

# BECHOROS – 2a-31a

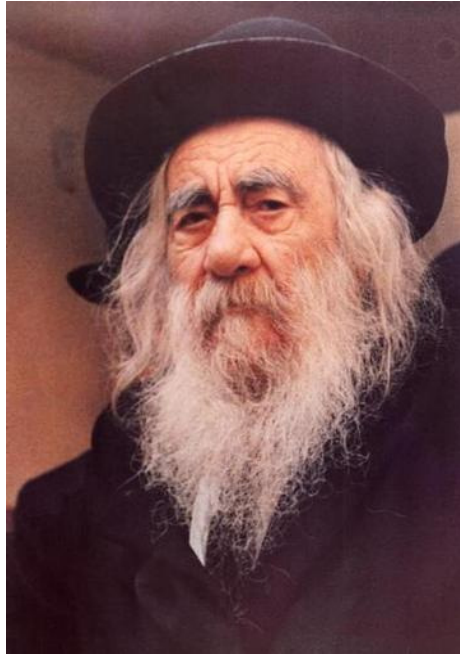
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44a

## The Soncino Babylonian Talmud

### Book I

### Folios 2a-31a



# BECHOROS

TRANSLATED INTO ENGLISH  
WITH NOTES

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# BECHOROS – 2a-31a

## Bechoroth 2a

### CHAPTER I

**MISHNAH.** [AN ISRAELITE] WHO BUYS AN EMBRYO<sup>1</sup> OF AN ASS BELONGING TO A HEATHEN OR WHO SELLS ONE TO HIM, ALTHOUGH THIS IS NOT PERMITTED,<sup>2</sup> OR WHO FORMS A PARTNERSHIP WITH HIM,<sup>3</sup> OR WHO RECEIVES [AN ANIMAL] FROM HIM TO LOOK AFTER<sup>4</sup> OR WHO GIVES [HIS ASS] TO HIM TO LOOK AFTER,<sup>5</sup> IS EXEMPT FROM THE [LAW OF THE] FIRSTLING,<sup>6</sup> FOR IT SAYS:<sup>7</sup> [‘I HALLOWED UNTO ME ALL THE FIRSTBORN] IN ISRAEL’, BUT NOT IN GENTILES<sup>8</sup>

**GEMARA.** What need is there for all these [cases mentioned in the Mishnah]?<sup>9</sup> —

It is necessary [to state all these cases]. For if it taught only the case of HE WHO BUYS, etc. I might have thought the reason was because he brings it [the animal] into the state of holiness<sup>10</sup> but where he sells [to a heathen], since he releases it from holiness, he should be punished.<sup>11</sup> He accordingly states the second case [WHO SELLS, etc.] What need is there for the statement OR WHO FORMS A PARTNERSHIP WITH HIM?<sup>12</sup> —

It is to exclude the ruling of R. Judah Who said: A partnership with a heathen is subject to the law of the first-born.<sup>13</sup> [The Mishnah] accordingly informs us [that a partnership with a heathen exempts the Israelite from the duty of the first-born]. What need is there for the case OR [AN ISRAELITE] WHO RECEIVES, etc.?<sup>14</sup> —

It is necessary because [the Mishnah] wishes to teach the next case: OR [AN ISRAELITE] WHO GIVES [HIS ASS] TO HIM TO LOOK AFTER. And what need is there to state [the latter case itself.] OR [AN ISRAELITE] WHO GIVES, etc.?<sup>15</sup> —

It is necessary. You might be inclined to assume that since the animal itself belongs to the Israelite<sup>16</sup> we should punish him lest one come to confuse this with another animal.<sup>17</sup> [The Mishnah] accordingly informs us that we have no such fear. We have learnt elsewhere:<sup>18</sup> R. Judah permits the selling to a heathen of a maimed [animal]<sup>19</sup> Ben Bathyra permits the selling of a horse.<sup>20</sup> The question was asked: What is R. Judah's ruling on selling an embryo to a heathen? Is the reason of R. Judah for allowing in that case<sup>21</sup> because the animal is maimed and therefore an embryo also being incapable of work is on a par with a maimed [animal]? Or is the reason perhaps because a maimed [animal] is not a frequent occurrence,<sup>22</sup> but a case of an embryo, being a frequent occurrence,<sup>23</sup> is unlike the case of a maimed [animal]? —

Come and hear: OR WHO SELLS AN EMBRYO TO HIM ALTHOUGH HE IS NOT PERMITTED; and R. Judah does not contest this!<sup>24</sup> — But, according to your argument [in the cases mentioned in the Mishnah] OR WHO FORMS A PARTNERSHIP OR WHO RECEIVES FROM HIM OR WHO GIVES HIM, where [the Mishnah] does not expressly state that R. Judah differs, is it really the fact that he does not differ?<sup>25</sup> You must admit that he does differ without [the Mishnah] saying so; similarly here<sup>26</sup> also he differs without the Mishnah saying so.

Come and hear: R. Judah says: If one received an animal from a heathen to look after<sup>27</sup> and it gave birth [to a firstling] we settle [with the gentile partner] for what it is worth and half of its value is given to the priest.<sup>28</sup> Or if [an Israelite] gives [an animal] to him [a heathen] to look after, although he is not permitted.<sup>29</sup> we punish him by compelling him to redeem the animal<sup>30</sup> even up to ten times its value and he gives its whole value to the priest.

(1) A firstling.

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(2) For one is forbidden to sell large cattle to a heathen because the animal is worked on the Sabbath. (A.Z. 14b).

(3) Both purchasing an animal between them.

(4) The Israelite for attending to the animal receiving in payment half of the offspring, but the animal itself belonging to the heathen.

(5) The Israelite sharing a half or a third of the offspring.

(6) Which required the Israelite to set apart the first-born as holy to be given to the priest and in the case of the firstling of an ass, to redeem it with a sheep, failing which its neck was broken. (Ex. XIII, 12, 13).

(7) Num. III, 13.

(8) Lit., 'in others'; where a Gentile has any share in the mother or the offspring, the firstborn is not holy.

(9) HE WHO... SELLS ... FORMS A PARTNERSHIP, etc. since obviously the principle that a non-Jew sharing in an animal or its offspring exempts the Israelite from the law of the first-born and which is applied in the first case (HE WHO BUYS, etc.) applies equally to the others.

(10) The animal coming into the possession of an Israelite will now rest on the Sabbath and therefore, having thereby performed a meritorious act he should not be punished by being made liable to observe the law of the firstling.

(11) By being compelled to redeem it and give it to the priest.

(12) If where the whole firstling belongs to the Israelite he is exempt, how much more so when he only shares in the offspring as a partner?

(13) Half of the value of the first-born is consequently given to the priest.

(14) Since, clearly, the rule that a non-Jew sharing in the animal or offspring exempts the Israelite from the law of the firstborn, applies here as in the previous passages.

(15) What is the difference whether the Israelite undertakes to care for the heathen's animal or the non-Jew undertakes to attend to the Israelite's animal? For in both instances, since the non-Jew has a share in the offspring, the law of the first-born does not apply.

(16) In the case of: OR WHO GIVES HIM, etc. the whole animal, as well as half of the offspring, belongs to the Israelite.

(17) In which the gentile has no portion either in the mother or in its offspring, claiming that exemption is also applicable in this instance.

(18) A.Z. 14b.

(19) An animal with a broken leg. The permission refers only to a place where there is no fear of carnal relations with animals.

(20) Since a horse is generally used for riding, and if a gentile employed it in that manner on the Sabbath, there would be no breaking of the biblical prohibition of the Sabbath law, as riding on the Sabbath is only a rabbinic restriction.

(21) In the case of a maimed animal.

(22) And therefore we do not fear that if this is permitted, one would sell an ordinary animal to a heathen.

(23) Because after its birth it is fit for work, and therefore if we allow it to be sold as an embryo, we may think that it is also permissible to sell an ordinary animal to a heathen.

(24) And we are dealing with the case of an embryo and the Mishnah says ALTHOUGH HE IS NOT PERMITTED. Hence from the silence of R. Judah we may infer that the selling of an embryo to a heathen is forbidden according to every authority.

(25) R. Judah differs from the Mishnah, as we have seen, with reference to a partnership with a heathen, and he also differs as stated later in the cases where an Israelite undertakes to look after a heathen's animal where a heathen looks after an Israelite's animal.

(26) Where an Israelite sells an embryo to a heathen.

(27) To share half the offspring between the Israelite and the heathen.

(28) The animal, however, is not consecrated for sacrifice on the altar, since half of it belongs to a heathen.

(29) To sell an animal to a heathen.

(30) From the possession of the heathen.

## Bechoroth 2b

Now, does this<sup>1</sup> not refer to the case of an embryo?<sup>2</sup> — No, it refers to the animal.<sup>3</sup> But it does not say 'damaw' ['its value']?<sup>4</sup> — Read 'dameha'.<sup>5</sup> But does it not say 'and he gives its whole value to the Priest'? Now if [the words 'its value'] refer to the animal, what has the priest to do with it?<sup>6</sup> — [No.]<sup>7</sup> We are dealing here with a case where e.g., [an Israelite] gave him a pregnant animal to fatten;<sup>8</sup> since we punish him for [selling the] animal [to a gentile,] we also punish him for [selling] an embryo.<sup>9</sup>

Said R. Ashi, Come and hear: R. Judah permits the selling of a maimed [animal].<sup>10</sup> because it cannot be cured.<sup>11</sup> But if it could be cured, it would be forbidden. Now, is not an embryo also like [an animal] which can

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be cured?<sup>12</sup> Deduce, therefore, from this [that it is forbidden to sell an embryo to a heathen according to R. Judah]. Some there are who referred [R. Judah's ruling on an embryo] to our Mishnah:<sup>13</sup> **AND WHO SELLS [AN EMBRYO] TO HIM [A HEATHEN] ALTHOUGH HE IS NOT PERMITTED.** May we say that the Mishnah is not in agreement with R. Judah? For we have learnt: R. Judah permits the selling of a maimed [animal]!<sup>14</sup> — You can even say [that the Mishnah] agrees with R. Judah. For the case of a maimed [animal] is not a frequent occurrence<sup>15</sup> whereas the case of an embryo is a frequent occurrence.<sup>16</sup>

Come and hear: R. Judah Says: if one received an animal from a heathen to look after and it gave birth [to a firstling], we settle [with the gentile partner] for what it is worth and half of its value is given to the priest. Or if [an Israelite] gives [an animal] to him to look after, although he is not permitted to do so, we punish him [by making him, redeem the animal] even up to ten times its value and he gives its whole value to the Priest. Now, does this not refer to the case of an embryo? — No, it refers to the animal. But does it not say ‘damaw’? [‘its value’?] — Read ‘dameha’. But does it not say ‘and he gives its whole value to the Priest’? Now if [the words ‘its value’] refer to the animal, what has the Priest to do with it? — We are dealing here with a case where e.g., an Israelite gave him a pregnant animal to fatten, and since we punish him for [selling] the animal [to a gentile,] we also punish him for [selling] an embryo.

Said R. Ashi, Come and hear: R. Judah permits the selling of a maimed [animal] because it cannot be cured. But if it could be cured it would be forbidden. And an embryo is on a par with an animal that can be cured. Deduce therefore from this [that according to R. Judah it is not allowed to sell an embryo to a heathen]. The following query was put forward: If one sold an animal for its [future] offspring [to a gentile,]<sup>17</sup> what is

the ruling?<sup>18</sup> You can put this question to R. Judah and you can put this query to the Rabbis.<sup>19</sup> You can put the query to R. Judah thus: are we to say that R. Judah only permits the case of a maimed [animal]<sup>20</sup> because he [the Israelite] will not come to confuse it with another animal and sell it [to a heathen], but in the case of a whole animal,<sup>21</sup> where he may confuse it with another, [he will say that] it is forbidden, or are we to say that perhaps, if in the case of a maimed [animal] where he severs all connection with it,<sup>22</sup> [it is allowed,] how much more so in the case of a whole animal where he has not severed all connection with it?<sup>23</sup> You can put this query to the Rabbis, thus: are we to say that the Rabbis only prohibit in the case of a maimed [animal] because he severs all connection with it,<sup>24</sup> but in the case of a whole animal, where he does not sever his connection from the animal, it is permissible; or are we perhaps to say that if in the case of a maimed [animal], where he will not come to confuse it [with another animal], they forbid [the selling to a heathen,] how much more so in the case of a whole animal, is there the fear [of confusion.]<sup>25</sup> But is the reason of the Rabbis because of what [is stated] here?<sup>26</sup> Has it not been taught: They, [the Rabbis,] said to R. Judah:<sup>27</sup> Is it not possible to couple [an animal with a broken foot] so that it gives birth? Consequently, the reason is on account of the [future] offspring?<sup>28</sup> —

This is what the Rabbis said [to R. Judah:] ‘Our reason [why we forbid the selling of a maimed animal] is because he may come to confuse it with another [animal]. But as for you, why do you permit a maimed [animal]? [It is] because it cannot be cured, and therefore it is as if he had sold it to be slaughtered.<sup>29</sup> But do we not couple it and it gives birth? And since we couple it and it gives birth, he will detain it.’<sup>30</sup> And thereupon he replied to them: ‘When it gives birth,<sup>31</sup> for [in fact] it cannot take a male [for coupling purposes]’.<sup>32</sup>

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Come and hear: **OR AN ISRAELITE WHO GIVES [HIS ASS] TO HIM [A HEATHEN] TO LOOK AFTER.** And it does not say ‘although he is not permitted’!<sup>33</sup> — But, according to your argument, when it says: **OR WHO FORMS A PARTNERSHIP WITH HIM,** since it does not say [it is forbidden,] are we to infer that it is allowed? Has not the father of Samuel said: One must not form a partnership with a heathen lest he [the heathen] will be bound to take an oath to him and he will swear in the name of his idol and the Torah says: [And make no mention of the name of other gods.] neither let it be heard out of thy mouth?<sup>34</sup> You must, therefore, admit that when [the Mishnah] lays down that selling [to a heathen] is forbidden<sup>35</sup> the same ruling applies to a partnership [with a heathen]. Likewise here also when [the Mishnah] lays down that selling [is prohibited] the same ruling applies to *kablanuth*.<sup>36</sup> Why then does the Mishnah cite [the prohibition] specifically in connection with selling?<sup>37</sup> — Because the main prohibition refers to the selling.

Come and hear: R. Judah said: If one receives an animal from a heathen to look after and it gives birth [to a first-born] we settle [with the gentile partner] for what it is worth and half of its value is given to the priest. If again an Israelite gives an animal [to a heathen] to look after, although [he knows that] this is not permitted, we fine him even up to ten times its value and he gives its whole value to the Priest.<sup>38</sup> But the Sages say, so long a gentile has a share in it,<sup>39</sup> it is exempt from the law of the first-born.

(1) The statement that we punish him because he is not permitted to sell to a heathen.

(2) I.e., where an Israelite gives a pregnant animal to a heathen to look after, both sharing the offspring while the animal itself belongs to the Israelite, the words ‘although it is not permitted’ referring to the embryo. We punish him by making him give the value of the embryo to the Priest. Hence we can deduce that one is forbidden to sell an embryo to a heathen.

(3) The words ‘although it is not permitted’ refer to the animal, but an embryo is allowed to be sold to a heathen.

(4) The masculine ending of the Hebrew word *למני*, proves that it refers to the embryo.

(5) With a feminine ending referring to *בהמה* (animal), which is a feminine noun.

(6) The Priest having no claim on the animal itself, only on its first-born.

(7) We cannot deduce from here the prohibition to sell an embryo to a heathen.

(8) The Israelite and the heathen share the offspring and any increase in the animal's value after it is sold.

(9) But elsewhere, R. Judah may hold that an embryo may be sold to a gentile, just as he allows the selling of a maimed animal.

(10) *Supra* p. 2, n. 8.

(11) To enable it to do work on the Sabbath.

(12) For in time, after its birth, it will be fit for work.

(13) And do not, in the first place, propound a query which they subsequently attempt to solve from the Mishnah.

(14) And an embryo may be compared with a maimed animal since in both cases the animals are unable to work, and therefore R. Judah will hold that an embryo may be sold to a heathen, contrary to the ruling of our Mishnah.

(15) As it is an unusual occurrence, R. Judah permits its selling, and we do not fear lest one will sell in other circumstances also.

(16) If we therefore permit in this case, one may come to sell in other cases also.

(17) The animal itself, however, he does not sell.

(18) Should we punish him by forcing him to redeem the animal for having broken the rule prohibiting the selling of large cattle to a gentile?

(19) Who differ from R. Judah with reference to a maimed animal.

(20) *Supra* p. 4, n. 22.

(21) As in our query, he may think that it is permissible to sell to a gentile a whole animal, since here, too, we allow him to sell an animal for its future offspring.

(22) The Israelite leaving nothing for himself after selling.

(23) Since the animal itself belongs to the Israelite and is not yet pregnant, and when the offspring is born, it will be in the possession of the heathen.

(24) The selling her is complete and, therefore, there is the fear that one might sell also a whole animal to a heathen.

(25) For another animal, where the selling is complete and the Israelite has no share in the animal, unlike the circumstances in our query, where the animal still belongs to the Israelite and there is as yet no offspring.

(26) So that the above query naturally arises.



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(27) In arguing why they forbid the selling of a sheburah to a heathen.

(28) We may therefore solve from here our query by concluding that according to the Rabbis it is forbidden to sell an animal to a heathen for the sake of its future offspring, and according to R. Judah it is permissible.

(29) Therefore there can be no fear that one might substitute another animal which is not to be slaughtered and sell it to a gentile.

(30) For the sake of its offspring, and one who sees it in the house of a heathen at the end of a year or two may come to the conclusion that it is permissible to sell an animal which is not for slaughter to a heathen.

(31) You will then inform me.

(32) Because of the animal's disability.

(33) Now here the animal was sold to the heathen for its offspring and therefore we can infer that it is permissible to sell an animal to a gentile for its future offspring.

(34) Ex. XXIII, 23. 'Out of thy mouth', caused by thy mouth, i.e., when you are responsible for the heathen's oath, which shows that it is not allowed.

(35) The passage in the Mishnah **ALTHOUGH HE IS NOT PERMITTED.**

(36) Where the heathen undertakes to take care of the Israelite's animal in return for its offspring.

(37) And not in connection with the other cases enumerated in the Mishnah.

(38) Supra 2b.

(39) Lit., 'has a hand in the middle'.

## Bechoroth 3a

Now, does not this statement<sup>1</sup> deal with the case of the animal? — No. It deals with the case of an embryo.<sup>2</sup> I can also prove this [from the wording]. For it says: We fine him up to ten times its value; from which you may deduce that it refers to the embryo.<sup>3</sup> [The ruling that we punish him for selling to a gentile] supports the view of Resh Lakish. For Resh Lakish said: If one sells large cattle to a heathen, we punish him by forcing him [to redeem the animal]<sup>4</sup> even up to ten times its value. [Does Resh Lakish mean] exactly ten times or not?<sup>5</sup> —

Come and hear: For R. Joshua b. Levi said: If one sells a slave to a heathen, we punish him by forcing him [to redeem the slave] even up to a hundred times his value.<sup>6</sup> —

The case of a slave is different, for every day he [his gentile master] prevents him from carrying out religious duties.<sup>7</sup> Another version [of this argument] is: Said Resh Lakish: If one sells large cattle to a heathen, we punish him by forcing him to redeem the animal even up to one hundred times its value. But we have learnt in a Mishnah: or if [an Israelite] gives an animal to him [a heathen] to look after, although he is not permitted, we punish him by forcing him [to redeem the animal] even up to ten times its value!<sup>8</sup> — By selling he severs all connection with it [the animal].<sup>9</sup> But in the 'case of kabanuth<sup>10</sup> there is no severing of his connection with the animal.<sup>11</sup> [Does Resh Lakish mean] exactly [one hundred times] or not?<sup>12</sup> —

Come and hear: For R. Joshua b. Levi said: If one sells his slave to a heathen, we punish him by forcing him [to redeem the slave], even up to ten times his value!<sup>13</sup> — The case of a slave is different, for he does not return<sup>14</sup> [to his master after being redeemed].<sup>15</sup> Now in the case of an animal, what is the reason [why an Israelite is forced to redeem it even up to one hundred times its value]? Presumably, because it comes back [to its master]. Let us then force him [to pay] once over [the ten, etc.]?<sup>16</sup> — Rather the reason must be because the case of a slave [being sold to a heathen] is a rare occurrence,<sup>17</sup> and any case which is of a rare occurrence, the Rabbis did not [in their rulings] guard against.<sup>18</sup> 'But the Sages say: So long a gentile has a share in it, etc.'

Said R. Joshua:<sup>19</sup> And both<sup>20</sup> expounded the same verse: [Sanctify unto me] all the first-born [whatsoever openeth the womb in Israel].<sup>21</sup> The Rabbis hold that [the word] 'first-born' is to be understood as meaning even if a portion [of a first-born] belongs to an Israelite.<sup>22</sup> Therefore the Divine Law inserts the word 'all' implying that the whole [of the first-born must belong to the Israelite].<sup>23</sup>

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R. Judah on the other hand holds that the word 'first-born' [by itself] is to be understood as meaning the whole of the first-born. Therefore the Divine Law inserts 'all' to show that even if any portion whatsoever [of the first-born belongs to the Israelite it<sup>24</sup> is subject to the law of the firstling.] Or if you prefer, I may say that all [the authorities] understand that the word 'first-born' denotes the larger part [of the animal]. One Master, however, holds that the [purport of the] word 'all' is to add<sup>25</sup> while the other Master<sup>26</sup> holds that it is to diminish.<sup>27</sup> And how much must a gentile's share be to exempt [the animal] from the law of the first-born? —

Said R. Huna: Even if it is no more than of the [firstling's] ears. R. Nahman demurred. Let him [the Priest] say to him [the gentile] 'Take your portion of the ear and go'?<sup>28</sup> It was stated: R. Hisda said: [The heathen's share in the animal] must be something which renders an animal nebelah.<sup>29</sup> Raba said: [The heathen's share in the animal] must be something which renders it trefah.<sup>30</sup> What is the point at issue between them? — Whether a Trefah can live. He who says that [the gentile's share in the animal] must be something which renders it Trefah, would maintain that a Trefah cannot live,<sup>31</sup> whereas he who says [the gentile's share] must be something which renders the animal Nebelah but a Trefah, he would maintain, that it is able to live.<sup>32</sup>

The Rabbis said in the presence of R. Papa: The ruling of R. Huna on the one hand and the rulings of R. Hisda and Raba on the other, do not differ.<sup>33</sup> The one [R. Huna's] relates to it [the first-born;]<sup>34</sup> the other [the rulings of R. Hisda and Raba] relate to the mother.<sup>35</sup> Said R. Papa to them [the Rabbis]: Why is there this ruling in connection with the first-born? [Presumably] because we require [the condition of] 'all of the first-born'<sup>36</sup> and it is not found here.<sup>37</sup> In connection with its mother also,<sup>38</sup> we require [the condition

specified in the verse]: And of all thy cattle thou shalt sanctify the males,<sup>39</sup> which is not found here. But there is in fact no difference.<sup>40</sup>

Mar, the son of R. Ashi demurred: Why should this<sup>41</sup> be different from the premature [first births] of animals, which although they are not viable, are sacred? For a Master said: The words, [And every firstling that is a male] which thou hast coming from an animal [shall be the Lord's],<sup>42</sup> [denote the fetus] which dwells in the animal? — There,<sup>43</sup> since there is no mixture of an unconsecrated [part of the animal],<sup>44</sup> we apply to it the words 'in the animal', 'all the first-born'.<sup>45</sup> Here,<sup>46</sup> however, since there is a mixture of the unconsecrated part of the animal,<sup>47</sup> we do not read concerning it the words 'all the first-born'.<sup>48</sup>

R. Eleazar once did not attend the House of Study. He came across R. Assi and asked him 'What did the Rabbis say in the House of Study'? — He replied

- (1) The ruling that we punish the Israelite to redeem it from the gentile refers to the animal. Consequently we see that if one sold an animal to a gentile for its future offspring, we punish him according to both the ruling of R. Judah and the Rabbis, for the opponents of R. Judah only differ from him in connection with the first-born.
- (2) We punish him for making over the embryo in a pregnant animal to a gentile. But with the case of an animal sold for its future offspring, we are not here concerned. Therefore we are unable to solve the above query.
- (3) Since it says גמיר ('its value') with the masculine ending and also speaks of giving it to the Priest, v. supra p. 4, n. 2.
- (4) From the possession of the heathen.
- (5) Must the Israelite actually pay even ten times its value in order to redeem the animal or does the ruling only mean that even if the gentile demands a larger price than its worth, the Israelite is compelled to redeem it?
- (6) Now, since it says here a hundred times the value of the object sold and in reference to an animal it states ten times, we can infer that the numbers are meant to be taken literally, for if it were otherwise, why does it not say in both instances either a hundred times or ten times?

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(7) And in the case of a heathen slave he would be preventing him from living up to the obligations resting on the Noahide. We therefore force the Israelite to pay even one hundred times the value of the slave. But in the case of an animal, we are not so strict and the ten times mentioned may be taken as an exaggeration.

(8) Thus the Mishnah is contrary to the ruling of Resh Lakish.

(9) We therefore force him to pay even one hundred times its value to the gentile.

(10) The case in the Mishnah just cited where a heathen undertakes to attend to an Israelite's animal.

(11) Since the animal still belongs to the Israelite.

(12) Or is the one hundred times mentioned a mere hyperbole?

(13) And since in connection with a slave it says ten times and in reference to an animal one hundred times, we may infer that the numbers mentioned are not to be taken literally, for otherwise in the case of a slave where he is prevented from observing his religious obligations, the penalty should be much more severe than in the case of an animal.

(14) According to Rashi he is automatically set free. Y. Git. 43b. R. Gershom says that the slave hates to return of his own free will to his former master, after the latter had sold him to a heathen.

(15) And therefore we do not force him to pay more than ten times the value of the object sold, but in the case of an animal the number stated may be taken as precise.

(16) Since the animal returns to its former owner it cannot be counted as part of the fine i.e. the Israelite should be forced to pay eleven times its value.

(17) And therefore we do not force the Israelite to pay more than ten times the value of the object sold.

(18) But in the case of selling an animal which is a frequent occurrence, the Rabbis were more stringent.

(19) Var. lec.: R. Johanan.

(20) The Sages and R. Judah.

(21) Ex. XIII, 2.

(22) In order to be subject to the law of the first-born.

(23) Meaning literally 'all'.

(24) The animal.

(25) So that the entire animal must, be in the Israelite's possession.

(26) R. Judah.

(27) Meaning 'any', so that if the Israelite has a share in the first-born, however small, he is required to carry out the duty of the first-born.

(28) For a first-born, even with a blemish, although unfit for sacrifice on the altar, is given to the Priest.

(29) An animal that has died a natural death or was killed not in accordance with the Jewish ritual law, is called Nebelah. If the gentile therefore had for his share an essential part of the animal the absence of which would make it impossible to perform ritual slaughter, e.g., its gullet or windpipe, since such a vital part of the animal was in his hand, it was as if the whole animal belonged to him and was therefore exempted from the law of the first-born.

(30) An animal afflicted with an organic disease or disability as e.g., the removal of a certain portion of the knee. v. Hul. 42a.

(31) And since the animal cannot live, it is as if it belonged completely to the gentile.

(32) The gentile consequently does not possess a vital part of the animal.

(33) R. Hisda and Raba however do differ.

(34) Even if the gentile has the share of an ear in it, the law of the first-born does not apply.

(35) And they differ as to whether the blemish must be of a nature which renders it Nebelah or Trefah.

(36) In the possession of the Israelite so as to be subject to the duty of the first-born.

(37) Where the ear belongs to the gentile.

(38) Where the gentile has an element in the animal which makes it either Trefah or Nebelah.

(39) Ex. XXXIV, 19, i.e. if the animal belongs entirely to you, then you are commanded to observe the law of the first-born.

(40) Between the mother and its first-born, and consequently R. Huna on the one hand and R. Hisda and Raba on the other, do actually differ.

(41) The case of a heathen having a share in an animal which renders it either Trefah or Nebelah.

(42) Ex. XIII, 12 שגור (sheger) coming from the word שגור (shegor), the root being גר to dwell, sojourn. Or שגור (shegor) that which it casts forth prematurely.

(43) In the case of premature first births.

(44) Shared by a heathen.

(45) Whatever is in the animal has the holiness of a firstling.

(46) In the case of the mother.

(47) Shared by a heathen.

(48) Which phrase denotes that any part shared by an Israelite makes it subject to the law of the first-born.

## Bechoroth 3b

Thus did R. Johanan say: Even if [the heathen's share in the firstling was only something constituting] a slight blemish,<sup>1</sup> And as to what we have learnt:<sup>2</sup> 'A ewe



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which gave birth to a species of a goat or a goat which gave birth to a species of a ewe, is exempt from the duty of the firstling'.<sup>3</sup> But if [the offspring] possessed some features [similar to the mother] it is subject to the [law of the firstling]. [Thereon R. Johanan commented that this<sup>4</sup> means that] it is [like a firstling with] a permanent blemish, on account of which it is slaughtered.<sup>5</sup> We well understand R. Johanan laying down a ruling with reference to a slight blemish, for this informs us that [the law] is according to R. Huna and excludes the rulings of R. Hisda and Raba. But his ruling regarding a permanent blemish — what new thing does he teach us therewith? Is it to inform us that since it [the animal] is abnormal this is regarded as a blemish? [Surely] we have [already] learnt [this ruling<sup>6</sup> in a Mishnah]: Or if the firstling's mouth is like a pig, it is a blemish!<sup>7</sup> And should you argue that [in the Mishnah just cited] the firstling has changed into a species [of animal] in which the sanctity of the firstling does not exist but here the firstling has changed into a species [of animal] in which the sanctity of the firstling does exist,<sup>9</sup> this too we have learnt: If one of its eyes is large and one is small [it is a blemish].<sup>10</sup>

And a Tanna taught that 'large' means large like a calf's and 'small', small like that of a goose. Now, we may giant your argument as far as [the case of a firstling] with a small eye like a goose is concerned, this being a species<sup>11</sup> in which the sanctity [of the firstling] does not exist.<sup>12</sup> But in the case of a large eye like a calf's — this is a species in which the sanctity of the firstling does exist.<sup>13</sup> Must you not therefore admit that [the reason is] that we say since [the animal] is abnormal, it is regarded as a blemish?<sup>14</sup>

No. The reason is because it is a sarua'.<sup>15</sup> This really also stands to reason. For we have learnt: The above mentioned blemishes, whether permanent or transitory, make also human beings unfit for the

Priesthood. To these must be added in the case of blemishes of human beings, two large eyes or two small eyes.<sup>16</sup> [Because] with reference only to human beings it is written: Whatsoever man of the seed of Aaron<sup>17</sup> requiring 'man' among the seed of Aaron to be with normal [human features].<sup>18</sup> But the case of an animal, two large or two small eyes is not also regarded as a blemish. Now in the case of an animal with one large or one small eye what is the reason [why it is a blemish]? If because of the abnormality, then the same should apply to an animal with two large eyes or two small eyes? Then must you not admit that the reason [in the former case] is because of sarua'?<sup>19</sup> —

No. I can indeed still say that [the reason why an animal with one large and one small eye is blemished] is because of the abnormality. And as for your question that the [same ruling] should apply to the case of an animal with two large and two small eyes, [the answer is that] there [in the latter instance] if [the change is] because of the animal's extra obesity, the two eyes need to be large, and if because of its unusual leanness, then both [eyes] have to be lean [small].<sup>20</sup>

There was a woman proselyte to whom the Achii<sup>21</sup> gave an animal to fatten. She came before Raba.<sup>22</sup> He said to her: There is no authority that pays any attention to the ruling of R. Judah who said: The partnership of a heathen [in an animal] is subject to the law of the firstling.

R. Mari b. Rahel possessed a herd of animals. He used to transfer [to a heathen] possession of the ears [of the firstlings while still in the womb].<sup>23</sup> He [nevertheless] forbade the shearing and the working of the animals and gave them to the Priests.<sup>24</sup> The herd of R. Mari b. Rahel died. Now, since he forbade the shearing and the working of the animals and gave them to the Priests, why did he give [a heathen] possession of the ears [of the firstlings?]<sup>25</sup> — [It was] lest he should

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be led to commit an offence.<sup>26</sup> If so, why did the herd of R. Mari die?<sup>27</sup> —

Because he deprived them of their holiness.<sup>28</sup> But has not Rab Judah said: One is permitted to make a blemish in a firstling before it comes into the world?<sup>29</sup> — There, [in the latter case] he deprives the animal of the holiness of being sacrificed on the altar but he does not deprive it of the holiness [of belonging to] the Priests.<sup>30</sup> But in the former case, he even deprives it of the holiness [of belonging to] the Priests.<sup>31</sup> Or, if you prefer, I may say that R. Mari b. Rahel knew how to make a valid transfer to a heathen.<sup>32</sup> But we are afraid that another man may see this and go and do [likewise], thinking that R. Mari did nothing significant<sup>33</sup> [when transferring to a heathen].<sup>34</sup> And thus he will be led to commit an offence.

**MISHNAH. PRIESTS AND LEVITES ARE EXEMPT<sup>35</sup> A FORTIORI: IF THEY EXEMPTED THE FIRST-BORN BELONGING TO THE ISRAELITES IN THE WILDERNESS,<sup>36</sup> IT FOLLOWS A FORTIORI THAT THEY SHOULD EXEMPT THEIR OWN.**

(1) Like the ear of the animal which is not a vital part, in which case the Israelite is exempt from the duty of the firstling.

(2) V. infra 16b.

(3) For Scripture says: Or the firstling of a goat. Num. XVIII, 17. Both the firstling and the mother must belong to the same species and class i.e. a goat.

(4) The ruling that it is subject to the law of the firstling.

(5) I.e., outside the Temple. And eaten like any other firstling which possesses a blemish. It is, however, not suitable for sacrifice on the altar. This was R. Johanan's novel ruling emanating also from the House of Study, i.e., that a change in the animal renders it blemished.

(6) That a change in the animal renders it blemished.

(7) Infra 402.

(8) That of a pig.

(9) And therefore this would be the novelty in the ruling of R. Johanan, that even in such an instance it is regarded as a blemish.

(10) Infra 40b.

(11) Birds being exempt from the law of the firstling.

(12) There is need therefore for R. Johanan to inform us that even in this case it is a blemish since there is a change in the animal.

(13) And even so it is regarded as blemished.

(14) What new thing consequently does R. Johanan tell us in his ruling that a change renders it blemished, since this may be inferred from the Mishnah?

(15) An animal whose one limb is larger than the other is called a sarua'. Therefore were it not stated in the House of Study that a change in the offspring e.g., where its wool resembles that of a goat, renders it blemished, I should not have been in a position to infer this from the Mishnah, as sarua' is a permanent blemish explicitly mentioned in the Scripture.

(16) Infra 43a.

(17) Lev. XXII, 4.

(18) V. infra p. 289, n. 8.

(19) And it is not because of the change that an animal with one long and one short eye is regarded as blemished and therefore there is need for R. Johanan to inform us that elsewhere a change in the animal constitutes a blemish.

(20) So that two large or small eyes constitute no change. Now since we can after all deduce from the Mishnah that a change renders the animal blemished, one can still raise the question, what is there novel in R. Johanan's ruling? (R. Gershom).

(21) Certain heathens.

(22) To enquire whether the duty of the firstling applies.

(23) To be exempt from the law of the firstling.

(24) As if they were actually firstlings and holy.

(25) For in this manner he carried out the prohibitions in connection with the firstling.

(26) In case he should shear and work the animal. And therefore he rendered himself exempt by transferring a part of the embryo to a heathen.

(27) Since his motives were good.

(28) By transferring a share of them to heathens.

(29) As the sanctity of a firstling only begins after its birth.

(30) Like a firstling with a blemish whose shearing is forbidden and work with which is prohibited, still possessing a certain degree of holiness.

(31) Although he actually observes all the prohibitions with reference to a blemished firstling, it is really rendered, owing to the share of the heathens, an unconsecrated animal.

(32) To accept money from a heathen which is the valid method whereby a selling transaction is concluded with a gentile.

(33) Lit., 'did a mere word'.

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(34) By means of words only the transference was effected and no money was paid i.e., he simply informed the heathen that he had given him possession.

(35) Presumably from the first-born of an ass.

(36) This at present understood as meaning that since the Levites themselves exempted the asses of the Israelites in the wilderness, how much more should they exempt their own asses.

## Bechoroth 4a

**GEMARA.** Did they [themselves] exempt?<sup>1</sup> [Surely] a man [a Levite] exempted a man [a first-born Israelite]; an animal [of a Levite] exempted an animal [an Israelite's first-born ass]. For it is written: 'Take the Levites instead of all the first-born among the children of Israel and the cattle of the Levites instead of their cattle'<sup>2</sup> —

Said Abaye: The Mishnah means this: 'As for priests and Levites, their animals are exempt a fortiori. If the animal [the sheep] of the Levites released the animal of the Israelites in the wilderness,<sup>3</sup> it follows a fortiori that it should release their own'.<sup>4</sup>

Said Raba to him: But does not the Mishnah say: 'THEY EXEMPT' meaning the Levites themselves? And further, if it is [as you state],<sup>5</sup> they [the Levites] should be exempted even from [liabilities for] a clean animal?<sup>6</sup> Why have we learnt: They [the Levites] are not exempted from the law of the firstling of a clean animal only from the redemption of the first-born male, and the first birth of an ass?<sup>7</sup>

No, said Raba; the [Mishnah] must be read thus: 'Priests and Levites exempt themselves [from the redemption of the first-born] a fortiori'. If the holiness of the [non-first-born] Levites canceled the holiness of the first-born Israelite [in the wilderness], should it not cancel that of their own [first-born]? We thus find that man [the Levite first-born is exempt]. Whence do we know that this also applies to an unclean animal?<sup>8</sup> The text says: Howbeit the first-born of man shalt thou surely redeem and the firstling of

unclean beasts shalt thou redeem.<sup>9</sup> Whosoever is required [to redeem] the first-born of a man, is required [to redeem] the firstling of an unclean animal. But whosoever is not required [to redeem] the first-born of a man<sup>10</sup> is not required to redeem the firstling of an unclean animal.

Said R. Safra to Abaye: According to your interpretation, which is that [the a fortiori argument] also refers to their [the Levites'] animals,<sup>11</sup> a Levite who had a sheep [in the wilderness] to release [a first-born of an Israelite ass], could ipso facto release [his own], but he who did not possess a sheep to release [a first-born of an Israelite ass] could not release his own? Further, both according to your interpretation and Raba's,<sup>12</sup> [a Levite] of a month old who released [an Israelite first-born of a month old in the wilderness]<sup>13</sup> should therefore release [himself from the necessity of redemption,] while [a Levite first-born] less than a month old, who did not release [a first-born Israelite of the same age], should not therefore be able to release himself?<sup>14</sup> Also, a Levite's daughter<sup>15</sup> who gave birth to a first-born, should not be exempt [from redemption].<sup>16</sup> Why then did R. Adda b. Ahaba say: If a Levite's daughter [married to an Israelite] gave birth, her son is exempt from the five sela's?<sup>17</sup> —

That is no objection, as Mar the son of R. Joseph [explained in the name of Raba who said: [Scripture says]: *petur rehem* [the opening of the womb]. The Divine Law makes [the duty of the first-born] depend on the opening of the womb.<sup>18</sup> But what of Aaron since he was not included in that counting [of the Levites],<sup>19</sup> then [the first-born of his asses] should not be released [from redemption]; (for it has been taught: Why is [the word] 'Aaron' dotted in the Book of Numbers?<sup>20</sup> Because he [Aaron] was not in that numbering [of the Levites]?) — Scripture said 'The Levites' implying that all Levites are compared to one another.<sup>21</sup>

# BECHOROS – 2a-31a

And whence do we know [that] Priests [are included in the term Levite?] —

As R. Joshua the son of Levi explained. For said R. Joshua: In twenty-four places Priests are called Levites and the following [instance] is one of them: But<sup>22</sup> the Priests the Levites the sons of Zadok.<sup>23</sup>

- (1) The first-born of asses in the wilderness.
- (2) Num. III, 45.
- (3) From the redemption of the first-born of an ass.
- (4) The Levites' own first-born of asses. Similarly, according to Abaye, just as the Levites themselves exempted the first-born of the Israelites in the wilderness, so they should a fortiori exempt their own first-born.
- (5) That we argue a fortiori with reference to the animals of the Levites.
- (6) From the law of the firstling, for the Levites' clean animals exempted the clean animals of the Israelites in the wilderness.
- (7) Infra 13a.
- (8) I.e., that priests and Levites are exempt from the law of the first-born of an ass!
- (9) Num. XVIII, 15.
- (10) E.g., the Levites and priests who are exempt a fortiori, are therefore also free from redeeming their first-born of asses.
- (11) Inferring that the firstling of an ass belonging to a Levite and Priest is also exempt a fortiori.
- (12) For both agree that we argue a fortiori that the first-born of a Levite is exempt from redemption.
- (13) If the holiness of a plain (non-first-born) Levite of a month old released from holiness an Israelite first-born of a month old—as only the first-born of a month old were numbered, V. Num. III,40 — how much more so should the Levite first-born of a month old release himself from redemption?
- (14) Why therefore does not Scripture state that the first-born Levites in the wilderness who were at the time of counting less than a month old had to be redeemed?
- (15) Who married an Israelite.
- (16) Since females were not included in the count in the wilderness.
- (17) The sum of money necessary for the redemption of the first-born.
- (18) We go therefore by the mother and since she comes of a tribe which is exempt from redemption of the first-born, we link the son with the mother and not with the father, that is provided the exemption in the wilderness

extended to all Levites, even those who were not a month old at the time.

(19) Num. III, 14, etc. Neither he nor his animals were included and therefore they did not cancel the holiness of the first-born of the Israelites.

(20) Num. III, 39: All that were numbered of the Levies which Moses and Aaron numbered. For all dottings of a word have the purpose of limiting and excluding something.

(21) All Levites irrespective of age, including anybody performing sacred functions, such as the priests, all were exempt from redeeming the first-born of an ass. This answers all the questions raised above.

(22) Ezek. XLIV, 15.

(23) We see here therefore that the priests are described as Levites. Similarly where the word 'Levites' is mentioned by itself, it also embraces the priests.

## Bechoroth 4b

Whence do we know [that the exemptions]<sup>1</sup> apply to all time?<sup>2</sup> The text says: 'And the Levites shall be mine';<sup>3</sup> 'and they shall be' means that they [the Levites] retain their status [for all time]. And whence [do we know] that [the Levite exempted the Israelite's first-born of asses in the wilderness] with a sheep?<sup>4</sup> —

Said R. Hisda: Money<sup>5</sup> is written [in connection with the redemption of the first-born] for all time; and 'a sheep' is written [in connection with the redemption of the first-born of an ass]<sup>6</sup> for all time. Just as with the money prescribed for all time, they both redeemed [the first-born] at all times and they redeemed at that particular time [in the wilderness], so with sheep prescribed for all time, they [the Levites] both redeemed [the firstlings] at all times and they redeemed at that particular time [in the wilderness]. But it may be objected<sup>7</sup>, that the case of money is different, because with it we also redeem consecrated objects and the second [year's] tithing!<sup>8</sup>

Rather [we deduce from the following]. Scripture said: 'Nevertheless the first-born of man thou shalt surely redeem and the firstling of unclean beasts shalt thou



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redeem'.<sup>9</sup> Just as in the case of the first-born of a man you make no distinction between all time and that particular time [in the wilderness, the redemption in each case being] with money, so [in the case of an unclean animal], you shall not make a distinction between for all time and that particular time, [the redemption in each case being] with a sheep.

R. Hanina said: One sheep of a Levite exempted many firstborn of the asses of the Israelites. Said Abaye: The proof is that Scripture numbers the surplus of men<sup>10</sup> [over the Levites] but does not number the surplus [of Israelite] animals [over the Levites' animals]. But what proof is this? Perhaps they [the Israelites in the wilderness] did not possess many animals [asses] to redeem?<sup>11</sup> — That cannot enter your mind. For it is written: 'Now the children of Reuben and the children of Gad had a very great multitude of cattle'.<sup>12</sup> Perhaps even so the ordinary [non-first-born animals] of the Levites just corresponded with [the number] of the first-born of the Israelites?<sup>13</sup> —

Scripture says: And the cattle of the Levites instead of their cattle;<sup>14</sup> one Levite animal instead of many [Israelite] animals [firstlings of asses]. But why can we not say that the word ['cattle'] also implies many [animals?] — If so let Scripture write either 'cattle instead of cattle' or 'their cattle instead of their cattle'. Why does Scripture write 'cattle of... instead of their cattle'? Deduce from this that one [Levite] animal exempted many [Israelite] animals.

Said Raba: We have also learnt [R. Hanina's ruling]: And he can redeem with it [the sheep]<sup>15</sup> many times [the first-born of asses]. And R. Hanina?<sup>16</sup> — He explains the reason of the Mishnah and what he means is this: What is the reason that he can redeem with it [the sheep] many times [the first-born of asses]? Because one sheep of a Levite

exempted many firstborn of asses belonging to an Israelite.

It was stated: R. Johanan said: The first-born<sup>17</sup> in the wilderness were sanctified; Resh Lakish said: The first-born in the wilderness were not sanctified.<sup>18</sup> R. Johanan said that the first-born were sanctified in the wilderness, for the Divine Law said that they should be sanctified, as it is written: Sanctify unto me all the first-born.<sup>19</sup> Resh Lakish said that the first-born were not sanctified in the wilderness, since it is written: And it shall be when the Lord shall bring thee [into the land of the Canaanites] and it says subsequently: That thou shalt set apart [unto the Lord all that openeth the womb].<sup>20</sup> From this you can infer that previously [to their entering the land],<sup>21</sup> it [the first-born] was not sanctified.<sup>22</sup>

R. Johanan raised an objection to Resh Lakish's [view]: Before the Sanctuary was erected,<sup>23</sup> the High places<sup>24</sup> were permitted and the service [was performed] by the first-born!<sup>25</sup> — He replied to him: [The service was performed] by those [first-born] who departed from Egypt.<sup>26</sup> It also stands to reason. For if you will not say so, is a one year old<sup>27</sup> capable of performing the service? And [R. Johanan] how could he raise such a question at all?<sup>28</sup> —

This was his [R. Johanan's] objection [to Resh Lakish's view]. You would be right if you said that the holiness [of the first-born] did not cease [in the wilderness],<sup>29</sup> because then those [first-born] also originally born [in Egypt], did not have their holiness canceled. But if you say that their holiness ceased,<sup>30</sup> then those [firstborn] originally born in Egypt, should also have had their holiness canceled?<sup>31</sup> And [what says] the other [to this]? — Those who were holy [the first-born of Egypt], remained holy<sup>32</sup> and those who were not hitherto holy,<sup>33</sup> [did not become] holy.



