminded of passages like these:

- Psalm 9:7-8 — The LORD sits enthroned forever; he has established his throne for justice, and he judges the world with righteousness; he judges the peoples with uprightness.
- Psalm 97:1-2 — The LORD reigns, let the earth rejoice; let the many coastlands be glad! Clouds and thick darkness are all around him; righteousness and justice are the foundation of his throne.
- Job 37:23 — The Almighty... he is great in power; justice and abundant righteousness he will not violate.

The Apostle Paul proclaims that God "has fixed a day on which he will judge the world in righteousness by a man whom he has appointed; and of this he has given assurance to all by raising him from the dead." (Acts 17:31) How good it is to know that the day is coming when all wrongs will be righted, and all injustices dealt with. We can't possibly conceive of how, but this we know: that righteousness and justice are the very foundation of God's throne, and He sits enthroned forever.

- James 5:7-8 — Be patient, therefore, brothers, until the coming of the Lord. See how the farmer waits for the precious fruit of the earth, being patient about it, until it receives the early and the late rains. You also, be patient. Establish your hearts, for the coming of the Lord is at hand.
- Romans 12:17, 19-21 — Repay no one evil for evil... Beloved, never avenge yourselves, but leave it to the wrath of God, for it is written, "Vengeance is mine, I will repay [*shallem*; Deut. 32:35], says the Lord." To the contrary, "if your enemy is hungry, feed him; if he is thirsty, give him something to drink."

As I studied and reflected on these models of God's perfect righteousness and justice, I was reminded of how **deeply concerned** we should be to protect and safeguard the rights and the

property of everyone around us. All these verses in Exodus are really just the outworking of a single, underlying principle:

- Leviticus 19:18 — You shall *love* your neighbor as yourself.

What makes even our “innocent” negligence so inexcusable is that it really just reveals our failure to be actively and diligently loving our neighbor. So how often do we hear it said, or say ourselves: “I didn’t mean to...”, or, “that wasn’t my intention.” But then how often is the thing we didn’t mean or intend still the sign of our deeper failure to truly be loving our neighbor as ourselves? What does our negligence reveal about our hearts? What do the things we never meant reveal about our hearts? Brothers and sisters, let us not be “**negligent**” in loving one another.

- Romans 12:10 — Love one another with brotherly affection. Outdo one another in showing honor.
- 1 Thessalonians 3:12 — May the Lord make [us] increase and abound in love for one another.

Finally, the *only time shallem* is ever used to describe something a human being gives to God is in the paying or the fulfilling of a vow. In the Bible, this is the only kind of “debt” that we can pay back to God – it’s the only kind of debt for which we can make restitution (*shallem*; cf. Ps. 22:25). But what about all the other debts that we owe? One of the ways the New Testament describes our **sin** is as debts requiring **repayment** to God. The “**property**” of God is His name, His holiness, and His glory. And so all of our sin against him, whether willful or “only” negligent, is a kind of “**stealing**” of His “property.” At the very least, it’s a failure to love, and safeguard with all of our hearts that which is *God’s*. And so, in order to make everything *even*, and complete, and whole again—in order to fully and completely *right* the wrong that we have done—there’s only one option: we must **surely** make **restitution** (*shallem shallem*). Only, we can’t. Our debts are insurmountable. We cannot pay them back. We can never even *begin* to make restitution. And yet, restitution must surely be made – *shallem shallem*. And so we are pointed again to Jesus Christ, who has provided for the free, and full, and complete forgiveness of all our debts – **every, one**.

- Colossians 2:13–14 (cf. Mat. 6:12; 18:21–35; Luke 7:41–48) — And you, who were dead in your trespasses and the uncircumcision of your flesh, God made alive together with him, having forgiven us all our trespasses, by canceling the record of debt that stood against us with its legal demands. This he set aside, nailing it to the cross.

No longer any record of debt, no longer anything left to repay, because Jesus has paid it **all**. No longer any demand for restitution, because Jesus has fulfilled the full requirement of the law—**shallem shallem—for us and in our place**.



**Exodus 21:33-22:15**

When a man opens a pit, or when a man digs a pit and does not cover it, and an ox or a donkey falls into it, the owner of the pit shall **make restoration** [*shallem*]. He shall give money to its owner, and the dead beast shall be his.

When one man's ox butts another's, so that it dies, then they shall sell the live ox and share its price, and the dead beast also they shall share. Or if it is known that the ox has been accustomed to gore in the past, and its owner has not kept it in, he shall **repay** [*shallem*] ox for ox, and the dead beast shall be his.

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If a man STEALS an ox or a sheep, and kills it or sells it, he shall **repay** [*shallem*] five oxen for an ox, and four sheep for a sheep.

If a THIEF is found breaking in and is struck so that he dies, there shall be no bloodguilt for him, but if the sun has risen on him, there shall be bloodguilt for him. He shall **surely pay** [*shallem shallem*]. If he has nothing, then he shall be sold for his theft.

If the STOLEN beast is found alive in his possession, whether it is an ox or a donkey or a sheep, he shall **pay** [*shallem*] double.

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If a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds in another man's field, he shall **make restitution** [*shallem*] from the best in his own field and in his own vineyard.

If fire breaks out and catches in thorns so that the stacked grain or the standing grain or the field is consumed, he who started the fire shall **make full restitution** [*shallem shallem*].

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If a man gives to his **neighbor** money or goods to keep safe, and it is stolen from the man's house, then, if the thief is found, he shall **pay** [*shallem*] double. If the thief is not found, the owner of the house shall come near to GOD to show whether or not he has put his hand to his neighbor's property.

For every breach of trust, whether it is for an ox, for a donkey, for a sheep, for a cloak, or for any kind of lost thing, of which one says, 'This is it,' the case of both parties shall come before GOD. The one whom GOD condemns shall **pay** [*shallem*] double to his **neighbor**.

If a man gives to his **neighbor** a donkey or an ox or a sheep or any beast to keep safe, and it dies or is injured or is driven away, without anyone seeing it, an oath by the LORD shall be between them both to see whether or not he has put his hand to his **neighbor's** property. The owner shall accept the oath, and he shall not **make restitution** [*shallem*]. But if it is stolen from him, he shall **make restitution** [*shallem*] to its owner. If it is torn by beasts, let him bring it as evidence. He shall not **make restitution** [*shallem*] for what has been torn.

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If a man borrows anything of his **neighbor**, and it is injured or dies, the owner not being with it, he shall **make full restitution** [*shallem shallem*]. If the owner was with it, he shall not **make restitution** [*shallem*]; if it was hired, it came for its hiring fee.