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He [R. Johanan] raised an objection: On the day on which the Sanctuary was erected, votive-offerings, freewill-offerings, sin-offerings, trespass-offerings, firstlings and the tithes of cattle, were sacrificed in Israel!<sup>34</sup> — Here, also, it refers to those [firstborn] who departed from Egypt. And [from the Baraitha] itself we can deduce this: ‘On that day [firstlings] were sacrificed’, but after that, [in the wilderness], there was no sacrifice [of firstlings].<sup>35</sup> Some there are who say, Resh Lakish cited against R. Johanan the following: ‘That day on which the Sanctuary was erected, votive-offerings, freewill-offerings, sin-offerings, trespass-offerings, firstlings, tithes of cattle were sacrificed in Israel’, as much as to say ‘on that day’ but after that [in the wilderness], there was no [sacrifice of firstlings]!<sup>36</sup> —

R. Johanan replied: Amend [the Baraitha] thus: ‘From that day and onward’.<sup>37</sup> And what does he tell us here? — That from that day [these sacrifices] were permitted but not at first, from which we are to infer that obligatory sacrifices were not sacrificed on a High place.<sup>38</sup>

Come and hear: ‘Consequently in three places were the firstborn sanctified for Israel: in Egypt, in the wilderness, and when they entered the Land. With reference to the first-born in Egypt, what does Scripture say? Sanctify unto me all the firstling.<sup>39</sup> With reference to the firstling in the wilderness Scripture says: For the first-born of the children of Israel are mine.<sup>40</sup> With reference to [the first-born] when they entered the Land, [Scripture] says: And it shall be when the Lord shall bring thee [into the land of the Canaanites]... That thou shalt set apart!<sup>41</sup>

Said R. Nahman b. Isaac: [This passage means] that in three places the Israelites were commanded concerning the sanctification of the first-born but they were not [actually] sanctified.<sup>42</sup> And were not also the [first-born] in Egypt sanctified? Did we

not say that they were holy?<sup>43</sup> — This is what the [passage] means: In some [of the three places referred to], [the first-born] were sanctified, and in some, they were not sanctified.<sup>44</sup>

R. Papa demurred: And were not the first-born sanctified in the wilderness? Behold it is written: Number all the first-born males of the children of Israel.<sup>45</sup> Rather [if the above dispute was] stated, it was stated as follows: R. Johanan said: They [the first-born] were sanctified and did not cease [from their holiness].<sup>46</sup> But Resh Lakish said that they were sanctified [temporarily]

- (1) For priests and Levites.
- (2) And not limited to the wilderness.
- (3) Num. III, 45.
- (4) Perhaps the verse ‘And the cattle of the Levites instead of all the firstlings among the cattle of the children of Israel’, (Num. III, 41.) means that the first-born of the Levite's ass exempted the Israelite's firstling of an ass, but not the sheep, (R. Gershom).
- (5) Num. XVIII, 16.
- (6) Ex. XIII, 13.
- (7) To this analogy between ‘money’ and ‘sheep’.
- (8) Whereas we do not as a rule redeem sacred objects with a sheep. Consecrated objects are redeemed with money. V. Lev. XXVII, 15 and the second year's tithes are also redeemed with money, V. Deut. XIV, 25.
- (9) Num. XVIII, 15.
- (10) Of first-born Israelites who had to be redeemed with money. And since Scripture does not mention the surplus of Israelite animals over the Levites' animals, we can infer that one Levite sheep exempted many Israelite animals.
- (11) And this being the case, one Levite sheep did not have to redeem many first-born of asses.
- (12) Ibid. XXXII, I.
- (13) So that there was no surplus and there is thus no evidence that the firstlings of the Israelites outnumbered the plain Levites' animals.
- (14) Ibid. III, 45.
- (15) Infra 9a. If the sheep which he gave to the priest as a redemption for the first-born of an ass, comes back to him either through the priest selling or giving it as a present to him, he can redeem another first-born of an ass with the same sheep.
- (16) Since the Mishnah just cited teaches his ruling, then his is superfluous.

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(17) Both of men and animals and certainly those born in Egypt.

(18) And Only the first-born in Egypt and those who were born when they entered the land were sanctified.

(19) Ex. XIII, 2.

(20) Ibid. XIII, II, 12.

(21) In the wilderness.

(22) And the above verse 'Sanctify unto me all the first-born' will refer to those born in Egypt.

(23) Zeb. 112b.

(24) Improvised and temporary altars.

(25) We therefore see that the first-born in the wilderness, were sanctified contrary to the ruling of Resh Lakish.

(26) But the first-born born in the wilderness were not sanctified.

(27) Since only one year had elapsed since the departure from Egypt and the erection of the Sanctuary.

(28) Surely there could be only one explanation of the Mishnah in Zebahim.

(29) That the first-born born in the wilderness were also sanctified.

(30) For a period, namely, those first-born born in the wilderness.

(31) And therefore the question is raised, according to Resh Lakish, how were the first-born permitted to offer sacrifices.

(32) And their holiness never ceased.

(33) The firstborn born in the wilderness.

(34) We therefore see that the first-born in the wilderness were sanctified contrary to the ruling of Resh Lakish.

(35) Because, as Resh Lakish says, the first-born in the wilderness either of men or cattle were not sanctified and those of cattle offered on the day the Sanctuary was erected, were born in Egypt.

(36) Which is contrary to the view of R. Johanan.

(37) For the first-born were sanctified in the wilderness.

(38) An improvised and temporary altar. Obligatory offerings are e.g. sin-offerings, firstlings, etc.

(39) Ex. XIII, 2.

(40) Num. VIII, 17.

(41) Ex. XIII, 11, 12. We see therefore that contrary to the view of Resh Lakish the firstlings were sanctified in the wilderness.

(42) Until they entered the land.

(43) For this was agreed by all the above.

(44) Those born in the wilderness.

(45) Num. III, 40. The male first-born were to be numbered from a month and upwards and this took place in the wilderness.

(46) After being numbered in the wilderness.

## Bechoroth 5a

and then ceased [from their holiness]. As to Resh Lakish it is well, for the reason stated above.<sup>1</sup> But what is the reason of R. Johanan? —

Said R. Eleazar: R. Johanan appeared to me in a dream telling me that I said an excellent thing, viz., Scripture said: Mine shall they be<sup>2</sup> [denoting] that they [the first-born] shall remain in their status. And what does R. Johanan do with the verses [which follow:] And it shall be when the Lord shall bring thee unto the land... That thou shalt set apart unto the Lord? — That [textual proximity] is required [to deduce] what the School of R. Ishmael taught: Perform this Divine command,<sup>3</sup> on account of which you will be worthy to enter the Land.

Said R. Mordecai to R. Ashi: You reported it in this manner, we reversed the names; R. Johanan said: Firstlings were not sanctified in the wilderness. But Resh Lakish said: Firstlings were sanctified in the wilderness. He thereupon asked him: 'And do you also propose to reverse [the name of the author] of the refutation<sup>4</sup> together with R. Eleazar's statement?<sup>5</sup> — He replied to him: [The words] 'They were not sanctified' [of R. Johanan] mean, there was no need for the firstlings to be sanctified [in the wilderness].<sup>6</sup> If so, then it is identical with our version [of the dispute between R. Johanan and Resh Lakish]? — It teaches us that a man must cite a ruling in the exact language of his master.<sup>7</sup>

A Roman general Controcoss questioned R. Johanan b. Zakkai. 'In the detailed record of the numbering of the Levites, you find the total is twenty-two thousand three hundred,<sup>9</sup> whereas in the sum total you only find twenty-two thousand.<sup>10</sup> Where are the [remaining] three hundred?' He replied to him: ['The remaining] three hundred were [Levite] first-born, and a first born cannot cancel the holiness of a first-born'. What is

## BECHOROS – 2a-31a

the reason? said Abaye: Because it is sufficient for a [Levite] first-born to cancel his own holiness. And again he questioned him: 'With reference to the collection of the money,<sup>11</sup> you count two hundred and one kikkar<sup>12</sup> and eleven maneh<sup>13</sup> for Scripture writes: A beka' for every man, that is, half a shekel after the shekel of the Sanctuary,<sup>14</sup> whereas when the money was given,<sup>15</sup> you find only one hundred kikkar, for it is written: And the hundred talents of silver were for casting, etc.<sup>16</sup> Was Moses your teacher either a thief or a swindler or else a bad arithmetician? He gave a half, took a half, and did not [even] return a complete half?<sup>17</sup> — He replied to him: 'Moses our teacher was a trustworthy treasurer and a good arithmetician, only the sacred maneh was double the common'.<sup>18</sup>

R. Ahi argued: What is his [the general's] difficulty? It says: And the hundred talents that were for casting, etc.; these were used for casting<sup>19</sup> and those others, [the two hundred and one kikkar] were for the treasury! — [Scripture] wrote another verse: And the silver of them that were numbered of the congregation, was a hundred talents, etc.<sup>20</sup> And as to his reply that the sacred maneh was double the common, — whence did he derive this? If you say from it [this very verse], for here we have seventy-one maneh,<sup>21</sup> since Scripture writes: And of the thousand seven hundred seventy and five shekels he made hooks for the pillars and recorded them only in Units [of shekels]. Now if [the value of a sacred maneh] is [not higher], Scripture ought to have written one hundred and one kikkar and eleven maneh?<sup>22</sup> But since Scripture does not record them except in units [of shekels,] you may deduce from here that the sacred maneh was double the common.<sup>23</sup> But perhaps it is only the sum total [of a hundred] kikkar that Scripture records but the odd amount [of only one kikkar or so], it does not record?<sup>24</sup>

Rather deduce then from here:<sup>25</sup> And the brass of the offering was seventy talents and two thousand and four hundred shekels.<sup>26</sup> For here are ninety-six maneh, and Scripture does not record them except in units [of shekels]. Deduce from here, therefore, that the sacred maneh was double the common.<sup>27</sup> Perhaps, however, a large odd number [of kikkar]<sup>28</sup> Scripture records but a small odd number<sup>29</sup> it does not record?

Rather said R. Hisda, Deduce from here:<sup>30</sup> And the shekel shall be twenty gerahs; twenty shekels, five and twenty shekels, fifteen shekels, shall be your maneh.<sup>31</sup> [

- (1) The juxtaposition of the verses in Ex. XIII, 11 and 12.
- (2) Num. III, 13, indicating that there was no break in their holiness, even in the wilderness.
- (3) The law of the firstling.
- (4) That it was R. Johanan who refuted Resh Lakish with reference to the Baraitha; 'That day on which the sanctuary was erected, etc.' and not vice versa, as in our version.
- (5) That he saw R. Johanan in a dream, and will you also alter this to Resh Lakish? Surely, it is more feasible to assume that it was R. Johanan, the teacher of R. Eleazar, who appeared to him in a dream.
- (6) Since they were holy at birth, as R. Johanan maintains above that the first-born in the wilderness were sanctified.
- (7) Although there may be no actual difference in the ruling.
- (8) Rashi and Tosaf. in Hullin 27b read Contricon. There are a number of variants in the reading of this name, owing to corruptions. It is suggested that the name refers either to Quintus or Quietus. V. Hul., Sonc. ed., p. 141, n. 2.
- (9) The families of Gershom numbered seven thousand and five hundred, the families of Kohath numbered eight thousand and six hundred, and the families of Merari numbered six thousand and two hundred, making a grand total of the families of the Levites of twenty-two thousand and three hundred.
- (10) V. Num. III, 39.
- (11) When every Israelite was bidden to give half a shekel.
- (12) A weight of silver or gold, a talent. Now a kikkar contains sixty maneh, a maneh has twenty five Sela's or holy shekels, therefore we have one thousand and five hundred shekels in one kikkar. Six hundred and three thousand five hundred and fifty half shekels collected from the people

# BECHOROS – 2a-31a

make three hundred and one thousand seven hundred and seventy-five shekels. Divide one thousand and five hundred into this, we have two hundred and one kikkar with the remainder of two hundred and seventy-five shekels, i.e., eleven maneh.

(13) A weight in gold or silver of twenty-five common shekels.

(14) Ex. XXXVIII, 26.

(15) When Moses rendered the account to the Israelites.

(16) Ibid. 27.

(17) For a complete half would have been one hundred and a half kikkar and five and a half maneh and he only returned one hundred kikkar. And although Scripture says: 'And of the thousand seven hundred seventy and five shekels he made hooks' and consequently, he returned more than a half, the general did not mention this verse, for he wanted to catch him with words.

(18) There were therefore one hundred and twenty maneh in a kikkar. The hundred kikkar were therefore really two hundred and the remaining kikkar and eleven maneh, were the one thousand seven hundred and seventy-five shekel mentioned, from which hooks were made.

(19) And this would be separate from the two hundred and one kikkar mentioned.

(20) Ex. XXXVIII, 25. And here no mention is made of being used for casting purposes.

(21) A maneh containing twenty-five shekels; therefore one thousand seven hundred and seventy-five shekels make seventy-one maneh.

(22) If all maneh consisted of sixty shekels, then seventy-one maneh is one kikkar more, plus eleven maneh.

(23) And therefore the seventy-one maneh i.e. the one thousand seven hundred and seventy-five shekels, could not be counted in terms of kikkar, as there would then be one hundred and twenty maneh in a kikkar.

(24) It is not of sufficient importance to record in terms of kikkar, but the sacred maneh may still have the same value as the common. Therefore the point would once again arise that Moses received two hundred and one kikkar and, when rendering the account, Scripture only mentions one hundred kikkar. (5) That the sacred maneh was double the common.

(25) Ibid. XXXVIII, 29.

(26) There being twenty-five shekels in a maneh.

(27) I.e., one hundred and twenty maneh in a kikkar, and therefore Scripture could not count this in terms of kikkar.

(28) Like seventy kikkar, although they cannot be counted in terms of one hundred kikkar.

(29) Like one kikkar; but a sacred kikkar may contain only sixty maneh as the common.

(30) That the sacred maneh was double the common.

(31) Ezek. XLV, 12. We therefore see there were sixty shekels in a maneh.

## Bechoroth 5b

Now would not this [maneh] be two hundred and forty [dinars]?<sup>1</sup> Therefore deduce from this that the sacred maneh was double [the common].<sup>2</sup> And further deduce from here that we may add to the measures, but not more than a sixth part. And still further deduce from here, that the sixth part added, is a sixth of the total.<sup>3</sup> Said R. Hanina: I asked [R. Eliezer] in the great School of Learning [Beth Hamidrash:] 'Why were the first-born of asses different from the first-born of horses and camels?'—

He replied: 'It is a decree of Scripture'.<sup>4</sup> Moreover, they [the asses] helped the Israelites when they departed from Egypt, for there was not an Israelite who did not possess ninety Libyan asses laden with the silver and gold of Egypt. I also asked him: 'What does the word "Rephidim" signify?' And he told me: 'Rephidim was the name [of a place]'. There is a difference between Tannaim. R. Eliezer says: 'Rephidim' was the name [of a place], but R. Joshua says, it means that they relaxed [rifu] their hold on the words of the Law. And so Scripture says: The fathers shall not look back to their children for [rifyon] feebleness of hand.<sup>5</sup>

And I asked him further: 'What is the meaning of the word "Shittim"?' And he told me: 'Shittim was the name [of a place]'. Here too Tannaim differ. R. Eliezer says: 'Shittim' was the name of the place, whereas R. Joshua says, it means that they gave themselves up to lust.<sup>6</sup> 'And they called to the people unto the sacrifices of their gods'.<sup>7</sup> R. Eliezer says, this verse means that they [the Israelites] came into contact with naked bodies.<sup>8</sup> But R. Joshua says they all became polluted.<sup>9</sup>



## BECHOROS – 2a-31a

**MISHNAH.** IF A COW GAVE BIRTH TO A SPECIES OF ASS, OR AN ASS GAVE BIRTH TO A SPECIES OF HORSE, IT IS EXEMPT FROM [THE LAW OF] THE FIRSTLING, FOR IT IS SAID: FIRSTLING [PETER] OF AN ASS',<sup>10</sup> 'FIRSTLING [PETER] OF AN ASS',<sup>11</sup> TWICE [TO TEACH] [THAT THE LAW OF THE FIRSTBORN DOES NOT APPLY] UNTIL THAT WHICH GIVES BIRTH IS AN ASS AND THAT WHICH IS BORN IS AN ASS. AND WHAT IS THE LAW WITH REFERENCE TO EATING THEM?<sup>12</sup> IF A CLEAN ANIMAL GAVE BIRTH TO A SPECIES OF UNCLEAN ANIMAL, IT IS PERMITTED TO BE EATEN. BUT IF AN UNCLEAN ANIMAL GAVE BIRTH TO A SPECIES OF A CLEAN ANIMAL, IT IS FORBIDDEN TO BE EATEN, FOR THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN.

**GEMARA.** We have learnt elsewhere:<sup>13</sup> If a ewe gave birth to a species of goat or a goat gave birth to a Species of ewe, it is exempt from [the law of] the firstling. But if the offspring possesses some marks [resembling the mother], it is subject to [the law of] the firstling. Whence is this proved?

Said Rab Judah: Scripture says: 'But the firstling of an ox',<sup>14</sup> meaning that it [the animal] should be an ox and its firstling must be an ox; 'Firstling of a sheep',<sup>15</sup> indicating that [the animal] should be a sheep and its firstling must be a sheep; 'Firstling of a goat',<sup>16</sup> indicating that [the animal] 'Firstling of a goat' ,<sup>16</sup> indicating that [the animal] should be a goat and its firstling must be a goat. You might think that even if it [the offspring] possesses some marks [similar to the mother]?<sup>17</sup> There the text stated 'ak' [but],<sup>18</sup> intimating that there is a distinction.<sup>19</sup> But does not the Tanna [of our Mishnah] derive the ruling [for the exemption] of a cow [which gave birth to a species of ass] from 'peter' [firstling] [ 'peter' [firstling]].<sup>20</sup> —

He [R. Judah] follows the view of R. Jose the Galilean. For it was taught: R. Jose the Galilean said: 'But the firstling of an ox':<sup>21</sup> [the law of the firstling does not apply] until it [the animal] is an ox and its firstling is an ox; 'firstling of a sheep': [the law of the firstling does not apply] until it [the animal] is a sheep and its firstling is a sheep; 'firstling of a goat': [the law of the firstling does not apply] until it [the animal] is a goat and its firstling is a goat. You might think that even if it [the offspring] possesses some marks [similar to its mother]?<sup>22</sup> The text states 'ak' intimating that there is a distinction.<sup>23</sup> Wherein do they differ?<sup>24</sup> —

Our Tanna [in the Mishnah] holds that the Divine Law informs us in that case of that which is consecrated for its value<sup>25</sup> [that a change in the offspring exempts it from the law of the firstling], and the same applies to an object consecrated as such.<sup>26</sup> But R. Jose the Galilean maintains that the Divine Law informs us in connection with an object consecrated as such [that a change in the offspring exempts it from the law of the firstling] and the same principle applies in connection with an object which is consecrated for its value. And we derive an object which is consecrated for its value from an object which is consecrated as such. And our Tanna<sup>27</sup> — what does he make of 'bekor' [firstling], 'bekor' [firstling].<sup>28</sup> —

He requires it for R. Jose b. Hanina's [explanation]. For R. Jose b. Hanina said: Why does Scripture mention 'emurim'<sup>29</sup> in connection with the firstling of an ox, emurim in connection with the firstling of a sheep, emurim in connection with the firstling of a goat? It is necessary.

For if the Divine Law had written 'emurim' in connection with the firstling of an ox [only], [I might have said], the reason [for the emurim was] because there was an increased drink offering.<sup>30</sup>



## BECHOROS – 2a-31a

[And if the Divine Law had written ‘emurim’] in connection with the firstling of a sheep [only], [I might have said] the reason [for the ‘emurim’] was because of the fat-tail which was included [to be sacrificed together with the emurim].<sup>31</sup>

[And if the Divine Law had written ‘emurim’] in connection with the firstling of a goat [only], [I might have said] the reason [for the ‘emurim’ was] because a goat was included as a suitable offering in the case of the sin of idolatry committed by an individual. You could not have derived ‘emurim’ in connection with any single case [of a firstling of an ox, firstling of a sheep or firstling of a goat] from any other single case. [Perhaps] you could derive however ‘emurim’ in a single case [of a firstling mentioned] from the remaining two cases?<sup>32</sup> in connection with what case should the Divine Law have omitted to write ‘emurim’?

Should the Divine Law not have written [‘emurim’] in connection with the firstling of an ox, and should we have proceeded to derive this from the remaining two cases, [the firstling of a sheep and the firstling of a goat quoted above], [I might have raised the objection] that the two cases [mentioned where emurim was written], were different, for a sheep and a goat are included as suitable to be brought as Passover sacrifices.<sup>33</sup>

Or should the Divine Law have omitted [emurim] in connection with the firstling of a sheep and should we then have derived this from the remaining two cases [of the firstling of an ox and the firstling of a goat], [I might have raised the objection] that the cases [of an ox and a goat] were different, for they are included as suitable offerings for the sin of idolatry committed communally.<sup>34</sup>

Or should the Divine Law have omitted [emurim] in connection with the firstling of a goat and should we then have derived this

from the remaining two cases [of the firstling of an ox and the firstling of a sheep], [I might have raised the objection] that the cases [of an ox and a sheep] were different, for they have the [common] point of an increased offering upon the altar.<sup>35</sup> Therefore, all the three cases [to which the verse<sup>36</sup> refers] are necessary. And R. Jose the Galilean?<sup>37</sup> —

[His answer is:] If so,<sup>38</sup> let the Divine Law write: ‘But the firstling of an ox, sheep and goat’. What need is there for the words ‘bekor’ ‘bekor’?<sup>39</sup> Hence you must deduce from here [the teaching also] that both [the animal] and its firstling must be an ox. And R. Jose the Galilean, what does he do with the texts ‘peter hamor’ ‘peter hamor’?<sup>40</sup> — He requires this for what was taught. R. Jose the Galilean says: Because it is said in the Scriptures: Howbeit the firstborn of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem,<sup>41</sup> I might infer from the text that even the first-born of horses and camels [are liable to the law of the first-born]. Therefore, there the text stated ‘peter hamor’. I have only spoken to you [says Scripture] of firstlings of asses<sup>42</sup> but not of the firstlings of horses and camels. I can still maintain, however, that the firstlings of asses are to be redeemed with a sheep but the firstlings of horses and camels may be redeemed with any object.<sup>43</sup>

(1) And a maneh has only one hundred dear or Zuz, for there are twenty-five shekels to a maneh and four dinar to a shekel.

(2) I.e., fifty shekels would be the maneh. This is two hundred dinar and the remaining forty were added subsequently.

(3) Lit., ‘from outside’. I.e., to each five portions, one is added, an addition of twenty per cent. And here, also, there was an addition to the two hundred dinar which constitute the sacred maneh of twenty per cent, making a total of two hundred and forty dinar. This addition of forty dinar makes therefore a sixth part of the sum total, i.e., a sixth ‘from the outside’, although not a sixth part of the value of the sacred maneh as such, as forty dinar would be a fifth part of two hundred dinar.

# BECHOROS – 2a-31a

- (4) There is no special reason for this differentiation.
- (5) Jer. XLVII, 3. The feebleness being due to their neglect of the Law.
- (6) The word 'Shetuth' (a stupid thing, like lust) and the word 'Shittim', have a verbal resemblance.
- (7) Num. XXV, 2.
- (8) For lustful purposes. The word ותקראו is also derived from the word קרה to meet; they themselves, their bodies, met naked bodies in order to stimulate sexual desire.
- (9) ותקראו is connected here with the word קרי meaning seminal pollution,
- (10) Ex. XIII, 13.
- (11) Ibid. XXXIV, 20.
- (12) The animals born which do not resemble their mother.
- (13) Supra 3b and infra 16b.
- (14) Num. XVIII, 17.
- (15) Ibid.
- (16) Ibid. In connection with the words 'ox', 'sheep' and goat', Scripture prefaces in each case the word בכור (firstling) which in each case is superfluous, as it is clearly dealing with the subject of a firstling.
- (17) That it is also excluded from the law of the firstling.
- (18) But the firstling, etc.
- (19) Between total physical change in the offspring and where there is a partial resemblance to the mother, the word 'ak' having limiting qualifications.
- (20) Why therefore does R. Judah bring his own Scriptural proof since what applies to a cow whose offspring changes species applies equally to a sheep whose offspring changes?
- (21) Num. XVIII, 17.
- (22) V. supra.
- (23) V. supra.
- (24) The Tanna in our Mishnah and R. Jose the Galilean.
- (25) The case of an ass which is not holy in itself and is redeemed with a sheep.
- (26) The case of a cow or any clean animal where it is holy as such, and is irredeemable. In such an instance, the law of the firstling should certainly only apply where the offspring resembles its mother, as since it is irredeemable, the offspring should be required all the more to resemble its mother.
- (27) In the Mishnah.
- (28) The threefold repetition of the word 'bekor' (firstling) in Num. XVIII, 17.
- (29) The portion of the animal sacrificed on the altar. Scripture says: Thou shalt dash their blood against the altar and shalt make their fat smoke for an offering made by fire, which verse refers to all the three cases of firstlings mentioned in the

text. If Scripture had written 'emurim' in connection with one of the firstlings mentioned, I could have inferred the rest.

(30) A half of a Hin, whereas with reference to a goat or a sheep, the amount is only a quarter of a Hin.

(31) Unlike the case of a goat or an ox.

(32) One of the references to 'emurim' would, then, be unnecessary.

(33) Whereas an ox is not brought as a Passover sacrifice.

(34) A bull for a burnt offering and a goat for a sin-offering.

(35) Compared with a goat. For an ox has an increased drink-offering and a sheep has, in addition, its fat-tail offered up on the altar.

(36) Thou shalt dash their blood against the altar, etc. quoted above.

(37) Since he explains the verse: 'But the firstling of an ox, etc.' quoted above, as teaching that the mother and its offspring must be of the same species, how does he then explain the references to 'emurim' in connection with the three cases of firstlings mentioned above?

(38) That the verse only teaches what R. Jose b. Hanina says.

(39) The threefold repetition of the word 'bekor' ('firstling').

(40) Employed by our Mishnah as basis for its teaching.

(41) Num. XVIII, 15.

(42) As liable to redemption.

(43) And the law of the firstling will apply to these as well.

## Bechoroth 6a

The text therefore states 'peter hamor' 'peter hamor' twice, to intimate: 'I have only spoken of the firstling of asses<sup>1</sup> but not [at all] of the firstlings of horses and camels'. R. Ahai raised an objection. [There is need for the repetition of 'peter hamor']. For if the Divine Law had written only one ['peter hamor'], I might have said that it [the law of the firstling of an ass requiring redemption] is a thing which was included in the general proposition<sup>2</sup> and then made the subject of a special statement,<sup>3</sup> so that the specification is not limited to itself alone but is to be applied to the whole class [of unclean animals], and so, in all cases, the redemption is indeed with a sheep. Therefore the Divine Law wrote in another text 'peter hamor' to intimate that only firstlings of asses are

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redeemed with a sheep but not the firstlings of horses and camels. But one might say that the limitation [with reference to horses etc.] only refers to [redemption] with a sheep, but, elsewhere, they may indeed be redeemed with any object? — If so, let the Divine Law write: ‘The firstling of an ass thou shalt redeem with a sheep’; ‘and an ass thou shalt redeem with a sheep’. Why [this repetition], ‘The firstling of an ass thou shalt redeem with a sheep’,<sup>4</sup> ‘the firstling of an ass thou shalt redeem with a sheep’?<sup>5</sup> It is to intimate, ‘I have only spoken to you of the firstlings of asses [as requiring redemption] but not of the firstlings of horses and camels’.<sup>6</sup> And our Tanna of the Mishnah, whence does he derive a limitation of horses and camels [as being altogether exempt from the law of the firstlings]? — Said R. Papa: [Scripture says:] And of all the cattle thou shalt sanctify the males,<sup>7</sup> this is a general proposition. ‘The firstling of an ox and sheep... And the firstling of an ass thou shalt redeem’, is a specification; and with a general proposition complemented by a specification the general proposition includes only the specification; thus teaching that an ox, sheep and an ass [are liable to the law of the firstling], but not any other [animal]. And R. Jose the Galilean?<sup>8</sup> — [His answer is] that the word ‘peter’ interrupts the subject.<sup>9</sup> And the Rabbis?<sup>10</sup> — The letter waw<sup>11</sup> joins it again to the previous verse. And R. Jose the Galilean? — Let not Scripture write neither the waw [which joins it with the previous verse] nor [write the word] ‘peter’ [which interrupts the subject].<sup>12</sup> And the Rabbis? — Since the one part<sup>13</sup> deals with objects consecrated in respect of their value and the other part with objects consecrated as such,<sup>14</sup> Scripture, therefore, at first interrupts the subject and subsequently connects it again [with the previous verse]. The question was asked: If a cow gave birth to a species of ass and it possesses some marks similar [to its mother]; what is the ruling? If a goat gave birth to a species of ewe and a ewe gave birth to a species of goat, the ruling is that

when it possesses some marks [similar to its mother] it is subject to the law of the firstling, the reason being that this one [the mother] is a clean animal and this one [the offspring] is a clean animal, this one [the mother] is an object consecrated as such and this one [the offspring] is also an object consecrated as such. But here, where this one [the offspring] is an unclean animal and this one [the mother] is a clean animal, this one [the mother] is an object consecrated as such and this one [the offspring] is an object consecrated for its value, the ruling should not be [the same]. Or, perhaps, since in both cases, [even in the case where the offspring is a species of ass and the mother is a cow], they belong to a category of animals possessing the sanctity of the first-born, shall we say that it is therefore sanctified?<sup>15</sup> And should you maintain that since both cases mentioned above come under the law of the sanctity of the firstborn, therefore [where a cow gave birth to a species of ass which possesses some features akin to its mother] it is sanctified, what will be the ruling for an ass which gave birth to a species of horse? Here, surely, it<sup>16</sup> does not belong to the category of animals which have the sanctity of the firstling. Or, are we perhaps to say that since [the horse] belongs to the same class of unclean animals,<sup>17</sup> it is sanctified? And would you say that since it belongs to a class of unclean animals, it is sanctified, what will be the ruling regarding a cow which gave birth to a species of horse? Here, surely, this one [the cow] is a clean animal whereas this one [the offspring] is an unclean animal, this one [the cow] belongs to a category of animals which possess the sanctity of the firstling, whereas this one [the horse] does not belong to the category of animals which have the sanctity of the firstling. Or are we perhaps to say that marks [similar to the mother] are the decisive factor?<sup>18</sup> — Come and hear: ‘A clean animal which gave birth to a species of unclean animal is exempted from the law of the firstling. If it possesses, however, some marks [similar to the parent], it is liable to

## BECHOROS – 2a-31a

the law of the firstling<sup>19</sup>. What [does this mean]? Does it not refer even to the case of a cow which gave birth to a species of horse?<sup>20</sup> — No, it refers to the case of a cow which gave birth to a species of ass.<sup>20</sup>

Come and hear: ‘If a cow gave birth to a species of ass or an ass gave birth to a species of horse, it is exempt from the law of the firstling. If it possesses, however, some marks [similar to the mother], it is liable to [the law of] the firstling’. What [does this mean]? Does this [the last clause] not refer to both cases mentioned?<sup>21</sup> — No, it refers only to the case of a cow which gave birth to a species of ass. But the case of an ass which gave birth to a species of horse—why does it state this? Is it to exempt it [from the law of the first-born]? Is this not obvious? Since, in the case of a cow which gave birth to a species of an ass, where both [the mother and its offspring] belong to a category of animals which have the sanctity of the firstling, you say if the ass has some marks [similar to its mother], it is sanctified, but if not, it is not sanctified, is there any question in the case of an ass which gave birth to a species of horse?<sup>22</sup> — It is necessary to state this. You might be inclined to assume that there [in the case of a cow which gave birth to a species of ass] the reason is because the cow has horns but here the ass has no horns, here [the cow] its hoofs are cloven but there [the ass] its hoofs are closed.<sup>23</sup> But here [in the case where an ass gave birth to a species of horse], since in both instances, they have no horns and the hoofs of both are closed, I might have said that the offspring [a species of horse] was merely a red ass.<sup>24</sup> We are therefore informed [that this is not so].<sup>25</sup>

**WHAT IS THE LAW WITH REFERENCE TO EATING THEM, etc.** What need is there [for the Mishnah] to lay down **FOR THAT WHICH GOES’ FORTH, etc.?** — It is a mere [mnemonical] sign so that you should not change the version [of the Mishnah]<sup>26</sup> and that you should not say ‘decide according to the offspring, and this

is a perfectly clean animal and this is a perfectly unclean animal’.<sup>27</sup> But we rather say, ‘Follow the mother’. Whence is this proved? — Because our Rabbis taught: ‘Nevertheless these shall ye not eat of them that chew the cud or<sup>28</sup> of them that divide the hoof’.<sup>29</sup> You have the case of an animal which chews the cud and has divided hoofs which you are, nevertheless, forbidden to eat. And what is it? This is the case of a clean animal born from an unclean animal. Perhaps, it is not so but [the verse] refers to the case of an unclean animal born from a clean animal? And what is the interpretation of the verse: ‘Of them that chew the cud or of them that divide the hoof’?

- (1) As requiring redemption.
- (2) In the verse, ‘And the firstling of unclean beasts shalt thou redeem’ cited supra.
- (3) That the firstling of an ass must be redeemed with a sheep.
- (4) Ex. XIII, 13.
- (5) The repetition of the word פטר (firstling) in Ex. XXXIV, 20.
- (6) Because there is no holiness at all in regard to the firstlings of other unclean animals.
- (7) Ibid. XXXIV, 19.
- (8) Who infers the ruling that other animals beside the firstling of an ass, sheep and goat are not liable to the law of the firstborn from the repetition of ‘peter hamor’, why does he not derive this from the verse quoted by R. Papa and in the manner interpreted by the latter.
- (9) We do not interpret the verse as a general proposition complemented by a specification, as the word ‘peter’ before the text ‘ox or sheep’ indicates a break in the subject.
- (10) The majority of the Rabbis who dispute with him as to the derivations of the various teachings under discussion.
- (11) The ‘waw’, a conjunction, meaning ‘and’ in the word ופטר which commences the following verse.
- (12) If Scripture did not interrupt the theme with the word ‘Peter’, there would have been no need for the ‘waw’ to connect again.
- (13) The general proposition: ‘All that openeth the womb is mine, etc.’ which includes an ass, that is not holy as such and must be redeemed with a sheep.
- (14) The firstlings of ox or sheep.
- (15) A species of ass born from a cow is, therefore, holy if it has some features resembling its mother, for an ass although an unclean animal, is liable to the law of the firstling.



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(16) A horse. Therefore, even if it has some marks like the mother, it should not be liable to the law of the firstling.

(17) Like an ass, which though unclean, is liable to the law of the firstling. Therefore, if the offspring is a species of horse, and if there is a measure of resemblance between it and its mother, we do not regard the change between the ass and its offspring of such great importance, as to exempt it altogether from the law of the firstling.

(18) And although the difference between the parent and the offspring is great, since the latter resembles the mother, it is liable to the law of the firstling.

(19) We therefore deduce that signs in the offspring akin to the parent are an important matter and the other points raised above are also, incidentally, thereby solved.

(20) But where there is such a gap between the Parent and its offspring as e.g. where a cow gave birth to a species of horse, it is exempt from the law of the firstling. Therefore, only one of the above queries can be solved.

(21) Where a cow gave birth to a species of ass and an ass gave birth to a species of horse, if the offspring had some marks like its mother, it is liable to the law of the firstling.

(22) If the horse does not possess signs resembling the ass, that it should be exempt?

(23) Therefore only if the ass has signs resembling the cow, is it liable to the law of the firstling.

(24) And not a horse at all. An ordinary horse is red in color and an ordinary ass is black. Consequently, if the horse had some features like its parents, we ought perhaps to regard it as a kind of red ass, thus making it liable to the law of the firstling.

(25) Since a horse's color is generally red we regard it as a species of a horse and not as a freak ass. There is, consequently, no proof as to what is the ruling concerning an ass which gave birth to a species of horse.

(26) And say that a clean animal which gave birth to an unclean animal is forbidden to be eaten and an unclean animal which gave birth to a clean animal is permitted to be eaten. Clean animals are those which may be eaten according to the Jewish law and possess the necessary signs of a clean animal and unclean animals are those which do not possess these signs. .

(27) Therefore where a clean animal is born from an unclean animal, it should be permitted to be eaten.

(28) This can also be rendered 'and'.

(29) Lev. XI, 4.

## Bechoroth 6b

It means this: An object which proceeds from them which chew the cud and of them that divide the hoof, ye shall not eat!<sup>1</sup> The text therefore states: The camel... he is unclean,<sup>2</sup> intimating that he is unclean<sup>3</sup> but an unclean animal born from a clean animal is not Unclean, but clean.

R. Simeon says: The word 'camel' occurs twice,<sup>4</sup> once referring to a camel born from a camel [as forbidden], and the other, to a camel born from a cow. And as to the Rabbis who differ from R. Simeon — what do they do with the repetition 'camel', 'camel'? — One is to forbid [the camel itself] and the other to prohibit its milk. And whence does R. Simeon derive the prohibition of a camel's milk? — He derives it from the word 'eth, [with] the camel'.<sup>5</sup> And the Rabbis? — They do not stress the word eth [occurring in the Scriptures].

As it was taught: Simeon the Imsonite used to expound the word eth wherever it occurred in the Law. When he reached, however, the verse, eth [with] the Lord thy God thou shalt fear,<sup>6</sup> he abstained.<sup>7</sup> His pupils, thereupon, said to him: 'Rabbi, every eth which you have expounded, — what will become of them?' He replied to them: 'Just as I have received reward for interpreting every eth, so I shall receive reward for abstaining'.

Finally, however, R. Akiba came and taught that the verse: 'eth [with] the Lord thy God thou shalt fear', intimates that we must pay reverence to scholars next to God.

Said R. Aha the son of Raba to R. Ashi: According to this, the reason of the Rabbis [why milk of an unclean animal is forbidden], is because of the repetition 'camel', 'camel', and that of R. Simeon is because of the text 'eth [with] the camel', but were it not so, I might have said that milk from an unclean animal is permitted.



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Why should it be different from what was taught: [The verse] These are the unclean,<sup>8</sup> implies the prohibition of their brine, their soup and their jelly!<sup>9</sup> — It is necessary [to find another basis for milk]. For I might have been inclined to assume that since even the use of milk itself of a clean animal is an anomaly, for a Master said: The blood [during the nursing period] is disturbed [decomposed] and turns into milk; and since it is an anomaly,<sup>10</sup> therefore even from an unclean animal the milk should be permitted. We are accordingly informed [that this is not so]. This would indeed hold good according to him who says that the blood [during the nursing period] is disturbed [decomposed] and turns into milk. But according to him who says [that the reason why there is no menstruation period while nursing is] because her limbs become disjointed<sup>11</sup> and she does not become normal in herself for twenty-four months,<sup>12</sup> what can you reply? —

It is still necessary. I might have been inclined to assume, that since there is nothing which proceeds from a living being which the Divine Law permits and yet milk which is similar to a part from a living animal [is permitted], therefore even from an unclean animal the milk should be permitted. We are accordingly informed [that this is not so]. And whence do we derive that milk itself from a clean animal is permitted? Shall I say that since the Divine Law prohibits [the boiling of] milk and meat together, this implies that separately milk is permitted? But might I not still maintain that milk by itself is forbidden to be eaten though permitted for other general use,<sup>13</sup> whereas in the case of boiling meat and milk together, it is also forbidden for any use. And even according to the view of R. Simeon who holds that meat and milk boiled together is permitted for general use,<sup>14</sup> the prohibition can be explained as necessary to inflict lashes for the boiling!<sup>15</sup>

Rather,<sup>16</sup> since the Divine Law states in connection with dedicated objects which became unfit, Notwithstanding thou mayest kill<sup>17</sup> but not to use the shearing, 'flesh', but not the milk,<sup>18</sup> this implies that milk from an unconsecrated animal is permitted. But may I not take the meaning to be that milk from an unconsecrated animal is forbidden to be eaten but may be used for other general use, whereas in the case of consecrated objects, it is forbidden even for any use? —

Rather deduce [the law] from what [Scripture] has written, And thou shalt have goats' milk enough for thy food, for the food of thy household, and for the maintenance of thy maidens.<sup>19</sup> Perhaps, however, this only refers to business?<sup>20</sup>

Rather deduce this from what [Scripture] writes, And carry these ten cheeses unto the captain of their thousand.<sup>21</sup> Perhaps, here also, it refers to business.<sup>22</sup> Is it usual in war to sell [food to the enemy]?<sup>23</sup> If you prefer, I may deduce from here:<sup>24</sup> A land flowing with milk and honey.<sup>25</sup> Now if milk were not permitted, would Scripture commend the country to us with something which is not fit to be eaten?

Or, if you prefer, I may deduce it from here:<sup>26</sup> Come ye buy and eat, yea, come buy wine and milk without money and without price.<sup>27</sup> Now, according to this,<sup>28</sup> , the repetition 'Rockbadger', 'Rockbadger',<sup>29</sup> 'Hare', 'Hare', 'Swine', 'Swine', — are these also come for some purpose?<sup>30</sup> But [the object of these repetitions quoted] is really as was taught: Why is there a repetition [of the clean and unclean] animals?<sup>31</sup>

On account of shesu'ah.<sup>32</sup> Why with reference to birds, [is there the same repetition in the Scripture]?

On account of ra'ah.<sup>33</sup> Then, perhaps, [the repetition of] 'Camel', 'Camel' also has the same purpose?<sup>34</sup> — All the same, wherever

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we can derive a lesson from the biblical text, we interpret it.<sup>35</sup>

**Our Rabbis taught:** If a ewe gave birth to a species of a goat or a goat gave birth to a species of a ewe, it is exempt from the law of the firstling. But if the offspring possesses some marks similar to its mother, it is liable to the law of the firstling.

**R. Simeon says** [it is not liable to the law of the firstling] until the head and the greater part of the body resemble the mother. The following query was put forward. Does R. Simeon require, in order that the animal may be permitted to be eaten, the head and the greater part of the body,<sup>36</sup> or not? In connection with a firstling, Scripture writes: ‘But the firstling of an ox’<sup>37</sup> indicating [that the law of the firstling does not apply] until the animal is an ox and its firstborn is an ox.<sup>38</sup> But as regards permission for eating, the Divine Law says that only a camel is prohibited, but

- (1) I.e., a species of an unclean animal born from a clean animal.
- (2) Ibid.
- (3) And usually camels are born from camels and, since Scripture emphasizes that ‘he’ is unclean, etc. this implies that a camel, however, born from a cow, is clean.
- (4) Once in Lev. XI, 4 and again in Deut. XIV, 7.
- (5) את הגמל. The accusative article את can be rendered also ‘with’.
- (6) Deut. X, 20.
- (7) Because the word *eth* means by implication an amplification and he felt that here he could not amplify the word so as to include fearing someone besides the Deity.
- (8) Lev. XI, 31. The ה before טמאים meaning ‘the’. The superfluous letter suggests the inclusion of something else as unclean.
- (9) And the sediments of boiled meat.
- (10) This shows that blood, which ordinarily is prohibited, after a change is permitted, and the same is the case in connection with the milk of a clean animal.
- (11) On account of the labor of childbirth.
- (12) The period of nursing, and not because the blood is changed into milk. Therefore, the use of milk is not an anomaly and what need is there, consequently, for a special prohibition with reference to the milk of an unclean animal?

- (13) I.e., to be sold to non-Jews.
- (14) V. infra 10a.
- (15) But milk by itself may still be forbidden, only, in addition, there is a penalty of forty lashes for boiling the meat and milk together.
- (16) From the following verse, you may derive the permission for the use of milk.
- (17) Deut. XII, 15.
- (18) Although the animal is no longer fit for the purpose dedicated, even after its redemption, it possesses a measure of sanctity.
- (19) Prov. XXVII, 27.
- (20) To sell the milk profitably to non-Jews to maintain his family. But milk may be still prohibited for food.
- (21) I Sam. XVII, 18. And Jesse instructs David to bring them to the captain of their thousand in the war, which shows that milk is permitted to be eaten.
- (22) That the captain of their thousand might sell to the gentile enemy.
- (23) Their intention being to destroy the enemy heathen, the Hebrews would not do business with them to increase their power of resistance. Therefore the cheeses must have been intended for the Hebrews.
- (24) From the following verse, we can derive that milk is permitted.
- (25) Ex. III, 8.
- (26) From the following verse, one can derive that milk is permitted.
- (27) Isa. LV, 1.
- (28) Both according to the Rabbis and R. Simeon who derive lessons from the repetition of ‘Camel’, ‘Camel’, although variously.
- (29) Once in Leviticus and again in Deuteronomy, the same applying to the other repetitions quoted.
- (30) What need is there for these repeated prohibitions?
- (31) In Leviticus and Deuteronomy.
- (32) A creature with two backs and two spinal columns, which is not mentioned in Leviticus as forbidden.
- (33) The name of an unclean bird, not mentioned in Leviticus.
- (34) The repetition having no object except for the inclusion of one new animal and bird left unmentioned in Leviticus.
- (35) And the reason why we infer that special deductions are made from ‘Camel’, ‘Camel’, and not from the repetition of ‘Rockbadger’, ‘Rockbadger’, etc. is because the word ‘Camel’ occurs first in the text.
- (36) In the case of an unclean animal born from a clean animal where R. Simeon forbids the eating, if the offspring has no marks similar to the mother, but permits it if there are marks similar to the mother, the question arises whether he

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requires that the offspring must be like the mother to the extent of its head and the greater part of the body?

(37) Num. XVIII, 17.

(38) I.e., the head and the greater part of the body to be similar to its mother.

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if it has changed from a camel,<sup>1</sup> there is no objection. Or is there perhaps no difference?<sup>2</sup> —

Come and hear: If a clean animal gives birth to a species of unclean animal it is forbidden to be eaten, but if the head and the greater part of the body resemble its mother, it is liable to the law of the firstling. May we not deduce from here<sup>3</sup> that even as regards permission to eat, R. Simeon requires the head and the greater part of the body to be [similar to its mother?] —

No, only as regards [the law] of the firstling.<sup>4</sup> I can also prove it. For he leaves [the first clause of the above passage] relating to eating [as it is] and places [the provision of the head and the greater part of the body] in conjunction with the firstling. We deduce from here, therefore, [do we not] that only in connection with the firstling does R. Simeon require the head and the greater part of the body, but not as regards permission for eating! —

No. I may still tell you that also as regards eating, R. Simeon requires the head and the greater part of the body; and that it was necessary to state this with particular reference to the firstling. For I might be inclined to assume that since Scripture writes: ‘But the firstling of an ox’,<sup>5</sup> [that the law of the firstling does not apply] until the animal is an ox and its first-born is an ox, and that therefore it is not sufficient for the offspring to resemble its mother to the extent only of its head and the greater part of its body, but the whole animal must resemble its mother. He accordingly informs us [that this is not so].

Come and hear: [Scripture says]: Nevertheless these shall ye not eat of them that chew the cud or of them that divide the hoof.<sup>6</sup> We infer that this you must not eat,<sup>7</sup> but you may eat an animal which has one mark similar [to its mother]. And what is this which has one mark? This is an unclean animal which was born from a clean animal impregnated from a clean animal. I might think that this is the case even if it was impregnated from an unclean animal? The Text therefore states: ‘A sheep [born from a pair] of lambs’, ‘a goat [born from a pair] of goats’,<sup>8</sup> intimating that the father must be a sheep and the mother must be a female sheep. These are the words of R. Joshua.

R. Eliezer says: The object of the text is not to allow what is [already] permitted<sup>9</sup> but to add to what is already permitted. And what is this? This is the case of an unclean animal born from a clean animal impregnated from an unclean animal. Or, shall I say that this is not the case, but its pregnancy must be from a clean animal? Scripture therefore states: ‘a sheep of lambs’, ‘a sheep of goats’ in any case.<sup>10</sup> Now he describes [in the above passage] the animal as unclean, therein agreeing with R. Simeon,<sup>11</sup> and proceeds to say, ‘But you may eat an animal which possesses one [clean] mark similar to its mother’! —

This Tanna [of the above passage] holds with R. Simeon in one thing<sup>12</sup> but he differs from him in the other.<sup>13</sup> Some there are who raise a question [with reference to the above Baraitha], and answer it.<sup>14</sup> [The question was asked]. Can impregnation take place from an unclean animal? For R. Joshua b. Levi said: There can be no impregnation either of an unclean animal from a clean animal, or of a clean animal from an unclean animal, or of large cattle from small cattle, or of small cattle from large cattle, or of a domestic animal from a beast of chase, or a beast of chase from a domestic animal, except in the case<sup>15</sup> discussed by R. Eliezer

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and his disputants, where all say that a beast of chase can become pregnant from a domestic animal. And R. Jeremiah explained that the animal became pregnant from a kalut born of a cow,<sup>16</sup> adopting the view of R. Simeon.<sup>17</sup> And the Baraitha states: But you may eat an animal which has one mark like its mother?<sup>18</sup> —

This Tanna [from the Baraitha] holds with R. Simeon in one thing but differs from him in the other.<sup>19</sup> Does this mean to say that R. Eliezer holds that a product of two [heterogeneous] factors is permitted<sup>20</sup> and that R. Joshua holds that a product of two such factors is forbidden? But have we not learnt the reverse of them? [For we have learnt]: The offspring of a trefah<sup>21</sup> must not be offered upon the altar. But R. Joshua says it may be offered upon the altar!<sup>22</sup> —

As a rule, R. Eliezer maintains that a product of two [heterogeneous] factors is forbidden, but the case is different here.<sup>23</sup> For if it were so, Scripture should write: The sheep of lambs and goats. Why is the repetition of ‘sheep’, ‘sheep’ needed? Deduce from here, therefore, ‘sheep’ in any circumstances.<sup>24</sup> And R. Joshua? — He will explain the matter to you [as follows]. In general, a product of two [heterogeneous] factors is permitted, but here [in the Baraitha], if this were the case, let Scripture write: ‘Ox’, ‘sheep of a lamb’, ‘sheep of a goat’. What need is there for the words ‘lambs’, ‘goats’?<sup>25</sup> Deduce, therefore, from here that the father must be a sheep and the mother must be a sheep.<sup>26</sup>

Come and hear: R. Simeon says: [We find] ‘camel’, ‘camel’ twice;<sup>27</sup> one refers to a camel born from a camel [as prohibited] and the other refers to a camel born from a cow. But if its head and the greater part of its body resemble the mother, it is permitted to be eaten. Deduce, therefore, from here that even for eating R. Simeon requires the head and the greater part of the body [to be similar to the mother]. This is proved.

FOR THAT WHICH GOES FORTH FROM THE UNCLEAN, etc. A question was put to R. Shesheth. What is the ruling concerning the urine of an ass? Why should not the question be put [concerning the urine] of horses or camels? The question was not put [concerning the urine] of horses or camels, for it is not thick and, consequently, it is not similar to milk. [It is merely] water coming in,<sup>28</sup> and water coming out. But the question does arise [concerning the urine] of an ass, because it is thick and is similar to milk. What is the ruling? Is the urine drained from the body of the ass itself and therefore it is forbidden, or, perhaps, [it is merely] water coming in and water coming out and its thickness is due to the exudations of the body? —

R. Shesheth replied to his questioners. We have learnt it: FOR THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN, AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN. Now, it does not say ‘from what is Unclean’.<sup>29</sup>

- (1) But in some respects it is like its mother.
- (2) Even for permission to eat, we require the head and the greater part of the body to be like the mother.
- (3) For it is R. Simeon who holds that an unclean animal born from a clean animal is forbidden, and since the prohibition of eating is put in the proximity of the expression of the head and the greater part of the body, we therefore may conclude that for eating purposes, as well as for the law of the firstling, the offspring must resemble the mother as regards its head and the greater part of the body.
- (4) Does R. Simeon require that the head and the greater part of the body must be similar to its mother.
- (5) Num. XVIII, 17.
- (6) Lev. XI, 4.
- (7) E.g., a camel even born from a cow.
- (8) So literally. Deut. XIV, 4.
- (9) Where both parents are clean animals.
- (10) From the repetition of the word ‘seh’, it is inferred that even if the unclean animal has only a mother which is a clean animal, the father being an unclean animal, it is still permitted.



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(11) The language used, ‘an unclean animal’, in the Baraitha but not ‘that which issues from a clean animal’, is in accordance with the view of R. Simeon who forbids the offspring as definitely unclean, if it has not marks resembling its mother; and it says here that if it has one mark similar to its mother, it is permitted. Hence, we see that we do not require according to R. Simeon the head, etc. to resemble its mother.

(12) That an unclean animal born from a clean animal is unclean.

(13) For R. Simeon requires the head and the greater part of the body to resemble its mother before it is permitted to be eaten.

(14) And from the answer, our query whether R. Simeon requires the head, etc. to be like the mother in order to be permitted to be eaten, can be solved.

(15) A Koy: (An antelope or bearded deer). The Rabbis are undecided whether it belongs to the genus of cattle or the beasts of the chase. This animal, however, comes from a he-goat, and a hind, and R. Eliezer and the majority of the Sages dispute whether the law forbidding the killing of the mother and its young on one day applies to it. But apparently they agree that impregnation is possible in such circumstances.

(16) The unclean animal referred to in the Baraitha above, does not actually mean an unclean animal but a kalu! (closed), an animal with closed and uncloven hoofs born of a cow.

(17) Since the Baraitha describes the kalut born of a cow as unclean, this indicates that its views are in accordance with R. Simeon who holds that an unclean animal born from a clean animal is unclean.

(18) Hence we can infer that for eating purposes, R. Simeon does not require the head and the greater part of its body to be like its mother.

(19) As regards requiring the head, etc. to resemble its mother.

(20) R. Eliezer who permits the offspring when the impregnation is from an unclean animal, because he maintains that since it is a product of combined causes and one of these, the mother, is a clean animal, it is permitted.

(21) V. Glos.

(22) If its sire is a clean animal, although the mother is Trefah. V. Hul. 58a and Tem. 30b. We have here, consequently, a product of combined causes, one of which is a clean animal.

(23) In the Baraitha quoted above.

(24) Even where the pregnancy is from an unclean animal, the offspring is permitted.

(25) Why are these words put in the plural.

(26) The father must also belong to the same class.

(27) Once in Leviticus and again in Deuteronomy.

(28) When the animal drinks.

(29) The phrase ‘from what is unclean’ would imply coming from the body itself, and therefore whether the substance which came forth was turgid or otherwise, it would be forbidden to be eaten.

## Bechoroth 7b

but FROM THE UNCLEAN,<sup>1</sup> and this too [the urine of an ass thick as milk] is from that which is unclean. Some state the argument as follows: With reference to [the urine of] horses or animals, the question was not put forward, because it is not drunk.<sup>2</sup> The question, however, arose concerning [the urine of an ass] which people drink and is good for jaundice. What is the ruling? —

R. Shesheth replied to this. We have learnt this in the Mishnah: THAT WHICH GOES FORTH FROM THE UNCLEAN IS UNCLEAN, AND THAT WHICH GOES FORTH FROM THE CLEAN IS CLEAN, and this [urine] also comes from an unclean animal.<sup>3</sup> An objection was raised. Why did [the Sages] say that honey from bees is permitted? Because the bees store it<sup>4</sup> up in their bodies but do not drain it from their bodies.<sup>5</sup> —

He [the Tanna of the passage quoted above] holds with R. Jacob who said: The Divine Law expressly permitted honey.<sup>6</sup> For it was taught: R. Jacob says: Yet these may ye eat of all the winged swarming things.<sup>7</sup> This you may eat, but you are forbidden to eat an unclean winged swarming thing. But is not an unclean winged swarming thing expressly mentioned in the Scripture [as forbidden]?

Rather we must explain [thus]: An unclean fowl that swarms you must not eat, but you may eat what an unclean fowl casts forth from its body. And what is this? This is bees’ honey.<sup>8</sup> You might think that this also includes gazins’<sup>9</sup> honey or hornets’ honey as permissible. You cannot, however, say this. And why should you include bees’ honey

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and exclude gazins' honey or hornets' honey?

I include bees' honey because it has no qualifying epithet<sup>10</sup> but I exclude gazins' honey or hornets' honey, since they have a qualifying epithet. Whom does this dictum that has been taught follow: Gazins' honey or hornets' honey is clean and is permitted to be eaten? Not R. Jacob. [The Baraitha says concerning gazins' or hornets' honey] that it is clean, consequently, it requires the intention [of using it as a food].<sup>11</sup> We infer from this that bees' honey does not need the intention [of using it as a food].<sup>12</sup> It has also been taught likewise: Honey in its hive becomes unclean<sup>13</sup> with the uncleanness of food, even without the intention [of using it as a food]. With regard to ball-like concretions in a fallow-deer, the Rabbis in the presence of R. Safra proposed to lay down that they were real eggs and were therefore forbidden.<sup>14</sup>

Said R. Safra: It was really the seed of a deer which sought to couple with a hind, but since the latter's womb is narrow and it is unable to copulate, the deer, therefore, seeks to couple with a fallow-deer, releasing its semen into the latter's womb.<sup>15</sup> Said R. Huna: The skin which is over the face of an ass at birth<sup>16</sup> is permitted to be eaten.<sup>17</sup> What is the reason? —

It is a mere secretion [but no real skin]. Said R. Hisda to him. There is a [Baraitha] taught which supports you: A skin which is over the face of a man, whether alive or dead, is clean.<sup>18</sup> Now does not this mean whether both the offspring and its mother are alive, or whether both the offspring and its mother are dead?<sup>19</sup> No. It means, whether the offspring is alive and its mother is dead, or whether the offspring is dead and its mother is alive.<sup>20</sup> But has it not been taught: Whether the offspring and its mother are alive, or whether the offspring and its mother are dead, [the ruling is that the skin is clean]? If it has been actually

taught in a Baraitha, then it has been taught.<sup>21</sup>

*MISHNAH.* IF AN UNCLEAN FISH SWALLOWED A CLEAN FISH, IT IS PERMITTED TO BE EATEN. BUT IF A CLEAN FISH HAS SWALLOWED AN UNCLEAN FISH, THE LATTER IS FORBIDDEN TO BE EATEN, BECAUSE IT IS NOT [THE CLEAN FISH'S] PRODUCT.<sup>22</sup>

*GEMARA.* The reason<sup>23</sup> is because we actually saw that it swallowed. But if we did not see that it swallowed, we would say that it was bred<sup>24</sup> [by the unclean fish]. Whence do we know this? For it has been taught: An unclean fish breeds, whereas a clean fish lays eggs.<sup>25</sup> If this is a fact, even if we see that it actually swallowed, we should say that the clean fish had been consumed and [the fish found inside] was bred by the unclean fish!<sup>26</sup> —

Said R. Shesheth: [It means,] if e.g., he found it in the secretory channel.<sup>27</sup> R. Nahman said: if e.g., he found it whole.<sup>28</sup> R. Ashi said:<sup>29</sup> The majority of fish breed their own kind and therefore [when we discover a different kind of fish inside] it is as if we had witnessed the swallowing.

Our Rabbis taught: An Unclean fish breeds, but a clean fish lays eggs. Whatsoever gives birth,<sup>30</sup> gives suck.<sup>31</sup> And whatsoever lays eggs, supports its brood by picking up [food for it], except the bat, for although it lays eggs, it gives suck [to its young].

(1) The phrase 'from the unclean' implies something which proceeds from the inside of an unclean creature, and although it does not drain from the body itself, it is yet forbidden.

(2) As a medicine. Therefore it is of little value and is not forbidden.

(3) According to this version therefore, whether it is thick or otherwise, it is forbidden (R. Gershom).

(4) From the sap of flowers and plants.

(5) There is, therefore, an objection here according to both versions. According to the first version, if the substance which proceeds from an

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unclean creature is thick although it does not drain from the body, it is prohibited, whereas here, in the case of honey, the reason why it is allowed is because it does not drain the body. And according to the second version, honey, since it comes from an unclean creature, should be forbidden.

(6) The Divine Law explicitly permits honey, although it may come from the body of the bee itself, and no reason is given for this.

(7) Lev. XI, 21.

(8) And is not like the embryo or offspring which is part of the creature itself.

(9) A species of wild bees or locusts.

(10) Bees' honey is known briefly as honey, without any necessity to describe it as such.

(11) Food, which is recognized as such, automatically receives the uncleanness pertaining to food when coming in contact with an unclean object such as a corpse or carcass. But, an object which is not ordinarily considered as food requires, in order to receive uncleanness, the intention that it is to be used as food.

(12) For it is regarded as ordinary food and receives uncleanness in the usual manner. This passage is to be added with Sh. Mek.

(13) For ordinary hives are used for bees, although the honey is still in the hive and the consumer has not as yet expressed his intention of using it as food.

(14) Like a limb from a living animal, having been communicated from the male organ to the womb.

(15) The semen, however, owing to the delay in copulation, has meanwhile hardened, and although it enters the womb, owing to its congealed state, it has no effect and issues later in the animal's excrements, in the form of ball concretions.

(16) A thin skin somewhat similar to the after-birth, but not actually the same.

(17) For it is not regarded as the after-birth in any way.

(18) He who touches or carries it remains clean.

(19) And even if both are dead, nevertheless, the skin is clean. Hence, we learn that the skin is a false membrane and is not considered as the after-birth of either the mother or the offspring.

(20) For the skin comes from both the mother and its offspring and therefore it is clean until both are dead. This is one explanation. Rashi's explanation, however, is that the Baraitha in both cases supposes the mother to be alive, only in one instance the offspring is also alive, therefore the skin is clean. But where both are dead, R. Hisda cannot find support for R. Huna's ruling.

(21) And nothing further need be said.

(22) For the unclean fish was swallowed alive, but if it was actually a growth of the clean fish, it

would be permitted, as is the ruling with something which proceeds from a clean being.

(23) Why the Mishnah states that if an unclean fish swallowed a clean fish, the latter is permitted to be eaten.

(24) And we should then regard it as its progeny and as part of the unclean fish.

(25) And hatches them till the young emerge.

(26) And it should therefore be forbidden to be eaten, as the progeny of any unclean fish.

(27) And if it were an embryo, it should have been found in the womb.

(28) And if it were an embryo, it would have left the womb before now.

(29) The Mishnah does not refer to the case where we actually saw the swallowing.

(30) To an embryo or offspring, a creature like itself.

(31) I.e., possesses breasts.

## Bechoroth 8a

**Dolphins are fruitful and multiply by coupling with human beings. What are dolphins? —**

**Said Rab Judah: Humans of the sea.<sup>1</sup> In any species which has its male balls outside,<sup>2</sup> [the female] give birth [to its young]. But where the male balls are inside, [the female] lay eggs. It is not so. Did not Samuel Say: The domestic and wild goose are forbidden copulation?<sup>3</sup> And we raised the point, what is the reason? Said Abaye: In one case, the male balls are outside, and in the other, the male balls are inside. Yet both lay eggs! — Rather say: Whatsoever has its male genital outside, gives birth, but whatsoever has its male genital inside lays eggs.<sup>4</sup>**

**Whatsoever copulates in the day time, gives birth in the day time. Whatsoever copulates in the night, gives birth in the night. Whatsoever copulates in the day and night time, gives birth both in the day and in the night. 'Whatsoever copulates in the day time gives birth in the day time:' for instance, a cock. 'Whatsoever copulates in the night, gives birth in the night': for instance, a bat. 'Whatsoever copulates in the day and night time, gives birth both in the day and in the night': for instance, man and all beings**

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resembling him. What is the practical rule [to be derived from this statement]? —

The rule of R. Mari, the son of Kahana. For R. Mari, the son of Kahana said: If one searched a nest of chickens on the eve of a Festival and did not find an egg therein and on the morrow, he rose early<sup>5</sup> and found there an egg, it is permitted to be eaten on the Festival.<sup>6</sup> [But did he not search?]<sup>7</sup> — You presume that he did not search thoroughly. But did he not search thoroughly? — You presume that the greater part [of the egg] came forth from the intestines of the chicken but returned,<sup>8</sup> and this is in accordance with the ruling of R. Johanan.

For R. Johanan said: An egg, the greater part of which came forth [from the intestines of a chicken] on the eve of a Festival and returned [to its intestines,] may be eaten on the Festival. All animals whose copulating and pregnancy are alike,<sup>9</sup> give birth from one another, and nurse each other's young. All animals copulate with their faces against the back [of the female], except three, which copulate face to face, and these are a fish, man, and a serpent. And why are these three different?—

When R. Dimi came [from Palestine] he said: In the West [Palestine] it was said: Because the Divine Presence spoke with them.<sup>10</sup> In a Baraitha it was taught: Camels [copulate] back to back. Our Rabbis taught: A hen lays its eggs after twenty-one days,<sup>11</sup> and corresponding [to a hen] is the almond-tree among trees.<sup>12</sup> A dog [goes with young] for fifty days, and corresponding [to a dog] is a fig-tree among trees. A cat [goes with young] for fifty-two days, and corresponding [to a cat] is a mulberry-tree among trees, [whose fruit ripens fifty-two days after its blossoming]. A pig [goes with young] for sixty days, and corresponding [to a pig] is an apple tree among trees. A fox and all kinds of reptiles [go with young] for six months, and corresponding [to a fox], etc. is wheat

among trees.<sup>13</sup> Small clean animals [go with young] for five months, and corresponding [to small animals] is a vine among trees. Large unclean cattle [go with young] for twelve months, and corresponding [to large unclean cattle] is a palm-tree among trees.<sup>14</sup> Clean large cattle [go with young] for nine months, and corresponding [to clean large cattle] is an olive-tree among trees. The wolf, lion, bear, leopard, bardeles,<sup>15</sup> elephant, monkey, and long-tailed ape [go with young] for three years, corresponding to them are white figs among trees. A viper [or adder] goes with young for Seventy years, and corresponding to it is the carob-tree among trees. From the time of the planting of the carob-tree to the ripening of its fruit, a period of seventy years elapses; and the time of its pregnancy',<sup>16</sup> is three years. A serpent [goes with young] for seven years, and for that wicked animal there is no companion [among trees]. Some, however, say that [corresponding to a serpent] is a kind of white fig [among trees],<sup>17</sup> Whence is this proved?<sup>18</sup> —

Said Rab Judah in the name of Rab and they trace it in tradition up to the name of R. Joshua b. Hanania: Because [Scripture] says: Cursed art thou from among all cattle and from among all the beasts of the field.<sup>19</sup> Now if [the serpent] was cursed [to go with young for a period] longer than an animal,<sup>20</sup> [how much] longer must this have been than that of a beast?<sup>21</sup>

But [the object of the verse is] to tell you: Just as the animal is cursed [to go with young] longer than a beast in the proportion of one to seven<sup>22</sup> — and what is this? An ass which [goes with young longer] than a cat — so [the serpent] is cursed [to go with young] in the proportion of one to seven, which is seven years.<sup>23</sup> But why not say, that just as the beast has been cursed [to go with young longer] than an animal in the proportion of one to three — and what is this? A lion [which goes with young longer] than an ass<sup>24</sup> — so, [the serpent] has been cursed [to go



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with young] longer than the beast in the proportion of one to three, which is nine years? —

- (1) Half fish and half human.
- (2) Outside its belly, i.e. animals and beasts.
- (3) The coupling together of heterogeneous animals or birds is one form of Kil'ayim.
- (4) And as regards the domestic and wild goose, although the latter has its male balls outside, its male genital is inside. Therefore, in both instances, they lay eggs and do not give birth to their brood.
- (5) Before dawn.
- (6) For since a hen does not lay eggs at night, it must have been laid on the previous day. An egg newly laid on a festival is forbidden on that day. V. Bez. 2a.
- (7) Inserted with Sh. Mek.
- (8) The greater part of the egg came forth from the inside of the chicken on the eve of the Festival, but it returned, and therefore he did not find it when he searched for it at first in the nest. Consequently, even if, as in this case, it laid the egg at night, it is permitted to eat it on the Festival. But it does not, usually, lay eggs in the night time.
- (9) Like sheep and goats, which copulate in a similar manner, their faces against the back of the female and whose period of pregnancy is five months.
- (10) The serpent in the Genesis story and the fish in that of Jonah.
- (11) After pregnancy from a cock, the egg takes this period for completion. Another explanation is that the hen hatches its eggs for a period of twenty-one days before the young ones emerge. (Rabbenu Gershom.)
- (12) From the time of its blossoming until the fruits are ripened, a period of twenty-one days elapse.
- (13) Wheat is here described as a tree, in accordance with the authority who maintains that the tree from which Adam partook was wheat; v. Ber. 40a.
- (14) V. supra n. 1.
- (15) A spotted beast, either a leopard or a hyena.
- (16) The time of the blossoming of the carob-tree until the ripening of its fruit extends over the last three years of the seventy years.
- (17) A species of fig, inferior to white figs.
- (18) That a serpent goes with young for seven years.
- (19) Gen. III, 14.
- (20) For the least of animals, i.e., a goat, takes five months to produce its young, whereas the shortest period for a beast, i.e., a cat, is fifty-two days.

(21) If Scripture had written: 'Cursed art thou from among all cattle', this would have embraced the period also for which beasts are cursed to go with young.

(22) A cat goes with young for fifty-two days and an ass for one year, i.e., three hundred and sixty-five days, the proportion therefore being one to seven.

(23) Hence we infer that a serpent goes with young for seven years.

(24) An ass goes with young for one year and a lion for three years.

## Bechoroth 8b

Does [Scripture] write: 'From among all the beasts and from among all the cattle'?<sup>1</sup> It writes [in the following order:] from among all the cattle and from among all the beasts. [The serpent] is cursed from among all the animals which are cursed [in that it takes longer to produce their young] than the beasts. But why not say: Just as the animal has been cursed [to go with young longer] than the beast in the proportion of one to three — and what is this? A goat [which goes with young longer] than a cat — so the serpent has been cursed in the proportion of one to three, which is fifteen months?<sup>2</sup> — If you choose, I may reply that Scripture writes: 'From among all cattle'.<sup>3</sup> Or if you prefer [still another solution], it is a curse [which it is the object of the verse to inflict] and therefore we cast the [heaviest] curses possible [on the serpent].<sup>4</sup>

The Emperor once asked R. Joshua b. Hanania: 'How long is the period of gestation and birth of a serpent'? — He replied to him: 'Seven years'. 'But did not the Sages of the Athenian school couple' [a male serpent with a female] and they gave birth in three years'? — 'Those had already been pregnant for four years'. 'But did they not have sexual contact'?<sup>5</sup> — 'Serpents have sexual intercourse in the same manner as human beings'.<sup>6</sup> 'But are not [the sages of Athens] wise men [and surely they must have ascertained the true facts about the serpent]'? 'We are wiser than they'. 'If you are wise' said the Emperor, 'go and defeat

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them [in argument], and bring them to me'. He asked him: 'How many [are the Athenian sages]?' 'Sixty persons'. Thereupon he said to him: 'Make me a ship containing sixty compartments, each compartment containing sixty cushions'.<sup>7</sup> He did this for him. When [R. Joshua] reached [their city], he went up to a slaughter-house. He found a certain man who was dressing an animal. He asked him: 'Is thy head for sale?' The other replied 'Yes'. Thereupon he asked him: 'For how much?' And the man answered: 'For a half a Zuz'. He gave him [the money]. Eventually, he said to him: 'Give me thy head'. [He gave him an animal's head]. Thereupon [R. Joshua] exclaimed: 'Did I say the head of an animal? [I told thee, thy head]'. [R. Joshua] then said to him: 'If you wish that I should leave thee alone, step in front of me and show me the door of the school of the Athenian sages'. Thereupon the man replied: 'I am afraid, for whoever points them out, they put to death'. R. Joshua then said: 'Take a bundle of reeds, and if you reach the spot, throw it down as if to rest'.<sup>8</sup> He went and found guards inside and guards outside the school; for when the [wise men] saw somebody enter, they used to kill the outside guards, and when they saw someone leaving, they killed the inside guards.<sup>9</sup> He reversed [the heel] of his shoe and they killed the inside guards. He then reversed the shoe [to its normal position] and they killed all of them.<sup>10</sup> He proceeded and found the young men sitting high up [in the upper chamber] and the elders below. He said: 'If I give greetings [to the elders], then [the young men] will kill me, the latter claiming "we are more important", [for we sit high up and they sit below]. [And if I give greetings to the young men, then the elders will kill me], the latter claiming "we are older and they are just youngsters"'. [R. Joshua] then said: 'Peace to you'. They asked him: 'What are you doing here?' He replied to them: 'I am a sage of the Jews, I wish to learn wisdom from you'. 'If so, we will ask you questions' [said the Athenian wise men]. He answered them: 'Very well. If

you defeat me, then whatever you wish, do Unto me, but if I defeat you, eat bread with me in the ship'. They said to him: 'If a person wished to marry a woman and the consent was not given, is it feasible that he should seek a woman of higher birth?'<sup>11</sup> He took a peg and stuck it below [on the stone wall]<sup>12</sup> and it would not join, and then he stuck it higher up,<sup>13</sup> and it went in. He said: 'Here also therefore, it- may happen that the second woman is his destined one'. 'If a man lends money and is compelled to seize his debt by force, is it to be expected that he should lend again?'<sup>14</sup> He replied to them: 'A man goes into a forest, cuts the first load of wood and cannot [lift it].<sup>15</sup> He continues cutting, until somebody comes along and helps him to lift the bundle'.<sup>16</sup> They said to him: 'Tell us some stories'. He said to them: 'There was a mule which gave birth, and round its neck was a document in which was written, "there is a claim against my father's house of [one hundred]<sup>17</sup> thousand Zuz"'. They asked him: 'Can a mule give birth?' He answered them: 'This is one of these stories'. 'When salt becomes unsavory, wherewith is it salted?' He replied: 'With the after-birth of a mule'. 'And is there an after-birth of a mule?' 'And can salt become unsavory?' 'Build as a house in the sky'. He pronounced the Name [of the Deity], [suspended himself in the air] and hung between heaven and earth. He then said to them: 'Bring me up bricks and clay from down there'. [They asked: 'And is it possible to do this?'] He replied: 'And is it possible to build a house between heaven and earth'.<sup>18</sup> 'Where is the centre of the world?' He raised his fingers and said to them: 'Here'. They said to him: 'How can you prove it?' He replied: 'Bring ropes and measure'. They said: 'We have a pit in the field. Bring it to the town'. He replied: 'Knot ropes of bran flour for me and I will bring it in'.<sup>19</sup> 'We have a broken millstone. Mend it'. [He took a detached portion from it and threw it before them]<sup>18</sup> saying: 'Take out the threads for me, like a weaver, and I shall mend it'. 'A bed of knives, wherewith can we cut it?'

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**‘With the horns of an ass’. They asked: ‘But has an ass horns?’ ‘And is there a bed of knives?’ [He replied:] They brought him two eggs. ‘Which is from the black clucking hen and which is from the white?’ He himself brought them two cheeses and asked them: ‘Which is from a black goat and which from a white?’ ‘A chicken dead in its shell-where has the spirit gone?’ ‘From whence it came, thither it went’. ‘Show us an article whose value is not worth the loss it causes’. He brought a mat of reeds and spread it out. It could not get through the door [being too long and wide]. He then said: ‘Bring a rake [and pickaxe]’, and demolished [the door of the building].<sup>20</sup> ‘That is an example of an article whose value is not worth the loss it causes’. He brought them to eat in the ship, one by one to his Separate chamber. When they saw the sixty cushions, each one thought that all the companions would come to this chamber. He ordered the captain to set sail. As they were about to journey, he took some earth from their [native] soil.**

(1) That we should interpret the verse from among all beasts as meaning that the serpent was cursed in the same proportion as the beast is more cursed than the animal.

(2) Small clean cattle whose period of gestation is five months, while a cat's period is fifty-two days, the latter thus being to the former In the proportion of one to three.

(3) The animal most cursed, an unclean large animal, like an ass, going with young longer than the beast, i.e., the cat, constituting a ratio of one to seven, as stated above.

(4) We therefore multiply curses in the greatest degree, since it is the clear intention of the verse to heap curses upon the serpent.

(5) And once pregnant, an animal or beast does not take a male.

(6) Having sexual contact even after pregnancy.

(7) So Jast. Rashi and R. Gershom have here ‘chairs’, the latter adding that they were very ornamental.

(8) And thereby I shall know the place where the Athenians are located.

(9) Bran flour or dust was scattered over the threshold and the footsteps were visible of whosoever entered or departed. The outside guards were put to death when a footstep was visible indicating that someone had entered, for which they were held responsible. On the other hand, when a footstep was visible indicating that someone had left, the inside

guards were held responsible and put to death. The guards did not, however, put anybody to death unless he made a forced entry or an exit.

(10) The two footsteps seen on the threshold, pointing in different directions, suggested to the Athenians that there had been two persons, one leaving and the other entering, and consequently all the guards were punished and put to death. This, of course, made it easy for R. Joshua to gain entrance unmolested.

(11) If he was unable to obtain the woman of an inferior status, how much less would he be able to secure the hand of a woman coming from a better family?

(12) In the spot where there was no opening and hole.

(13) Where there was an opening in a space between the stones.

(14) If the lender was constrained to claim his debt from the buyers of the debtor's lands, surely he would not be inclined to lend in future, for fear of meeting similar difficulties in the recovery of his money.

(15) The wood being in such quantities, he is unable to lift it.

(16) Similarly, although he had difficulties with his first debtor, he may be more fortunate with the next one.

(17) Goldschmidt reads: one thousand.

(18) Inserted from Bah.

(19) And if you are unable to carry out my wish, then I cannot perform yours.

(20) And the wall, until it was able to go in.

## Bechoroth 9a

When they reached the straits,<sup>1</sup> they filled a jug of water from the waters of the straits. When they arrived, they were presented to the Emperor. He observed that they were depressed, [being far from their native land]. He said: ‘these are not the same [people]’. He, therefore, took a piece of the earth of their country and cast it at them. Thereupon, they grew haughty<sup>2</sup> towards the King. He then said to R. Joshua: ‘Whatever you desire, do with them’. He fetched the water which [the Athenians] had taken from the straits and poured it into a ditch.<sup>3</sup> He said to them: ‘Fill this and depart’. They tried to fill it by casting therein the water, one after the other, but it was absorbed. They went on filling until [the joints] of their shoulders became dislocated and they perished.

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**MISHNAH.** IF A SHE-ASS THAT HAD NEVER BEFORE GIVEN BIRTH GAVE BIRTH TO TWO MALES, [THE ISRAELITE] GIVES ONE LAMB TO THE PRIEST AS A REDEMPTION.<sup>4</sup> [IF IT GAVE BIRTH TO] A MALE AND A FEMALE, HE SETS ASIDE ONE LAMB [WHICH REMAINS] FOR HIMSELF.<sup>5</sup> IF TWO SHE-ASSES THAT HAD NEVER BEFORE GIVEN BIRTH GAVE BIRTH TO TWO MALES, HE GIVES TWO LAMBS TO THE PRIEST. [IF THEY GAVE BIRTH TO] A MALE AND A FEMALE OR TWO MALES AND A FEMALE, HE GIVES ONE LAMB TO THE PRIEST.<sup>6</sup> [IF THEY GAVE BIRTH TO] TWO FEMALES AND A MALE OR TO TWO MALES AND TWO FEMALES THE PRIEST RECEIVES NOTHING.<sup>7</sup> IF ONE SHE-ASS HAD GIVEN BIRTH BEFORE AND ONE HAD NOT GIVEN BIRTH BEFORE AND THEY GAVE BIRTH TO TWO MALES, HE GIVES ONE LAMB TO THE PRIEST. [IF THEY GAVE BIRTH TO] A MALE AND A FEMALE, HE SETS ASIDE ONE LAMB [WHICH REMAINS] FOR HIMSELF,<sup>8</sup> FOR [SCRIPTURE] SAYS: AND THE FIRSTLING OF AN ASS THOU SHALT REDEEM WITH A LAMB.<sup>9</sup> [THE LAMB CAN COME EITHER] FROM THE SHEEP OR THE GOATS MALE OR FEMALE, LARGE OR SMALL, UNBLEMISHED OR BLEMISHED. HE CAN REDEEM WITH THE SAME ONE MANY TIMES.<sup>10</sup> AND THE LAMB] ENTERS THE SHED TO BE TITHED.<sup>11</sup> IF IT DIES, THE PRIEST CAN BENEFIT FROM IT.<sup>12</sup>

**GEMARA.** Who is the authority [of the first passage in the Mishnah]?<sup>13</sup> R. Jeremiah said: It does not follow the opinion of R. Jose, the Galilean. For if it were the opinion of R. Jose the Galilean — did he not say that it is possible to ascertain exactly [that both heads came forth simultaneously]?<sup>14</sup>

Said Abaye: You may even assume that [the passage in the Mishnah] represents the opinion of R. Jose the Galilean, and that he makes a difference [in connection with the first-born of a clean animal], for [Scripture] writes: The males shall be the Lord's.<sup>15</sup> But

why not infer [the case of the first-born of an unclean animal] from [the case of the firstborn of a clean animal]? — The Divine Law excludes this [by the definite article in the expression], 'The males'.<sup>16</sup> Some there are who say: Must we say that [the passage in the Mishnah]<sup>13</sup> does not represent the view of R. Jose the Galilean? For if it were the opinion of R. Jose the Galilean, did he not say that it is possible to ascertain exactly [that both heads came forth simultaneously]? —

Said Abaye: You may even assume that it is the opinion of R. Jose the Galilean and he makes a difference [in connection with the first-born of a clean animal], for [Scripture] writes: 'The males shall be the Lord's'. Now we can understand R. Jeremiah stating that [the passage in the Mishnah] does not follow R. Jose the Galilean; that is the reason why the [Mishnah] does not say: 'And both their heads came forth simultaneously'.<sup>17</sup>

But according to Abaye, let it Say: 'And both heads came forth simultaneously'?<sup>18</sup> Moreover, it has been taught: If his ass had never given birth before, and it gave birth to two males, and the two heads came forth simultaneously, R. Jose the Galilean says that they both belong to the priest, for Scripture Says: 'The males are the Lord's.' But is this not written in connection with [an animal] consecrated as such [which is a clean animal]? — Rather say, On account of what [Scripture] Says: 'The males are the Lord's'.<sup>19</sup> This is a confutation of Abaye. — It is a refutation.

(1) Probably Scylla and Charybdis (Jast.). Rashi explains that בליעי refers to the ocean mostly the Mediterranean Sea which absorbs all the waters of the world which flow therein. The waters are then brought to the depths from which they are subsequently discharged. Other explanations (by R. Gershom) are that there is a particular spot in the sea that absorbs other waters or that it refers to Miriam's Well.

(2) After smelling their native earth, they imagined that they were back again in their own country.



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- (3) A vessel or an earthen jug (Rashi).
- (4) Because, at all events, one of the offspring must be a first-birth.
- (5) There is a doubt here as to whether the male ass was born before the female; so, by setting aside a lamb for redemption, he releases the animal from the prohibitions which attach to the first-birth of an ass, in case the male was born first. He is not required, however, to give the lamb to the priest, since the claim of the latter is purely that of a debt due to him as laid down in the Scripture, the lamb not possessing any sanctity, and being like the ass which it redeems. Consequently, the priest is in the position of a claimant who must produce the evidence, the evidence here being that the male was born prior to the female.
- (6) One male must be a first-birth and the other, as there is a doubt whether the male was born before the female, therefore, he sets aside one lamb for redemption, which, however, remains for himself.
- (7) Where two males and two females are born, the priest receives nothing, because the female might have been born prior to the males; also, where two females and a male are born, because here too there is a doubt, and the female might have been born before the male. The Israelite, however, must set aside two lambs which remain for himself.
- (8) In case the she-ass which had never given birth before had given birth to the female.
- (9) Ex. XIII, 13. From here we derive the general rule that the first-birth of an ass is redeemed with a sheep.
- (10) If the lamb which the priest receives as a redemption for the first-birth of an ass was sold or returned to the Israelite as a present, it can exempt another first-birth of an ass. This process can be repeated in connection with many first-births of asses.
- (11) The lamb which he sets aside is an absolutely unconsecrated animal and enters the shed to be tithed with the rest of his animals.
- (12) As soon as the lamb is set aside, the Priest has a claim on it as belonging to him, and it is as if it were already in his possession. Therefore, if the lamb died before it was delivered to the priest, the latter benefits from its skin and carcass.
- (13) That if a she-ass which had never before given birth, gave birth to two males, he only gives one lamb to the Priest.
- (14) *Infra* 17a. If a ewe which had never given birth before gave birth to two males, R. Jose, the Galilean, says that both belong to the priest since both heads came forth at the same time.
- (15) Ex. XIII, 12. The plural indicates two males, but in the case of the first-births of asses, where

the singular is used throughout, even if it were possible to make sure that both heads came forth simultaneously, they are not sanctified.

(16) The superfluous ׀ ('the') implies that only in the case of a clean animal do we apply the said law.

(17) As in the case of a clean animal, *infra* 17a.

(18) According to Abaye, it is possible to ascertain exactly that both heads came forth simultaneously, as the Mishnah is in accordance with R. Jose, only in the case of an unclean animal, it is different, because of the restrictive word 'The males'. Why should not the Mishnah, therefore, state that even if both heads came forth simultaneously, only one lamb is given to the Priest?

(19) The inference from the verse is indirect. Since Scripture has indicated in this verse that it is possible to ascertain that both heads come forth simultaneously in connection with a clean animal, we apply the same to the first-birth of an ass. In any case we therefore clearly see here that R. Jose's ruling applies even to the first-birth of an ass.

## Bechoroth 9b

And as to the Rabbis,<sup>1</sup> must we say that the Rabbis hold that even if a portion of the womb touches [the firstling] it consecrates? For if it consecrates only when the whole womb touches [a firstling], granted it is impossible to ascertain that both heads came forth simultaneously, nevertheless, there is here an interposition?<sup>2</sup> — Said R. Ashi: Objects of a homogeneous kind are not reckoned as an interposition [with reference to each other].<sup>3</sup>

IF IT GAVE BIRTH TO A MALE AND FEMALE, HE SETS ASIDE, etc. Since it remains for himself what need is there to set it aside? — [In order] to release it from the prohibitions [attaching to the first-birth of an ass].<sup>4</sup> Consequently, [we infer] that until it is released, it is forbidden to be used. Whose opinion does the Mishnah represent? It is the opinion of R. Judah. For it has been taught:<sup>5</sup> It is forbidden to make any use of the first-birth of an ass. These are the words of R. Judah. But R. Simeon permits this. What is the reason of R. Judah?

## BECHOROS – 2a-31a

Said ‘Ulla: ‘Can you find an object which requires redemption and yet is permitted to be used while unredeemed’? But is there not? What of the case of the first-born of a man who requires redemption and yet [even before redemption] one may derive benefit from him? —

Rather argue [thus]: Is there an object concerning which the Torah particularly enjoined that redemption must be with a sheep and which was yet permitted to be used [before redemption]? And was [the Torah] indeed so particular? Did not R. Nehemiah the son of R. Joseph redeem [an ass] with boiled herbs of its equivalent value? —

As regards an object of equivalent value, this is not referred to here.<sup>6</sup> What we are speaking of is the redemption [of an object] not with its equivalent value. And ‘Ulla means this: Can you find an object concerning which the Torah was particular to release its prohibition only with a sheep even though not its equivalent in value and yet it is permitted to benefit therefrom [unredeemed]? —

But what of the second tithing which the Torah was particular that the redemption must be with coined money, and yet we have learnt, R. Judah says: If he betrothed a woman [with second tithe] willfully she is betrothed?<sup>7</sup> —

Also with a first-birth of an ass is a woman betrothed, as R. Eleazar [taught]. For R. Eleazar said: A woman knows that the second tithe is not rendered unconsecrated through her,<sup>8</sup> and she, therefore, goes up to Jerusalem and eats it. Similarly, here also, a woman is aware that the first-birth of an ass is prohibited, she redeems it therefore with a lamb, and is betrothed with the difference [between the value of the ass and the sheep].<sup>9</sup> And as to R. Simeon, what is his reason? —

Said ‘Ulla: Can you find an object whose ransom<sup>10</sup> is permitted to be used while [the object itself] is forbidden? But can we not? What of [the fruit of] the Sabbatical year, whose ransom is permitted to be used and yet the fruit itself is forbidden?<sup>11</sup> —

Also with [the fruit of] the Sabbatical year is the ransom forbidden, for a Master said: [The prohibitions attaching to the Sabbatical year] take effect on the very last thing [bought].<sup>12</sup> Or, if you choose, I may say that R. Judah and R. Simeon differ in the interpretation of the following verse. For it has been taught: [Scripture says]: Thou shalt do no work with the firstling of thine ox:<sup>13</sup> but you may do work with a firstling which belongs [both] to you and to a gentile;<sup>14</sup> nor shear the firstling of thy flock:<sup>13</sup> but you may shear what belongs [both] to you and to a gentile. These are the words of R. Judah.

But R. Simeon says: ‘Thou shalt do no work with the firstling of thine ox’, implying, but you may work with the first-born of a man; thou shalt not shear the firstling of thy sheep; implying, but you may shear the first-birth of an ass. We understand why, according to R. Simeon's interpretations Scripture needs to write both verses. But, according to R. Judah, what need is there for two verses to exclude a firstling which belongs [both] to you and to a gentile? And furthermore, according to R. Judah, the first-born of a man also should we say is forbidden [to work with before redemption]?

Rather therefore, explain that all [the authorities mentioned] hold that the words, ‘thine ox’, have for their object the exclusion of the first-born of a man. The dispute, however, is in the interpretation of the words, ‘thy sheep’, for R. Judah is in agreement with his own dictum elsewhere, where he says: A partnership with a gentile is subject to the law of the first-born, so that there is need of a verse to make it

## BECHOROS – 2a-31a

permissible for shearing and working [of a firstling].

R. Simeon, however, holds that a partnership with a gentile is not subject to the law of the first-born. And, therefore, in respect to shearing and working, there is no necessity for a verse to make it permissible. The necessity, however, arises for a verse in respect to the first-birth of an ass. This is quite right on the view of R. Judah, for it is for the reason [stated above] that Scripture writes, 'thy sheep', and the words, 'thine ox', [Scripture adds merely] on account of the words, 'thine ass'. But according to R. Simeon, what need is there for the words, 'thine ox', and 'thy sheep'?<sup>15</sup> This is indeed a difficulty.

Rabbah said: R. Simeon agrees, however, that after the breaking of its neck,<sup>16</sup> it is forbidden to use it. What is the reason? — He draws a conclusion by analogy between 'arifah' [the breaking of the neck] here and the 'arifah' [mentioned] in connection with the heifer that had its neck broken.<sup>17</sup>

Said Rabbah: On what evidence do I say this? Because it has been taught: The fruit of trees of the first three years, the mixed seeds in a vineyard, an ox that is to be put to death by stoning,<sup>18</sup> or the heifer that has had its neck broken,<sup>19</sup> the birds of the leper,<sup>20</sup> the first-birth of an ass,<sup>21</sup> and [the mixture] of meat and milk [boiled together],<sup>22</sup> all of them receive the uncleanness relating to food.<sup>23</sup>

R. Simeon says: All of them do not receive the [Levitical] uncleanness relating to food. R. Simeon, however, agrees with regard to the [mixture] of meat and milk, that it receives the uncleanness relating to food, since at one time, it was fit [to receive the uncleanness relating to food],<sup>24</sup> And R. Assi explained in the name of R. Johanan: What is the reason of R. Simeon? Scripture writes: All food therein which may be eaten.<sup>25</sup> [We deduce] that food which you can give

gentiles to eat is called food, but food which you are unable to give gentiles to eat is not called food.<sup>26</sup>

(1) Of the Mishnah, who say that he gives one lamb to the priest, for we have explained that the Mishnah is not according to R. Jose and therefore it is the opinion of the majority of the Rabbis. Or the reference may be to the Rabbis who differ with R. Jose in the case of a clean animal that gave birth to two males, the Rabbis holding that one lamb must be given to the priest and one remains for himself.

(2) For before one male came forth entirely, the other was on its way out. Therefore, although one came forth prior to the other and was sacred, it did not have the whole womb to consecrate it, owing to the other male, which was coming out at the same time. There was, consequently, an interposition between the first male and the womb.

(3) And the two males are of the same kind.

(4) Of working with it and the restriction on its shearing.

(5) Kid. 57b.

(6) For it is not more restricted in respect of the manner of its redemption than other consecrated objects.

(7) v. Kid. 2b. Therefore, we see here that it is permitted to benefit from an object even before its appropriate redemption. Hence we conclude that according to R. Judah, it is permitted to use it.

(8) I.e., by giving her second tithe as Kiddushin (token of betrothal).

(9) The ass being of greater value than the sheep. Therefore, no objection can be cited to 'Ulla's interpretation of R. Judah's views from the case of second tithe.

(10) Here the lamb wherewith the ass is redeemed is permitted for all use.

(11) If one sold fruit of the Sabbatical year, the object purchased may be used, but the fruit itself is forbidden and must be removed from the house when the beasts in the field have consumed the fruit there.

(12) If one purchased flesh in exchange for the fruit of the Sabbatical year, both are liable to the law of removal pertaining to the Sabbatical year. If he then bought wine for the flesh, then the flesh may be used but not the wine. And if again he bought oil for the wine, the last thing purchased is forbidden to be used as well as the fruit itself of the Sabbatical year.

(13) Deut. XV, 19.

(14) In the case e.g., of a firstling of an animal in which a gentile has a share, although R. Judah requires the Israelite to give a half of its value to

# BECHOROS – 2a-31a

the priest, nevertheless working with the animal and the shearing thereof are permitted. Since the verse, however, does not exclude the first-birth of an ass, we do not permit its use prior to its redemption and it is on a par with a firstling of a clean animal.

(15) If Scripture had merely written: The firstling of an ox and The firstling of a sheep, R. Simeon could still have expounded the verse in the manner he does.

(16) If the law of redeeming the first-birth of an ass with a lamb is not carried out, the law prescribes that its neck must be broken with a hatchet.

(17) In the case where an unknown man is found dead, the law requires the bringing of a heifer whose neck must be broken as an atonement, and here also for failing to redeem the ass with the lamb, the neck of the ass was broken. As in the former case, it is forbidden to be used, so here also by analogy, it is forbidden to be used.

(18) If it had been ritually killed after it was sentenced to death for killing a man.

(19) Which was ritually slaughtered, after being brought down into the rough valley.

(20) The two clean birds, one of which was killed, which the leper brought after his recovery.

(21) Which was ritually slaughtered for a gentile, and as it was still struggling and not dead, it did not possess the uncleanness of Nebelah (a carcass). Therefore, if a dead reptile came in contact with it, it received the uncleanness relating to food, so that if it touched other food, it causes Levitical uncleanness. The ritual slaughtering, however, helped at least to make it fit to receive the uncleanness of food. Another interpretation is that even if the ass had its neck broken and it was, therefore, Nebelah, we can still apply here the principle of the uncleanness of food, if e.g., there was less of the carcass in size than an olive which, although it did not become unclean as Nebelah, may yet be supplemented with other food to the required size of an egg to make it receive the uncleanness of food.

(22) And consequently forbidden for any use.

(23) For although they are forbidden to be used, the uncleanness has the effect that should they come in contact with other food, the latter becomes unclean.

(24) I.e., before its boiling.

(25) Lev. XI, 34.

(26) I.e., when it is forbidden to be used and therefore it does not receive the uncleanness relating to food.

## Bechoroth 10a

But if this is so, then in the case of [the mixture] of meat and milk, why should it be said that the reason that it receives Levitical uncleanness is because, at one time, it was fit for the uncleanness relating to food? Why not derive this from the fact that it is a food which you can give to gentiles? For it has been taught: R. Simeon, the son of R. Judah says in the name of R. Simeon: [The mixture of] meat and milk is forbidden to be eaten but it is permitted for general use since [Scripture says]: For thou art a holy people unto the Lord thy God.<sup>1</sup> And, in another place, Scripture says: And ye shall be holy men unto Me.<sup>2</sup> As in that case,<sup>3</sup> it is forbidden to be eaten but it may be used generally, so here [in connection with the mixture of meat and milk] it is forbidden to be eaten but it may be used generally! —

R. Simeon gives one [reason] and still another [reason]. One [reason why it should receive the uncleanness of food is because it is a food] which can be given to gentiles. And still another [reason], because for [the Israelite] himself, too, there was a time [before its boiling] when it was fit to receive uncleanness.<sup>4</sup> Now,<sup>5</sup> if there is any substance in the opinion that after the ass's neck is broken it is permitted according to R. Simeon to be used, let the above [Baraita] state: But R. Simeon agrees in connection with the first-birth of an ass<sup>6</sup> and [the mixture of] meat and milk that they receive the Levitical uncleanness relating to food? —

[No]. If one had formed the intention [of using the ass as food], it would be so [as you argue]<sup>7</sup> We are dealing here, however, in a case where he had not formed such an intention.<sup>8</sup> And what is then the reason that [the majority of] the Rabbis, [R. Simeon's disputants], make it receive uncleanness? —

Rabbis said the following in the presence of R. Shesheth: [The reason is that] its



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prohibition [by Scripture] renders it important [to be regarded as food].<sup>9</sup> But, do we say according to the Rabbis that the reason is, since its prohibition renders it important? Have we not learnt [in a Mishnah]: Thirteen things were said with reference to the carcass of a clean bird, and this is one of them: it requires the intention [to be used as food],<sup>10</sup> but it does not need to be rendered fit [to receive uncleanness].<sup>11</sup> Now, if its prohibition signalizes it [as food] [to receive uncleanness], what need is there for the intention of using it as food? — [The Mishnah just quoted] represents the opinion of R. Simeon.

Come and hear: ‘The carcass of an unclean animal in all places, and the carcass of a clean bird and the fat [of the carcass of a clean animal] in the villages,<sup>12</sup> require the intention [of being used as food in order to receive uncleanness], but they do not need to be rendered fit [to receive uncleanness].<sup>13</sup> Now, if you say that its prohibition renders it important [to receive uncleanness], what need is there for the intention [of using it as food]? — This, [too], represents the opinion of R. Simeon.

Come and hear: The carcass of a clean animal<sup>14</sup> in all places,<sup>15</sup> or the carcass of a clean bird, or the fat [of a ritually slaughtered animal] in market places,<sup>16</sup> do not require the intention [of being used as food]. Nor do they need to be rendered fit [to receive uncleanness of food].<sup>17</sup> This implies that an unclean animal does require the intention [of using it as food in order to receive uncleanness].<sup>18</sup> And should you say that this too represents the opinion of R. Simeon; surely since the second part [quoted below] is the opinion of R. Simeon, then the first part cannot be according to the opinion of R. Simeon. For the second part states: R. Simeon says: Also a camel, hare, rock-badger and swine, do not require the intention [of using them as food in order to receive uncleanness], nor need they be rendered fit [to receive uncleanness]. And R.

Simeon [further] explained. What is the reason? Since [these animals mentioned] have marks of a clean animal!<sup>19</sup>—

No, said Rabbah: All [the authorities mentioned] agree that we do not say that its prohibition [by the Scriptures] renders it important [to receive the uncleanness relating to food]. And [as to your question, what is the reason of the Rabbis]? If the ass's neck has been broken, it would really be so.<sup>20</sup>

(1) Deut. XIV, 21, which is followed by the prohibition of seething a kid in its mother's milk.

(2) Ex. XXII, 30, in connection with the prohibition of Trefah (ritually forbidden food).

(3) In the Scriptural verse: And ye shall be holy, etc. referring to Trefah which may be used for general purposes as stated in the context: Ye shall cast it to the dogs.

(4) Unlike the case of the ox and heifer mentioned above, since they have a forbidden status when alive.

(5) Rabbah continued his argument.

(6) Since it can be given to gentiles for food. Hence Rabbah concludes that even R. Simeon admits that an ass whose neck was broken because its owner failed to redeem it, is forbidden to be used.

(7) That the ass with a broken neck would have received the uncleanness relating to food.

(8) And that is the reason why the Baraita does not include the case of an ass in the statement of R. Simeon as receiving the uncleanness of food, for ordinarily, without expressing the intention of regarding it as food, it is not considered as such.

(9) The very prohibition which Scripture imposes upon it indicates that it is food fit for gentiles to eat, otherwise, Scripture would not have considered it of sufficient importance to forbid it and, therefore, it receives the uncleanness relating to food even without the express intention of using it as such.

(10) And if a dead reptile touched it and, in turn, it touched other food, it renders the latter unclean. This intention of using it as food is necessary, as the carcass of a clean bird has no uncleanness of touch, for it conveys uncleanness only in the gullet in the process of eating. Or, in the case where it is less in size than an olive and consequently there is no uncleanness as regards Nebelah, it combines with other foods to make up the required size of an egg, in order to receive food uncleanness when it comes in contact with a dead reptile.

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(11) Like seeds, by having water poured on it, since it already possesses a more stringent uncleanness by causing uncleanness to man and garments by eating it; v. Nid. 50b, Zeb. 105b.

(12) In the villages, where the inhabitants are poor and are not accustomed to eat birds or fat, the intention of using these as food to be given to gentiles is necessary before it can receive the uncleanness relating to food. With reference also to the carcass of a forbidden animal, the intention of using it as food is also necessary, for the reason that it is loathsome and, ordinarily, is not considered food even for gentiles.

(13) 'Uk. III, 3.

(14) I.e., one which had not been ritually slaughtered.

(15) It is usually given to gentiles as food, for it is not loathsome and therefore it does not require the intention of using it as food.

(16) I.e., the towns, containing many people of means who are accustomed to eat birds or fat so that these are usually considered food.

(17) The carcass of a clean animal, because its uncleanness is of a more stringent character, and the fat, because the very act of ritual slaughter has made it fit to receive uncleanness, since the intention of using it as food is not required, v. *ibid.*

(18) And we do not maintain that its prohibition renders it important to receive food uncleanness, without the intention being expressed using it as food.

(19) Therefore the first passage with reference to the carcass of an unclean animal, etc. requiring the intention of being used as food, must be in accordance with the view of the Rabbis., Hence we infer that the Rabbis do not hold that its prohibition marks it out as fit to receive food uncleanness and therefore the Baraitha quoted above by Rabbah, where the Rabbis say that the first-birth of an ass receives the uncleanness relating to food, must deal with a case where he expressed the intention of Using it as food. And R. Simeon maintains that it does not receive uncleanness, because it is food which cannot be given to a gentile to eat, I.e., It is forbidden to be used. Rabbah consequently is able to deduce from this that an ass which had its neck broken because it was not redeemed is forbidden to be used.

(20) That the Rabbis would agree that it does not receive the uncleanness relating to food, since he had not intended to use it as food.

therewith [to kill ritually],<sup>1</sup> and the difference here corresponds to the difference of opinion of Nimos and R. Eleazar. For it has been taught: R. Jose said: Nimos the brother of Joshua the grist-maker told me that if one killed a raven ritually in order to practice therewith, its blood renders food fit [to receive uncleanness].<sup>2</sup> [R. Eleazar] says: The blood of shechitah<sup>3</sup> always renders fit [to receive uncleanness]. Now is not [R. Eleazar's] opinion identical with the first Tanna?

We must suppose then that the difference between them is whether its prohibition<sup>4</sup> renders it important [as fit to receive uncleanness]? The first Tanna holds: Its blood renders it fit [for conveying uncleanness] to other [food], but as regards [the raven itself], it requires the intention [of being used as food].<sup>5</sup> Upon which [R. Eleazar] remarks: The blood of Shechitah always renders it fit [to convey or receive uncleanness] and as regards the [raven] itself too, it does not require the intention [of using it as food] in order to receive [Levitical uncleanness]. But how do you know [this]? Perhaps the reason of R. Eleazar there,<sup>6</sup> is because the case of a raven is different, since it has marks of cleanness.<sup>7</sup> And how do we know that marks of cleanness are of importance? —

Because it says in connection with the Baraitha above,<sup>8</sup> R. Simeon said: What is the reason? Since it has marks of cleanness. And should you object that if the reason is because of the marks of cleanness, why should it say [according to R. Eleazar] [that he killed the raven] in order to practice, since even if he unintentionally ritually killed it, the case should also be identical; the answer is, Yes, it is so, but it is on account of Nimos [that it does not state this].<sup>9</sup>

Abaye<sup>10</sup> raised the following objection.<sup>11</sup> If he did not wish to redeem [the ass], he breaks its neck with a hatchet from the back

## Bechoroth 10b

But here we are dealing with a case where e.g., he ritually killed [the ass] to practice

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and buries it, and it must not be used. These are the teachings of R. Judah. But R. Simeon permits it [to be used]?<sup>12</sup> —

Explain [in the following manner]: When alive it is forbidden to use [the first-birth of an ass], but R. Simeon permits this. But since the second part [of the above passage] refers to it when alive, then the first part must refer to it when it is not alive? For the second part states: 'He must not kill [the ass] with a cane, nor with a sickle, nor with a spade, nor with a saw. Nor may he let it enter an enclosure and lock the door on it, in order that it may die. And it is forbidden to shear it or to work with it. These are the teachings of R. Judah. But R. Simeon permits this'! —

The first and the second parts [we may explain] both refer to an ass when alive. The first part, however, refers to monetary benefit,<sup>13</sup> and the second part refers to the benefit derived from its body.<sup>14</sup> [And both parts] require [to be stated]. For if we had only the part referring to monetary benefit, I might have assumed that in that peculiar case R. Simeon permits, whereas with regard to the benefit derived from its body, I might have said that he agrees with R. Judah. And if we had only the part referring to the benefit derived from its body, I might have supposed that R. Judah forbids in that particular case, whereas in the case of monetary benefit, I might have said that he agrees with R. Simeon. [Therefore both parts] are necessary.

And so R. Nahman reported in the name of Rabbah, the son of Abbuha: R. Simeon agrees that after the neck has been broken it is forbidden to be used. And R. Nahman said: On what evidence do I say this? Because it has been taught, [Scripture says]: Then thou shalt break its neck.<sup>15</sup> Here [the word] "arifah"<sup>16</sup> is used and above<sup>17</sup> [the word] "arifah" is used; just as above it is forbidden to be used, so here also it is forbidden to be used. Whose opinion does

this represent? Shall I say it is according to the opinion of R. Judah? Surely he prohibits it even when alive, Must you not therefore admit that it is the opinion. of R. Simeon?<sup>18</sup> —

Said R. Shesheth to him: Safra our fellow-student interpreted it as follows: [The above Baraita] can still be the opinion of R. Judah, and yet there is need [for stating it]. I might have assumed that since 'arifah' stands in the place of redemption, as redemption makes it permissible [to be used], so "arifah" is permitted. He consequently informs us [that it is not so]. Said R. Nahman: On what evidence do I say this?<sup>19</sup> From what R. Levi taught, The Israelite causes a monetary loss to the priest;<sup>20</sup> therefore he should suffer a monetary loss.<sup>21</sup> Whose opinion does this represent? Shall I say that it is the opinion of R. Judah? Surely his loss is of long standing!<sup>22</sup> [Must we not therefore admit] that it is the opinion of R. Simeon? —

If you choose I may say it is the opinion of R. Judah, and, if you choose, I may say that it is the opinion of R. Simeon. If you choose I may say that it is the opinion of R. Judah, and he speaks of the loss entailed in the difference.<sup>23</sup> And if you choose I may say that it is the opinion of R. Simeon, and he speaks of the loss incurred by its death.<sup>24</sup> And so did Resh Lakish say: R. Simeon agrees that the ass after its neck has been broken is forbidden to be used. But R. Johanan, (or as some say, R. Eleazar) says: The difference between the Rabbis and R. Simeon still prevails even in such circumstances.<sup>25</sup> Some report this, R. Nahman's ruling,<sup>26</sup> in connection with the following: If one betrothed a woman with the first-birth of an ass, she is not betrothed.<sup>27</sup> Are we to say that the Mishnah is not according to the opinion of R. Simeon? —

R. Nahman reported in the name of Rabbah the son of Abbuha: [The Mishnah refers to a

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case] where the neck had been broken and therefore agrees with all the authorities concerned. Some there are who Say: Whose opinion does this represent? Neither the opinion of R. Judah nor that of R. Simeon. For if it is the opinion of R. Simeon, let her become betrothed with the whole value of the ass.<sup>28</sup> And if it is the opinion of R. Judah, let her become betrothed with the difference!<sup>29</sup> —

Said Rabbah b. Abbuha in the name of Rab: [The Mishnah] can still be the opinion of R. Judah, e.g., where the ass was of the value only of a shekel;<sup>30</sup> and he holds according to the view of R. Jose b. Judah. For it has been taught, [Scripture says]: ‘Thou shalt redeem’... ‘Thou shalt redeem’.<sup>31</sup> [One text] ‘Thou shalt redeem’ intimates immediately,<sup>32</sup> [and the other text] ‘Thou shalt redeem’ intimates with whatever value.<sup>33</sup> But R. Jose b. Judah says: There can be no redemption with less than the value of a shekel.<sup>34</sup> The Master said. [Scripture says]: “Thou shalt redeem, . . . Thou shalt redeem”. [The one text] “Thou shalt redeem” intimates immediately [and the other text] “Thou shalt redeem” intimates with whatever value’. Is not this obvious?<sup>35</sup> —

It is necessary [to state it]. I might have assumed that since an unclean animal is compared with the first-born of a man,<sup>36</sup> just as in the case of a first. born of a man the redemption takes place after a period of thirty days and with the sum of five sela's,<sup>37</sup> so here also the redemption should take place after a period of thirty days and with the sum of five Sela's. [Therefore Scripture states]: ‘Thou shalt redeem, viz, immediately, ‘Thou shalt redeem’, viz., with whatever value.

‘R. Jose b. Judah says: There is no redemption with less than the value of one shekel’. But which way do you take it; if R. Jose compares an unclean animal with the first-born of a man, then the sum of five

Sela's is required for redemptions and if he does not compare [an unclean animal with the first-born of a man], whence does he derive that the redemption is with a shekel?—

In fact he does not compare [an unclean animal with the first-born of a man]; [yet] said Rabba: Scripture says: And all thy valuations shall be according to the shekel of the Sanctuary,<sup>38</sup> intimating that any valuations which you assess shall be no less in value than a shekel. And the Rabbis [who differ with R. Jose], what say they? —

- (1) But not for the purpose of eating therefrom.
- (2) If the blood fell on food or vegetables. And certainly this would be the case if he killed it ritually in order to eat therefrom; its blood would render itself and other food fit to receive Levitical uncleanness.
- (3) The act of ritual slaughter of an animal or bird.
- (4) The prohibition referred to here in the context must be understood to mean the fact that it was not a proper Shechitah, in the sense that it was not being killed for eating purposes but merely in order to practice.
- (5) For its prohibition does not render it fit to receive uncleanness and its Shechitah here is of no importance to cause it to be considered as food. R. Simeon, therefore, holds as regards the first-birth of an ass which was ritually killed, according to the view of Nimos that it does not receive the uncleanness of food, and the Rabbis agree with the opinion of R. Eleazar that the ritual killing, in itself, causes it to be regarded as food, without the express intention of regarding it as such.
- (6) In the passage quoted above where R. Eleazar differs with Nimos in connection with a raven ritually killed for practice.
- (7) A raven has a crop, which is one of the signs of a clean bird, and, therefore, it is considered as food as regards Levitical uncleanness. But in the case of the first-birth of an ass, which does not possess any marks of cleanness, unless he intended to use it as food, the Rabbis would not hold that it receives the uncleanness pertaining to food, and R. Simeon would maintain that even if he had thought of it as food, it receives no uncleanness, owing to the fact that it is forbidden to be used after its neck has been broken.
- (8) A carcass of a clean animal in all places, etc.
- (9) To inform us that according to Nimos, although there was a deliberate ritual killing for



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practice purposes, nevertheless the raven itself does not receive the uncleanness relating to food. But as regards R. Eleazar, it is true that even if the raven was killed unintentionally, (the intention having been to cut some other object), the blood renders other food fit to receive uncleanness, and the raven itself also receives uncleanness. Consequently, you cannot explain the difference between the Rabbis and R. Simeon on the basis of the difference of Nimos and R. Eleazar. Therefore, the difference of the former disputants refers to the case where the ass's neck was broken, and the reason why R. Simeon maintains that it is not clean is because, as Rabbah explains, it is forbidden to be used.

(10) Inserted from Sh. Mek.

(11) Referring to the ruling of Rabbah concerning the ass which had its neck broken and which is forbidden to be used, for any purpose.

(12) Therefore we derive from here the reverse of the ruling of Rabbah.

(13) If he hired or sold it to others.

(14) I.e., the shearing and the working with it.

(15) Ex. XIII, 13.

(16) Indicating the broken neck of the first-birth of an ass.

(17) In connection with the ceremony of the heifer, whose neck was broken when an unknown man's body was found dead.

(18) We therefore see here that R. Simeon agrees that it is prohibited after its neck is broken.

(19) That R. Simeon agrees that it is forbidden for all use after its neck is broken.

(20) By not redeeming the ass with a lamb and giving it to the priest.

(21) The Beth din should therefore compel him to have its neck broken after thirty days.

(22) Even when the ass was alive it was forbidden to be used according to R. Judah.

(23) Between its value when alive and dead. For whereas when it was alive, although forbidden to be used, it could be redeemed, now he loses everything.

(24) For being dead it can only be given to dogs to eat and therefore, there has been a considerable loss.

(25) Where the neck of a first-born of an ass was broken.

(26) That after the ass's neck had been broken it was forbidden to use it and this was expressed not as separate and independent ruling but with reference to the following Mishnah.

(27) Kid. 56b.

(28) For the whole of it may be used.

(29) The difference between the ass of the value of a shekel and a sheep even of the value of a danka i.e., a sixth of a dinar.

(30) And the sheep being not less in value than a shekel as stated below, there is no difference in value between it and the ass in order that a woman may be betrothed thereby.

(31) Ex. XIII, 13. There is a repetition of the text.

(32) Before the period of thirty days has elapsed.

(33) There is no fixed sum and redemption may therefore be carried out even for less than a shekel or sela'.

(34) The sheep must therefore possess at least the value of a shekel, so that there is no surplus left to effect a betrothal.

(35) For Scripture does not mention that redemption commences when the ass is a month old nor does it say that the lamb must be of some specific value.

(36) Howbeit the first-born of man shalt thou surely redeem and the firstling of unclean beasts shalt thou redeem. Num. XVIII, 15.

(37) A sela' is a coin equal to two common shekels.

(38) Lev. XXVII, 25.

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That [verse] refers to the amount of one's means.<sup>1</sup> Said R. Nahman: The Halachah is according to the teachings of the Sages.<sup>2</sup> And how much [must be the value of the lamb]? —

Said R. Joseph: Even a puny lamb worth no more than a dank,<sup>a.3</sup> Said Raba: We have learnt this too: [The lamb for redemption can either be] large or small, without a blemish or blemished. Is this not evident?<sup>4</sup> — You might have assumed that to that extent [i.e., that of a puny lamb, etc.] it is not an adequate redemptions or indeed [which would be better], a puny lamb is not [an adequate redemption at all].<sup>5</sup> [R. Joseph consequently] informs us [that it is an adequate redemption].

R. Judah the Prince had a first-birth of an ass. He sent it to R. Tarfon.<sup>6</sup> He asked him, 'How much am I required to give the Priest?' He replied to him 'Behold the Rabbis said: The liberal person redeems with a sela' [four Zuz], the stingy person redeems with a shekel [two Zuz], an average person redeems with a rigia.

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Said Raba: The law [requires redemption] with a rigia. And how much is this? Three Zuz, less than one and more than the other.<sup>7</sup> Does not this ruling contradict the above?<sup>8</sup> There is no difficulty.<sup>9</sup> [We are dealing] here with the case when one comes to seek advice and the case there is where he redeems of his own accord.<sup>10</sup>

R. Isaac reported in the name of Resh Lakish: If one possesses a first-birth of an ass and he has not a lamb with which to redeem it, he redeems it for its equivalent value. According to whose opinion is this? Shall I say it is according to R. Judah?<sup>11</sup> Did he not say that the Torah was particular that the redemption must be with a sheep? You must then say it is according to the view of R. Simeon.<sup>12</sup> R. Ahah stated it thus.

Rabina found a difficulty: [In a difference between] R. Judah and R. Simeon, the law is according to R. Judah; moreover, the Tanna [of our Mishnah]<sup>13</sup> states the law anonymously in the sense of R. Judah; and still you declare the Halachah is according to R. Simeon? But [rather say] that [R. Isaac's statement] accords even with the opinion of R. Judah. For let not [the redemption of the first-birth of an ass] be more stringent than other consecrated objects.<sup>14</sup> Moreover the Torah did not propose [by the law of redeeming] with a lamb to make it severe for him,<sup>15</sup> but, on the contrary, to make it easier for him.<sup>16</sup>

R. Nehemiah the son of R. Joseph redeemed the first-birth of an ass with boiled herbs of its equivalent value.

R. Shizbi reported in the name of R. Huna: If one redeems the ass of his neighbor, it is a valid redemption. The question was raised: Is it a valid redemption as regards the person who redeems it,<sup>17</sup> or does it mean that it is a valid redemption as regards the owner?<sup>18</sup> According to the opinion of R. Simeon, there is no need to inquire, for, since he says that it is permitted to use the

first-birth of an ass, it is the owner's money.<sup>19</sup> The question does arise, however, according to the opinion of R. Judah who says that it is forbidden to use it. Does he compare it with a consecrated object concerning which the Divine Law says: And he shall give money and it shall be assured to him?<sup>20</sup> Or, perhaps since the owner possesses the difference [between the value of the ass and a sheep], it is not compared with a consecrated object?<sup>21</sup> —

Said R. Nahman: Come and hear: 'If one stole the first-birth of an ass belonging to his neighbor, he pays double to the owner, for although he does not possess [the rights of ownership] now, he will possess subsequently.'<sup>22</sup> Now, whose opinion does this represent? Shall I say that it is the opinion of R. Simeon? Why has he no rights of ownership now? Then obviously, it must be the opinion of R. Judah. Now if you were to assume that we compare it with a consecrated object, does not the Divine Law say: And it be stolen out of a man's house,<sup>23</sup> implying, but not from the possession of the sanctuary?<sup>24</sup> And there is nothing more to be said.

IF ONE SHE-ASS HAD GIVEN BIRTH BEFORE AND ONE HAD NOT GIVEN BIRTH BEFORE, etc. Our Rabbis taught. Under what circumstances did the Sages rule that IT ENTERS THE SHED TO BE TITHED? You cannot say that it means where the lamb came into the possession of the priest, [and then it was returned to the Israelite],<sup>25</sup> for we have learnt: An animal purchased, or which is given to him as a gift, is exempted from the law of the tithes of animals.<sup>26</sup> This must refer then to the case of an Israelite who had ten uncertain first births of asses<sup>27</sup> in his house. He sets aside on their behalf ten lambs, [makes them enter the shed],<sup>28</sup> tithes them, and they are his. [This] supports the opinion of R. Nahman.

For R. Nahman reported in the name of Rabbah the son of Abbuha: If an Israelite

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had ten uncertain first-births of asses, he sets aside on their behalf ten lambs, tithes them and they are his. R. Nahman further reported in the name of Rabbah the son of Abbuha: If an Israelite has ten asses, distinctly first-births, in his house, which fell to him [as an inheritance] from his maternal grandfather, a priest, to whom this inheritance had fallen from his maternal grandfather, an Israelite,<sup>29</sup> he sets aside<sup>30</sup> ten lambs, tithes them and they are his.<sup>31</sup>

R. Nahman [further] reported in the name of Rabbah the son of Abbuha: If an Israelite who possessed tebel<sup>32</sup> evenly piled up; in his house, which fell to him [as an inheritance] from his maternal grandfathers a priest, to whom it had fallen from his maternal grandfather<sup>33</sup> an Israelite, he tithes it and it is his.<sup>34</sup> And it was necessary [to teach both cases]. For had R. Nahman taught only the first case, [I might have assumed that the reason was] because it was already set aside.<sup>35</sup> But, here, in the second case, since gifts for the priest, which have not yet been taken [by the priest] are not considered as having been given, I might have said it is not so.<sup>36</sup> And if he had only taught the second case, [I might have assumed that the reason why the tithes are his] is because it is possible to tithe Tebel as it is, for it lies [in one place],<sup>37</sup> but in the other case, since the lamb comes from another place, we do not say that it is as if it were already set aside,<sup>38</sup> and therefore I might have said that it was not [as stated]. It was therefore necessary [to state both cases].

R. Samuel b. Nathan reported in the name of R. Hanina: If one who buys untithed grain

(1) A man who says 'I vow my own value' or according to Rabbenu Gershom, the value of a specified persona Scripture informs us here that we do not accept the valuation if his means are less than one shekel. But as regards the redemption of the first-born of an ass, redemption may be with whatever value, however small.

(2) That its redemption with a sheep may be of any value no matter how insignificant.

(3) A small Persian coin, the value of a sixth of a dinar (Rashi), or, a sixth of a shekel (R. Gershom).

(4) That a puny lamb is adequate for redemption, since the Rabbis state above that it can be of any value whatever.

(5) For although a small lamb may be an adequate redemption, a lean lamb is not.

(6) Who was a priest.

(7) One Zuz less than a sela' which is the redemption of a liberal person and one more Zuz than that of a stingy person, i.e., three Zuz. Lit., 'running this way and running that way'.

(8) The above ruling that the law is according to the Sages who hold that even the worth of a danka is sufficient for redemption.

(9) How much should be given to the priest. We accordingly advise him to give three Zuz.

(10) When he redeems the first-birth of an ass even with a lamb worth a danka, we do not compel him to give something of greater value.

(11) This questioner quotes the view of R. Judah, which was mentioned above in the first instance, although it is not the final conclusion, namely, that only with a lamb can it be redeemed but not with any other object.

(12) Who does not mention when giving his reason for the view he holds that the Torah was particular that the redemption must be with a sheep, thus implying that the first-birth of an ass may also be redeemed with its equivalent value.

(13) Stated above, that the Israelite sets aside a lamb in order to release the first-birth of an ass from the prohibitions attaching to it, which is the opinion of R. Judah.

(14) Which are redeemed with their equivalent value.

(15) I.e., that only with a lamb is he allowed to redeem the ass.

(16) If he wished to redeem it with a lamb, even a puny one, it is an adequate redemption. But he need not necessarily redeem with a lamb.

(17) The person who redeems acquires the first-birth of the ass in virtue of the redemption.

(18) The ass is redeemed, but the first-birth belongs to the owner. The person who redeems, consequently, is unable to dispose of it.

(19) And the person who redeemed it cannot sell it and is not reimbursed.

(20) Lev. XXVII, 19. The verse is given here in an abbreviated form, the full verse being Then he shall add a fifth part of the money and it shall be assured to him. V. Tosaf. on Shab. 128a, ונתן.

(21) And since a portion of it is the owner's money, if he redeems it, we account the whole of it as belonging to him.

(22) After its redemption it will be his money.

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(23) Ex. XXII, 6.

(24) Since, therefore, he pays double for the stolen first birth of an ass, we infer that it is not compared with a consecrated object.

(25) Either in the form of a gift or it was sold to him.

(26) V. infra 55b.

(27) E.g., where he had ten she-asses and each gave birth to a male and a female and there was a doubt whether the males were born before the females. Ten sheep are therefore set aside on their behalf to release them from the prohibitions attaching to the first-birth of asses and these are unconsecrated animals, to be tithed in the ordinary manner. The same principle also applies to two or three uncertain first-births, but the reason why it mentions ten uncertain first-births is to inform us that although in the latter case they are entitled to be tithed on their own account, we still set aside the ten lambs to be tithed among the others in the shed.

(28) Supplemented from R. Gershom.

(29) These are certainly subject to the law of redemption, since they were born in the Israelite's possession.

(30) To redeem them from their prohibition as first-births.

(31) The present Israelite does exactly what the priest would have been required to do. As the priest who inherited from the Israelite would have been required to set aside the lambs on behalf of the first-births of the asses, since they were born in the possession of the Israelite, the present Israelite does the same. And just as the priest would have kept the lambs for himself, being a priest, so the Israelite who inherited from the priest retains these for himself, for it is as if the priest had bequeathed the lambs to him.

(32) Fruits or grain before the separation of the priestly and Levitical dues.

(33) The even piling up or storing of the grain is the finishing touch which prepares it for tithing.

(34) He must give the tithe because it belonged to an Israelite and still belongs to an Israelite. But it is retained by him, since it came to him from a priest and therefore he sells the priestly gift to a priest and the tithes to a Levite.

(35) The lambs and the asses belong to different species and nothing special is required to be done; therefore it is as if the asses and the lambs had fallen to him from his maternal grandfather, a priest, already separated.

(36) And the tithes must be given to the priest. He therefore teaches us that the tithes belong to him and that he need not give the tithes to the priest.

(37) With the parts to be separated, and therefore it is considered as if it had been already separated and tithed and in the priest's possession, before it fell to the Israelite.

(38) For it requires a special action to bring the lamb in order to redeem whereas in the case of Tebel, no effort is necessary.

## Bechoroth 11b

evenly piled up from a gentile, he tithes it and it is his.<sup>1</sup> Who piled it up? Shall I say that a gentile piled it up? Surely the text says, 'thy corn' implying, but not the corn of a gentile?<sup>2</sup> Rather we are dealing here with a case where the Israelites piled it up in the domain of a gentile.<sup>3</sup> 'He tithes it', because a gentile has not the right of possession in Palestine to release [produce] from the obligation of tithing. 'And it is his', because he says to the priest, 'I have acquired my rights from a man with whom you cannot go to law'. We have learnt elsewhere: If a man deposits his fruits with a Cuthean,<sup>4</sup> or with an 'am ha-arez,<sup>5</sup> it may be presumed that they retain their former condition in respect of tithes and the sabbatical year,<sup>6</sup> but if with a gentile, they are like [the gentile's] fruits.<sup>7</sup>

R. Simeon says: They are dem'ai.<sup>8</sup> Said R. Eleazar: That [the priest's share] should be set aside all the authorities mentioned agree. Where they differ is on the question whether to give it to the priest. The first Tanna [mentioned] holds that he has certainly changed them and therefore he must give the priestly share to the priest, whereas R. Simeon maintains that they have the law of Dem'ai.

R. Dimi was once sitting and repeating this teaching. Said Abaye to him: The reason is because we are in doubt whether he changed them or not. But if he certainly changed the fruits, all the authorities [mentioned] would agree that he is required to give the priestly share to the priest, would they not? But surely did not R. Samuel report in the name of R. Hanina: If one bought untithed grain from a gentile piled up [in proper shape], he gives tithes and it is his? — Perhaps [he replied], the one<sup>10</sup> refers to great Terumah, and R. Samuel's report refers to the Terumah of the tithe!<sup>11</sup>



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[Said Abaye], This indeed reminds me of something [which supports your very explanation]. For R. Joshua the son of Levi said: Whence do we derive that a purchaser of untithed grain from a gentile piled up in proper shape is exempt from the Terumah of the tithe? Because Scripture says: Moreover thou shalt speak unto the Levites and say unto them, when ye take of the children of Israel.<sup>12</sup> [We infer that] from the untithed grain which you buy from the children of Israel, you separate the Terumah of the tithe and give it to the priest. But from untithed grain which you buy from a gentile you do not separate Terumah of the tithe and give it to the priest.

**AND IF IT DIED, HE BENEFITS THEREFROM.** In what circumstances are we to suppose it to have died?<sup>13</sup> Shall I say that it died in the possession of the priest and that he is permitted to benefit therefrom? This is obvious, since it is his own money. Again, if it means that it died in the possession of the owner and that he [the priest] is permitted to benefit therefrom, this too is obvious! — I might have assumed that as long as the animal has not reached the priest's hands, the latter does not really possess it. [The Mishnah] accordingly informs us that from the time that [the Israelite] has set it aside, it stands in the domain of the priest.

(1) And the priest's share of the crop he sells to a priest.

(2) What the Israelite stores and evenly piles up becomes subject to the priestly contribution, but not what is stored by a gentile. The text is in Deut. XIV, 23 and also in Deut. XVIII, 4.

(3) Where the Israelite is a tenant in a gentile's field, for which he takes a share of the produce, and the Israelite stored up the grain, R. Hanina therefore means by the words: 'One who buys untithed grain, etc.' that the Israelite acquired it by virtue of his labor for him. Another explanation is that the Israelite bought the corn in the ear, and afterwards stored it up in the gentile's domain. (Tosaf.).

(4) Samaritan.

(5) V. Glos. A person suspected of not observing certain customs regarding tithes.

(6) We do not fear lest the fruits are not the same as those deposited and therefore are untithed. And, with reference to the sabbatical year, if he deposited with them the fruits of the sixth year and they are returned in the sabbatical year, we do not fear that the fruits returned have been exchanged and that, actually fruits of the sabbatical year are being restored, which fruit must not be sold and which require removal from the house after the fruits of the field have been consumed by the beasts.

(7) They are considered gentile's fruits, for we say that they have been undoubtedly exchanged.

(8) Fruits concerning which there is a suspicion as to the tithes being properly taken therefrom and, owing to this doubt, must be tithed, v. Dem'ai III, 4.

(9) The share of the priest from the fruits and grain. It is called 'great Terumah', since it is the first sacred gift to be set aside and, also, to distinguish it from the Terumah of the tithe, mentioned below.

(10) The teaching reported by R. Dimi from which Abaye made his deduction.

(11) The tithe of the tithe, which the Levite owes to the priest.

(12) Num. XVIII, 26.

(13) A physical disability of the animal, which renders it forbidden to be eaten.

## Bechoroth 12a

**MISHNAH.** WE DO NOT REDEEM A FIRST-BIRTH OF AN ASS EITHER WITH A CALF, A BEAST OF CHASE, AN ANIMAL RITUALLY KILLED,<sup>1</sup> A TREFAH, KIL'AYIM<sup>2</sup> OR A KOY.<sup>3</sup> R. ELIEZER PERMITS HOWEVER [REDEMPTION] WITH KIL'AYIM BECAUSE IT IS ALSO DESCRIBED AS A LAMB. BUT HE FORBIDS WITH A KOY, BECAUSE ITS NATURE IS DOUBTFUL. IF HE GAVE [THE FIRST-BIRTH OF AN ASS] ITSELF TO THE PRIEST, THE LATTER MUST NOT RETAIN IT, UNLESS HE SETS ASIDE A LAMB IN ITS PLACE.

**GEMARA.** Whose opinion does the Mishnah represent? It is that of Ben Bag Bag. For it has been taught: We read here, [in connection with the redemption of a first-birth], the word, lamb,<sup>4</sup> and we read elsewhere, [with reference to the Paschal-

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offering] the word, lamb,<sup>5</sup> just as there [Scripture] excludes all those named [in the Mishnah above as unsuitable for the Paschal-offering],<sup>6</sup> so here also, it excludes all those named [as unsuitable for the object of redeeming]. [Now you might assume that] just as the Paschal-offering must be a male, without a blemish, and a year old, similarly here, [in connection with the redemption of the first-birth of an ass] it must be a male, without a blemish, and a year old. The text therefore states: ‘Thou shalt redeem’, [and repeats], ‘Thou shalt redeem’ to include [even other than a male, etc.]. Now if the repetition: ‘Thou shalt redeem’, ‘Thou shalt redeem’, has for its purpose to include, then why not include also all those [animals named in the Mishnah, as being unsuitable to redeem]?—

If this were so, what is the use of [the analogy above between the words], ‘lamb’, ‘lamb’? The question was raised: What is the ruling as regards redeeming a first-birth with a ben peku'ah?<sup>7</sup> According to the opinion of R. Meir, there is no need for you to ask, for since R. Meir said: ‘A ben peku'ah requires ritual slaughter’, it is a perfect lamb. But the question does arise according to the opinion of the Rabbis, who hold that its mother's slaughtering makes it permitted to be eaten [without slaughtering] ‘so that it is like flesh in the pot.’<sup>8</sup> Or are we to say that since at the moment it runs and walks, we can describe it as a lamb?<sup>9</sup> —

Mar Zutra said: We do not redeem [with it]. Said R. Ashi to Mar Zutra: What is your reason? Is it because you infer this from the Paschal-offering, [which cannot be a hen peku'ah]? Then why not say also, that as in the case of the Paschal-offering it must be a male, without a blemish, and a year old, so here [the animal for redeeming] must be a male, without a blemish and a year old? —

[The text]: ‘Thou shalt redeem’ [and its repetition], ‘Thou shalt redeem’, includes [even other than a male, etc.]. But if the

repetition: ‘Thou shalt redeem’, ‘Thou shalt redeem’, has for its object to include, then why not include also ben peku'ah? If so, what need is there [for the analogy above derived from the words], ‘lamb’, ‘lamb’?<sup>10</sup> The question was raised. What is the ruling as regards redeeming the first-birth of an ass with a nidmeh?<sup>11</sup> You cannot ask according to R. Eliezer, for since according to him we may redeem with Kil'ayim, how much more so with a nidmeh?<sup>12</sup> The question does arise, however, according to the opinion of the Rabbis: Do we say that we are forbidden to redeem with Kil'ayim, but we may redeem with a nidmeh? Or perhaps, there is no difference, [and in both cases we are forbidden to redeem with them]?

Come and hear. ‘If a cow gave birth to something looking like a kid, we do not redeem [with it].<sup>13</sup> From this we infer that if a ewe gave birth to what looks like a kid, we do redeem [with it]. Now whose opinion does this represent? Shall I assume it is the opinion of R. Eliezer? But do we not also redeem with Kil'ayim [according to him]?<sup>14</sup> You must then say that it is the opinion of the Rabbis!<sup>15</sup> —

No. You can still maintain that it is the opinion of R. Eliezer; and he teaches us this very thing,<sup>16</sup> that if a cow gave birth to what looked like a kid, we do not redeem with it, and that you should not say, ‘decide according to the offspring itself’, and this is a genuine kid, but we rather say, ‘decide according to its mother’, and therefore it is a calf.

Come and hear: For Rabbah b. Samuel learnt: What is Kil'ayim? A ewe which gave birth to something that looked like a kid, though its father was a sheep. If the father was a sheep, is it Kil'ayim? Is it not nidmeh? —

Rather then put it in this way: What is that which is like Kil'ayim, so that the Rabbis have placed it on a par with Kil'ayim? A

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ewe which gave birth to what looked like a kid, though its father was a sheep. Now, for what purpose [does the Baraitha say that we liken nidmeh to Kil'ayim]? If in respect of dedicating it as a sacrifice,<sup>17</sup> surely [this is not necessary, since] from the text from which we derive the exclusion of Kil'ayim [as unsuitable for a sacrifice on the altar], we also derive the exclusion of nidmeh. For it has been taught [Scripture says]: When a bullock or a sheep,<sup>18</sup> intimating the exclusion of Kil'ayim; 'or a goat'<sup>18</sup> intimates the exclusion of nidmeh. Is it then in order [to exclude nidmeh] from the rule of the firstling? Surely the Divine Law says: But the firstling of an ox<sup>19</sup> implying [that it is not subject to the law of the firstling] until the father is an ox and the offspring is an ox, [obviously excluding nidmeh]. Is it then from the rule of tithing [of animals]? The rule for [both nidmeh and Kil'ayim] is expressly derived from the analogy of the words, 'under', 'under' [mentioned in both cases].<sup>20</sup> [You must say that it is] with regard to the first-birth of an ass!<sup>21</sup> —

No.<sup>22</sup> [The comparison of nidmeh with Kil'ayim] can still refer to tithing, and we suppose to a case where the nidmeh possesses certain marks [similar to its mother]. I might in this case assume that we draw an analogy between the 'passing' mentioned [in connection with tithing] and the 'passing' [mentioned] in connection with a firstling.<sup>23</sup> Therefore, we are told<sup>24</sup> that we rather draw the analogy between 'under' mentioned here and 'under' mentioned in connection with consecrated sacrifices.<sup>25</sup>

The question was raised: What is the ruling as regards [redeeming the first-birth of an ass] with dedicated sacrifices which became unfit [for the altar]?<sup>26</sup> This question does not arise if we accept the opinion of R. Simeon, for since he holds that it is permitted to be used [before its redemption], it is unconsecrated.<sup>27</sup> The question does arise, however, according to the opinion of R. Judah, who says that it is forbidden to be

used [before its redemption]. What is the ruling? Since it is forbidden to be used, [do we apply the principle that] one prohibition does not take effect where another prohibition already exists;<sup>28</sup> or perhaps, since [the lamb] does not assume any sanctity,<sup>29</sup> do we say that the redemption has the purpose only of releasing the ass from a mere prohibition?<sup>30</sup> —

Said R. Mari the son of Kahana, And is this which is written in connection with these, As the gaze lie and the hart',<sup>31</sup> a small matter? [Consequently] just as we do not redeem [the first-birth of an ass] with the gazelle or the hart,<sup>32</sup> [being beasts], similarly, we do not redeem with dedicated sacrifices which became unfit for the altar! Now that you have arrived at this conclusion,

- (1) Even a lamb.
- (2) A lamb born from the coupling of a he-goat and a ewe.
- (3) The offspring of a he-goat and a hind. There is, therefore, a doubt whether it is to be considered an animal or a beast.
- (4) Thou shalt redeem with a lamb. (Ex. XIII, 13).
- (5) Your lamb shall be without a blemish, a male of the first year. (Ex. XII, 5).
- (6) A calf and a beast are excluded, because the text says: From the sheep and goats. A ritually slaughtered animal is excluded, because the killing must be specifically for the Passover, and Kil'ayim is forbidden because a Paschal lamb must be suitable for offering on the altar.
- (7) An animal taken alive out of the slaughtered mother's womb.
- (8) It is on a par with a ritually slaughtered animal, and, like the latter, we are not permitted to redeem with it a first-birth of an ass.
- (9) And all those cases enumerated in the Mishnah do not possess the equivalent value of the ass, for otherwise it would be permissible, as mentioned above, to redeem even with boiled herbs.
- (10) And since something must be excluded, we rather include ben peku'ah as unsuitable to redeem with, than the case of a female, etc. since, after all, the latter are lambs, whereas hen peku'ah is like a ritually slaughtered animal.
- (11) An animal suspected to be a hybrid or looking like one. And in this case, although its sire is a ram and its mother a ewe, the offspring looks like some other species.

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(12) If the offspring born from two different kinds of animals is permitted, how much more so this one.

(13) For we say it is a calf, with which, as the Mishnah states above, it is forbidden to redeem.

(14) As stated in the Mishnah above.

(15) Therefore we see that according to the Rabbis it is forbidden to redeem with a nidmeh.

(16) But not to deduce therefrom the ruling as regards redemption with offspring which looked like a kid given birth to by a ewe.

(17) That nidmeh may not be offered up on the altar as Kil'ayim.

(18) Lev. XXII, 27.

(19) Num. XVIII, 17.

(20) It says in connection with dedicated sacrifices: Then it shall be seven days under its dam (Lev. XXII, 27). And in connection with the tithing of animals the text says: Even of whatsoever passeth under the rod (Lev. XXVII, 32). Just as nidmeh and Kil'ayim are invalid to be brought as offerings in the case of consecrated sacrifices, they are similarly unsuitable in connection with the tithing of animals.

(21) And that nidmeh is unsuitable to redeem with, as is the case of Kil'ayim, which answers the above query.

(22) There is no proof from here that the first-birth of an ass can be redeemed with a nidmeh.

(23) 'Even whatsoever passeth under the rod', the text in connection with tithing and the text in connection with the firstling, 'That thou shalt cause to pass (set apart)'. As in the latter case, if it possesses some marks similar to its mother it is liable to the law of the firstling, so too with reference to its tithing.

(24) In the teaching reported by Rabbah b. Samuel.

(25) That we exclude nidmeh from animal tithing, comparing it with Kil'ayim, even in such circumstance.

(26) And had been redeemed. Such an animal even after redemption retains some sanctity in that it may not be used for work and shearing.

(27) I.e., the first-birth of the ass. It can therefore be redeemed, for we apply here the principle that one prohibition cannot take legal hold where another already exists, as there exists no prohibition in the case of a first-birth.

(28) The prohibition attaching to the first-birth of an ass cannot be transferred to a dedicated animal unfit for the altar which is liable to the prohibitions regarding its shearing and working with it.

(29) As a result of the redemption of the first-birth of an ass.

(30) In order to render it permissible to be used, but not that its sanctity shall fall upon the object with which it is redeemed.

(31) Deut. XII, 22 with reference to sacrifices which became unfit for the altar.

(32) Being beasts of chase, v. Mishnah.

## Bechoroth 12b

it may be that even according to the opinion of R. Simeon,<sup>1</sup> [it is forbidden to redeem with it], since the text says in connection with them: 'As the gazelle and the hart'. The question was raised: What is the ruling as regards redeeming with an animal bought with the fruits of the sabbatical year? With reference to an ass, distinctly a first-birth, there is no need for you to ask, since the Divine Law says [that the fruits of the sabbatical year are]: For food,<sup>2</sup> implying, but not to trade therewith.<sup>3</sup> The question does arise regarding the uncertain [first-birth of an ass]. And according to the opinion of R. Simeon you need not ask, because he holds there is no uncertain [first-birth of an ass which requires redemption].<sup>4</sup> The question does arise, however, according to the opinion of R. Judah. What is the ruling? Since he sets aside a lamb and it remains for himself, we can apply to it [the designation]: 'For food'? Or perhaps, since as long as the ass's prohibition is not canceled it is not permitted,<sup>5</sup> it is like trading [with the fruits of the sabbatical year]? —

Come and hear: For R. Hisda said: If an animal has been purchased with the fruits of the sabbatical year, we are not permitted to redeem with it an ass, distinctly a first-birth, but it is permitted to redeem therewith an uncertain first-birth. R. Hisda further said: An animal bought with the fruits of the sabbatical year is not liable to the law of the firstling. It is subject, however, to the law of the gifts [which are the prerogative of the priest].<sup>6</sup> It is not liable to the law of the firstling, because the Divine Law says: 'For food', implying, but not for burning.<sup>7</sup> And it is subject to the law of gifts, for we can apply to its [the designation], 'For food'.

An objection was raised from the following: If one eats from the dough of the sabbatical



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year before the hallah<sup>9</sup> has been taken, he incurs the guilt of death [at the hands of Heaven]. But why?<sup>10</sup> Since, if it became Levitically unclean, it is fit for burning, and the Divine Law says: 'For food', implying, but not for burning? — The case is different here, for it says: Throughout your generations.<sup>11</sup> It has been taught to the same effect: Whence do we derive that if one eats from the dough of the sabbatical year before its Hallah is taken, he incurs the guilt of death? Because it is said: 'Throughout your generations'. But why not derive [that the firstling bought with the fruits of the sabbatical year is liable to the law of the firstling], from the case [of Hallah]?<sup>12</sup> — In the case of Hallah [its separation] is mainly 'for the eating [of the priests], [except when it receives uncleanness], but in the case of the firstling, [the portion for the altar] is mainly for burning.<sup>13</sup>

IF HE GAVE IT TO THE PRIEST, etc. We have learnt here that which our Rabbis have taught: 'If an Israelite had a first-birth of an ass in his house and the priest said to him, "Give it to me and I will redeem it", he should not give it to him, except [the priest] redeem it in his presence'. R. Nahman reported in the name of Rabbah the son of Abbuha: 'This proves<sup>14</sup> that the priests are suspected of neglecting the redemption of the first-births of asses'. Surely [this deduction] is evident? — You might have assumed that this is the case only where he is known to be suspected,<sup>15</sup> but generally we do not suspect the priest. He therefore informs us that he usually decides that it is a legitimate act.<sup>16</sup>

**MISHNAH.** IF ONE SETS ASIDE [A LAMB] FOR THE REDEMPTION OF THE FIRST-BIRTH OF AN ASS AND IT DIED, R. ELIEZER SAYS: HE IS RESPONSIBLE AS IS THE CASE WITH THE FIVE SELA'S IN CONNECTION WITH THE REDEMPTION OF THE FIRST-BORN. BUT THE SAGES SAY: HE IS NOT RESPONSIBLE, AS IS THE CASE WITH THE REDEMPTION OF THE SECOND [YEAR'S]

TITHING.<sup>17</sup> R. JOSHUA AND R. ZADOK TESTIFIED CONCERNING THE REDEMPTION OF THE FIRST-BIRTH OF AN ASS WHICH DIED THAT THE PRIEST RECEIVES NOTHING [IN SUCH CIRCUMSTANCES] — IF THE FIRST-BIRTH OF AN ASS DIED [AFTER THE LAMB FOR REDEMPTION HAD BEEN SET ASIDE], R. ELIEZER SAYS: IT SHALL BE BURIED, BUT THE LAMB MAY BE USED,<sup>18</sup> WHEREAS THE SAGES SAY: IT IS NOT REQUIRED TO BE BURIED AND THE LAMB BELONGS TO THE PRIEST.

*GEMARA.* Said R. Joseph: What is the reason of R. Eliezer? — Because Scripture writes: Nevertheless the first-born of man shalt thou surely redeem [and the firstling of unclean beasts shalt thou redeem].<sup>19</sup> Just as in the case of the first-born of a man, he is responsible [if the redemption money is lost], similarly, in the case of the first-birth of an unclean animal, he is responsible [if the redemption lamb dies] —

Said Abaye to him: [If the comparison be correct, then] as in the case of the first-born of a man, it is permitted to benefit [from his work before redemption], so in the case of an unclean animal, it should be permitted to benefit from it. And should you assume that this is so, have we not learnt in a Mishnah: IF THE FIRST-BIRTH OF AN ASS DIES, R. ELIEZER SAYS: IT SHALL BE BURIED? What does he mean by the phrase IT SHALL BE BURIED? Does he not mean that it is forbidden to use it? —

No, It means, it shall be buried as in the case of the first-born of a man.<sup>20</sup> But [am I to infer that on]y a first-born of a man requires burial, but that a plain Israelite does not require burial? And moreover, it has been taught: R. Eliezer agrees that if an Israelite has an uncertain first-birth of an ass in his house, he sets aside a lamb on its behalf and it is his?<sup>21</sup> —

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Rather, said Raba; [the following is the reason of R. Eliezer]. Scripture says: Nevertheless the first-born of man shalt thou surely redeem. Scripture implies, 'I have compared [an unclean animal with the first-birth of a man] in connection with [the responsibility for] redemption, but not as regards any other matter.<sup>22</sup> We have learnt elsewhere [in a Mishnah]:<sup>23</sup> Valuations are according to their period;<sup>24</sup> the redemption of the first-born takes place after thirty days and the redemption of the first-birth of an ass takes place immediately. But does the redemption of the first-birth of an ass take place immediately? Against this I quote the following in contradiction: The period of valuation or redemption of the first-born, or Naziriteship,<sup>25</sup> or redemption of the first-birth of an ass, is in no case less than thirty days. But we can extend the time in each of these cases indefinitely!<sup>26</sup> —

Said R. from it, but owing to the fact that an unclean animal is compared with the first-born of man; and usually a dead first-born receives burial. Nahman: [The statement above, that the redemption of a first-birth takes place immediately means] to inform us that if he redeemed it, it is redeemed.<sup>27</sup> This would imply that in the case of his first-born son, if he redeemed him within the thirty days he is not redeemed? Has it not been stated: If one redeems his son within the thirty days, Rab holds: his son is redeemed? —

But surely has it not been stated in this connection: Raba said: All authorities agree [that if he said that the first-born should be redeemed] from now [before the expiry of the thirty days], then his son is not redeemed?<sup>28</sup>

(1) For although it is permitted according to his view to benefit from the first-birth of an ass, we are, nevertheless, not allowed to redeem it with a dedicated animal which became unfit for the altar.

(2) Lev. XXV, 6.

(3) Redeeming the first-birth with an animal bought with the fruits of the sabbatical year is like trading with sabbatical fruits, and, moreover, while the fruits of the sabbatical year may be eaten by means of this redemption, he acquires an ass which cannot be eaten.

(4) An uncertain birth, e.g. where its mother gave birth to a male and a female and there was a doubt as to whether the male was born first. The Mishnah states above that in such a case, a lamb is set aside and it remains for himself. And according to R. Simeon, since he permits a first-birth of an ass to be used, (v. supra p. 9b), there is no need to set aside a lamb to release the first-birth from any prohibition attaching to it.

(5) Unless he sets aside a lamb for redemption.

(6) The priestly share consisting of the shoulder, jaw and the maw. V. Deut. XVIII, 3.

(7) And if it be liable to the law of the firstling, certain portions are burnt on the altar.

(8) Sc. the animal.

(9) The priestly share of the dough; v. Num. XV, 18ff.

(10) Should the dough be liable to Hallah on the sabbatical year?

(11) Num. XV, 21, implying that even on the sabbatical year, Hallah must be given.

(12) I.e., why do we not make an exception in the application of the text 'For food', implying, 'but not for burning', with reference to a firstling, as we do in the case of Hallah.

(13) And since it is burnt, we apply the text: 'For food', with its implication, 'but not for burning'; whereas it is otherwise in connection with Hallah.

(14) Since the Mishnah says that he should not give the first-birth to the 'priest unless the latter redeems it before him.

(15) Where we have reason to suspect him. Or, where we actually saw him working the firstling of an ass prior to its redemption, either willfully or through ignorance of the law on the matter.

(16) Not to set aside a lamb to redeem it, as he argues that in any case the lamb remains with him.

(17) Where if the redemption money is lost, it is not replaced.

(18) For as R. Eliezer maintains that the Israelite is responsible, it is as if the lamb had not yet been set aside and the Israelite may therefore benefit from it. But the first-birth must be buried, since it is forbidden to use it, as is the case when alive.

(19) Num. XVIII, 15.

(20) Not because it is forbidden to benefit

(21) And although with reference to an ass, distinctly a first-birth, he maintains that so long as the lamb is not in the possession of the priest it is not redeemed, he agrees with regard to an uncertain first-birth that he need not give its

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redemption to the priest but sets aside a lamb, thus implying that the first-birth of an ass is forbidden to be used otherwise. And since we do not compare an unclean animal with the first-born of man in this respect, the same should apply in respect of his responsibility for it. The question therefore remains, what is the reason of R. Eliezer in the opening passage of our Mishnah?

(22) The limiting word 'nevertheless', indicates that only with regard to the responsibility for redemption is an unclean animal compared with the firstborn of a man.

(23) Var. lec.: It has been taught, as the statement which follows is not a Mishnah but a Baraitha.

(24) Between the ages of one month and five years, if one said, 'I vow my valuation' and he delayed till the age of six, when there is an increased valuation, he still only gives the original valuation, as laid down in Scripture. Some maintain that since a child of that age is not legally permitted to dedicate its valuation to the sanctuary, therefore it means here that somebody else said, 'I vow the child's valuation upon myself'.

(25) The unspecified vow of a Nazirite, i.e., one bound by a vow to abstain from wine, etc. is at least for thirty days.

(26) With reference to valuations, as the ages increase the valuation will correspondingly increase, as mentioned in Scripture. A Nazirite also can vow for a period of years and the first-birth of an ass may be redeemed even after the lapse of years and it is not necessary to give more because of the delay.

(27) Although he has not carried out properly the religious command of redemption, the animal is redeemed.

(28) And the difference of opinion only arises when he said, 'I give the money now but its redemption shall only take effect after thirty days'.

## Bechoroth 13a

R. Shesheth said: [The above Baraitha means] to inform us that he does not transgress on account of the first-birth.<sup>1</sup> Rami the son of Hama raised an objection from the following: The duty of redemption is for the entire period of thirty days. After that, either he redeems it, or breaks its neck. What [does it mean]? Does it not mean that it is a religious duty to retain it for the whole period of thirty days?<sup>2</sup> No, it means that it is a religious duty to redeem it all the thirty

days. If this is the case, what it should say is: After that, either he redeems it or he transgresses [the command to redeem]!<sup>4</sup>

Rather, said Raba:<sup>5</sup> There is no contradiction: the one statement [that redemption is after thirty days] gives the opinion of R. Eliezer who compares [an unclean animal with the first-born of a man], and the other statement [that redemption takes place immediately] gives the opinion of the Rabbis who do not make this comparison.

*MISHNAH.* IF HE DOES NOT WISH TO REDEEM IT [THE FIRST-BIRTH OF AN ASS], HE BREAKS ITS NECK FROM BEHIND AND BURIES IT. THE MIZWAH<sup>6</sup> OF REDEMPTION IS PRIOR TO<sup>7</sup> THE MIZWAH OF BREAKING ITS NECK, FOR IT SAYS: AND IF THOU WILT NOT REDEEM IT, THEN THOU SHALT BREAK ITS NECK.<sup>8</sup> THE MIZWAH OF YI'UD<sup>9</sup> IS PRIOR TO THE MIZWAH OF REDEMPTION, FOR IT SAYS: WHO HATH BETROTHED HER TO HIMSELF.<sup>10</sup> THE MIZWAH OF YIBBUM<sup>11</sup> IS PRIOR TO THE MIZWAH OF HALIZAH.<sup>12</sup> THIS WAS THE CASE AT FIRST WHEN THE PARTIES CONCERNED USED TO CARRY OUT THE LAW WITH RELIGIOUS INTENTIONS.<sup>13</sup> BUT NOW THAT THEY DO NOT CARRY OUT THE LAW RELIGIOUSLY,<sup>14</sup> THE [RABBIS] HAVE SAID: THE MIZWAH OF HALIZAH IS PRIOR TO THE MIZWAH OF YIBBUM. THE MIZWAH OF REDEMPTION [OF AN UNCLEAN ANIMAL WHOSE VALUE IS DEDICATED TO THE SANCTUARY] RESTS WITH THE OWNER. HE IS FIRST, BEFORE ANY OTHER MAN, FOR IT SAYS: OR IF IT BE NOT REDEEMED, THEN IT SHALL BE SOLD ACCORDING TO THY VALUATION.<sup>15</sup>

## CHAPTER II

*MISHNAH.* [AN ISRAELITE] WHO BUYS AN EMBRYO<sup>16</sup> OF A COW BELONGING TO A HEATHEN, OR WHO SELLS ONE TO HIM, ALTHOUGH THIS IS NOT PERMITTED,<sup>17</sup> OR

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WHO FORMS A PARTNERSHIP WITH HIM,<sup>18</sup> OR WHO RECEIVES AN ANIMAL FROM HIM TO LOOK AFTER,<sup>19</sup> OR WHO GIVES [HIS COW] TO HIM TO LOOK AFTER,<sup>20</sup> IS EXEMPT FROM THE LAW OF THE FIRSTLING, FOR IT SAYS: [I HALLOWED UNTO ME ALL THE FIRST-BORN] IN ISRAEL,<sup>21</sup> BUT NOT IN GENTILES. PRIESTS AND LEVITES ARE SUBJECT [TO THE LAW OF THE FIRSTLING]. THEY ARE NOT EXEMPT FROM [THE LAW OF] THE FIRSTLING OF A CLEAN ANIMAL, BUT ONLY OF A FIRST-BORN SON AND THE FIRST-BORN OF AN ASS.

*GEMARA.* Why does [the redactor of the Mishnah] state the case of the embryo of an ass in the first [chapter],<sup>22</sup> and subsequently [in the second chapter], the case of an embryo of a cow? Why not state in the first [chapter] the case of an embryo of a cow, since it is a case of an animal consecrated as such, and, subsequently, in the case of an embryo of an ass, as it is a case of an animal consecrated only for its value? —

It was explained in the West [Palestine]:<sup>23</sup> If you choose, I may say the reason is because he dwelt with peculiar pleasure on this case, in the manner of R. Hanina [explained above].<sup>24</sup> Or if you prefer, I can say it is because the regulations concerning an unclean animal are relatively few;<sup>25</sup> [the redactor of the Mishnah] therefore cleared them out of the way first.

R. Isaac b. Nahmani reported in the name of Resh Lakish on behalf of R. Oshiah: If an Israelite gave money to a heathen for his animal, [we judge the transaction] according to their laws and even though he did not pull the animal,<sup>26</sup> he acquires possession and is subject to the law of the firstling. If a heathen gives money to an Israelite for his animal, [we also judge the transaction] according to their laws, and although he did not pull [the animal], he acquires possession and is exempt from the law of the firstling.

The Master says: 'If an Israelite gave money to a heathen, [we judge the transaction] according to their laws, and although he did not pull [the animal], he acquires possession and is subject to the law of the firstling'. What does 'their laws' mean? Shall we say that 'according to their laws' means, as regards the person [of the heathen], and we conclude a fortiori, that if the person [of a heathen] is acquired by the Israelite for money, as Scripture writes: To hold for possession<sup>27</sup> — [Scripture] compares a Canaanitish slave with a possession: as a possession is acquired by handing over the money to the seller, by a bill of sale, and taking possession,<sup>28</sup> so a Canaanitish slave is acquired with money — how much more so, therefore, is this the case with reference to a heathen's property?<sup>29</sup> If this were the case, then a heathen's property should also be acquired even by means of a bill of sale and taking possession? And, moreover, this idea can be confuted by the case of an Israelite [having a transaction] with an Israelite. For though the person [of an Israelite] is acquired with money, yet his property is acquired by means of meshikah!<sup>30</sup>

Rather said Abaye: The expression 'according to their laws' means, those which the Torah laid down for them. [For Scripture says]: Or buy of thy neighbor's hand,<sup>31</sup> [and we deduce from this that] from 'the hand of thy neighbor' the way of acquiring possession is meshikah,<sup>32</sup> but from the hand of a heathen the way of acquiring possession is with money. But why not deduce that from the hand of a heathen there is no way of acquiring possession at all?<sup>33</sup> — It was explained: You cannot assume this a fortiori: If [the heathen's] person can be acquired, how much more so his property! But perhaps say that in the case of a heathen, two ways of effecting possession are required?<sup>34</sup> —

The answer was given: Have we not here an a fortiori [argument]? If his person is acquired only in one way, shall his property



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be acquired in two ways? But why not say that [a heathen acquires an object] either by means of one or the other?<sup>35</sup> — [The method of his acquiring] must resemble [the form of acquiring mentioned in connection with the text] ‘thy neighbor’. Just as in the case of ‘thy neighbor’, [i.e., an Israelite], possession [can be acquired] only in one way, so in the case of a heathen only in one way.

The Master said: ‘But if a heathen gave money to an Israelite for his animal, [we judge the transaction according to their laws, and even though he did not pull [the animal], he acquires possession and is exempt from the law of the firstling’. What does ‘according to their laws’ mean? If the expression ‘according to their laws’ refers to the person [of the Israelite] who is acquired with money by a heathen and we infer a fortiori: If the person [of an Israelite] is acquired with money — for Scripture writes: Out of the money that he was bought for,<sup>36</sup> — how much more so is [the Israelite’s] property [acquired by means of money by a gentile]? This can be refuted by the case of a transaction between Israelites, for his person is acquired with money and yet his property is acquired by meshikah!

Rather, said Abaye: ‘According to their laws’ means those which the Torah laid down for them. [Scripture says]: ‘And if thou sell ought to thy neighbour’;<sup>37</sup> [we infer from this] that ‘to thy neighbor’ the way of acquiring possession is by meshikah, but in the case of a gentile, possession is acquired with money. But why not say that for a heathen there is no way [for acquiring possession] at all?<sup>38</sup> —

I can answer, No. Have we not an a fortiori [argument]? If a heathen can acquire the person [of an Israelite] with money, how much more so is this the case with the property [of an Israelite]? But why not say that for a heathen there must be two ways of acquiring possession? —

But is there not the a fortiori argument [to the contrary]? If a heathen acquires possession of the person [of an Israelite] by one act only, should the Israelite’s property be acquired only by two acts? But why not say that [a heathen acquires possession of an Israelite’s property] either by means of one or the other! — [The way of acquiring possession] must resemble [what is mentioned in connection with the text] ‘thy neighbor’.

- (1) The duty to redeem the first-birth of an ass is indeed immediately after its birth, and the Baraita which says that redemption does not take place for thirty days means that he does not transgress the command to redeem until the period of thirty days has elapsed.
- (2) In accordance with the opinion of R. Nahman, who maintains that redemption does not take place before thirty days have elapsed. This seems to contradict the opinion of R. Shesheth.
- (3) Var. lec.: He either breaks its neck. V. R. Gershom.
- (4) And since it says: ‘Either he redeems it or breaks its neck’, we infer that redemption only commences after the thirty days and that during the thirty days it is a duty to retain it.
- (5) We may indeed say that it is a religious duty to retain the first-birth for thirty days and still we do not explain the Baraita cited by Rami b. Hama as being in accordance with R. Nahman’s view (Rashi). Sh. Mek.: Raba’s reply can be explained as being entirely independent of the opinions of R. Shesheth and R. Nahman and that it merely explains the conflicting statements regarding when redemption should take place.
- (6) A religious act and duty.
- (7) I.e., has precedence over.
- (8) Ex. XIII, 13. The verse implies that redemption comes first.
- (9) Designation, especially the betrothal of a Hebrew handmaid.
- (10) Ex. XXI, 8. The verse implies that the first duty is to betroth her.
- (11) To marry the wife of a brother who died without issue.
- (12) The ceremony of taking off the brother-in-law’s shoe after refusing to marry his brother’s widow. Deut. XXV, (5-11).
- (13) In order to preserve the name of the dead brother.
- (14) But merely for sexual pleasure, and, since this is the case, it is sexual intercourse with a brother’s wife, which is one of the forbidden relations.

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(15) Lev. XXVII, 27. The verse therefore implies that redemption is a prior duty. Also redemption takes precedence, because where the owner redeems he has to add a fifth part, but in the case of another redeeming, there is no addition of a fifth for the benefit of the sanctuary, as Scripture says in the first part of the verse quoted in this connection: 'And If it be of an unclean beast, then he shall ransom it according to thy valuation and shall add unto it the fifth part thereof'.

(16) A firstling.

(17) It is forbidden to sell large cattle to a heathen, because the animal is worked on the Sabbath.

(18) Both purchasing an animal between them.

(19) The Israelite in return for attending to the animal receives in payment half of the offspring, but the animal itself

belongs to the heathen.

(20) The Israelite sharing a half or a third of the offspring.

(21) Num. III, 13. The text implies that where a gentile has a share in the mother or an offspring, the firstling is not holy.

(22) The first Mishnah in the first chapter of the tractate.

(23) Palestine is designated as the West, being so situated geographically relative to Babylon, where the Talmud Babli was evolved.

(24) Supra 5b.

(25) For only one chapter is devoted to the rules and regulations appertaining to an unclean animal, whereas the remainder of the tractate of Bekoroth deals with the firstling of a clean animal.

(26) Into his possession, which is one of the ways of effecting transference between Israelites, whereas with reference to a gentile, the handing over of the money effects transference; v. Glos. s.v. Meshikah.

(27) Lev. XXV, 46.

(28) Performing some kind of work on the estate. V. Kid, 26a.

(29) That it is acquired from him by handing over the purchase money.

(30) V. p. 90, n. 3 and Kid, 26a. Similarly, although the person of the heathen is acquired with money, his property may require another form of acquiring possession.

(31) Lev. XXV, 14.

(32) The expression 'of thy neighbor's hand' implies that the object has to be filled from the hands of the seller into the hands of the buyer.

(33) Short of actually bringing the object completely into the domain of the Israelite.

(34) Possession by means of money and meshikah, but not with money alone.

(35) Money or Meshikah.

(36) Lev. XXV, 51. And the verse deals with a gentile who purchases a Hebrew slave.

(37) Lev. XXV, 14.

(38) And that in order to secure possession of an Israelite's chattels, he must transfer them completely to his domain.

## Bechoroth 13b

As 'thy neighbor' [i.e., an Israelite] acquires possession only in one way,<sup>1</sup> so the heathen acquires possession only in one way.<sup>2</sup> It was argued: Now according to Amemar who said that meshikah effects possession in the case of a heathen, this might be right if he holds according to the opinion of R. Johanan who maintains that according to the Biblical law, money effects possession between Israelites, whereas meshikah does not effect possession;<sup>3</sup> the text 'to thy neighbor' serves then the purpose of allowing us to deduce that 'to thy neighbor' [i.e., an Israelite] money effects possession, but for a heathen to effect possession meshikah is required.

But if he holds according to the opinion of Resh Lakish, who maintains that meshikah is expressly mentioned in the Torah, [with the indicating result that] 'to thy neighbor' [an Israelite] with meshikah and for a heathen with meshikah, what need then is there for the text 'to thy neighbor'? —

It can be explained thus: The text means: 'to thy neighbor' you return an overcharge,<sup>4</sup> but you do not return an overcharge to a Canaanite [a heathen] — But do we not derive [the exclusion of the law of overcharging in connection with] the Canaanite from the following text: Ye shall not oppress one another?<sup>5</sup> — One text refers to a Canaanite and the other refers to sacred property.<sup>6</sup> And it was necessary [to teach both cases]. For if the Divine Law had written only one text, I might have assumed that, as regards the Canaanite there is no law concerning overreaching, but in regard to sacred property<sup>7</sup> the law of overreaching is enforced. Therefore Scripture teaches us [that this is not so]. This would hold good

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according to him who says that the robbed object of a Canaanite is forbidden [to be retained]; therefore a scriptural text is necessary to permit [the retention of] overreaching. But if he holds with him who says that the robbed object of a Canaanite is allowed [to be retained], can there be any question about permitting [to retain] overreaching?

I can answer: If [Amemar] holds according to him who says that the robbed object of a Canaanite is allowed [to be retained], then perforce he will hold according to the view of R. Johanan.<sup>9</sup> An objection was raised. If one buys broken pieces [of silver] from a heathen and finds among them an idol, if he made meshikah before he had given the purchase money, he should withdraw [from the transaction]. But if he made meshikah after he had given the money, he should carry the benefit derived therefrom to the Dead Sea.<sup>10</sup> Now, if you hold that money effects possession, what need is there for meshikah? —

We are dealing here with the case where [the heathen] undertook to act in the matter in accordance with Israelite law. If so, what need is there for money [as a means of effecting possession]? —

This is what [the Baraitha] intends to say: Although he had given the money, if he made meshikah, [then he can withdraw], but if not, [he] cannot [do so]. If this is the case, there is a difficulty in the first part [of the Baraitha]?<sup>11</sup> —

Said Abaye: The reason of the first part [of the Baraitha] is because it was made in error.<sup>12</sup> Raba said to him: ‘[You say that the reason of] the first part [of the Baraitha] is because it was made in error. But is the last part [of the Baraitha] also not a case of a purchase in error’?

Rather, said Raba: Both the first and the last parts deal with the case of a purchase in

error;<sup>13</sup> but in [the case stated in] the first part where he had not yet given the money, the idol does not appear to have been in the possession of an Israelite, whereas in the last part [of the Baraitha], where he had given the money, the idol appears to have been in the possession of an Israelite.<sup>14</sup> And Abaye? —

He will explain thus. The first part is a case of a purchase made in error, for he did not know of the idol, since he had not yet paid the money.<sup>15</sup> But the last part is a case of a purchase made in error, for since he had given the money, when he was [about] to make meshikah he should have examined the purchase and then made meshikah.<sup>16</sup>

R. Ashi said:<sup>17</sup> Since in the first part [of the Baraitha], meshikah does not effect possession, in the last part also, meshikah does not effect possession. But as he mentions meshikah in the first part, he also states meshikah in the last part.

Rabina said: Since in the last part meshikah effects possession, in the first part too meshikah effects possession.<sup>18</sup> And what the first part says in effect is this: If he had not given the money, nor made meshikah, he withdraws. What is [then] meant by ‘he withdraws’?<sup>19</sup> —

That he can retract his words, for he [the Tanna of the Baraitha] maintains: To retract one's words indicates a want of honesty, but this is the case only with an Israelite dealing with an Israelite, because they stand by their word, whereas in the case of an Israelite dealing with gentiles, since the latter do not stand by their word, it is not so.

(1) I.e., meshikah.

(2) I.e., with money and not meshikah, for the verse implies ‘thy neighbor’ with meshikah but not a heathen, and by analogy we assume that the same limitation applies in the case of the form of acquisition which exists for gentiles. i.e., money.

(3) B.M. 46b, Kid. 26a.

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(4) The law of overcharging and overreaching being mentioned later in the same chapter of the Bible.

(5) Lev. XXV, 14. The text implies that for a heathen this law does not apply, as the words 'one another' refer to Israelites.

(6) To which also the law does not apply.

(7) An object dedicated for the Temple, or for some other sacred purpose, and I might have said that secular property should not have an advantage over sacred property in this respect.

(8) v. Sanh., Sonc. ed., p. 388, n. 6 and B.M., Sonc. ed., p. 506, n. 9.

(9) For since the robbed object of Canaanite may be retained, therefore there is no need to deduce the retention of the overreaching from the text, 'Thy neighbor'. Consequently the text will imply that although money effects possession in a transaction between Israelites, in the case of heathen's meshikah is required. Hence we see that Amemar must necessarily hold according to the opinion of R. Johanan.

(10) For an idol in the possession of an Israelite can never be freed from its prohibition, and it is therefore forbidden to derive any profit therefrom.

(11) Why should his withdrawal cancel the sale? Since he made meshikah, he should be required to carry the benefit to the Dead Sea!

(12) For he did not know there was an idol and therefore the withdrawal cancels the sale.

(13) And legally the withdrawal cancels the sale even under the circumstances mentioned in, the last part of the Baraitha, and meshikah is the form here of effecting possession, this having been agreed upon by the parties concerned.

(14) On withdrawal he receives back his money from the heathen.

(15) And before the purchase is handed over, the buyer does not usually trouble to examine the contents of a purchase.

(16) And as he omitted to make the examination, the transaction was valid and, consequently, the meshikah was a genuine one.

(17) On R. Ashi's view we are dealing here with a case where the parties did not agree to act according to Jewish law, and therefore money payment is the method of effecting possession of an object bought. And no difficulty can be raised from the last part of the Baraitha, by arguing that, if this be a fact what need is there for meshikah, for meshikah is mentioned here only because it is mentioned in the first part, and there it had to be mentioned to inform us, that it has no effect, since the purchase money was not handed over.

(18) When e.g., the parties agree to act according to Jewish law, i.e., use meshikah as a form of transference.

(19) Since neither meshikah nor money did take place.

## Bechoroth 14a

**MISHNAH.** ALL DEDICATED SACRIFICES WHICH HAD A PERMANENT BLEMISH BEFORE THEIR DEDICATION<sup>1</sup> AND WERE REDEEMED, ARE LIABLE [TO THE LAW] OF THE FIRSTLING AND THE [PRIESTLY] GIFTS;<sup>2</sup> THEY BECOME UNCONSECRATED ANIMALS AS REGARDS SHEARING AND WORKING;<sup>3</sup> THEIR OFFSPRING AND MILK ARE PERMITTED TO BE USED AFTER THEIR REDEMPTION;<sup>4</sup> HE WHO SLAUGHTERS THEM WITHOUT<sup>5</sup> [THE TEMPLE COURT] DOES NOT INCUR [THE PUNISHMENT OF EXCISION]; AND THE LAW OF SUBSTITUTE DOES NOT APPLY TO THEM;<sup>6</sup> AND IF THEY DIED [BEFORE REDEMPTION]. THEY MAY BE REDEEMED,<sup>7</sup> EXCEPT IN THE CASE OF A FIRSTLING AND AN ANIMAL SET ASIDE FOR TITHE [OF CATTLE].<sup>8</sup> ALL ANIMALS HOWEVER WHICH WERE DEDICATED BEFORE THEY BECAME BLEMISHED OR HAD ONLY SUFFERED A TRANSITORY BLEMISH BEFORE THEIR DEDICATION AND AFTER THAT DEVELOPED A PERMANENT BLEMISH, AND WERE REDEEMED, ARE EXEMPT [FROM THE LAW] OF THE FIRSTLING AND FROM THE [PRIESTLY] GIFTS; THEY DO NOT BECOME UNCONSECRATED AS REGARDS SHEARING AND WORKING; THEIR OFFSPRING AND MILK ARE FORBIDDEN TO BE USED AFTER THEIR REDEMPTION; HE WHO SLAUGHTERS THEM WITHOUT [THE TEMPLE COURT] IS PUNISHABLE [WITH EXCISION]; THE LAW OF SUBSTITUTE APPLIES TO THEM; AND IF THEY DIE, THEY ARE TO BE BURIED.

**GEMARA.** The reason<sup>9</sup> is because they were redeemed, but if they were not redeemed, they would have been exempt from [the law of] the firstling and from the [priestly] gifts, for [the Mishnah] holds that the consecration of an object consecrated for its



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value sets aside [the law of] the firstling and the duty of the [priestly] gifts.

**AND THEY BECOME UNCONSECRATED**, etc. The reason<sup>10</sup> is because they were redeemed, but if they were not redeemed, they would have been forbidden as regards shearing and working. This would confirm the opinion of R. Eleazar who said: Animals dedicated for keeping the Temple in repair,<sup>11</sup> are forbidden as regards shearing and working! — [No]. It can be maintained that this is no proof. For an object consecrated for its value, eventually to be used for the altar,<sup>12</sup> might be confused with an object which is itself consecrated for the altar, therefore the Rabbis enacted a prohibition.<sup>13</sup> But in the case of an object dedicated for keeping the Temple in repair, the Rabbis did not enact a prohibition.<sup>14</sup>

**THEIR OFFSPRING AND MILK ARE PERMITTED**, etc. How is this to be understood? Shall I say that [we speak of where] they became pregnant and gave birth after their redemption? Surely this is obvious? They are unconsecrated animals! Rather what is meant is that they were pregnant before their redemption and gave birth after their redemption. This implies that before their redemption, [the offspring] are forbidden!?<sup>15</sup>

(1) And the object of the dedication, since they possessed already a permanent blemish, was to sell them and purchase with the money sacrifices for the altar.

(2) The shoulder, jaw and maw, as is the case with genuine Hullin (unconsecrated animals).

(3) For they are considered Hullin, as they were blemished before dedication, and the law of dedicated sacrifices which had become unfit for the altar, where shearing and working are prohibited, does not apply to them.

(4) Even if they were pregnant before their redemption, for since they gave birth after their redemption. their offspring are permitted. V. Gemara.

(5) Even before their redemption. since the animals did not receive any sanctity from the outset, owing to their blemishes before dedication.

(6) V. Lev. XXVII, 10.

(7) In order to give the carcasses to dogs to eat. Moreover, we are taught here also that they hold an inferior status compared with other dedicated sacrifices, which can only be redeemed when alive.

(8) A firstling, even with a permanent blemish. is sanctified as the passing through the womb consecrates it. And with reference also to tithing. Scripture ordains that whether it be good, i.e., without a blemish, or bad (blemished), the animal passes under the rod to be tithed.

(9) Why the first clause of the Mishnah says that they are liable to the law of the firstling.

(10) Why the Mishnah says that shearing and working are permissible.

(11) The dedicated animals are sold and the money is devoted to the repair of the Sanctuary.

(12) The money realized from its sale is used to purchase sacrifices for the altar, and we therefore prohibit its shearing and working.

(13) Because if in the former case we permit the shearing and working, we might be led to permit in the latter case.

(14) For there is little fear here that because in the one case we permit the shearing and working. we might be led to permit in connection with the object consecrated as such, as there is an obvious distinction between the two.

(15) To be used for any purpose without redemption, nor could they be offered up on the altar, since even their own mother is not fit for the altar.

## Bechoroth 14b

[The point then arises], can they be redeemed even when they are without a blemish, or, can they not be redeemed so long as they are without a blemish?<sup>1</sup> —

Come and hear: If one consecrated animals having a permanent blemish for the altar and they gave birth, they are to be sold and [the offspring] do not need a blemish, because they receive no sanctity. For we cannot be more stringent with the subsidiary than with the principal object.<sup>2</sup> Now the reason [why the offspring do not require a blemish before redemption], is because we should not be more stringent with the subsidiary than with the principal, but if he consecrated a male<sup>3</sup> animal for its value, it receives the sanctity of an animal consecrated as such. This would support

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Raba's teaching. For Raba said: If one consecrated a male animal for its value,<sup>4</sup> it receives the sanctity of an animal which has been consecrated in itself.

**HE WHO SLAUGHTERS THEM WITHOUT [THE TEMPLE COURT], DOES NOT INCUR [THE PUNISHMENT OF EXCISION].** R. Eleazar quoted [with reference to this passage of the Mishnah]: He is culpable.<sup>5</sup> and he explains [the word 'WITHOUT' in the Mishnah] as meaning that he slaughters them on a private altar.<sup>6</sup> For R. Eleazar said: Whence do we deduce that he who slaughters a blemished animal on a private altar at a period when high places are used legitimately, is guilty of transgressing a negative precept? Scripture says: Thou shalt not sacrifice unto the Lord thy God an ox or a sheep wherein is a blemish.<sup>7</sup> If this text has no bearing on a national altar,<sup>8</sup> since Scripture has already stated: Blind or broken, ye shall not offer these unto the Lord,<sup>9</sup> apply it to a private altar. Why not say that if the text has no bearing on dedicated sacrifices, apply it to a firstling?<sup>10</sup> For I might have been inclined to assume that since it is holy even when blemished, [the shearing and working being forbidden], it should therefore be offered up even if blemished. Therefore Scripture teaches us that it is not so! —

I might argue against this that in connection with a firstling. Scripture expressly states: Lame or blind thou shalt not sacrifice it.<sup>11</sup> But why not say: If the above text has no bearing on dedicated sacrifices,<sup>12</sup> let us apply it to animal tithes?<sup>13</sup> For I might have been inclined to assume that since a tithed animal is holy even blemished, as Scripture writes, He shall not inquire whether it be good or bad,<sup>14</sup> therefore we should offer it up even blemished, and Scripture consequently informs us that this is not so? —

In connection with] a tithed animal, too, we draw an analogy between 'passing'<sup>15</sup> and

'passing' used in connection with a firstling. But why not then say: Let us apply the text above to an animal exchanged for a dedicated sacrifice? For I might have been inclined to assume that since it is sacred, even if blemished, since Scripture writes: Neither shall he alter it or change it, etc.<sup>16</sup> Therefore it should be offered up even blemished; and consequently Scripture teaches us that it is not so! Scripture says: Then it and that for which it is changed, shall be holy.<sup>17</sup> It thus compares the exchanged animal with the animal itself; as the animal itself is unfit [for the altar] if blemished, so the exchanged animal with a blemish is unfit [for the altar].

R. Zera demurred: Why not say, apply the text<sup>18</sup> to the blemished offspring [born of unblemished sacrifices]?<sup>19</sup> For I might have been inclined to assume they are holy even blemished through their mother, therefore they may be offered up even blemished, and Scripture therefore informs us that it is not so? —

Said Raba: A Tanna of the school of R. Ishmael has already pronounced on the matter.<sup>20</sup> For a Tanna of the School of R. Ishmael taught: Scripture says: Only thy holy things which thou hast and thy vows:<sup>21</sup> 'Only thy holy things'; this refers to exchanged animals,<sup>22</sup> 'which thou hast': these are the offspring of dedicated sacrifices; 'and thy vows': Scripture here compares them with an animal vowed for a sacrifice: as an animal vowed for a sacrifice is unfit for the altar with a blemish, so these too are unfit with a blemish.<sup>23</sup>

**THE LAW OF SUBSTITUTE DOES NOT APPLY TO THEM,** etc. What is the reason? Because Scripture Says: He shall not alter it nor change it, a good for a bad or a bad for a good. Now, if a bad [i.e., a blemished consecrated animal] must not be exchanged for a good [an unblemished and unconsecrated animal], is it necessary to inform us concerning the prohibition of

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exchanging a good [an unblemished consecrated animal] for a bad [a blemished animal]? What is meant then is, that to an animal good [i.e., unblemished] from the start [before dedication] [but which became blemished afterwards] the law of substitute applies, but to one bad [i.e., blemished] from the start [before dedication] the law of substitute does not apply.

**AND IF THEY DIED, THEY MAY BE REDEEMED.** Rab Judah reported in the name of Rab: This<sup>24</sup> is the teaching of R. Simeon who said: Objects consecrated for the altar were [at first] included [in the law of] presentation<sup>25</sup> and valuation, whereas objects consecrated for keeping the Temple in repair were not included in [the law of] presentation and valuation. For we have learnt: R. Simeon says: Objects consecrated for keeping the Temple in repair, if they die, are redeemed. R. Simeon agrees, however, that an animal blemished from the start [before dedication] may be redeemed.<sup>26</sup> What is the reason? Because Scripture says: And [the priest shall value] it;<sup>27</sup> the word 'it' excludes<sup>28</sup> the case of an animal with a blemish from the start [before dedication].

But the Sages say: If they die they are to be buried. Who are the Sages referred to here?<sup>29</sup> It is a Tanna of the School of Levi. For a Tanna of the School of Levi taught: All objects were [at first] included in [the law of] presentation and valuation, even an animal blemished from the start [before dedication]. And thus did the School of Levi teach in his Mishnah:<sup>30</sup> Even a beast and even a bird.<sup>31</sup> But does not Scripture say, 'It'? — The word 'It', according to the opinion of the Tanna of the School of Levi, is a difficulty. But the Rabbis who differ from R. Simeon<sup>32</sup> — what is the position? Is it a fact that they hold that if [the blemished dedicated animal] died, it is redeemed? If so,

(1) Must we delay until the offspring are blemished and then we can proceed to redeem them or, can they be redeemed as they are, without waiting?

(2) I.e., we cannot be more stringent with the offspring than with the mother, seeing that the offspring is holy only in virtue of its mother. And as the mother can be redeemed at all times, the same rule should apply to its offspring. Which solves the question.

(3) I.e., a ram which was dedicated for its value and which has the sanctity of an animal consecrated as such, insofar that it does not become Hullin without a blemish appearing on it. The same ruling applies to a female animal, but as later on he wishes to support Raba's opinion and Raba mentions a male, he speaks here of a male.

(4) And for its money, a burnt-offering is purchased. The reason why Raba mentions a male animal is because the majority of people who bring a sacrifice offer up a burnt-offering, which is a male.

(5) I.e., he is liable to forty lashes.

(6) Lit., 'high place'. A temporary altar. Private altars were e.g., like those made by Manoah, Gideon and Samuel, in times when any individual could build an improvised altar for himself; v. Meg. 9b.

(7) Deut. XVII. 1.

(8) Lit., 'great high place'. As the high places of Nob and Gibeon, which were national and public ones.

(9) Lev. XXII, 22.

(10) Therefore there is no proof that the text, Thou shalt not sacrifice, etc. refers to a private altar.

(11) Deut. XV, 21.

(12) Since this is already provided for in Lev. XXII, 22.

(13) The text, therefore, may still refer to a national altar and not to a private altar,

(14) Lev. XXVII, 33. 'Bad', i.e., blemished, and even so, if it is the tenth, it is holy.

(15) Mentioned in regard to the tithing of animals, Even of whatsoever passeth and the text, Then thou shalt cause to pass (set apart), referring to a firstling.

(16) Ibid. XXVII, 10.

(17) Ibid.

(18) Quoted by R. Eleazar.

(19) As unfit to be sacrificed on the altar.

(20) That the instances mentioned above as unfit for the altar if blemished, are derived from another verse. Therefore there is no need to deduce them from the above text, Thou shalt not sacrifice.

(21) Deut. XII, 26.

(22) Which Scripture informs us are sacrificed on the altar.

(23) Consequently, the verse 'Thou shalt not sacrifice' refers, as R. Eleazar explains, to a private altar.

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(24) The statement of the Tanna of the Mishnah, that if they died, they may be redeemed.

(25) Before the priest of the object whose value is dedicated, as Scripture says: Then he shall present the beast before the priest. (Lev. XXVII, 11.)

(26) For although objects consecrated for the altar require presentation and valuation, and therefore, cannot be redeemed when dead, in the case here of a sacrifice blemished from the start, he agrees that it can be redeemed when dead, although there can be no presentation and valuation here; for it is like an object consecrated for Temple repairs which was not included in the law of presentation and valuation.

(27) Lev. XXVII, 12.

(28) From the requirements of presentation and valuation.

(29) For they are not the same Sages who differ with R. Simeon in Tem. 32b.

(30) Levi compiled a collection of teachings.

(31) Whose value he dedicated for the keeping of the Temple in repair, as they are not suitable for the altar, require presentation and valuation.

(32) The Rabbis who dispute with R. Simeon in Tem. 32b, holding that both objects consecrated for the altar and objects consecrated for Temple repairs are included in the law of presentation and valuation, though they agree that an animal blemished from the start may be redeemed after its death.

## Bechoroth 15a

[in connection with Rab's observation above], what should be said is: This is the teaching of R. Simeon and those who dispute with him? — I can answer: Rab holds with R. Simeon the son of Lakish, who explained that according to the Rabbis [who differ with R. Simeon] objects dedicated for the keeping of the Temple in repair were [at first] included in [the law of] presentation and valuation, whereas objects dedicated for the altar were not included in [the law of] presentation and valuation.

Therefore the Mishnah can not be explained [to agree completely] with the views of the Rabbis. For it states in the later clause: **AND IF THEY DIED, THEY SHALL BE BURIED.**<sup>1</sup> But whence can we prove that the reason [of the Mishnah] why they shall be buried is because they are subject to the law

of presentation and valuation? Perhaps the reason is because we may not redeem dedicated sacrifices in order to give food to dogs?<sup>2</sup> — We can answer: If this is so, then, let the [Mishnah] state: If they become trefah,<sup>3</sup> they shall be buried.<sup>4</sup> Or if you choose [another solution]. I can say that Rab in fact holds with R. Johanan,<sup>5</sup> and read [in the passage above]. This is the teaching both of R. Simeon and of those who dispute with him.

**BUT IF THEIR DEDICATION PRECEDED,** etc. Whence is this proved? — Our Rabbis have taught: [Scripture says]: Howbeit as the gazelle<sup>6</sup> [and as a hart]; as a gazelle is exempt from [the law of] the firstling,<sup>7</sup> so dedicated sacrifices which have become unfit for the altar are also exempt from [the law of] the firstling. I would then exclude the firstling and not the priestly gifts! The text [therefore] states, 'A hart'; as a hart is exempt from [the law of] a firstling and from [the duty of priestly] gifts, so blemished dedicated sacrifices are exempt from the law of the firstling and of [the priestly] gifts. Am I to say that just as the fat of the gazelle and a hart is permitted to be used, so the fat of [blemished dedicated sacrifices] is also permitted to be used? [For this reason] the text states 'ak' ['howbeit'], which intimates a distinction.<sup>8</sup>

The Master said: 'I would then exclude the firstling but not [the priestly] gifts!' Now, what is the difference?<sup>9</sup> — I exclude the firstling, because its law does not equally apply in all cases, whereas I do not exclude [the priestly] gifts, as their law applies equally in all cases.<sup>10</sup> Hence Scripture states 'A hart'.

Said R. Papa to Abaye: Why not [say that] just as the law concerning the killing of the young<sup>11</sup> with its mother on the same day does not apply to a gazelle and a hart so the law concerning the killing of the mother on the same day does not apply to dedicated



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sacrifices which have become unfit for the altar? —

He replied to him: With what will you compare [blemished dedicated sacrifices, to render them exempt from the law regarding the killing of the young with its mother on the same day]? If you compare them with unconsecrated animals, then the law concerning the killing of the young with its mother on the same day should apply to them! And if you compare them with dedicated sacrifices, here [also] the law regarding the killing of the young with its mother on the same day should apply to them.<sup>12</sup> —

He replied to him: If so, then in regard to the fat [of blemished dedicated animals], why not say likewise, as follows: With what will you compare them? If with unconsecrated animals, their fat is forbidden, and if with dedicated sacrifices, their fat is forbidden? — But<sup>13</sup> did you not say that the [word] ‘ak’ implies ‘but not their fat’?<sup>14</sup> Then similarly adduce the word ‘ak’ as implying, ‘but the law regarding the killing of the young with its mother on the same day, is not [included in the analogy]’.

Raba said: The word ‘ak’ serves [to exclude from the analogy] the law concerning the killing of the young with its mother on the same day, while as regards the fat of blemished dedicated sacrifices, we derive [the prohibition] from the words ‘the blood thereof’, for it is written: ‘Only thou shalt not eat the blood thereof’.<sup>15</sup> What do the words ‘The blood thereof’ mean? You can hardly say that it actually means ‘the blood thereof’. For granting that it is only as the blood of the gazelle and a hart — is then the blood of a gazelle and a hart permitted? The words ‘The blood thereof’ then refer to its fat. And why does not Scripture expressly write ‘Its fat’? —

If the Divine Law had written the word ‘fat’, I might have assumed that both the analogy

and the scriptural verse helped [to define the nature of the prohibition of the fat]. The analogy [between the word ‘fat’ and the words ‘as a gazelle and a hart’], helped to exclude it from [the punishment of] excision, for Scripture imposes the punishment of excision only on one who eats the fat of an animal, as it says: For whosoever eateth the fat of the animal.<sup>16</sup> And the scriptural verse also helped to make [the eating of the fat of blemished sacrifices equivalent to the breaking of] a mere prohibition. Therefore the Divine Law used the expression ‘the blood thereof’, to teach you that as the eating of its blood is punishable with excision, so the eating of its fat is punishable with excision. But does not the Tanna [above in the Baraitha] say that the word ‘ak’ implies ‘but not its fat’?<sup>17</sup> —

This is what [the Tanna] intends to say: If there were not a text ‘The blood thereof’. I might have said that [the word] ‘ak’ implies ‘but not its fat’. Now, however, that Scripture says ‘The blood thereof’, the word ‘ak’ serves [to exclude from the analogy] the law regarding the killing of the young with its mother [on the same day].

**AND THEY DO NOT BECOME UNCONSECRATED.** Whence is this derived — Our Rabbis taught. Scripture says: Notwithstanding thou mayest kill,<sup>18</sup> implying, but not shear. [The text continues further], ‘flesh’, implying, ‘but not milk’. ‘And eat’, implying, ‘but not for dogs’. Hence we infer that we do not redeem dedicated sacrifices to give food to the dogs.

(1) From which we may infer that objects consecrated for the altar are included in the law of presentation and valuation, whereas the Rabbis hold the reverse view, according to the interpretation of R. Simeon b. Lakish.

(2) And not because the Mishnah holds that objects dedicated for the altar are included in the law of presentation and valuation.

(3) V. Glos.

(4) From which I could infer that, although it was possible to make presentation and valuation here, nevertheless since they were only fit for dogs,

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they must be buried. But since the Mishnah states, 'IF THEY DIED, etc.' I deduce that the reason is because presentation and valuation cannot be carried out.

(5) Who says in Tem. 32b that according to the Rabbis, both objects dedicated for the altar and objects dedicated for keeping the Temple in repair were included in the law of presentation and valuation, and that an animal blemished from the start may be redeemed.

(6) Deut. XII, 22. And Scripture is dealing here with dedicated sacrifices which received their blemish after dedication, as the text says: The unclean and the clean shall eat of them alike, and they still retain some measure of holiness.

(7) For Scripture says: All the firstling males that come of thy herd and of thy flock, thou shalt sanctify. (Deut. XV, 19.)

(8) I.e., it warns us that the analogy is not complete and therefore the fat is forbidden.

(9) Deriving the limitation of a firstling from the first text, and requiring another text to exclude the priestly gifts.

(10) For the law of the firstling only applies to a male, whereas the duty of the priestly gifts applies to females as well.

(11) Lev XXII, 28.

(12) v. Hul. 78a.

(13) [This appears to be Abaye's reply].

(14) V. supra n. 1.

(15) Deut. XV, 23. The verse deals here with the case of a firstling with a blemish.

(16) Lev. VII, 25. It is also understandable that excision should be incurred only for eating the fat of an animal, as it is suitable for sacrifice on the altar.

(17) I.e., it excludes its fat from the analogy. How can Rab, therefore, maintain that the text 'ak' excludes from the analogy the law of killing the young with its mother on the same day, seeing that the Baraita above says that 'ak' excludes the eating of the fat?

(18) Deut. XII, 15.

## Bechoroth 15b

Some there are who say: 'Thou mayest kill and eat': The permission of eating of blemished dedicated sacrifices is only from the time of their killing and thenceforward.<sup>1</sup> We may, however, redeem dedicated sacrifices to give food to dogs.<sup>2</sup>

**THEIR OFFSPRING AND THEIR MILK ARE FORBIDDEN AFTER THEIR REDEMPTION.** How is this to be

understood? Shall I say that they became pregnant and gave birth after their redemption? Why [in that case should they be forbidden]? [The offspring] are [as] the gazelle and a hart!<sup>3</sup> Rather what is meant is that they became pregnant before their redemption and give birth after their redemption. But if [they were born] before their redemption, they would indeed become holy. Whence is this proved?

For our Rabbis taught: [Scripture says]: 'Whether male':<sup>4</sup> this includes the offspring [of a peace-offering].<sup>5</sup> [It goes on] 'or a female'; this includes an animal [exchanged for a peace-offering].<sup>6</sup> Now I can only infer from these unblemished offspring and unblemished exchanged animals. Whence, however, can I derive blemished offspring<sup>7</sup> and blemished exchanged animals? When Scripture says: 'Whether a male', it includes even blemished offspring and the text 'or a female', includes an exchanged blemished animal. Those young [which were in embryo before their redemption] and were born after their redemption — what shall become of them? Concerning those born before their redemption there is a difference of opinion. There is one authority who says they are so far holy as to be offered up, and there is another authority who says they are only so far holy as to be left to graze.<sup>8</sup> But what is to be done with [the offspring] born after their redemption. —

Said R. Huna: We put them in a vault and they die [of hunger]. For what are we to do? Shall we offer them up on the altar? They derive their status from a holiness which has been cancelled.<sup>9</sup> Shall we redeem them? They are not qualified to receive redemption.<sup>10</sup>

In the West [Palestine] it was stated in the name of R. Hanina: Before their redemption he consecrates them for that particular sacrifice.<sup>11</sup> 'Before their redemption'? Does this mean to say that they are capable of redemption? Explain rather [as follows]:

## BECHOROS – 2a-31a

Before the redemption of their mother,<sup>12</sup> he consecrated them for that particular sacrifice. And what is the reason?<sup>13</sup> — Said R. Levi: It is a preventive measure, lest he should rear of them flocks.<sup>14</sup>

Rabina asked of R. Shesheth: May he consecrate [the offspring]<sup>15</sup> for any sacrifice that he chose? — He replied: He may not consecrate them, [except for the particular sacrifice of the mother]. What is the reason? — He said to him: There is an analogy between the words ‘within thy gates’<sup>16</sup> [used in connection with blemished dedicated sacrifices] and the words ‘within thy gates’<sup>17</sup> [used in connection with the firstling]: just as a firstling does not become consecrated after birth for any sacrifice which he chooses, because Scripture writes: Howbeit the firstling among the beasts which is born a firstling to the Lord, no man shall sanctify it,<sup>18</sup> so these young ones do not become consecrated for any sacrifice he chooses.

It has been taught in accordance with the opinion of R. Shesheth: Dedicated sacrifices which became permanently blemished before their dedication and were redeemed are subject to the law of the firstling and of the [priestly] gifts; whether before their redemption or after their redemption; one who shears them and works with them does not receive forty lashes; whether before their redemption or after their redemption, the law of substitute does not apply to them; before their redemption, the law of Sacrilege<sup>19</sup> applies to them, but after their redemption it does not; their offspring are unconsecrated [even if in embryo before redemption and born after redemption]; they are redeemed unblemished<sup>20</sup> and become consecrated for any sacrifice he chooses.

The general rule in this matter is: They are like unconsecrated animals in all particulars. The only religious duty which applies to them is that of valuing them [for redemption].<sup>21</sup> But if their dedication

preceded their blemish, or if a transitory blemish [preceded] their dedication and after that there appeared on them a permanent blemish, and they were redeemed, they are exempt from the law of the firstling and from the [priestly] gifts; whether before their redemption or after their redemption, one who shears and works them receives forty lashes; whether before their redemption or after their redemption, the law of substitute applies to them; before their redemption. Sacrilege applies to them, but not after their redemption;<sup>22</sup> their offspring are holy [if in embryo before redemption]; they are not redeemed unblemished; and they do not become consecrated for any sacrifice that he chooses.<sup>23</sup>

The general rule in the matter is that they are like consecrated animals in all particulars. You have only the permission to eat them. Now the general rule of the first part [of the Baraitha above] is stated in order to include the rule that one who slaughters them without [the Temple Court] is exempt [from the punishment of excision].

The general rule of the second part [of the Baraitha]

- (1) This excludes milking and shearing, and is deduced from the proximity of the texts referring to killing and eating. The word ‘flesh’ is on this view not expounded.
- (2) As there is no special text to prohibit this.
- (3) I.e. they are Hullin (unconsecrated animals).
- (4) Lev. III, 1, with reference to peace-offerings. The whole verse is superfluous, for unless it expressly stated that a peace-offering must be a male, as is the case with a burnt-offering. I should have known that there was no restriction as regards the sex of the animal.
- (5) That it is offered as a peace-offering.
- (6) V. n. 6.
- (7) Whose dedication preceded their blemish.
- (8) Until they become blemished. Then they are sold and their money is devoted for a freewill-offering. The reason for delaying until a blemish appears is because unblemished animals are not redeemed.
- (9) The offspring possess two disqualifications. First, they are born from a mother which though

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once fit for the altar, has now lost its sanctity, owing to its blemish. Secondly, since the offspring were born after the mother's redemption, they cannot be invested with any sanctity so as to be sacrificed on the altar.

(10) For since they are redeemed through their mother, they retain no sanctity to enable redemption to render them Hullin.

(11) That of the mother, and this holiness helps to make them capable of redemption.

(12) While she was still pregnant and before their birth, the offspring received the holiness of their mother's dedication, and in this way redemption, after a blemish appears on them, is required, as their mother's redemption did not cancel their sanctity.

(13) Of R. Huna above, that they are condemned to die. Why not devise a method of redemption as R. Hanina suggests.

(14) If there were a remedy for the offspring of blemished dedicated offerings, we might raise flocks of these blemished animals, delay the redemption of their mothers, and even be led to eat them without the required redemption. Another explanation (quoted by Rashi) is: What is the reason of the authority who says that we condemn the offspring to die, and also, what is the reason of the other authority who maintains that we consecrate them for a sacrifice? Why did the Rabbis trouble in the matter at all? Could not the offspring be left in their forbidden state? The answer is that we fear lest one might raise flocks, that these offspring will in turn give birth to others and we might be led to commit an offence, whereas after redemption, we do not entertain any fears, as the offspring then are Hullin. Still another explanation (quoted by Rashi) is: Why does the Mishnah say that the offspring are forbidden after redemption, seeing that their mother's holiness has been cancelled? And the reply given is because, if we permit the offspring to be used, we might raise flocks of blemished dedicated sacrifices for the sake of the offspring born after redemption and, thus might be led to transgress the law concerning shearing and working.

(15) Of blemished dedicated sacrifices.

(16) Deut. XII, 21.

(17) Ibid. XV, 22.

(18) Lev. XXVII, 26. The text continuing, No man shall sanctify it, indicates that no other holiness except that of a firstling attaches to it.

(19) To make an inappropriate use of a sacred object is Sacrilege (v. Lev. X, 15) and since he benefits therefrom, it is no worse a case than using an object dedicated to the keeping of the Temple in repair.

(20) If they were pregnant and gave birth before their redemption.

(21) The only restrictive enactment is that of redeeming the animal with money.

(22) For they are compared with 'a gazelle and a hart', but the shearing of them is forbidden.

(23) Which is the view of R. Shesheth.

## Bechoroth 16a

is adduced to include its milk.<sup>1</sup>

The Master said: They are not redeemed unblemished and they do not become consecrated for any sacrifice he chooses. The unblemished are not redeemed; we infer from this that the blemished<sup>2</sup> are redeemed. Also for any sacrifice he chooses they are not consecrated; we infer from this that for that particular sacrifice they are consecrated. Now what do we find here? That they are consecrated for that particular sacrifice and are redeemed when blemished. Shall we say that this confutes R. Huna?<sup>3</sup> —

R. Huna can answer thus: The rule really is that blemished animals also are not redeemed, but, since the first part [of the Baraitha] states: 'They are redeemed unblemished',<sup>4</sup> therefore the second part [of the Baraitha] also states: 'they are not redeemed unblemished'. And also, since it states in the first part [of the Baraitha]: For any sacrifice he chooses, the second part [in the Baraitha] also states: For any sacrifice he chooses. 'And he who slaughters them without [the Temple Court] is not culpable'.<sup>5</sup>

R. Huna read [as in the Mishnah]:<sup>6</sup> He is culpable, and he explains it, of a case where the blemished animal had a withered spot in the eye, [a cataract] and in accordance with the opinion of R. Akiba, who maintains: If they have been put on the altar, they must not be taken down again.<sup>7</sup> 'Both before its redemption and after its redemption, the law of substitute applies'.

R. Nahman reported in the name of Rabba the son of Abbuha: And the exchanged animal after its redemption is left to die.



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What is the reason? — How are we to do? Shall we offer it up? The animal exchanged derives its status from cancelled holiness.<sup>8</sup> Shall we redeem it? It is not qualified to receive redemption; therefore we leave it to die.

R. Amram demurred. And why should the exchanged animal not be eaten by the owners when blemished? In what way is this different from an animal exchanged for a firstling and a tithed animal? For we have learnt: Animals exchanged for a firstling and a tithed animal, and also their offspring and their offspring's offspring until the end of time are like a firstling and a tithed animal and are eaten by their owners when blemished!<sup>9</sup>

Said Abaye to him: In this case it bears the name of its mother, and, in the other case, it bears the name of its mother. In this case it bears the name of its mother,<sup>10</sup> for it is called the animal substituted for a firstling and a tithed animal; and, therefore, as a firstling and a tithed animal are eaten by their owners when blemished, so the exchanged animal is eaten under similar circumstances. And in the other case, it bears the name of its mother. It is called the animal exchanged for the dedicated sacrifice; and, as a dedicated sacrifice which became blemished may not be eaten unless redeemed, so also an animal exchanged for a dedicated sacrifice is not eaten unless redeemed. But in this present case, it is not qualified to receive redemption and, therefore, [it is left to die].

It has been taught in accordance with the opinion of R. Nahman: Whence do we derive that an animal exchanged for a blemished dedicated sacrifice is left to die? Because it says: 'nevertheless these shall ye not eat of them that chew the cud, he is unclean to you'.<sup>11</sup> But is this text not required to teach that there are five sin-offerings that are left to die?<sup>12</sup> —

The latter teaching we learn from [the continuation of the text]: 'Of them that divide the hoof, he is unclean to you'. It has also been taught to the same effect: Whence do we derive that the five sin-offerings are left to die? Because it says: 'All of them that divide the hoof, he is unclean'. But is not the rule of the five sin-offerings that are left to die learnt purely from tradition? —

Rather the text comes to teach us concerning the animal exchanged for a guilt-offering that it pastures [until blemished]. But is not the rule of a guilt-offering also learnt purely from tradition, for wherever a sin-offering is left to die, in a corresponding case, a guilt-offering pastures?<sup>13</sup> —

The fact is that the text still refers to the rule of the five sin-offerings left to die, and both the text and the traditional law are necessary. For had I the text alone, I might have said that they are condemned to pasture. Therefore, the traditional law teaches us that they are to die. And had I the traditional law alone I might have said that if by chance he ate of these five sin-offerings, he performed a forbidden action, but he did not transgress a negative precept. Therefore a scriptural text teaches us that he transgresses a negative precept, [ye shall not eat]. Or if you wish, I may say that it is in order to compare an object the rule of which is derived from the text of them that chew the cud, with an object the rule of which is derived from the text of them that divide the hoof, so as to teach that, just as there, they are condemned to die, so here also they are condemned to die.<sup>14</sup>

*MISHNAH. IF ONE RECEIVES FLOCK FROM A HEATHEN ON 'IRON TERMS',<sup>15</sup>*

(1) As forbidden to be used, as the text says, And eat, implying, 'but not milk'. There is no need to make the general rule of the first part of the Baraitha include milk as permissible, for since the offspring are permitted, all the more so is the milk. Again, the general rule in the second part of the Baraitha could not include the case of one

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who slaughters without the Temple Court as punishable with excision, for here, too, he may be exempt, for since the sacrifice cannot be offered up in the Temple, there is no prohibition of killing them outside the Temple Court.

(2) Those in embryo before redemption and born after redemption and consecrated for a sacrifice, i.e., for the particular sacrifice of the mother.

(3) For R. Huna holds that they are not subject to redemption at all and that they are condemned to die whereas from the Baraitha we deduce that they are subject to redemption and are consecrated for a particular sacrifice.

(4) Which is an anomaly, that an unblemished animal should be redeemed.

(5) Where the dedication preceded the blemish. This is the continuation of the latter part of the Baraitha above. V. Rashi and R. Gershom.

(6) So (Rashi), v. Sh. Mek.

(7) An animal with a cataract, if offered up in the Temple, is not disqualified as a sacrifice according to the view of R. Akiba, because, in the first place, a cataract is not considered a blemish in birds and, moreover, it is not a blemish of a prominent nature. But an animal with a prominent and permanent blemish, since it is invalid as a sacrifice in the Temple, is not forbidden to be slaughtered outside the Temple precincts.

(8) Of the blemished animal for which it was exchanged, the exchange having taken place after redemption.

(9) Tem. 21a.

(10) The expression 'its mother' used in this connection means, in virtue of the animal from which it derives its status. The expression also 'eaten by their owners' mentioned in connection with the firstling, means that if blemished it is eaten by the priests, whereas in connection with a tithed animal, 'the owners' refers to the Israelites.

(11) Lev. XI, 4. And we infer this that there is an animal possessing marks of cleanness and yet forbidden to be eaten, viz., an animal exchanged for a blemished sacrifice.

(12) V. Tem. 21b.

(13) V. Nazir 25b.

(14) There is no need for a scriptural text, for the rule of the five sin-offerings is a traditional law. The reason, however, why the Baraitha refers it to the text 'of them that divide the hoof' is because it wishes to draw an analogy between the animal exchanged for a blemished sacrifice after redemption, which is inferred from the text 'of them that chew the cud' and the rule of the five sin-offerings, inferring that just as the latter are condemned to die, so the former is condemned to die, thus confirming the view of R. Nahman.

(15) Lit., 'flock of iron'. The terms are that the flock or their equivalent value should be restored to the heathen owner at the end of a stipulated period and that meanwhile the owner shares the offspring. The interests of the owner are consequently well protected against loss and the security is like barzel (iron). V. B.M.. Sonc. ed., p. 405. n. 3.

## Bechoroth 16b

THEIR OFFSPRING ARE EXEMPT [FROM THE LAW OF] THE FIRSTLING.<sup>1</sup> BUT THE OFFSPRING OF THEIR OFFSPRING ARE LIABLE [TO THE LAW OF THE FIRSTLING].<sup>2</sup> IF [THE ISRAELITE] PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS,<sup>3</sup> THEN THE OFFSPRING OF THE OFFSPRING ARE EXEMPT,<sup>4</sup> BUT THE OFFSPRING OF THE OFFSPRING OF THE OFFSPRING ARE LIABLE [TO THE LAW OF THE FIRSTLING]. RABBAN SIMEON B. GAMALIEL SAYS: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT [FROM THE LAW OF THE FIRSTLING]. SINCE THEY ARE PLEDGED TO THE HEATHEN.<sup>5</sup> IF A EWE GAVE BIRTH TO WHAT LOOKED LIKE A KID, OR A KID WHICH GAVE BIRTH TO WHAT LOOKED LIKE A EWE, IT IS EXEMPT FROM [THE LAW OF] THE FIRSTLING BUT IF IT POSSESSES CERTAIN CLEAR MARKS [RESEMBLING THE MOTHER] IT IS LIABLE [TO THE LAW OF THE FIRSTLING].

*GEMARA.* Does this mean to say that since the owner does not take money, therefore it is still the property of the owner? Against this I quote: One must not receive a flock from an Israelite on 'iron terms', because It is usury. This shows that it is in the ownership of the receiver?<sup>6</sup> —

Said Abaye: This is no difficulty. In the one case [our Mishnah] he [the heathen owner] took the risks of accidents and a fall in value while in the other he [the owner] did not take the risks of accidents and a fall in value. Raba said to him: If he took the risks of accidents and a fall in value, do you call this

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receiving a flock on 'iron terms',<sup>7</sup> and, moreover, where is this distinction implied [in the context]? And, moreover, why does the second part [of the passage quoted above] state: 'One may receive from a heathen a flock on "iron terms"'? Why not draw a distinction in the first part [itself, as follows]: When does this apply? Where he [the owner] did not undertake the risks of accidents and a fall in value, but where he undertook the risks of accidents and a fall in value, it is permitted! —

Rather said Raba, In both cases he [the owner] did not take the risks of accidents and a fall in value. But here, in connection with the firstling,<sup>8</sup> this is the reason. If the heathen came and wanted money and the Israelite did not give it to him, he would seize the animal, and if he did not find the animal, he would seize its offspring. Therefore the heathen has a share in it,<sup>9</sup> and wherever the heathen has a share [in an animal], it is exempt from [the law of] the firstling.

**(IF THE ISRAELITE PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS, THE OFFSPRING OF THE OFFSPRING ARE EXEMPT:)<sup>10</sup>**

Said R. Huna:<sup>11</sup> Their offspring are exempt from the law of the firstling, but the offspring of the offspring are liable to the law of the firstling. Rab Judah, however, said: The offspring of the offspring are also exempt, but the offspring of the offspring of the offspring are liable [to the law of the firstling].

We have learnt in a Mishnah: **IF THE ISRAELITE PUT THE OFFSPRING IN THE PLACE OF THEIR MOTHERS, THE OFFSPRING OF THE OFFSPRING ARE EXEMPT.**<sup>12</sup> The reason for exemption is because he put them in place of their mothers. But if he did not do so, they would not be exempt. Now, is this not an argument against Rab Judah? —

Rab Judah can answer: The same applies even if he did not put the offspring [in the place of the mothers];<sup>13</sup> but the Mishnah, however, teaches us this, that even if he put [the offspring in the place of their mothers],<sup>14</sup> since it is the custom of the heathen to seize the offspring [failing the mother], it is as if he had not put the offspring [in place of their mothers].<sup>15</sup> We are therefore informed [that even so] the offspring of the offspring are exempt, but the offspring of the offspring of the offspring are liable [to the law of the firstling].

We have learnt in the Mishnah: **RABBAN SIMEON B. GAMALIEL SAYS: EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT, SINCE THEY ARE PLEDGED TO THE HEATHEN.**<sup>16</sup> Now there is no difficulty on the view of Rab Judah who said that the first Tanna [in the Mishnah] goes up to [two] generations,

- (1) For, in the first place, a half of the offspring belongs to the heathen and secondly the latter will seize the offspring if he cannot have the flock (v. infra). The heathen therefore having an interest in the offspring, the Israelite is legally exempt from the law of the firstling.
- (2) For the heathen will not go as far as to seize the third generation in place of the mother.
- (3) The Israelite has expressly stipulated that if the flock died, the heathen could have the offspring.
- (4) Since the owner has a hold on the succeeding generation of animals.
- (5) For every time the heathen would lay hands on whatever he found.
- (6) And therefore it is as if the giver in return for waiting for his money receives a share of the offspring, which is usury, whereas if the money remained in the possession of the giver, it would not be usury.
- (7) For then there would be no security like 'iron' for the giver of the animal.
- (8) The reason is not because it is in the possession of the heathen, but because it is a pledge with the Israelite.
- (9) Lit., 'the hand (finger) of the heathen is between'.
- (10) [The bracketed passage is best left out. V. Marginal Gloss Z.K.]

# BECHOROS – 2a-31a

(11) Referring to the first passage in the Mishnah.

(12) [No objection is raised from the first clause of our Mishnah, as the phrase 'OFFSPRING OF THE OFFSPRING' there may be of a more general connotation meaning simply that with certain later generations the liability begins. V. Sh. Mek. and p. 115. n. 1.]

(13) That the second generation of offspring are exempt from the law of the firstling.

(14) And thus mortgaged the first generation for the heathen, so that the latter ought not to have any further claim on successive generations of offspring.

(15) And therefore I might have said that successive generations of offspring should always be exempted.

(16) It is assumed that R. Simeon b. Gamaliel refers to the first clause.

## Bechoroth 17a

[of offspring in exempting] that is why Rabban Simeon b. Gamaliel said to him: **EVEN UNTO TEN GENERATIONS THE OFFSPRING ARE EXEMPT.**<sup>1</sup> But according to R. Huna who said that the first Tanna does not go up to [two] generations [of offspring in exempting], what does Rabban Simeon b. Gamaliel mean by 'unto ten generations'?<sup>2</sup> R. Huna can reply: R. Simeon b. Gamaliel refers to [the second clause] where the Israelite put [the offspring in the place of their mothers], and where the Tanna In question goes up to [two] generations [of offspring].<sup>3</sup>

Come and hear: If one received a flock from a heathen on 'iron terms', their offspring are exempt, but the offspring of the offspring are liable [to the law of the firstling].<sup>4</sup> Now, is this not an argument against R. Judah? — R. Judah can reply: Read: They and their offspring.<sup>5</sup> Some there are who say: 'They and their offspring are exempt'. Now is this not an argument against R. Huna? — R. Huna can reply: Read: They,<sup>6</sup> the offspring, are exempt, whereas the offspring of the offspring are liable to the law of the firstling.

**IF A EWE GAVE BIRTH TO WHAT LOOKED LIKE A GOAT, etc.** R. Oshaia of Nehardea<sup>7</sup> came bringing a Baraitha with him: A ewe born of a goat or a goat born of a ewe, is declared liable by R. Meir, whereas the Sages exempt it.

Said R. Oshaia to Rabbah: When you go up into the presence of R. Huna, inquire from him: R. Meir makes it liable for what? Shall I say for [the law of] the firstling? Does not R. Meir hold that [when Scripture says]: But the firstling of an ox,<sup>8</sup> it intimates that the law of the firstling does not apply until the sire is an ox and its firstling is an ox? [Shall I say] then, he means liable to the rule of [giving] the first shorn wool to the priest? [Hardly so], for does he not hold with the Tanna of the School of Ishmael who taught: Lambs whose wool is hard, are exempt from the rule of the first shorn wool, for it says: And if he were not warmed with the fleece of my sheep?<sup>9</sup>

He replied to him: Let us see, we are dealing here with a case where a ewe gave birth to what looked like a goat and its sire was a he-goat<sup>10</sup> and the difference of opinion is whether we take into consideration the nature<sup>11</sup> of the sire in connection with the prohibition of killing the mother with its young on the same day.<sup>12</sup> For R. Meir holds that we take into consideration the nature of the sire, whereas the Rabbis hold that we do not take into consideration the nature of the sire.<sup>13</sup> If so, let them also differ as to whether we take into consideration the nature of the sire in other cases, as in the dispute between Hanania and the Rabbis?<sup>14</sup>

Rather, the reference is indeed to the law of the firstling, and what we are dealing here with is the case of a ewe born of a ewe which, in turn, was born of a goat. One authority [R. Meir] maintains that we follow the mother and this is not a nidmeh,<sup>15</sup> while the other authority maintains that we follow the mother's mother, and therefore this is a nidmeh. Or if you prefer I may say: It is a



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case of a ewe born of a goat which, in turn, was born of a ewe. One authority maintains that the sheep goes back to its former status<sup>16</sup> whereas the other authority maintains that the sheep does not go back to its former status.

R. Ahi said: We suppose it possesses certain marks [resembling the mother].<sup>17</sup> And who are the Sages [who exempt]? — R. Simeon, who holds [that the law of the firstling does not apply] until its head and the greater part of the body resemble its mother.

Said R. Johanan: R. Meir agrees however<sup>18</sup> that in the case of the goat for the New Moon, we require it to be the offspring of a she-goat. What is the reason? Because Scripture says: And one [he-goat],<sup>19</sup> — the singled out since the six days of the Creation. And do we derive it from this text? Do we not derive it from another text as follows: [Scripture says]: a bullock or a sheep;<sup>20</sup> this excludes kil'ayim;<sup>21</sup> [the words] 'or a goat' exclude nidmeh? — Both texts are necessary. For, from the latter text alone, I might have inferred that this is the case only when it has not returned to its original status,<sup>22</sup> but where it has returned to its original status<sup>23</sup> I might have thought it is not a case of nidmeh. And from the former text alone I might have inferred that this is only the case with an obligatory sacrifice, but in the case of a freewill-offering there is no prohibition as regards nidmeh.<sup>24</sup> There is therefore a need [for both texts].

Said R. Aha b. Jacob: All [the authorities concerned, even R. Meir] agree that by using its wool one does not become liable to lashes for kil'ayim.<sup>25</sup> For Scripture says: Thou shalt not wear a mingled stuff wool and linen together;<sup>26</sup> just as the linen must be proper linen,<sup>27</sup> so the wool must be proper wool.

Said R. Papa: All [the authorities concerned] agree that its wool is disqualified for purple blue.<sup>28</sup> For Scripture says: Thou shalt not

wear mingled stuff. Thou shalt make thee twisted cords; just as the flax must be proper flax, so the wool must be proper wool.

Said R. Nahman b. Isaac: All [the authorities concerned] agree that its wool is not liable to the uncleanness of plagues. For Scripture says: Whether it be a woolen garment or a linen garment;<sup>29</sup> just as the flax must be proper flax, similarly the wool must be proper wool.

Said R. Ashi: We will also say something [on similar lines]. If one trains a vine over a fig-tree, its wine is unfit for libations. What is the reason? Scripture says: A sacrifice and drink-offerings;<sup>30</sup> just as the sacrifice must be a normal animal, similarly the drink-offerings must be a normal liquid.

Rabina demurred to this.<sup>31</sup> If one trains flax over a shrub does it cease to be proper flax? If this is so, then you cannot say that 'just as flax must be proper flax', since flax can also be transformed! — He replied to him: In the one case, the smell had altered,<sup>32</sup> in the other, its smell has not altered.<sup>33</sup>

*MISHNAH.* IF A EWE WHICH NEVER BEFORE HAD GIVEN BIRTH BORE TWO MALES AND BOTH HEADS CAME FORTH SIMULTANEOUSLY, R. JOSE THE GALILEAN SAYS: BOTH BELONG TO THE PRIEST FOR SCRIPTURE SAYS: THE MALES SHALL BE THE LORD'S<sup>34</sup> WHEREAS THE SAGES SAY: IT IS IMPOSSIBLE TO ASCERTAIN EXACTLY [IF BOTH HEADS CAME FORTH SIMULTANEOUSLY]. ONE THEREFORE REMAINS [WITH THE ISRAELITE] AND THE OTHER IS FOR THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE BETTER ONE.<sup>35</sup> R. AKIBA SAYS: WE COMPROMISE BETWEEN THEM,<sup>36</sup> AND THE SECOND ONE [IN THE ISRAELITE'S POSSESSION] IS LEFT TO PASTURE UNTIL IT BECOMES BLEMISHED.<sup>37</sup>

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(1) For not only are two generations of offspring exempted but even ten are exempted and even more.

(2) Since the first Tanna quoted in the Mishnah only exempts the offspring of the original flock, why does Rabban Simeon say, unto the tenth generation? Let him say that even the offspring of the offspring are exempt and I should have inferred that just as the offspring of the offspring are exempt, although they were not born of the flock, the same applies to successive generations, even unto ten.

(3) In order to exempt.

(4) [This is apparently the first clause of our Mishnah, cf. supra p. 113, n. 4. Var. lec.: 'If one... they, their offspring, etc.' quoting a Baraita. 'Their offspring' is taken to be in apposition to 'they', thus implying that the offspring's offspring are liable contra Rab Judah. V. Sh. Mek.].

(5) Which indicates two generations as being exempt.

(6) The word 'offspring' being in apposition to the word 'they'.

(7) A town in Babylonia, famous as the seat of a college founded by Samuel.

(8) Num. XVIII, 17.

(9) Job. XXXI, 20. Therefore only fleece that warms is called fleece, and the fleece of a goat born of a ewe is hard, goat's wool being hard; v. Hul. 137a.

(10) And he killed the sire with its offspring on the same day.

(11) Lit., 'seed'.

(12) V. Lev. XXII, 28.

(13) And he is consequently exempt since we follow the mother and here it bears no resemblance to the mother.

(14) V. Hul. 78b, where Hanania says he transgresses the prohibition and the Sages absolve him.

(15) An animal suspected of looking like a hybrid.

(16) R. Meir holds that it must be given to the priest and that it is not a nidmeh. The ewe from a goat referred to here does not actually mean a ewe, for a female animal is not consecrated as a firstling, but it means an animal looking like a ewe.

(17) R. Meir holding that it is liable to the law of the firstling as the Mishnah states anonymously, whereas the Rabbis maintain that he is not liable.

(18) Although in respect of the law of the firstling R. Meir holds that the sheep goes back to its former status.

(19) Num. XXVIII, 15. We infer from this that the goat must belong to the family of goats all time.

(20) Lev. XXII, 27.

(21) An animal born from heterogeneous parents which exempted from the law of the firstling.

(22) Lit., 'it did not go back to its generation (species)'. A ewe born of a goat, which was in turn born of a goat and therefore a nidmeh.

(23) I.e., if its grandmother was a ewe.

(24) For the words, 'a bullock or sheep', refer to a freewill-offering. The obligatory sacrifice mentioned here includes not only a goat for the New Moon but also Festival goats as the word 'One' is used of those offerings as well.

(25) The wearing of a garment containing a mixture of wool and linen.

(26) Deut. XXII, 11.

(27) Lit. 'must not have been transformed'.

(28) The purple-blue thread used for the fringes.

(29) Lev. XIII, 47.

(30) Ibid. XXIII, 37.

(31) If by overhanging and training over the other, a transformation is effected, then the same might be said concerning flax.

(32) The wine of that vine.

(33) The training flax over a shrub does not alter its smell and, moreover, in the latter case a change in its smell is immaterial.

(34) Ex. XIII, 12. The word 'males' implying two.

(35) For the stronger one came forth first.

(36) Whoever takes the fatter animal must give the other a half of its excess value, v. Gemara.

(37) And after that he eats it, the reason being that it is a doubtful first-born and cannot therefore, be eaten unblemished. The same ruling applies also to the priest's animal, as we are dealing with firstlings in our day, after the destruction of the Temple. Or, indeed, it may, even deal with a firstling in Temple times; seeing that there is uncertainty as to whether the animal is a firstling, it cannot be killed in the Temple court.

## Bechoroth 17b

THE OWNER IS LIABLE FOR THE [PRIEST'S] GIFTS,<sup>1</sup> WHEREAS R. JOSE EXEMPTS HIM.<sup>2</sup> IF ONE OF THEM DIED, R. TARFON SAYS: THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. IF IT GAVE BIRTH TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING [IN SUCH CIRCUMSTANCES].<sup>3</sup>

**GEMARA.** The School of Jannai said: Of R. Jose the Galilean we have heard that he said: It is possible to ascertain [simultaneity] in natural processes,<sup>4</sup> and, therefore, how

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much more so is it possible to ascertain exactly in human actions. The Rabbis [we know] hold that it is impossible to ascertain simultaneity in natural processes. What is their view with reference to human actions?  
—

**Come and hear:** A red line went round the altar in order to divide between the blood to be sprinkled above and the blood to be sprinkled below.<sup>5</sup> Now if you say that it is impossible to be exact in human actions, sometimes the priest might put the blood which should be above, below the [middle of] the altar?<sup>6</sup> — The line is made somewhat wide.<sup>7</sup>

**Come and hear.** [Proof can be adduced] from the measurements of the furniture [of the Sanctuary] and from the measurements of the altar!<sup>8</sup> — It is different there, since the Divine Law said: Do it, and in whatever manner you are able to do it, it will be satisfactory, as David said: All this the Lord made me understand in writing by His hand upon me.<sup>9</sup>

**Said R. Kattina:** Come and hear: [If an unclean oven] is divided into two and the parts are equal, both are unclean, for it is impossible to be exact!<sup>10</sup> — R. Kahana replied: An earthen vessel is different because it has holes.<sup>11</sup>

**Come and hear:** If [a slain body is] found at exactly the same distance between two cities, both bring two heifers.<sup>12</sup> These are the words of R. Eliezer. What is the reason? Is it not because he holds that it is possible to be exact in human actions<sup>13</sup> and the words [the city] which is nearest<sup>14</sup> imply [even the cities] which are nearest? — No. R. Eliezer

(1) For if it is a firstling, then the entire animal is the priest's and if not, then it is Hullin and is liable for the priest's gifts.

(2) For it is as if the priest had taken possession of the animal and when blemished had returned it to the Israelite, in which circumstances the latter is exempt.

(3) Even R. Tarfon agrees to this for here if the female came forth first, there is no firstling at all. Therefore, the priest receives nothing and the animals pasture until blemished and are then eaten. Tosaf. adds that even if the two heads came forth simultaneously, since there is a female, the priest cannot make any claim.

(4) I.e., birth as in the example of our Mishnah and this would certainly be the case in human actions in regard to which we are intent on ascertaining the exact measurement or size of any object.

(5) V. Mid. III, 1.

(6) If it is impossible to be exact, then it is likely that the line is marked below the middle of the altar and therefore when the blood for the upper half of the altar is sprinkled above the line, it may still be really in the lower half. Again, if the line is marked higher than the middle of the altar, then when the blood to be sprinkled below is sprinkled lower than the line, it may still be in the upper half.

(7) The line encircling the altar was not a thin line but was fairly wide extending both below and above the exact middle and therefore there could be no fear of the blood for the upper part being sprinkled below and vice versa, as above the line was certainly the upper portion of the altar, and below the line was certainly the lower part.

(8) Since Scripture lays down these specific measurements apparently it is possible to be precise in human actions.

(9) I Chron. XXVIII, 19. Rashi deletes this quotation.

(10) Since it is impossible to be exact, one can say that each portion is the greater and the law is that if the greater part of the oven remains it is unclean; v. Hul. 28b.

(11) In the place where it is broken it is not level and one cannot therefore be sure of the measurement.

(12) V. Deut. XXI, 1f.

(13) For we can measure the distance accurately and we have Scriptural authority that where a slain body is the same distance from two cities, then two heifers can be brought.

(14) Ibid. XXI, 3.

## Bechoroth 18a

holds with R. Jose the Galilean who said: It is possible to ascertain simultaneity in natural processes, and how much more so in human actions.<sup>1</sup> May we say that Tannaim differ in this matter? If [a slain body was] found at the same distance between two

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cities, we do not perform the ceremony of breaking the heifer's neck.<sup>2</sup>

R. Eliezer says: Both cities bring two heifers. Is not the difference of opinion based on this very point? For the first Tanna holds: that it is impossible to be exact,<sup>3</sup> whereas R. Eliezer holds that it is possible to be exact! — But can you really say this? If the first Tanna holds that it is impossible to be exact, why did they not have the ceremony of breaking the heifer's neck? Let the two cities bring one heifer between them and make a stipulation?<sup>4</sup>

Rather, according to these Tannaim quoted above, they all hold that it is possible to be exact.<sup>5</sup> The point at issue, however, is whether we hold that the words '[the city] which is nearest', imply 'but not [the cities] which are nearest': The first Tanna holds: The words, 'Which is nearest' imply 'but not [the cities] which are nearest', whereas R. Eliezer holds: '[The city] which is nearest', implies even [the cities] which are nearest. What do we decide?<sup>6</sup>

R. Hiyya b. Abin reported in the name of R. Amram: A Tanna taught: If a slain body is found at exactly the same distance between two cities, R. Eliezer says: Both cities bring two heifers, whereas the Sages say: They shall bring one heifer between them and make a stipulation. Now what is the reasoning of the Rabbis [Sages]? If the Rabbis hold that it is possible to be exact and the words '[The city] which is nearest', imply also '[the cities] which are nearest', then let them bring two heifers. And if the words '[The city] which is nearest' imply 'but not [the cities] which are nearest, then they should not bring even one heifer? You can, therefore, deduce from this that the Rabbis hold that it is impossible to be exact even in human actions. This is proved.

R. TARFON SAYS: THE PRIEST CHOOSES FOR HIMSELF THE BETTER ONE. What is the reason of R. Tarfon? —

He holds that the animal which is stronger came forth first.

R. AKIBA SAYS: WE COMPROMISE BETWEEN THEM, etc. R. Hiyya b. Abba reported in the name of R. Johanan: The priest takes the lean one. Said R. Hiyya b. Abba to R. Johanan: But do we not read meshammenin?<sup>7</sup> — He replied to him: While you were not yet eating date-berries in Babylonia, we expounded R. Akiba's statement from the latter part of the Mishnah. For the latter part of the Mishnah says: IF ONE OF THEM DIES, R. TARFON SAYS THEY DIVIDE IT. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. Now, if we were to assume that the word meshammenin, etc. means that they are divided equally, here also let them divide the live animal equally! Rather what is meant by meshammenin is that the fat animal [remains to be divided] between them,<sup>9</sup> for [the Israelite] says to the priest: Bring a proof that it is a firstling and take it.<sup>10</sup>

AND THE SECOND ONE [IN THE POSSESSION OF THE ISRAELITE] IS LEFT TO PASTURE UNTIL IT IS BLEMISHED What is the reason of R. Meir?<sup>11</sup> — Said R. Johanan: Because the priest can make a claim upon him from two sides. For he can say to him: If it is a firstling then it belongs to me entirely. And if it is not a firstling, give me the priest's gifts therefrom. And R. Jose — what is his reason?

Said Raba: [The Rabbis] put one who had not taken possession, in the position of one who had taken possession. So although it had not reached the priest's hands, it is as if it had reached his hands and he had sold it to the Israelite when blemished.<sup>12</sup>

Said R. Eleazar: All [the authorities concerned] agree that an animal which is a doubtful first-born, since the priest has [a beast] in its stead,<sup>13</sup> is liable for the priest's



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gifts. [You say] all the authorities concerned. Now, whose view does this represent? R. Jose's! But is not this obvious? For R. Jose exempts only where the priest has [a beast] in its stead, in which case [the Sages] put one who has not taken possession, in the position of one who had taken possession. But where the priest has nothing in its stead, it is not so? — You might have thought that the reason of R. Jose was because he held that if you make him liable for the priest's gifts he may come to shear and work [the animal], even where the priest has nothing in its stead. He consequently informs us [that we do not fear this]. But how can you say this?<sup>14</sup>

Have we not learnt [in the subsequent Mishnah]: For R. Jose used to say:

- (1) Whereas our enquiry is with reference to the view of the Rabbis.
- (2) For each city can maintain that it is not the nearest.
- (3) And therefore there is no ceremony of breaking the heifer's neck at all.
- (4) 'If', let each city say, 'I am the nearest then the heifer shall atone for me, and if my neighbor is the nearest, it shall atone for her'.
- (5) For they concur with R. Jose.
- (6) According to the Rabbis, is it possible to be precise in human actions or not?
- (7) This is taken to be connected with *rt.* meaning 'fat', indicating that the difference in the value of the fat one is shared between the Israelite and the priest.
- (8) I.e., while yet young.
- (9) And the priest takes the lean one, failing the evidence that the fat one was a first-born.
- (10) In the same way as in the latter part of the Mishnah according to R. Akiba, for we apply here the principle of money of doubtful ownership.
- (11) I.e., the anonymous Mishnah which always represents the view of R. Meir.
- (12) And then the priest received something in return, i.e. the other animal, and a priest who sold a firstling to an Israelite is, according to the ruling (*supra* 12b) exempt from the priest's gifts.
- (13) Where for example a female and a male are born and there is a doubt as to the first-birth, since the priest received nothing in its place, the animal grazes until it is blemished and is therefore liable for the priest's gifts, for in such a case you cannot argue that it is as if it had been acquired by the priest and subsequently sold to

the Israelite, as the priest received nothing in return.

(14) That the reason of R. Jose was because of the fear of shearing and working the animal.

## Bechoroth 18b

Wherever the priest has [a beast] in its stead, he is exempt from the priest's gifts, whereas R. Meir makes him liable? The reason therefore is because the priest has [a beast] in its stead, but if the priest has nothing in its stead, it would be other wise!<sup>1</sup> — You might have assumed that R. Jose was arguing according to the view of R. Meir [as follows]: My own view is that even if the priest has nothing in its stead [he is not liable for the gifts]. For if you render him liable for the priest's gifts, he may come to shear and work [the animal]. But according to your view, at least admit that where the priest has [a beast] in its stead, [the Sages] put one who had not taken possession in the position of one who had taken possession. To this R. Meir replied to him: It is not so.

Said R. Papa: All [the authorities concerned] agree with reference to a doubtfully tithed animal<sup>2</sup> that it is exempted from the priest's gifts. You say 'all [the authorities concerned]'? Whose opinion is that? It is R. Meir's. But is not this obvious? For R. Meir only makes him liable for the priest's gifts in connection with an animal which is a doubtful first-born, since the priest can make claim upon him from two sides,<sup>3</sup> but in the case of a doubtfully tithed animal, it is not so!<sup>4</sup> —

You might have assumed that the reason of R. Meir was that the law of the priest's gifts should not be forgotten and consequently even in the case of a doubtfully tithed animal, the ruling is the same. He therefore informs us [that it is not so]. But how can you say this?<sup>5</sup> Have we not learnt: For R. Jose used to say that wherever the priest has [a beast] in its stead it is exempt, whereas R. Meir makes him liable?<sup>6</sup> —

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You might have assumed that R. Meir, even in the case of a doubtfully tithed animal, makes him liable, and the reason why they differ [in the matter where the priest has a beast] in its stead, is to show how far R. Jose is prepared to go, since he exempts even where the priest can make a claim upon him from two sides. He therefore informs us [that this is not so].

**IF ONE DIES, R. TARFON SAYS: THEY DIVIDE THE LIVING ONE.** Why should they divide [the living one]? Let us see. If the fat one died, it is the priest's [which has died],<sup>7</sup> and the one remaining is the owner's. And if the lean one died, it is the owner's [which has died] and the one remaining is the priest's! — Said R. Ammi: R. Tarfon retracted.<sup>8</sup>

**R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE.** Said R. Hiyya: On R. Tarfon's view, what does the position resemble? That of two men who gave [two animals] in charge of a shepherd and [one died], where the shepherd leaves the living one between them and departs.<sup>9</sup> On the view of R. Akiba, to what can the position be compared? To that of a man who gave an animal in charge of an owner [of animals],<sup>10</sup> where the claimant must produce the evidence. Then what is the point at issue?<sup>11</sup> Will R. Akiba deny where two give [two animals] in charge of a shepherd, that the shepherd leaves [the living one] and departs?<sup>12</sup> And will R. Tarfon differ in the case where one gave an animal in charge of an owner [of animals]?—

Said Raba, or some say. R. Papa: All the authorities concerned agree that where two men gave [two animals] in charge of a shepherd, the shepherd leaves [the living one] between them and departs. Also in the case where one gave an animal in charge of an owner [of animals], that the claimant must produce the evidence. The point at issue, however, is where the ground is the owner's and the priest is the shepherd.<sup>13</sup>

R. Tarfon holds: The owner gives possession to the priest in his ground<sup>14</sup> since he is desirous that a mizwah<sup>15</sup> should be performed through his property and therefore the position is that of two who gave [animals] in charge of a shepherd where the shepherd leaves [the living one] between them and departs. But R. Akiba says: Since he would suffer loss,<sup>16</sup> he does not give him any possession,<sup>17</sup> and it is therefore similar to the case of one who gave an animal in charge of the owner [of animals], where the claimant must produce the evidence.

**MISHNAH.** IF TWO EWES WHICH HAD NEVER PREVIOUSLY GIVEN BIRTH BORE TWO MALES, BOTH BELONG TO THE PRIEST. [IF THEY GAVE BIRTH] TO A MALE AND A FEMALE, THE MALE BELONGS TO THE PRIEST. [IF THEY GAVE BIRTH] TO TWO MALES AND A FEMALE, ONE REMAINS WITH HIM,<sup>18</sup> AND THE OTHER BELONGS TO THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE STRONGER ONE. R. AKIBA SAYS: THE FAT ONE REMAINS BETWEEN THEM<sup>19</sup> AND THE SECOND PASTURES UNTIL BLEMISHED, AND HE IS ALSO LIABLE FOR THE PRIESTS GIFTS; R. JOSE HOWEVER EXEMPTS HIM. IF ONE OF THEM DIES, R. TARFON SAYS: THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. [IF THEY GAVE BIRTH TO] TWO FEMALES AND A MALE OR TWO MALES AND TWO FEMALES, THE PRIEST RECEIVES NOTHING IN SUCH CIRCUMSTANCES.<sup>20</sup> IF ONE [OF THE EWES] HAD GIVEN BIRTH AND THE OTHER HAD NEVER PREVIOUSLY GIVEN BIRTH. AND THEY BORE TWO MALES, ONE REMAINS WITH HIM AND THE OTHER BELONGS TO THE PRIEST. R. TARFON SAYS: THE PRIEST CHOOSES THE STRONG ONE. R. AKIBA SAYS: THE FAT ONE REMAINS BETWEEN THEM<sup>19</sup> AND THE SECOND PASTURES UNTIL BLEMISHED, AND HE IS ALSO LIABLE FOR THE PRIESTS' GIFTS; R. JOSE

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HOWEVER EXEMPTS HIM. FOR R. JOSE SAYS: WHEREVER THE PRIEST RECEIVES [AN ANIMAL] IN ITS STEAD,<sup>21</sup> HE IS EXEMPT FROM THE PRIESTS GIFTS.<sup>22</sup> R. MEIR HOWEVER MAKES HIM LIABLE. IF ONE OF THEM DIES. R. TARFON SAYS THEY DIVIDE [THE LIVING ONE]. R. AKIBA SAYS: THE CLAIMANT MUST PRODUCE THE EVIDENCE. [IF THEY GAVE BIRTH] TO A MALE AND A FEMALE, THE PRIEST RECEIVES NOTHING IN SUCH CIRCUMSTANCES.<sup>23</sup>

*GEMARA.* [All these cases where R. Tarfon and R. Akiba differ] are necessary [to be stated]. For if we had been informed of the first case above,<sup>24</sup> [I might have assumed] that in that case R. Akiba held that the claimant must produce the evidence, because two males came from one ewe,<sup>25</sup> but in the case of two ewes which had never previously given birth, and where two animals [a male and a female] were born from one, and one [male] from the other, I might have said that he agrees with R. Tarfon that the animal which came forth singly is much the better one.<sup>26</sup> And if he had stated only the latter case, I might have assumed that in this case R. Akiba [held that the claimant must produce the evidence], for neither had previously given birth, but where one ewe had given birth and the other had not given birth and they begot two males, I might have said that he agrees with R. Tarfon,

(1) Thus we see It explicitly stated that the reason is because the priest has a beast in its stead.

(2) An animal numbered tenth in tithing, which jumped back among the untithed ones. There is in the case of each animal a doubt whether it is the tithed one and therefore the animals pasture until blemished, when they are eaten by the owners. (Infra 58b.)

(3) If it is a firstling, then it is entirely his, and if not, then it is Hullin and subject to the priest's gifts.

(4) For the priest can only claim on the ground that it is Hullin, an unconsecrated animal, since a tithed animal belongs to the owner.

(5) That the reason of R. Meir is lest the law of the priest's gifts be forgotten.

(6) Now, if the reason of R. Meir with reference to the firstling is because the priest can make his claim on two grounds and therefore R. lose argues for exemption, maintaining that the priest cannot say that if it is a firstling then it belongs entirely to him, since he holds that it is as if the priest had, after acquiring the firstling, sold it to the Israelite. But if you maintain that the reason of R. Meir is lest the law of the priest's gifts be forgotten, why does R. Jose give the reason that the priest has a beast in its stead, since possibly R. Meir himself might have exempted him on that ground. (Rashi).

(7) For R. Tarfon holds that the Priest chooses the stronger one.

(8) From his view in the early part of the Mishnah where he declared that the priest chooses the stronger one.

(9) And similarly the Mishnah is dealing with a case where the surviving animal, a doubtful first-born, was given in charge of a shepherd, and both the owner and priest claim it. Here we cannot say that the claimant must produce the evidence, since the animal is in the possession of neither of them.

(10) Who placed it among his herd of animals, one of which died. The owner declares that it is not his animal that has died, and the other makes a similar assertion. Here, since the animal is in the possession of the owner, the priest is the claimant.

(11) Since each of these Tannaim refers to different circumstances.

(12) Here surely R. Akiba cannot maintain that the claimant must produce the evidence. And similarly, R. Tarfon cannot maintain that where one gave an animal in charge of an owner, the living animal is divided.

(13) Where, e.g., the living firstling is in the ground of the owner and the priest is the shepherd of all his animals. A ground has the power to acquire chattels on behalf of its owner, v. B.M. 9b.

(14) So that the priest might acquire the firstlings immediately after birth.

(15) A good deed, by rearing the firstlings of the priest in his ground. Therefore it is as if the ground belonged to both. The ground also is like the shepherd in the case where two gave animals in charge of a shepherd and therefore they divide the surviving animal.

(16) I.e., in the case of an animal of uncertain first-birth, the owner would suffer a loss if the ground was the priest's.

(17) Of the ground.

(18) For there was a female with it, and therefore one can say that the female came first.

(19) And the priest takes the lean one. Heb. Meshammenim1. V. supra p. 121 n. 1.

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(20) For one can say that each ewe gave birth to a male and a female and in each case there is a doubt as to whether the male came first.

(21) Where the priest receives one of the animals of uncertain first-birth, the other animal is exempt from the priests' gifts.

(22) For the reason stated by Raba supra 18a.

(23) Since perhaps the ewe which had never given birth begot the female, and the ewe which had given birth before begot the male.

(24) Where a ewe begot two males.

(25) And as there is a doubt, we say that the claimant must produce the evidence.

(26) For the reason why this is the strong one is because it came forth without a companion and had more room in emerging; therefore it is undoubtedly the firstling.

## Bechoroth 19a

that the one which had not given birth is much the better one.<sup>1</sup> There is need therefore [for the enumeration of all the instances where R. Tarfon and R. Akiba differ].

**MISHNAH.** WITH REGARD TO [AN ANIMAL] EXTRACTED THROUGH THE CESAREAN SECTION AND THE FIRSTLING WHICH CAME AFTER IT, R. TARFON SAYS: BOTH PASTURE UNTIL BLEMISHED AND ARE EATEN WITH THEIR BLEMISHES BY THE OWNERS,<sup>2</sup> WHEREAS R. AKIBA SAYS: IN BOTH CASES THE LAW OF THE FIRSTLING DOES NOT APPLY: IN THE FIRST, BECAUSE IT IS NOT THE FIRST-BIRTH OF THE WOMB, AND THE SECOND, BECAUSE ANOTHER [ANIMAL] PRECEDED IT.

**GEMARA.** On what principle do they differ? — R. Tarfon is in doubt whether a firstling in only one respect is the firstling [of Scripture], whereas R. Akiba is certain that a firstling in only one respect is not the firstling [of the Scripture].

Our Rabbis taught: [A lesson can be derived] from a general proposition which requires complementing by specification and from a specification which requires complementing by a general proposition. For Instance: [Scripture says]: Sanctify unto

me all the first-born.<sup>3</sup> I might understand from this that even a female is subject to the law of the firstling. Hence the text expressly states: All the firstling males<sup>4</sup> [that are born].<sup>5</sup> From the word males', however, I might understand that even if a female came forth before it, [it is subject to the law of the firstling]. Hence the text expressly states: That openeth the womb.<sup>6</sup> From the words 'that openeth the womb', however, I might understand that the law applies even if it came after an animal extracted through the cesarean section. Hence Scripture expressly states: The firstling.<sup>7</sup>

Said R. Sherabya to Abaye: In the first part [of the above passage],<sup>8</sup> why does not the Talmud bring the text 'The firstling'?<sup>9</sup> From this we see that a firstling in only one respect is the firstling [of the Scripture]. And in the last part [of the above passage],<sup>10</sup> the Talmud brings the text 'firstling'. Consequently, we see that the firstling in only one respect is not the firstling [of the Scripture]! — He replied to him: Indeed a firstling in only one respect may still not be the firstling [of the Scripture]<sup>11</sup> and, in the first part [of the above passage], what he means to say is this: From the word 'male' in the text, however, I might infer that even a firstling extracted through the caesarian section is the firstling [of the Scripture]. Hence Scripture expressly states: The first-birth of the womb.<sup>12</sup>

Rabina said: Indeed a firstling in one respect may still be the firstling [of the Scripture].<sup>13</sup> and the last part [of the passage] means this: If you should assume that a firstling which came forth after one extracted through the cesarean section is sanctified, what need is there for the Divine Law to write the word 'Firstling'?<sup>14</sup>

(1) And therefore its offspring is the stronger and, consequently, the priest should claim it as the firstling.

(2) For they are animals of uncertain first-birth, according to R. Tarfon. In the case of the first animal, although it is the first of the offspring, it



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is not the first which came forth from the womb. And with regard to the second animal, although it is the first which left the womb, it is not the first of the offspring.

(3) Ex. XIII, 2. This first part is not an illustration of the general proposition which requires a specification to define it, as mentioned above (Rashi).

(4) Deut. XV, 19.

(5) This is an example of a general proposition followed by a specification in which the scope of the proposition is limited by the things specified.

(6) Here we have a case of a specification which is required to define and explain a general proposition as mentioned above. It is not, however, a genuine general proposition followed by a specification referred to in the first portion of the passage where there is no necessity to define the nature of a first-born, since a female can also be first of the womb, the specification, however, limiting the scope of the general proposition to males alone (Rashi).

(7) Ex. XIII, 2. Here we have an illustration of a specification requiring a general proposition to define it.

(8) He calls here the middle part of the above passage commencing 'From the word males', etc.' the first part.

(9) If the law of the firstling only applied to an animal which is a firstling in every particular, why does not the Talmud, instead of saying 'I might infer that even if a female came before', etc. simply refer to the word 'firstling, in the text as excluding this assumption, since a genuine firstling must be such in all respects? Hence we may deduce that the scriptural firstling can be an animal which is so only in one respect.

(10) It says 'one might infer that the animal which came after one extracted through the cesarean section, etc. from which we may conclude that the firstling in only one respect is not a genuine firstling. Thus there is a clear contradiction in the above passage.

(11) For the firstling of the Scripture implies a firstling in every particular.

(12) And here the Talmud could not adduce the text 'Firstling' to refute the inference, for in this case the animal is a firstling, since it had never given birth. Therefore he quotes the text. The first-birth of the womb', which, at the same time, excludes the case of a female born previously through the womb (Rashi).

(13) And we do not derive the exclusion of an animal following one extracted through the cesarean Section from the scriptural word 'Firstling', as the latter also indicates that it is a firstling even if it is so in one particular only. But the exclusion is in fact derived from the addition of the word 'Firstling'.

(14) Let Scripture write: The first-birth of the womb, a male, thou shalt sanctify.

## Bechoroth 19b

It cannot be for the purpose of excluding a case of a female which came before it, since this is derived from the text 'The first-birth of the womb'. Deduce then from here that the additional word 'Firstling' excludes the case of an animal which came forth after one extracted through the cesarean section.<sup>1</sup>

Said R. Aha of Difti to Rabina: If you should assume that a firstling in one respect is the firstling [of the Scripture],<sup>2</sup> we can well understand that if a male extracted through the cesarean section is followed by a male subsequently born from the womb, the latter is not sanctified, being excluded by the word 'Firstling', since we have here a firstling in respect of the womb but not as regards males and offspring.<sup>3</sup> But in the case of a female extracted from the cesarean section and a male subsequently born from the womb, let it be sanctified, since here we have a firstling of males and the firstling of the womb?<sup>4</sup> — The fact is that the best explanation is that of Abaye.<sup>5</sup>

## CHAPTER III

*MISHNAH.* IF ONE BUYS AN ANIMAL FROM A HEATHEN NOT KNOWING WHETHER IT HAD GIVEN BIRTH OR HAD NEVER YET GIVEN BIRTH, R. ISHMAEL SAYS: THAT BORN OF A GOAT IN ITS FIRST YEAR CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING].<sup>6</sup> THAT BORN OF A EWE TWO YEARS OLD CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING]. THAT BORN OF A COW OR AN ASS THREE YEARS OLD CERTAINLY BELONGS TO THE PRIEST; AFTER THAT, IT IS A QUESTIONABLE CASE [OF A FIRSTLING].<sup>7</sup> SAID R. AKIBA TO HIM: IF AN ANIMAL WERE EXEMPTED [FROM THE

# BECHOROS – 2a-31a

LAW OF THE FIRSTLING] ONLY WITH THE BIRTH OF [ACTUAL] OFFSPRING, IT WOULD BE AS YOU SAY. BUT THE FACT IS [AS THE RABBIS] SAID: THE SIGN OF OFFSPRING IN SMALL CATTLE IS A DISCHARGE [FROM THE WOMB],<sup>8</sup> IN LARGE CATTLE, THE AFTER-BIRTH; IN A WOMAN, THE SIGNS ARE THE FOETUS AND THE AFTER-BIRTH. THIS IS THE GENERAL RULE: WHEREVER IT IS KNOWN THAT IT HAD GIVEN BIRTH,<sup>9</sup> THE PRIEST RECEIVES NOTHING. WHEREVER IT HAD NEVER GIVEN BIRTH, IT BELONGS TO THE PRIEST. IF THERE IS A DOUBT, IT SHALL BE EATEN IN ITS BLEMISHED STATE BY THE OWNERS.

*GEMARA.* [The Mishnah says] that, after that, it is a questionable case [of a firstling]. Why is it a questionable case? Why not go by the majority of animals which become pregnant and beget in their first year, and [so we say that] this one certainly gave birth in the first year?<sup>10</sup> May we, therefore, not say that R. Ishmael holds according to R. Meir, who takes into consideration the minority? — You may say that he even concurs with the Rabbis, for the Rabbis go by the majority only when it is the majority which is before us, as e.g. the case of the nine stalls<sup>11</sup> and the Sanhedrin.<sup>12</sup> But in the case of a majority which is not before us,<sup>13</sup> the Rabbis do not go by the majority. But is there not the case of minors, a boy and a girl,<sup>14</sup> which is a majority that is not before us, and still the Rabbis go by the majority?

For we have learnt: Minors, whether boy or girl, do not perform the act of halizah<sup>15</sup> nor the levirate marriage.<sup>16</sup> This is the teaching of R. Meir. [The Rabbis] said to him: You rightly say that they do not perform the act of halizah, for Scripture says a man;<sup>17</sup> and we put a woman on a level with a man [in this respect]. But what is the reason why they do not perform the levirate marriage?—

He thereupon replied to them: A boy minor [is not allowed to do so]. lest he be found to be a eunuch,<sup>18</sup> and a girl minor, lest she be discovered to be sterile<sup>19</sup> and thus render it a case of contact with a forbidden relation.<sup>20</sup> And the Rabbis? — We go by the majority of boys in the world, and the majority of boys are not eunuchs. We go by the majority of girls [in the world], and the majority of girl minors are not sterile!<sup>21</sup> —

Rather said Raba:

- (1) That it is not sanctified, but in the case where a female was born before through the cesarean section, the male animal following, it is still the firstling of the Scripture, although it is not a firstling as regards birth, for a firstling need not be so in every respect.
- (2) And an animal which was born after one which came through the cesarean section is excluded, not by the implication of the word 'Firstling', but owing to the addition of the word 'Firstling'.
- (3) It is logical to maintain that the additional word 'Firstling' would exclude a case of this character.
- (4) For the additional word can only exclude one case, whereas the Baraitha above implies that in both instances, even where a female was extracted through the cesarean section and a male was born from the womb, it is not the Scriptural firstling.
- (5) That the significance of the term 'Firstling' is that in every particular the animal must be a firstling and therefore all the cases cited above are excluded.
- (6) The animal therefore grazes until it is blemished and it is then eaten by the owners.
- (7) And in the case of an ass of a questionable first-birth, the Israelite separates a lamb on its behalf, which, however, he retains for himself.
- (8) And we say that there is an abortion. We fear then lest it discharged in its first year, and therefore that born of a goat, even in its first year is a questionable case of a first-birth.
- (9) Either actual birth or a discharge from the womb.
- (10) Consequently, the animal born now should be regarded as genuine Hullin, to be eaten unblemished.
- (11) Each selling meat killed ritually and one stall selling ritually forbidden meat. A piece of meat is found on the ground before one of these stalls and it is not known whether it is kosher (ritually fit to be eaten) or not. The ruling is that whatever

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comes out of a heterogeneous mass is presumed to come from the larger element in it and, in this instance, it is a majority which is before us, since the stalls are before us to witness.

(12) In a court of law, where twelve judges absolve and eleven condemn and we are guided by the views of the majority. Here, too, the majority is one which is visible to us; v. Hul. 11a.

(13) As in this case, where we argue that the majority of the animals the world over are pregnant, etc.

(14) A boy under thirteen years of age, and a girl under twelve.

(15) The ceremony of taking off the brother-in-law's shoe. (Deut. XXV, 5-11.)

(16) To marry the wife of a brother who died without issue.

(17) 'So shall it be done with that man', (Deut. XXV, 9.) Excluding, therefore, a minor.

(18) Impotent as regards a sexual act.

(19) Incapable of conception.

(20) A woman forbidden to marry a certain man and vice versa, owing to consanguinity.

(21) This proves that the Rabbis follow also a majority which is not before.

## Bechoroth 20a

It is the best explanation [to say that] R. Ishmael holds according to R. Meir, who takes into consideration the minority. Rabina said: You may still say that he holds with the Rabbis, for the Rabbis go by the majority only in the case of a majority that does not depend on action, but in the case of a majority which depends on action,<sup>1</sup> it is not so.

Our Rabbis taught: That born from a goat in its first year, certainly belongs to the priest; after that, it is a questionable case [of a firstling]. That born of a ewe two years old certainly belongs to the priest; after that, it is a questionable case. That born of a cow three years old certainly belongs to the priest; after that, it is a questionable case. The rule for a she-ass is the same as for a cow. R. Jose b. Judah, however, says that the offspring of a she-ass four years old [certainly belongs to the priest]. Thus far the teachings are those of R. Ishmael.

When these teachings were reported to R. Joshua, he said to them: Go and say to R. Ishmael, you have made a mistake. If the animal were exempted only with the [actual] birth of an embryo, it would be as you say. But [the Sages] have declared: A sign of offspring in small cattle is a discharge [from the womb], in large cattle, the after-birth, and in a woman, the signs are the fetus and after-birth. I do not, however, hold with this. But [what I say is that] a goat which at six months discharged [from the womb] can give birth in its first year, that a ewe which discharged within its first year [from the womb], gives birth in its second year.

Said R. Akiba: I have not got so far as this.<sup>2</sup> But [what I say is that] wherever it is known that it had given birth, the priest receives nothing; wherever it had never given birth, it belongs to the priest, and if it is a questionable [firstling], it shall be eaten in its blemished state by the owner. What is the point at issue between R. Ishmael and R. Joshua? May we say that the point at issue is as to whether a discharge [from the womb] exempts [from the law of the firstling].<sup>3</sup> R. Ishmael holding that a discharge does not exempt. whereas R. Joshua holds that a discharge exempts? —

[No]. If we actually saw it discharging, all the authorities would agree that a discharge exempts [from the law of the firstling]. The point at issue, however, is whether we take into consideration the possibility of its having discharged. R. Ishmael holds: We do not take into consideration the possibility of its having discharged, whereas R. Joshua holds that we take into consideration this possibility. But does not R. Ishmael take into consideration [such a possibility]. Did not Raba say above that it is obvious that R. Ishmael holds with R. Meir, who takes into consideration [the minority]? —

R. Ishmael takes into consideration [the minority] when the object is to make the ruling more stringent.<sup>4</sup> But when the object

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is to render the ruling more lenient,<sup>5</sup> then he does not take into consideration the minority. And if you prefer [another solution], I may say: Whether it is to restrict or to make the ruling more lenient, he takes into consideration [the minority]. The difference of opinion, however, is [whether] where it discharges [from the womb] it can subsequently give birth in its first year. R. Ishmael held that an animal which discharges does not subsequently give birth in its first year and consequently this one, since it gave birth, certainly did not discharge. But R. Joshua held: An animal which discharges can give birth subsequently in its first year. [It says above]: 'I do not, however, hold with this. But a goat six months old which discharged gives birth in its first year, a ewe a year old when she discharged gives birth in its second year'. What is the difference between what he had on traditions<sup>6</sup> and his own opinion?<sup>7</sup> —

Where e.g., the animal discharged at the end of six months,<sup>8</sup> and they differ as to Ze'iri's dictum. For Ze'iri said: The period of discharge is not less than thirty days.<sup>9</sup> What he had on traditions<sup>10</sup> agrees with Ze'iri's dictum, whereas his own opinion<sup>11</sup> does not agree with Ze'iri's dictum. And if you prefer [another solution]. I may say: All [the authorities concerned] accept Ze'iri's dictum. The point at issue here, however, is whether an animal gives birth before the due number of months is completed.

(1) As e.g., the animal's pregnancy, which depends on the act of coupling with a male, so that there is the possibility that there was no coupling in this instance.

(2) I.e., to know whether an animal which discharged in six months can bear in a year, so that even if it bears in the first year we are not certain that the offspring is a firstling.

(3) That R. Ishmael who regards that born of a goat in the first year as certainly a firstling is of the opinion that even if it discharges in its first year, it is not thereby exempted.

(4) And he rules that the offspring, even after the first year, is a questionable firstling, for a minority of animals do not give birth in the first year, whereas if we went only by the majority, an

animal born after the first year would be regarded as Hullin, without any doubt as to whether it is a first-birth.

(5) As in the example here, if we were to take into consideration the minority that discharges and therefore regard the animal as a questionable firstling even in its first year. that would be making the law of the firstling more lenient.

(6) R. Joshua's statement 'But the Sages said, etc'.

(7) Where he declares: But I do not hold with this.

(8) Where we actually saw the discharge commencing in the beginning of the seventh month.

(9) And for this period it is unable to couple with a male.

(10) Which does not say: That of a goat in its first year thus implying that even if it gives birth on the first day of the second year. the offspring is a firstling, as we accept Ze'iri's dictum that its discharge is for thirty full days, after which there is a period of pregnancy of five complete months, so that it would give birth on the first day of the second year.

(11) Which says: But a goat six months old which discharges gives birth in its first year. It cannot, consequently. Hold that the discharge lasts the full thirty days as laid down by Ze'iri's dictum, for then, allowing for the full months of pregnancy, it could not give birth in the first year.

## Bechoroth 20b

According to what we have on tradition, we do not maintain that it gives birth before the due number of months is completed,<sup>1</sup> but according to his own opinion we maintain that it does give birth before the due number of months is completed. And if you still prefer [another solution], I may say: We do not maintain that an animal gives birth before the due number of months is completed and the point at issue here is, however, whether a part of the day<sup>2</sup> is considered as equivalent to the whole day. According to his own opinion,<sup>3</sup> we say that a part of the day is considered equivalent to the whole day,<sup>4</sup> whereas according to what he had on tradition we do not say that a part of the day is considered as the whole day. 'Said R. Akiba: I have not come so far as this. But wherever it is known, etc.' What is



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the difference between R. Akiba and R. Joshua?<sup>5</sup> —

Said R. Hanina of Sura: The difference between them is whether milk exempts [from the law of the firstling].<sup>6</sup> R. Akiba holds: Milk exempts, for we go by the majority of animals and the majority of animals do not give milk unless they have given birth. But R. Joshua<sup>7</sup> holds that there exists a minority of animals which give milk although they have not yet given birth. But does R. Joshua take into consideration the minority? Have we not learnt: If [a woman]<sup>8</sup> had a mother-in-law, she need not fear,<sup>9</sup> but if when she left the mother-in-law was pregnant, she must fear.<sup>10</sup>

R. Joshua, however, says: She need not fear.<sup>11</sup> And we explained, what is the reason of R. Joshua — He holds: The majority of pregnant women actually gave birth, and only a minority miscarry. And of all who give birth, half bear males and half females.<sup>12</sup> Add the minority of miscarriages to the half which bear females, then males are in the minority and we do not take into consideration a minority? — Rather, reverse [the names above].<sup>13</sup> And it has been taught similarly: Milk exempts from the law of the firstling;<sup>14</sup> this is the teaching of R. Joshua. R. Akiba, however, Says: Milk does not exempt.<sup>15</sup>

Our Rabbis have taught: If a she-kid gave birth to three females<sup>16</sup> and each female gave birth to three,<sup>17</sup> all of them<sup>18</sup> enter the shed to be tithed.

Said R. Simeon: I saw [a she-kid] of which [the offspring] was tithed in its first year.<sup>19</sup> What need is there [for the Baraitha] to state that each gave birth to three? Let it state that one gave birth to three and the rest each gave birth to two? — Since one animal must necessarily bear three,<sup>20</sup> [the Baraitha] states in each of the cases mentioned that it gave birth to three. And what need is there for [the Baraitha] to state

[that each gave birth to] three at all? Let it say that each [offspring] gave birth to two and the mother again gave birth together with them?<sup>21</sup>

(1) And, therefore, it does not speak of having been born in the first year.

(2) The thirtieth day of the discharge, and the point is whether it is possible for the animal to commence pregnancy on that day.

(3) Which refers to being born in the first year.

(4) That a part of the last day of the discharge is considered as a whole day, and therefore we can say that it became pregnant on that very day, so that the animal was born on the last day of its first year, even after allowing for five full months for the pregnancy.

(5) Since according to both, where we do not know if it had given birth, the embryo is a questionable first-born.

(6) If it gives milk in its first year, or if it was born in the Israelite's house and we did not see it giving birth until after the first year, but meanwhile it gave milk.

(7) Who takes into consideration the minority of animals which discharge, also takes into consideration the minority of animals which give milk although they had never given birth. Therefore the offspring in this case is subject to the law of the firstling.

(8) Who with her husband had gone to some place where information regarding those left behind was not easy to obtain, and the husband died without children and left no brother (Yeb. 119a).

(9) Lest meanwhile, during their absence, the mother-in-law had given birth to a son whom the widow is now obliged under the levirate law to marry.

(10) Lest a son was born to her mother-in-law, and therefore she cannot marry another.

(11) V. Yeb. 119a.

(12) Who do not render the widow liable to the law of the levirate.

(13) So that it is R. Joshua who maintains that a discharge exempts, and the same applies to the giving of milk, whereas R. Akiba only exempts where it is definitely known that it had given birth, but when it is not known, even if it discharges or gives milk, it is a doubtful first-born.

(14) As is the case when it discharges from the womb.

(15) From the law of the firstling, unless it is known that it had not given birth.

(16) Simultaneously, at the end of its year.

(17) At the end of their year. The offspring were females, but if they had been males, there would

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have been three firstlings and there could then be no tithing. All of them would have to be born between one Elul and the next, as the month of Elul is reckoned the New Year for animal tithing and those born before Elul cannot be tithed with those born after Elul; v. R.H. 2a.

(18) I.e., the offspring.

(19) I.e., in the same year as the three daughters were born, and the daughters in turn gave birth, and the animals entered for tithing.

(20) In order to make up the number ten to be subject to tithing, as the original she-kid is not tithed with the offspring because it belongs to a previous year.

(21) So that there will be three mothers with their six offspring and the additional offspring of the she-kid.

## Bechoroth 21a

May we say,<sup>1</sup> therefore, that he holds that an animal which discharges, does not subsequently give birth in the year [of its discharging]?<sup>2</sup> — [No], though you hold that an animal which discharges can give birth in the year [of its discharging],<sup>3</sup> [you may still maintain that] if it gave birth, it cannot give birth again in the same year.<sup>4</sup>

Said R. Simeon: 'I saw a she-kid, etc.' What is the difference between the first Tanna [quoted above in the Baraitha] and R. Simeon?<sup>5</sup> — They differ in accepting or rejecting the dictum of Ze'iri. For Ze'iri said: The period of discharging [from the womb] is not less than thirty days.<sup>6</sup> The first Tanna [in the above Baraitha] accepts Ze'iri's dictum,<sup>7</sup> whereas R. Simeon does not accept Ze'iri's teaching.

And if you wish [another solution] I may say: All the authorities concerned agree with Ze'iri's dictum, but the difference between them is whether an animal can give birth before the due number of months is completed. The first Tanna [of the above Baraitha] holds that an animal cannot give birth before the due number of months is completed, whereas, according to R. Simeon, It can give birth before the due number of months is completed. And if you wish [still another solution] I may say: All [the

authorities concerned] maintain that an animal does not give birth before the due number of months is completed, and the difference of opinion is whether a part of the day is considered as equivalent to the whole day. According to the first Tanna [above] we do not maintain that a part of the day is considered like a whole day, whereas, according to R. Simeon, we maintain that a part of the day is considered like a whole day. And if you wish [still another solution], I may say: All the authorities concerned agree that a part of the day is considered like the whole day, and the point at issue here is whether animals may enter the shed to be tithed before its due time.<sup>9</sup>

(1) Since the Baraitha above does not state that the mother gave birth again but that the ten animals for tithing are composed of each of the daughters giving birth to three.

(2) And in this case, it cannot bear, having given birth to three daughters in the beginning of the year. He mentions here 'discharging' because he also wishes to solve the dispute above between R. Ishmael and R. Joshua on the point whether there is a delay after a discharge as after an actual birth.

(3) I.e., that the period of discharging can be less than thirty days.

(4) And therefore the language of the Baraitha affords no proof with regard to discharging.

(5) For both agree that the she-kid, the grandmother, is not tithed with the rest.

(6) This passage is inserted from Sh. Mek.

(7) And these three daughters discharged in the beginning of the seventh month, continuing the discharge for thirty days, and therefore they could not give birth in the first year, but only at the beginning of the second year. For this reason the first Tanna does not use the expression 'In the first year'.

(8) Who uses the phrase 'In the first year', certainly does not agree with Ze'iri, but maintains that discharging can last less than thirty days, so that they gave birth in the first year. (R. Gershom). According to Rashi the explanation is that the females discharged on the last day of the sixth month and not on the first day of the seventh month. Add to this the thirty days of Ze'iri and the five full months of pregnancy, then the animal enters the shed for tithing at the end of the first year. But R. Simeon who uses the expression 'In the year' does not accept Ze'iri's teaching and therefore the tithing can take place some days earlier, before the

# BECHOROS – 2a-31a

completion of the year. A further explanation of Rashi is: According to the first Tanna of the Baraitha above, even if it begins to discharge on the first day of the seventh month, and allowing the thirty full days of Ze'iri, it still gives birth on the first day of the second year. If the year is a leap-year the mothers and their daughters enter the shed to be tithed even in that case. Reckoning the year therefore from Elul to the following Elul, we could place the birth even on the first of Ab. But R. Simeon who uses the expression 'In his first year' does not accept Ze'iri's reaching and they can therefore be tithed together, having been born on the last day of Ab.

(9) Before the eighth day from its birth. According to the first Tanna of the Baraitha they do not enter to be tithed before the completion of seven days after their birth, whereas according to R. Simeon, they can be tithed even before that time.

## Bechoroth 21b

And we have a Baraitha [confirming this]. R. Simeon the son of Judah reported in the name of R. Simeon: An animal, though immature,<sup>1</sup> can enter the shed to be tithed, for it is like the case of a firstling: Just as a firstling is sanctified before its due time<sup>2</sup> and is sacrificed when its time becomes due, so a tithing animal can be sanctified before its due time and offered up after its time becomes due. But why deduce [the case of a tithing animal] from the case of a firstling? Why not deduce it from the case of dedicated animals?<sup>3</sup> —

It is reasonable to infer [the case of a tithing animal] from the case of a firstling, because to both apply the rules regarding redemption,<sup>4</sup> a blemish,<sup>5</sup> exchange,<sup>6</sup> and eating.<sup>7</sup> On the contrary, according to this, [the Baraitha] ought to infer [the case of a tithing animal] from the case of dedicated animals, because to both apply the rules regarding a plain animal,<sup>8</sup> a male,<sup>9</sup> sanctification,<sup>10</sup> and the priest's dues?<sup>11</sup> The fact is that R. Simeon learns from [the analogy between] 'passing'<sup>12</sup> and 'passing'. What is the discharge [from the womb] like? —

Rab said: As the shepherds of Zaltha said: The womb closes up.<sup>13</sup> Samuel said: Casting up blood. And he is required to show it to a wise man [Sage].<sup>14</sup> How does a wise man know? —

Said R. Papa: [What is meant is] a wise shepherd. Said R. Hisda: Behold the Sages said: The period for the formation of an embryo in a woman is forty days.<sup>15</sup> R. Hisda thereupon asked: How long is the period in the case of an animal?<sup>16</sup> —

Said R. Papa to Abaye: Is not this Ze'iri's dictum? For Ze'iri said: The period of discharging is not less than thirty days?<sup>17</sup> This [statement] referred only to the receiving of a male for coupling.<sup>18</sup> Now we have [in our Mishnah] the ruling concerning [an Israelite] purchasing [an animal] from a heathen. What is the ruling, however, where [an Israelite] purchases [an animal] from an Israelite? —

Said Rab: It is surely a firstling, for if it had given birth, he would certainly have recommended it on this ground.<sup>19</sup> But Samuel says: It is a questionable firstling, because the seller thinks the other needs it for slaughtering.<sup>20</sup> R. Johanan said: The animal is genuine hullin.<sup>21</sup> What is the reason? If it be a fact that it had never given birth, since we have here a prohibition,<sup>22</sup> he would surely inform him.<sup>23</sup> It has been taught in support of R. Johanan's ruling, who maintains that it is Hullin: If<sup>24</sup> he did not inform him,<sup>25</sup> he can proceed to kill and need not refrain.<sup>26</sup> May we assume [then] that this [Baraitha] is a refutation of Rab and Samuel?<sup>27</sup> — There,<sup>28</sup> it depends on the seller, whereas here the matter depends on the buyer.<sup>29</sup>

**MISHNAH.** R. ELIEZER B. JACOB SAYS: IF A LARGE DOMESTIC ANIMAL HAS DISCHARGED A CLOT OF BLOOD, IT [THE CLOT] SHALL BE BURIED,<sup>30</sup> AND IT [THE MOTHER] IS EXEMPTED FROM THE LAW OF THE FIRSTLING.

# BECHOROS – 2a-31a

**GEMARA. R. Hiyya taught:** [The clot of blood] does not make unclean with contact, nor by being carried. Now since it does not make [a person] unclean by contact nor the carrier unclean, why is it buried?<sup>31</sup>

- (1) I.e., too early for sacrifice, before the expiration of the seven days after birth.
- (2) From the time it leaves the womb.
- (3) Where not only is the animal disqualified for sacrifice before its due time but it is even not invested with any sanctity if consecrated before the expiration of the seven days after birth.
- (4) A firstling and a tithing animal cannot be redeemed from their sanctity, whereas blemished dedicated animals are capable of redemption.
- (5) A firstling, even born blemished, is sacred. A tithing animal is also sacred, even in a blemished state.
- (6) The animal for which a firstling or a tithed animal is exchanged is not holy, whereas with reference to dedicated animals, they and their exchanges are sacred.
- (7) A firstling and a tithing animal are eaten by their owners, in the first case by the priest and in the second by the Israelite, whereas blemished dedicated objects must be redeemed. Tosaf. explains that all consecrated animals which have been disqualified from the altar may be bought in a shop and sold by the pound weight, which is forbidden in the case of a firstling and tithing animal.
- (8) The rules of tithing and consecration apply to plain animals, i.e., not first-born.
- (9) Consecration and tithing apply to both males and females, whereas the law of the firstling applies only to males.
- (10) An act of consecration is required in the case of tithing animals and dedicated objects, whereas a firstling is sacred from birth.
- (11) A tithing animal or a consecrated animal is not the priests' due, whereas a firstling is the due of the priests.
- (12) The text: 'Thou shalt cause to pass (set apart) unto the Lord all that openeth the womb'. (Ex. XIII, 12) stated in connection with the law of the firstling, and the text that passeth under the rod', mentioned in connection with the law of tithing animals.
- (13) And the embryo was mashed.
- (14) To ascertain whether there was an embryo and thus to be exempted from the law of the firstling.
- (15) And should the woman, therefore, have a miscarriage before this period has elapsed, she is not required to keep the days of purity and

impurity laid down by Scripture for a woman after childbirth.

(16) I.e., if it miscarried and is not therefore exempt from the law of the firstling.

(17) Apparently referring to the formation of the embryo.

(18) That it cannot take a male for coupling purpose for a period of thirty days, having commenced to discharge from the womb. But there is no indication here as regards the time it takes to form an embryo. Another explanation is that Ze'iri's meaning is that before the animal becomes pregnant she discharges for thirty days, but there is nothing here with reference to the period of the formation of an embryo. (R. Gershom.)

(19) That the animal had already given birth and thus the priest had no further claim on the offspring.

(20) And the reason, therefore, why the seller is silent on this point is perhaps not because it had never given birth but because he thinks that the buyer desires to kill the animal and not to rear offspring, in which case there is no advantage in informing him. Consequently, it is a doubtful firstling.

(21) An unconsecrated animal.

(22) If the Israelite ate the firstling, since it belongs to the priest.

(23) That the animal had never given birth.

(24) Hul. 83a.

(25) In four periods of the year, the Mishnah says in Hul. 83b, a seller must inform prospective buyers that he had sold the mother or the young on that day, so as to safeguard the buyer from killing the mother with its young on the same day.

(26) Since he had not informed him about selling its mother or its young on that day. We see therefore that we construe silence as indicating that there is no infringement of the law.

(27) Who hold above respectively that the animal is a certain or a doubtful firstling, for here we see that it is regarded as genuine Hulin.

(28) In the case of the Baraita in Hul., the duty rests with the seller to inform the public and therefore the purchaser interprets the former's silence as indicating that there is no infringement of the law.

(29) It rests with the buyer of the animal to inquire whether it is a firstling or not, as Scripture says: All the firstling males that come of thy herd and thy flock, etc. (Deut. XV. 19), indicating that the duty of separating the firstling devolves upon the person in whose possession the animal is. Consequently, as the necessary inquiries were not made, we regard the offspring as a case of a questionable firstling.



# BECHOROS – 2a-31a

(30) For it is forbidden to use it profitably in case it was a male embryo which was mashed and was sanctified as a firstling.

(31) Since it does not cause Levitical uncleanness; we see that we do not fear lest there was here an embryo at all!

## Bechoroth 22a

— In order to make known that the mother is exempted from [the law of] the firstling. Does not this mean to say that it is a genuine embryo? Then why does it not make unclean by contact nor make the carrier unclean? —

R. Johanan answered: Because the principle of neutralization by the larger portion is applied here.<sup>1</sup> And R. Johanan is in agreement here with the opinion he expressed elsewhere. For R. Johanan said: R. Eliezer b. Jacob and R. Simeon made similar statements. What is the statement of R. Eliezer b. Jacob? — That which we have learnt [in our Mishnah above]. What is R. Simeon's statement? — As we have learnt: If there is an after-birth<sup>2</sup> in a house, the house is unclean. Not that the after-birth is considered an embryo, only because there cannot be an after-birth without an embryo.<sup>3</sup> But R. Simeon says: The embryo was mashed before it came forth.<sup>4</sup> We have learnt elsewhere: The opening of the uterus for untimely births is not until the embryo [on leaving the uterus] forms a round head like a coil. What kind of coil does this mean? — Like a coil of wool.

Said Hiyya b. Rab to R. Huna: Did Rabbi explain whether the coil of wool containing warp<sup>6</sup> or containing woof is meant?<sup>7</sup> — He replied to him: It has been taught:<sup>8</sup> The coil of the warp. These are the words of R. Meir. R. Judah says: The coil of the woof. R. Eliezer b. Zadok says: From the time when the ring-like formations [at the mouth of the vagina] are visible.<sup>9</sup> What are the ring-like formations like? —

Rab Judah reported in the name of Samuel in behalf of R. Eliezer son of R. Zadok: In

Jerusalem they used to explain it in this manner. Like a mule which bends to urinate,<sup>10</sup> and it has the appearance of a coil coming forth out of a coil. Said R. Huna: I learnt two sizes of coils, one of the warp and the other of the woof, and I am unable to explain.<sup>11</sup>

When R. Dimi came, [from Palestine], he reported in the name of R. Johanan: I learnt of three sizes of coils, one of the warp, another of the woof and one large coil, and again another of the sack-carriers, and I am unable to explain.<sup>11</sup>

When R. Abin came [from Palestine] he explained this in the name of R. Johanan. In the case of a woman, the coil is like a warp.<sup>12</sup> In the case of an animal, the size of the coil is like the woof.<sup>13</sup> As to a large-size coil of the sack-carriers, it is as we have learnt. A clod [of clay] from a Beth ha-peras<sup>14</sup> or a clod of imported clay<sup>15</sup> must have the size of the great seal of the sack-carriers which is like the seal of leather bags. And of the same size is the top part<sup>16</sup> of the stopper of the Bethlehem wine jug.<sup>17</sup>

Resh Lakish reported in the name of R. Judah the Prince: He who buys brine from an 'am ha-arez<sup>18</sup> must bring it in contact with water<sup>19</sup> and it is then Levitically clean. For in either case if the larger portion [of the brine] is water,<sup>20</sup> since he brings it in contact with water,<sup>21</sup> he has cleaned it; and if the larger part is brine, brine is not susceptible to Levitical uncleanness.<sup>22</sup> The only doubtful element is that small quantity of water [in the brine]<sup>23</sup> and this is neutralized in the larger portion of the brine. Said R. Jeremiah: This has been laid down only with regard to dipping bread in it but, for cooking purposes, the brine is not permitted,<sup>24</sup> since like attracts like and the uncleanness is aroused.<sup>25</sup>

R. Dimi was once sitting and repeating this statement of R. Jeremiah: Said Abaye to him: Can Levitical uncleanness, once

# BECHOROS – 2a-31a

neutralized, be aroused again? — He replied to him: And do you not hold that this is reasonable? Have we not learnt: If a se'ah<sup>26</sup> of unclean terumah<sup>27</sup> has fallen

(1) The blood and the multi-colored substance being the larger portion neutralizes the flesh of the embryo and therefore the latter is not susceptible of Levitical uncleanness.

(2) Which a woman produced by a miscarriage and an embryo was not recognized therein.

(3) Which however was mashed. And nevertheless it made the house unclean since we fear lest the embryo was not mashed — and so neutralized — until after it came forth.

(4) V. Nid. 18a. And it was explained there that the reason why the house is not unclean was because we apply to it the principle of the greater proportion of blood, etc. neutralizing the embryo before it came forth.

(5) If an embryo died inside a woman who sat on the travailing chair and her uterus was opened in one house but the embryo did not come forth in that house but in another, the first house is unclean, as if it had been born there, for impurity breaks through. v. Oh. VII.

(6) The thread of which is thin and small.

(7) The thread of which is thick.

(8) That there is a difference of opinion on this point.

(9) R. Eliezer differs from the first Tanna quoted above, for whereas the latter requires for constituting the opening of the uterus that the embryo should form a round head like a coil, the former holds that even if it had not formed a round head but in the period of travailing had reached the stage when ring-like formations were visible, indicating the passage of the embryo's head, we regard it as the opening of the uterus.

(10) The mule bends more than any other animal or beast, and while it does so, wrinkles are discernible on the vagina.

(11) To what each of these sizes of coil refers.

(12) This is the size which makes the woman subject to the law of one whose womb is open.

(13) If the embryo had not yet formed a round head of the size of the coil of the wool, then, if the embryo died inside the animal, and the shepherd stretched his hand inside, he does not receive Levitical uncleanness.

(14) A field declared to be unclean on account of the crushed bones carried over it from a plowed grave.

(15) Which has the same law as a Beth ha-peras.

(16) The upward sloping portion of the seal, like a handle, is called the top part.

(17) Oh. VII, 5.

(18) V. Glos. A person who is suspected of not keeping either through ignorance or willfulness certain regulations or customs relating to impurity.

(19) The brine in a vessel is placed in a Mikweh (ritual bath of purification), so as to make its surface level with the surface of the water into which it is dipped. This is a form of purification.

(20) And the brine is nullified in the larger part of the water, thus receiving uncleanness on account of the water.

(21) Of the Mikweh and it is purified thereby. This method of purification applies only to unclean water but not to food and other liquids.

(22) Because it is just the moisture of the fish which issues when salted.

(23) Which receives impurity and for which contact with Mikweh water is no purification, since the larger portion is brine and this method of purification does not apply to food.

(24) For the water in the brine combines with the water in the pot and the two together being now the larger portion, neutralize the brine, and make the latter unclean.

(25) Shaken from the law of neutralization. (So Rashi on A.Z. 73a.)

(26) A measure of volume for dry objects and for liquids. V. Ter. V, 2.

(27) The priest's share of the crop.

## Bechoroth 22b

into a hundred of clean hullin.<sup>1</sup> R. Eliezer says: The Terumah is separated and left to rot.<sup>2</sup> For I maintain that the same se'ah which fell was separated. But the Sages say: A se'ah is separated and eaten in a moldy state,<sup>3</sup> parched, kneaded in fruit juice,<sup>4</sup> or divided into [minute] loaves, so that there shall not be in one place the size of an egg.<sup>5</sup> And it was taught in connection: As to that Hullin

(1) The unconsecrated portion, not belonging to the priest.

(2) This being the law of unclean Terumah, which is forbidden to be eaten.

(3) From excessive dryness. Or it means, crumbled pieces less than the size of an egg. Although there is here clean and unclean food, nevertheless, so long as the former is not being made fit to receive Levitical uncleanness, i.e. does not come in contact with a liquid, the mixture can be eaten in the manner set forth here.

(4) For fruit juice does not make food susceptible to uncleanness.

# BECHOROS – 2a-31a

(5) This being the size which makes it fit to receive Levitical uncleanness, v. Ter. V, 2.

## Bechoroth 23a

according to R. Eliezer, what shall become of it?<sup>1</sup> — It shall be eaten in a moldy state, parched, kneaded in fruit juice or be divided into [minute] loaves, so that there shall not be in one place more than the size of an egg. And ‘Ulla further explained: What is the reason?<sup>2</sup> It is a precautionary measure in case he brings a kab<sup>3</sup> of unclean Hullin from another source and a Kab and a little over from this kind. He thinks that he neutralizes it by the larger portion, but since there is this minute quantity [of unclean Terumah].<sup>4</sup> like combines with like and the uncleanness is stirred up!<sup>5</sup> —

He said to him: If Levitical uncleanness arouses uncleanness, shall therefore Levitical cleanness stir up uncleanness.<sup>6</sup> He [Abaye] raised an objection [to R. Jeremiah's views]: If ashes fit for lustration [from the red-heifer] were mixed with wood-ashes, we go by the larger portion to render unclean.<sup>7</sup> But if the greater part is wood-ashes, they do not make unclean. Now, if you say that Levitical uncleanness [which was neutralized] is considered as still existing, granted that it does not make uncleanness by contact,<sup>8</sup> still let it make the carrier unclean?<sup>9</sup>

It was indeed stated on the subject: R. Jose son of R. Hanina said: [The word] ‘clean’ [in the above Mishnah] means that it is so far clean as not to make uncleanness by contact, but it still makes the carrier unclean. But did not R. Hisda say: Nebelah<sup>10</sup> is neutralized by ritually cut meat,<sup>11</sup> for it is impossible for ritually cut meat<sup>12</sup> to become Nebelah? Now,<sup>13</sup> granted that it does not make unclean by contact, still let it make the carrier unclean? —

He [R. Dimi] replied to him: You report this<sup>14</sup> in connection with what R. Hisda said,

we report it in connection with R. Hiyya. [For] R. Hiyya taught: Nebelah and ritually cut meat neutralize one another [when mixed together]. And it was stated on the subject: R. Jose son of R. Hanina said: It is so far clean as not to make unclean by contact, but it makes the carrier unclean.

But have we not learnt: R. ELIEZER THE SON OF JACOB SAYS: IF A LARGE DOMESTIC ANIMAL DISCHARGED A CLOT OF BLOOD, IT SHALL BE BURIED, AND IT IS EXEMPT FROM THE LAW OF THE FIRSTLING. And R. Hiyya taught [in a Baraita]: It does not make unclean, neither by contact nor by carrying?<sup>15</sup> Now [if a forbidden thing remains in existence even after neutralization], granted that it does not make unclean by contact, still let it make the carrier unclean? —

He [R. Dimi] became silent. [Nevertheless, there is no difficulty]; perhaps it is different here because it is an uncleanness which is putrid.<sup>16</sup> This would indeed hold good according to Bar Pada who said: A major uncleanness<sup>17</sup> attaches to it as long as it is fit to be eaten by a stranger,<sup>18</sup> whereas a minor uncleanness<sup>19</sup> until as long as it is fit for a dog; and in the case here it is surely not fit for a stranger. But according to R. Johanan who said:

(1) For according to the Sages, he is permitted to eat both the Hullin and the Terumah in the conditions stated above.

(2) Why do we not regard the rest as genuine Hullin according to R. Eliezer, since he holds that the se'ah which he separates is the Terumah and therefore the rest should be real Hullin?

(3) A small measure.

(4) Which must inevitably have mixed with the remainder, in spite of the fact that we maintain that the se'ah which is separated is the se'ah which fell into the Hullin.

(5) And combine together and thus receive uncleanness. This proves that Levitical uncleanness though once neutralized can be aroused again.

(6) That a minute quantity of uncleanness may stir up other uncleanness, as in the case of the

# BECHOROS – 2a-31a

Terumah, is feasible; but in the case of the brine, we certainly do not assume that the clean water in the pot will combine with the small quantity of unclean water in the brine in order to neutralize the latter and thus make it unclean.

(7) So that if the larger portion of ashes belong to the red heifer, they make unclean by contact. v. Parah IX. 7.

(8) For since the ashes are mixed, we do not know which are the red heifer's and perhaps he did not touch the ashes belonging to the red heifer at all.

(9) For if he carried all the ashes, then he is bound to have carried the ashes of the red heifer, which make unclean.

(10) Ritually forbidden food, the animal not having been killed according to Jewish law.

(11) Where two or more pieces of ritually killed meat are mixed with one piece of Nebelah.

(12) This is the correct version. A different version (cur. edd.) stating that it is impossible for Nebelah to become, etc. is incorrect, as it is possible for Nebelah to be freed from its Levitical uncleanness, if it becomes putrid and ceases to be regarded as edible food.

(13) If a forbidden thing, even after being neutralized, is still in existence and can be stirred up again.

(14) The ruling of R. Jose. [The meaning is not clear, nor is the text certain. The passage may also be explained: 'You report this ruling in the name of R. Hisda and as such it could not have been commented on by R. Jose; we report it as a Baraitha taught by R. Hiyya, and in connection with which R. Jose's statement was made'; cf. text in R. Gershom.]

(15) And we have explained above that the reason is because the larger portion of the blood, etc. neutralizes the embryo.

(16) This is the answer suggested by the Talmud.

(17) Like the uncleanness of carrying.

(18) After which it does not cause uncleanness.

(19) Like the uncleanness of coming in contact.

## Bechoroth 23b

The one as well as the other,<sup>1</sup> [attaches to it so long as] it is fit for a dog — in the case here is it not fit for a dog?<sup>2</sup> — This is indeed a difficulty. [The above] text [stated]: 'Bar Pada said: A major uncleanness attaches to it as long as it is fit for a stranger, but a minor uncleanness, as long as it is fit for a dog. But R. Johanan said: In the one case as well as the other, so long as it is fit for a dog [it remains unclean]'. What is the reason of Bar Pada?—

Scripture Says: Ye shall not eat of anything that dieth of itself; thou shalt give it unto the stranger.<sup>3</sup> [We infer from this that] what is still suitable for a stranger [to eat] is called Nebelah, whereas that which is no longer suitable for a stranger [to eat] is not called Nebelah. And the other? — He explains [the Scriptural text] as excluding the case where it was putrid from the beginning.<sup>4</sup> And [what says] the other [to this]? — Where it was putrid from the beginning there is no need for a Scriptural text to exclude, for it is mere dust.

We have learnt: R. ELIEZER B. JACOB SAYS: IF A LARGE DOMESTIC ANIMAL DISCHARGED A CLOT OF BLOOD, IT SHALL BE BURIED, AND IT IS EXEMPTED FROM THE LAW OF THE FIRSTLING. And R. Hiyya taught [in a Baraitha]: It does not make unclean either with contact or by carrying it. And R. Johanan explained that we apply here the principle of the larger portion neutralizing [the other]. [The question therefore arises], what need is there for the neutralization by the larger portion? Why not deduce this from the fact that it was not fit at all [for a stranger]? — In this case, too, it was suitable to be eaten [by a stranger], on account of its mother.<sup>5</sup>

We have learnt elsewhere: R. Eliezer b. Jacob says: Clear brine<sup>6</sup> into which there fell a little water is Levitically unclean.<sup>7</sup> R. Nahman reported in the name of Rabbah b. Abbuha: This proves that the 'amme ha-arez are suspected of mixing half water in brine.<sup>8</sup> But why half? Why not even less than a half, for together with the little water here, it makes a half, and a half does not become neutralized?<sup>9</sup> Read: Up to a half.<sup>10</sup> And if you prefer [another solution] I may say: The Levitical uncleanness imposed with reference to an 'am ha-arez is a Rabbinic enactment, and the uncleanness of liquid is also a Rabbinic enactment. Therefore, in the case where the water is the greater portion,



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the Rabbis decreed uncleanness, but where there is half and half, the Rabbis did not decree uncleanness.

**MISHNAH.** R. SIMEON B. GAMALIEL SAYS: IF ONE BUYS AN ANIMAL GIVING SUCK FROM A GENTILE, HE NEED NOT FEAR THAT PERHAPS THE OFFSPRING BELONGS TO ANOTHER [ANIMAL].<sup>11</sup> IF HE WENT AMONG HIS HERD AND SAW ANIMALS WHICH HAD GIVEN BIRTH FOR THE FIRST TIME GIVING SUCK AND ANIMALS WHICH HAD NOT GIVEN BIRTH FOR THE FIRST TIME GIVING SUCK, WE NEED NOT FEAR THAT PERHAPS THE OFFSPRING OF THIS ONE CAME TO THE OTHER OR PERHAPS THE OFFSPRING OF THE OTHER CAME TO THIS ONE.<sup>12</sup>

**GEMARA.** R. Nahman reported in the name of Rab: The law is in accordance [with the Mishnah]<sup>13</sup> in the whole chapter, except in the case where a difference of opinion is recorded. Said R. Shesheth: I say that Rab declared this tradition when he was half asleep. For to what does [Rab] refer? You can hardly say that he refers to the first part [of the chapter], for are there not differing opinions recorded of R. Ishmael and R. Akiba? Again if he refers [to the teaching of] R. Eliezer b. Jacob [in the preceding Mishnah] — is not the Mishnah of R. Eliezer b. Jacob little in quantity,<sup>14</sup> but well sifted?<sup>15</sup> And if he refers to [the teachings of] R. Simeon b. Gamaliel [in our Mishnah] — are there not differing opinions in the Baraitha?<sup>16</sup>

If he refers to [the teachings of] R. Jose b. ha-Meshullam [in a subsequent Mishnah], has not Rab, however, informed us of this once, for Rab said: The law is in accordance With R. Jose b. ha-Meshullam? And if he refers to [the subsequent Mishnah] in connection with the hair of a blemished [firstling], — are there not, however, different opinions recorded of Akabya b. Mahalalel and the Rabbis? — Indeed [Rab refers] to [the teachings of] R. Simeon b.

Gamaliel, and this is what he teaches us, that [the difference of opinion] in the Baraitha is not considered a difference of opinion [to be taken into account]. But since Rab said: The law is according [to the Mishnah] in the whole chapter, except where there is a difference of opinion.

(1) Both in the case of a major uncleanness and a minor uncleanness, it makes unclean, until it is no longer suitable for a dog to eat.

(2) And should therefore make the carrier unclean. R. Jeremiah's ruling above is therefore refuted. [Thus R. Johanan is self-contradictory.] Sh. Mek, reads: 'not fit at all to a stranger'.

(3) Deut. XIV, 21.

(4) Where e.g. the animal broke its ribs when alive and it commenced to decay. Although it is fit for dogs, it does not make the carrier unclean, for it never had this uncleanness. But where it was at first fit for a stranger and it possessed the power of making the carrier unclean, then it retains this uncleanness until it is unfit for a dog to eat.

(5) For if the animal did not discharge and it was slaughtered and a clot of blood was discovered, the clot would have been fit for a stranger along with the flesh, and since in this case it is made fit because of its mother, it is fit even now, when it has been discharged. Consequently, were it not for the fact that it is neutralized by the larger portion, it would have received uncleanness.

(6) Where the larger portion is not water.

(7) Having now received a little water, it becomes unclean and requires contact with Mikweh water for purification.

(8) So that when a little more fell into the brine, the parts which were similar, combined, and the water, being more than the brine, therefore received Levitical uncleanness.

(9) For only a small quantity of water we say above is neutralized by the larger portion, but not where the amount is a half.

(10) I.e., nearly a half of water the 'amme ha-arez mix with their brine and this, together with the small quantity of water that fell in, makes up the half. Consequently, the water is not neutralized and it receives uncleanness.

(11) So as to consider the offspring which follows a doubtful firstling, as perhaps the animal had never given birth. And as for its giving milk, it is only a minority of animals which give milk without having given birth previously. We therefore consider the offspring as certainly belonging to the animal and the animal is thus exempted from the law of the firstling.

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(12) But we presume that the offspring clinging to the animal belongs to it, and that there has been no mingling.

(13) Whether stated anonymously or as the pronouncement of a certain Tanna, where there is no difference of opinion.

(14) Lit., 'a Kab', a small measure of capacity.

(15) Then what need is there for Rab's ruling, since in any case the law is in accordance with his views.

(16) V. infra 24a.

## Bechoroth 24a

what need is there for the ruling that the law is in accordance with R. Jose b. ha-Meshullam? — If he had said that the law was according [to the Mishnah] in the whole chapter and did not state subsequently that the law was in accordance with R. Jose b. ha-Meshullam. I might have thought that he referred to R. Jose b. ha-Meshullam. and that what [the expression] 'the whole chapter' meant<sup>1</sup> was that R. Jose stated two things [in the subsequent Mishnah]<sup>2</sup> and that the difference of opinion in the Baraitha [is considered] a genuine difference of opinion.<sup>3</sup> Therefore Rab informs us that the law is in accordance with R. Jose. so as to intimate to us that [in the other statement] he refers to R. Simeon b. Gamaliel, and thus the difference of opinion in the Baraitha is not considered a difference of opinion [of any importance]. What is the Baraitha [referred to above]? —

As it has been taught: If one buys an animal giving suck from a gentile, the young which follows it, is a doubtful firstling,<sup>4</sup> because it can give suck even to one to which it had not given birth. R. Simeon b. Gamaliel however, says: We follow the natural presumption.<sup>5</sup> And so R. Simeon b. Gamaliel used to say: If one goes among his herd at night and sees about ten or fifteen animals, both those which had not borne previously and those which had previously given birth, and, the next day, he rises early and finds the males<sup>6</sup> clinging to the animals that had given birth previously and the females clinging to those which were now giving birth for the first

time, he need not fear that perhaps the offspring of one came to the other.<sup>7</sup>

It was queried: Was the reason of R. Simeon b. Gamaliel's statement that we follow the natural presumption. because no dam gives suck [to a stranger] unless it has had a child of its own,<sup>8</sup> but where it had given birth before, we do fear lest it gives suck to a stranger. Or perhaps was it that it gives suck to its own but it does not give suck to a stranger? What is the practical difference?<sup>9</sup> To punish with lashes on its<sup>10</sup> account for transgressing the prohibition of killing the mother and its young [on the same day]. If you say that it gives suck to its own but not to a stranger, then there is here a liability of lashes, whereas if you say that it gives suck also to a stranger. then there is no liability of lashes?<sup>11</sup> —

Come and hear: R. Simeon b. Gamaliel says: If one buys an animal from a gentile, he need not fear that perhaps it was the offspring of another!<sup>12</sup> — [No]. Does R. Simeon say [that perhaps] it is?<sup>13</sup> He says: [That perhaps] it was. What he means is this:<sup>14</sup> He need not fear that perhaps it was the offspring of another, except when it had previously given birth.

Come and hear: If one went among his herd and saw [both the animals] now bearing for the first time giving suck and those not now bearing for the first time giving suck, he need not fear that perhaps the offspring of this one came to the other or the offspring of the other came to this one. Why is this so? Why not fear lest it gave suck to a stranger?<sup>15</sup> — Where it has its own offspring. It does not leave its own and give suck to a stranger.<sup>16</sup>

Come and hear: 'We follow the natural presumption'. And so.<sup>17</sup> Now does not the first part [of the Baraitha above]<sup>18</sup> resemble the second part,<sup>19</sup> so that just as the second part refers to a case where the offspring is certainly its own,<sup>20</sup> so the first part also

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refers to a case where [the offspring] is certainly its own?<sup>21</sup> — Is this an argument? The first part deals with its own case and the second part deals with its own case.<sup>22</sup> And what does [the Baraitha] mean [by the phrase] ‘and so’?<sup>23</sup> — It refers to the exemption from [the law of] the firstling.<sup>24</sup>

Rabbah b. Bar Hana reported in the name of R. Johanan: If one saw a swine clinging to a ewe,<sup>25</sup> it is exempted from [the law] of the firstling,<sup>26</sup> and it is forbidden to be eaten Until he come and teach<sup>27</sup> righteousness unto you.<sup>28</sup> [You say] ‘It is exempted from the law of the firstling’. Whose view is followed? The view of R. Simeon b. Gamaliel.<sup>29</sup> [You say] ‘And it is forbidden to be eaten’. Whose view is followed? The view of the Rabbis.<sup>30</sup> And, moreover, if it is according to the Rabbis, why ‘Until he come and teach righteousness to you’? ‘Until it be known to you’ is what is required?<sup>31</sup> And should you say that R. Johanan is in doubt whether the law is in accordance with R. Simeon b. Gamaliel or the Rabbis,<sup>32</sup> if R. Johanan is in doubt then why is it exempt from the law of the firstling? And further, is there a doubt? Did not Rabbah b. Bar Hana report in the name of R. Johanan: Wherever R. Simeon b. Gamaliel expressed a view in the Mishnah, the Halachah is in accordance with him, with the exception of his view regarding suretyship,<sup>33</sup> Sidon,<sup>34</sup> and the last [case dealing with] evidence?<sup>35</sup> —

One may still say that R. Johanan is in no doubt that the law is in accordance with R. Simeon b. Gamaliel.<sup>36</sup> He is in doubt, however, whether R. Simeon b. Gamaliel holds that an animal which has given birth, gives suck [even to a stranger],<sup>37</sup> or whether it does not give suck [to a stranger].<sup>38</sup> If so, instead of stating [this ruling] in connection with the case of a swine, why not state it in connection with the case of a lamb, and as regards the punishment with lashes for infringing the prohibition of killing the mother and its young [on the same day]? —

He had need to state [this ruling] in connection with the case of a swine. For if he had stated [this ruling] in connection with the case of a lamb, I might have thought that even if you assumed that R. Simeon holds that an animal which gives birth, gives suck [to a stranger], this only applies [to a stranger belonging] to its own species, but not to [an animal] not belonging to its own species.<sup>39</sup> Consequently, R. Johanan states the case of a swine [to inform us that this ruling applies] although it does not belong to the species [of the ewe], for even here one can say that perhaps it gave suck. And this is what R. Johanan meant above.

- (1) Implying as it does a number of things.
- (2) One thing, that we make a clear space in the neck for the butcher's hatchet in order to kill the firstling, and secondly, that we tear the wool to show the blemish of a firstling.
- (3) Which would exclude the ruling of R. Simeon b. Gamaliel.
- (4) For it is possible that the animal had never before given birth, and the fact that it gives milk is not a conclusive proof, as there is a minority which gives milk without having yet given birth. It is thus a doubtful firstling.
- (5) That the offspring is surely its child and that therefore the succeeding offspring is exempted from the law of the firstling.
- (6) Who were born now, clinging to and being given suck by animals which had already been exempted from the law of the firstling. And the females born now, he found clinging to and being given suck by animals that had now given birth for the first time. In these cases, the priest receives nothing, for as we presume that each offspring is near its own mother, the law of the firstling is not here applicable, as the males come from animals already exempted and the females are not subject to the law of the firstling.
- (7) So as to impose a restriction and make them questionable firstlings, fearing lest the males belong to the animals which are giving birth for the first time. The reason why R. Simeon the son of Gamaliel speaks of entering at night, etc. and does not state simply that if one entered his herd and saw males clinging, etc. is in order to inform us of a striking thing, that although their birth certainly took place in the night when the dams did not as yet recognize their offspring and were, therefore, liable to make a mistake, nevertheless we do not fear lest the offspring of the one came to the other.

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(8) And R. Simeon refers to an animal which never gave birth previously.

(9) For in either case, if it had given birth previously, whether it is its own offspring or a stranger, it is exempt from the law of the firstling.

(10) That of the offspring which clings to the animal.

(11) As we presume that it is not its own offspring.

(12) But presumes that the offspring belongs to the animal. Consequently we see that in his opinion it does not give suck, except to its own offspring.

(13) In which case we could properly have made this deduction.

(14) And in either case it is exempt from the law of the firstling, for we only entertain a doubt that it might be a stranger if the animal had given birth previously. But in respect of the infringement of the prohibition of killing the animal and its young on the same day, there is a doubt.

(15) Since they all possess offspring. Therefore the reason must surely be that even if it were not now bearing for the first time, it gives suck only to its own, thus solving the above query.

(16) But where it has none of its own offspring, it may give suck even to a stranger, and so the above query remains.

(17) V. supra.

(18) Which says: If one buys an animal which gives suck from a gentile, etc.

(19) Viz., And so R. Simeon, etc.

(20) That each offspring clinging to the animal belongs to it For you explained above that where it possesses its own offspring, it does not give suck to a stranger.

(21) And therefore with reference to the prohibition of killing the mother and the young on the same day. there is the liability of lashes, for we presume that it is certainly the animal's offspring.

(22) In the second part of the Baraitha it is certainly its offspring, whereas there is a doubt in this respect in the first part.

(23) Since they are not necessarily similar.

(24) In that respect alone the two parts of the Baraitha are alike. For just as in the second part they are certainly exempt from the law of the firstling, as certainly the females cling to those which have now given birth for the first time, for they would not leave their own offspring and give suck to strangers, in the first part of the Baraitha also, they are exempted in the future from the law of the firstling. And in the first part, even if they are not their own offspring, they are exempted, having already given birth, since otherwise they would not have given suck to

strangers. But in respect of the prohibition of killing the mother and its young on the same day, there may still be a doubt.

(25) And being given suck by it.

(26) And the succeeding offspring is not a firstling.

(27) The word יורה is used here in the sense that Elijah will teach. The usual rendering of the word, however, is 'to cause to rain'.

(28) Hosea X, 12.

(29) Who maintains that the animal only gives suck to its own offspring, and the swine itself is not sanctified, as it is a nidmeh.

(30) Who fear that the animal gives suck to a stranger. For if it were in accordance with the view of R. Simeon, it should be permitted to be eaten, as in the case of an unclean animal which comes from a clean animal. V. supra 5b.

(31) As this is not a question of pronouncing a legal decision but merely of revealing or intimating whether it is its offspring.

(32) And the text 'Until he comes, etc.' means as follows: Until he comes and teaches whether the law is in accordance with R. Simeon and therefore it may be eaten or according to the Rabbis. It is, consequently, forbidden to be eaten because of the doubt that it perhaps gave suck to a stranger.

(33) B.B. 174a.

(34) Git. 77a.

(35) Sanh. 31a.

(36) That it is certainly exempted from the law of the firstling, for if the offspring were not its own, it would not have given suck unless it had already given birth.

(37) It is therefore exempt from the law of the firstling. for if the offspring belongs to the animal, then it is exempt. and if it is a stranger. then the animal must have already given birth, since it gives suck to strangers. It is also forbidden to be eaten, for the offspring might be a stranger and its own might have died.

(38) And it is therefore permitted to be eaten, for it certainly belongs to the animal to which it clings.

(39) I.e., a swine. And it is permitted to be eaten, for to one not belonging to the ewe species it would not give suck, and since the animal does give suck, it must of a certainty belong to it.

## Bechoroth 24b

Aha Beribi<sup>1</sup> asked: How is it if one saw a swine clinging to a ewe? But what exactly does the question refer to? If it has reference to the law of the firstling and the query is whether the law is in accordance with the



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view of R. Simeon b. Gamaliel or according to the Rabbis, why not put this query with reference to the case of a lamb?<sup>2</sup>—

The query refers to the law of the firstling as laid down by the Rabbis<sup>3</sup> and to the rule as to eating, as laid down by R. Simeon b. Gamaliel.<sup>4</sup> The query refers to [the law] of the firstling, [thus]. [Do we say that] even in accordance with the Rabbis, who maintain that it gives suck [to a stranger], this is only the case [with an animal] belonging to its own species, but to one not belonging to its own species, it does not give suck?<sup>5</sup> Or do we perhaps maintain that even [to offspring] that does not belong to its own species, the animal also gives suck? And also in connection with eating, [the query is put forward]: Do we say that even according to R. Simeon b. Gamaliel, granting that he holds that an animal which has begotten<sup>6</sup> gives suck [even to a stranger], this is the case only when the offspring belongs to the same species [as the ewe], but where it does not belong to the same species, it does not [give suck]?<sup>7</sup> Or perhaps even if the offspring does not belong to the species [of the ewe], do we say that it also gives suck [to it]?<sup>8</sup> — Let this remain undecided.

**MISHNAH.** R. JOSE B. HA-MESHULLAM SAYS: ONE WHO SLAUGHTERS THE FIRSTLING, [FIRST] MAKES A CLEAR SPACE WITH THE [BUTCHER'S] HATCHET<sup>9</sup> ON BOTH SIDES AND TEARS THE HAIR [ON BOTH SIDES]<sup>10</sup> PROVIDED HOWEVER THAT HE DOES NOT REMOVE THE WOOL FROM ITS PLACE<sup>11</sup> [WITH AN INSTRUMENT]. AND SIMILARLY ONE MAY TEAR THE HAIR TO SHOW THE PLACE OF THE BLEMISH [TO A SAGE].

**GEMARA.** Rab said: The Halachah is according to R. Jose b. ha-Meshullam. [The scholars] asked R. Huna: What is the rule about acting similarly on a festival day?<sup>12</sup> Is the reason of R. Jose b. ha-Meshullam because he maintains that tearing is not [considered] the same as shearing<sup>13</sup> and yet

on a festival day it is forbidden, for it would be detaching a thing from the place of its growth; or perhaps, does R. Jose b. ha-Meshullam as a rule maintain that tearing is [considered] the same as shearing, but the reason why he permits [in the Mishnah] is because it is a forbidden act which was produced without intent<sup>14</sup> and a forbidden act which was produced without intent is permissible on a festival day? —

He replied to them: 'Go and ask R. Hananel.<sup>15</sup> If he tells you that the Halachah is in accordance with R. Jose b. ha-Meshullam, then I shall give you a definite answer'. They went and asked him. He replied to them: 'Rab said this: The Halachah is in accordance with R. Jose b. ha-Meshullam'. Then they came before R. Huna. He said to them: It is permitted to act in a corresponding manner on a festival day.<sup>16</sup> It was also stated: R. Hananya b. Shalmia reported in the name of Rab: It is permitted to act in a corresponding manner on a festival day.

(1) An eminent and prominent teacher in his generation. The term Beribi is frequently applied to the disciples of R. Judah ha-Nasi and his contemporaries and also to some of his predecessors.

(2) Since it is in connection with this case that they differ.

(3) For according to R. Simeon it is certainly exempted, for if it does not give suck to its own species unless it had already begotten, how much less is this the case where it does not belong to the species of animal to which it clings.

(4) And certainly according to the Rabbis.

(5) And the offspring in this case surely belongs to the ewe, and therefore the future offspring is exempted from the law of the firstling.

(6) But if he held that an animal which already had given birth does not give suck to strangers, then in the case here, the offspring is certainly permitted to be eaten, for it is its child.

(7) Hence in this case, the swine must be its offspring and permissible to be eaten, as it gives suck to it.

(8) Since it had given suck previously. Consequently, the swine is forbidden to be eaten in case it is a stranger.

(9) Clearing the hair in the place where the animal is to be slaughtered. The Mishnah

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mentions a butcher's hatchet and not an ordinary slaughtering knife, because in the former case there is more need to make a place and a larger one, than in the case of a slaughtering knife. The same applies to the slaughtering of dedicated animals, but as these are slaughtered in the Temple court where there are special knives, there is no need to clear a place when slaughtering. Moreover the Mishnah mentions here the case of a firstling because the law of the firstling is observed even in our days and also because a firstling's wool is probably thicker than that of an ordinary sacrifice, since the owner must wait until it is blemished before he slaughters it (Tosaf).

(10) In the place where the cut is to be made, in order to avoid haladah (passing the knife under cover) which would render the animal Nebelah (Rashi).

(11) That it should not be said that he is shearing a firstling's wool, an action which is forbidden. Therefore he leaves the animal with its wool on both sides (Rashi).

(12) The query is whether it is allowed to tear the hair on both sides in order to clear a place for the cut, in the case of an unconsecrated animal.

(13) And in connection with a firstling. Scripture expresses only prohibited shearing.

(14) And the Mishnah means by the expression 'tearing, etc.' to pull the hair on both sides so as to clear a place but not with the intention of tearing or plucking, and that should this happen, there would be no infringement of the law.

(15) A disciple of Rab.

(16) The reason being because there was no intention of committing a breach of the law.

### Bechoroth 25a

But did Rab say this? Did not R. Hiyya b. Ashi say in the name of Rab: The stopper of the brewery boiler<sup>1</sup> must not be squeezed in on a festival day?<sup>2</sup> —

In that case even R. Simeon would agree. For Abaye and Raba both said: R. Simeon admits where it is a case of 'let his head be cut off, but let him not die',<sup>3</sup> that it is forbidden. But did not R. Hiyya b. Ashi report in the name of Rab: The Halachah is in accordance with R. Judah,<sup>4</sup> and R. Hanan b. Ami reported in the name of Samuel: The Halachah is in accordance with R. Simeon, and R. Hiyya b. Abin taught without naming the authority<sup>5</sup> as follows: Rab says: The

Halachah is in accordance with R. Judah, whereas Samuel says: The Halachah is in accordance with R. Simeon? —

Indeed Rab holds that a forbidden act which was produced without intent is prohibited [on a festival day] and that tearing is not [considered] the same as shearing,<sup>6</sup> and the reason why it is permitted on a festival day is because it is detaching a thing from its place of growth in an unusual manner.<sup>7</sup> But is not tearing [considered] the same as shearing? Has it not been taught: If one plucks a large feather from the wing [of a bird] and cuts off [its head], and smooths it, he is obliged to bring three sin-offerings.<sup>9</sup> And Resh Lakish explained: He is guilty for the act of plucking it, because it comes under the category of shearing; he is guilty for the act of cutting, because it comes under the category of severing; and he is guilty for the act of smoothing, because it comes under the category of scraping?<sup>10</sup> —

[Plucking] a wing is different, for that is the usual thing.<sup>11</sup> Now since Rab holds in accordance with R. Jose b. ha-Meshullam, then R. Jose b. ha-Meshullam holds in accordance with Rab.<sup>12</sup> But does R. Jose b. ha-Meshullam hold that a forbidden act [which was produced] without intent is forbidden? Has it not been taught: If two hairs [of a Red Heifer] are red at the roots but black at the top. R. Jose b. ha-Meshullam says: He may shear with scissors without fear?<sup>13</sup> —

The case of a Red Heifer is different, for it does not belong to a class [of animals] that are sheared.<sup>14</sup> But has it not been taught: [Scripture says]: Thou shalt do no work with the firstling of thine ox nor shear the firstling of thy flock.<sup>15</sup> From this I can gather only that working an ox and shearing sheep are forbidden. Whence will you deduce that the expression used in connection with an ox applies equally to sheep and the expression used in connection with sheep applies equally to an ox? The text

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states: Thou shalt not work nor shear the firstling of thy flock!<sup>16</sup> —

Rather [say] the case of a Red Heifer is different, for it is an offering for the Temple repair.<sup>17</sup> But has not R. Eliezer said: Offerings for Temple repair are forbidden in respect of shearing and work? — It is a Rabbinic enactment. But is there not still a Rabbinic prohibition?<sup>18</sup> —

The case of a Red Heifer is different, as it is a rare occurrence.<sup>19</sup> But why not redeem the Red Heifer, bring it to a state of Hullin [in order] to shear it and then again consecrate it?<sup>20</sup> — Its price is high.<sup>21</sup> But why not act here as Samuel taught. for Samuel said: A dedicated object worth a maneh<sup>22</sup> which has been redeemed for the value of a perutah<sup>23</sup> is considered redeemed? — Samuel's teaching refers only to a case where it has been done, but does he teach that it is directly permissible! If you wish I may say: Rab holds with R. Jose b. ha-Meshullam but R. Jose b. ha-Meshullam does not hold with Rab [that unintentional results caused by forbidden acts are prohibited].

AND TEARS THE HAIR PROVIDED HOWEVER HE DOES NOT REMOVE THE WOOL FROM ITS PLACE. R. Ashi reported in the name of Resh Lakish: They have taught this only with regard to tearing with the hand but with an instrument it is forbidden. But does not [the Mishnah] state: HE MAKES A PLACE WITH<sup>24</sup> A BUTCHER'S HATCHET ON BOTH SIDES? — Read: FOR<sup>25</sup> THE BUTCHER'S HATCHET. AND SIMILARLY IF ONE TEARS THE HAIR TO SHOW THE PLACE OF THE BLEMISH. It was queried: Does it mean that this is directly permitted<sup>26</sup> or only condoned if it had been done?<sup>27</sup> —

Said R. Jeremiah, Come and hear: If wool is entangled in the ear,<sup>28</sup> R. Jose b. ha-Meshullam says: He tears it and shows its blemish. Deduce from here therefore that it

means a direct permission. This stands proved.

Said R. Mari: We have also learnt: AND SIMILARLY IF ONE TEARS THE HAIR TO SHOW THE PLACE OF THE BLEMISH. What does the expression AND SIMILARLY indicate? If it is to tell us that he must not remove it from its place, since if he slaughters, where the slaughtering proves his intention,<sup>29</sup> [you still say] that he must not remove its wool, can there be any question as regards showing the place of the blemish? Must you not therefore admit that it<sup>30</sup> refers to the 'tearing'.<sup>31</sup> Deduce from this therefore that it is directly permissible. It stands proved.

*MISHNAH.* IF [A PORTION OF] THE HAIR OF A BLEMISHED FIRSTLING WAS TORN AWAY AND HE PLACED IT IN THE WINDOW,<sup>32</sup> AND SUBSEQUENTLY SLAUGHTERED THE ANIMAL. AKABYA B. MAHALALEL ALLOWS<sup>33</sup> IT

- (1) Made of soft material, as rag.
- (2) For fear of breaking the law against squeezing and wringing on a Holy Day, v. Keth. 6a.
- (3) A dialectic term denoting the unavoidable result of an act. And here, since he closes the boiler with the stopper, it is inevitable that there should be squeezing and therefore even R. Simeon, who elsewhere holds that an unintentioned forbidden act is not prohibited, admits in such an Instance that it is prohibited.
- (4) Who prohibits an unintentional act.
- (5) Of. R. Hiyya or Hanan.
- (6) And therefore Rab declared that the ruling was according to R. Jose b. ha-Meshullam in connection with a firstling.
- (7) For it is not usual to tear or pluck wool, except to shear it.
- (8) Tearing the hair from the windpipe and smoothing it away from the sides.
- (9) V. Shab. 74b.
- (10) We see, therefore, that plucking or tearing is considered the same as shearing.
- (11) Whereas it is not a usual thing to shear it, and consequently plucking is considered the same as shearing. But plucking or tearing wool is not a usual thing and therefore it is not considered the same as shearing.
- (12) That a forbidden act which was produced unintentionally, is forbidden.

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(13) That he is shearing dedicated animals, even if he shears other hairs as well. (Tosef. Parah I). Consequently, where he does not intend to shear but merely to trim, it is permissible. for the unintentional results of an act are permitted. This remedy is only possible in this instance, but where the two hairs are wholly black, the Red Heifer is disqualified.

Another version (Tosaf.) is: The roots are black and the heads are red and it teaches us that although the outside is all red yet it requires trimming.

(14) For cows have no wool and consequently shearing is not prohibited. But one can still maintain that a forbidden act produced without intent is forbidden.

(15) Deut. XV, 19.

(16) ולא תגזז the conjunction ו intimating that the prohibition of working and shearing refer to both the ox and the flock.

(17) And not for the altar and therefore shearing is permissible.

(18) Why therefore does the Baraita state above that he need not fear?

(19) And for cases which occurred rarely the Rabbis did not enact their prohibitions.

(20) Why, therefore, shear the Red Heifer in its consecrated state?

(21) And it is therefore not easy to find the money with which to redeem it.

(22) A certain weight of gold and silver.

(23) A small coin.

(24) בקופיץ.

(25) לקופיץ.

(26) The expression AND SIMILARLY will then refer to the passage stating that it is permissible to tear on both sides for slaughtering and that just as it is allowed to do this, so there is a direct permission to tear the hair in order to show the blemish to the Sage, so that he may pronounce on the nature of the defect of the firstling.

(27) And the expression AND SIMILARLY refers therefore to the passage in the Mishnah stating that the wool must not be removed and that just as in the case of slaughtering the wool must not be removed, so when the blemish is shown to a Sage, the same rule applies. But this does not imply direct permission to tear the hair of the firstling to show its blemish.

(28) There being a blemish in that part of the body.

(29) That he does not do this for the sake of the wool, and still you say that it must not be removed. It should certainly therefore be so in the case where he tears the hair to show the blemish, since there is nothing to prove his intention, for

the blemish is not visible to everybody.

(30) The expression AND SIMILARLY.

(31) That it is permissible in the first instance, even as it is in the first clause in our Mishnah.

(32) As the hair i.e., the wool, is forbidden to be used while the animal is alive, because it is the wool of an animal disqualified for the altar.

(33) The use of the wool by the priest, for just as the killing renders permissible the flesh, skin and the wool attached to the animal, so the part that becomes detached is also allowed to be used.

## Bechoroth 25b

WHEREAS THE SAGES DECLARE IT FORBIDDEN,<sup>1</sup> THESE ARE THE WORDS OF R. JUDAH. R. JOSE SAID TO HIM: AKABYA B. MAHALALEL DID NOT ALLOW IN THIS CASE,<sup>2</sup> BUT IT IS IN THE CASE WHERE THE HAIR OF A BLEMISHED FIRSTLING WHICH WAS TORN AWAY AND HE PLACED IT IN THE WINDOW, AND THE ANIMAL DIED SUBSEQUENTLY,<sup>3</sup> THAT AKABYA B. MAHALALEL ALLOWS, WHEREAS THE SAGES DECLARE IT FORBIDDEN. WHERE THE WOOL OF A FIRSTLING IS LOOSELY CONNECTED [WITH THE SKIN],<sup>4</sup> THAT PART WHICH APPEARS [ON A LEVEL] WITH [THE REST OF] THE WOOL<sup>5</sup> IS PERMITTED, WHEREAS THAT WHICH DOES NOT APPEAR [ON A LEVEL] WITH [THE REST OF] THE WOOL<sup>6</sup> IS FORBIDDEN.

*GEMARA.* [AKABYA B. MAHALALEL DID NOT ALLOW IN THIS CASE]. Is it to be deduced then that the wool is forbidden? If in the case of a dead [firstling]<sup>7</sup> [the wool torn away] is allowed [to be used], is there any question that in the case where it is slaughtered, [the wool torn away is allowed]? What is meant then is: Not in this case does Akabya allow and the Sages declare it forbidden,<sup>8</sup> but where he slaughtered it, all unanimously allow [the use of the wool]. They only differ in connection with the case of a dead [firstling].

R. Assi reported in the name of Resh Lakish: The difference of opinion relates to a case where the expert had permitted the firstling,<sup>9</sup> one authority maintaining that we enact a prohibition as a precaution lest he



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should come to detain it,<sup>10</sup> while the other authority maintains that we do not enact such a prohibition;<sup>11</sup> but where the expert had not yet permitted it, all unanimously hold [that the wool] is forbidden.<sup>12</sup>

R. Shesheth raised an objection: Blemished sacrifices [which became mixed up] with other sacrifices are forbidden whatever they may be;<sup>13</sup> R. Jose however says: The case must be examined. And we raised the point: What does R. Jose mean by the statement 'It must be examined'? You can hardly say that it refers to the blemished animal which is then to be taken away; for we should then infer that the first Tanna quoted above does not hold this?<sup>14</sup> And R. Nahman answered in the name of Rabbah b. Abbuha: We are dealing here with the wool of a blemished firstling [torn away while alive], which became mixed up with the wool of hullin?<sup>15</sup> And who is the first Tanna quoted above?

R. Judah [in our Mishnah] who said that where he slaughtered it the Rabbis declared it forbidden;<sup>16</sup> whereas R. Jose adheres to his own view that if he slaughtered it the Rabbis allowed. And it states: 'It shall be examined'. Now what does this expression 'It shall be examined' mean? Does it not mean that the examination is by the expert to see whether it possesses a permanent blemish [and then killing it, will make everything permissible to be used] or a transitory blemish?<sup>17</sup> —

Said Raba: No. The expression 'It shall be examined' means that an examination is made if the expert had permitted [the firstling] before the wool was torn away; in that case [the wool] is allowed, but if not, then it is not [allowed].

When Rabin went up [from Babylonia to Palestine], he reported the dictum of R. Nahman before R. Jeremiah. The latter said: 'The foolish Babylonians because they dwell in a dark country report an obscure tradition. Have they not heard what R.

Hiyya b. Abba reported in the name of R. Johanan: The difference of opinion<sup>18</sup> relates to a case where he searched and did not find the blemished animal, and they differ on the principle on which R. Meir and the Rabbis differ? For we have learnt, R. Meir used to say: Everything which has a presumption of Levitical uncleanness continues for ever in that status,<sup>19</sup> until the uncleanness is revealed, whereas the Sages say: He digs until he reaches a rock or unbroken ground, [after which there is no further uncleanness].

But R. Assi says: The difference of opinion relates to a case where he searched and found [a blemished animal],<sup>20</sup> and they differ on the principle on which Rabbi and R. Simeon b. Gamaliel differ. For it has been taught: If one enters a field in which a grave was lost he becomes unclean. If a grave is found therein, he is clean, for I maintain that the grave found is the identical one which was lost. These are the words of Rabbi, whereas R. Simeon b. Gamaliel says: The entire field must be searched. Why does not R. Assi concur with [the interpretation of] R. Hiyya b. Abba? —

He can reply [as follows]: This would indeed hold good with regard to Levitical uncleanness,<sup>21</sup> for one can say that a raven or a mouse came and took it. But in the case of a blemished animal, where could it have gone?<sup>22</sup> And the other authority [R. Hiyya]? —

He will reply: One can say that it was a transitory blemish.<sup>23</sup> And R. Hiyya b. Abba — what is his reason for not accepting the explanation of R. Assi? —

He can answer to you [in this manner]: This indeed holds good<sup>24</sup> with regard to a field in which a grave was lost, for just as it is possible for this man to bury there, so it is for another. But in the case of dedicated animals,<sup>25</sup> once they have been examined, is

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it a usual thing that a blemish should occur in them?<sup>26</sup> And the other [authority]?<sup>27</sup> —

[He answers]: Since animals attack each other, blemishes frequently occur even after an examination. An objection was raised: If one plucks wool from an unblemished firstling, although there appeared on it subsequently a blemish and he slaughtered it, [the wool] is forbidden to be used. Now, the reason why [the wool] is forbidden is because the animal was unblemished

(1) For if you permit the use of wool plucked when the animal is alive, one may be led to detain the firstling in order to benefit from its wool, and this may eventually bring about a breaking of the law with reference to working and shearing.

(2) The Gemara later on explains this.

(3) But not slaughtered.

(4) I.e., it is entangled with the remaining wool and has not fallen.

(5) When it is slaughtered and sheared, it does not seem to be removed very much from the other wool.

(6) Where it is separated from the remainder of the wool in a marked degree. It is therefore considered as if it became detached while the animal was alive.

(7) Where the wool attached to it is forbidden to be used, as it requires burial.

(8) I.e., in this case there is no dispute.

(9) Before the wool was torn away.

(10) So that he can avail himself of its wool from time to time and in so doing he may come to break the law regarding working and shearing it.

(11) The expert having permitted its slaughter, we hold that he will not keep the animal.

(12) For it is like an unblemished firstling, and in such a case even Akabya agrees. for if the wool is allowed to be used, he will keep the animal until a blemish appears on it, thus preventing its sacrifice on the altar.

(13) No matter how few in number, so that even if one blemished animal became mixed up with a thousand. all are rendered unfit for sacrificial purposes.

(14) Surely not! For if the blemished animal can be recognized, what further doubt can there be?

(15) Unconsecrated animals, and we are not dealing here at all, with living animals.

(16) And there is no remedy in slaughtering it.

(17) According to R. Jose slaughtering the animal makes the wool permissible to be used even according to the Rabbis.

Therefore, just as according to R. Jose, the Rabbis allow the use of the wool when the animal is slaughtered, whether the expert had permitted the firstling or not, for R. Jose says that the animal has yet to be examined, similarly Akabya with regard to a dead firstling makes no distinction whether the expert had permitted it or not, for Akabya makes no distinction between a case of slaughtering it and that of a dead firstling. Hence we see that even without the expert permitting the firstling, there is yet a difference of opinion. The text adopted is that of Sh. Mek. Cur. edd. read: the examination is whether it possesses a permanent blemish or a transitory blemish, though the expert did not permit it.

(18) The first Tanna quoted above and R. Jose differing in regard to living blemished sacrifices that became mixed up with others.

(19) If the lost grave is not found, though the whole field had been searched, similarly here, if the blemished animal cannot be identified, according to the first Tanna, all the animals are forbidden.

(20) For we fear, according to the first Tanna quoted above, lest the blemished animal found was really another, and, therefore, all the animals require examination, whereas R. Jose maintains that making a search is adequate and, having discovered a blemished animal, we presume that it is the one which became mixed up with the rest.

(21) The Rabbis maintaining that he digs until he reaches a rock, etc. and this is sufficient, for although he does not find it, one may say that it was removed.

(22) Therefore R. Jose might not permit here, as the blemished animal is undoubtedly among them.

(23) And it healed up, and therefore he was not able to trace the blemished sacrifice.

(24) R. Simeon maintaining that a search should be made of the entire field.

(25) Where a blemished animal sacrifice became mixed up with others and it was found.

(26) And in such circumstances, the first Tanna mentioned above would not have prohibited.

(27) R. Assi — what answer can he give to this?

## Bechoroth 26a

but if it were blemished [the wool] would have been allowed<sup>1</sup> [to be used], although the expert did not permit the firstling?<sup>2</sup> — [Explain this as follows]: As long as the expert has not permitted it, the Tanna [in the Baraitha] describes it as an unblemished

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[firstling].<sup>3</sup> Must it be said that this<sup>4</sup> is a difference of opinion among Tannaim? If one plucks wool from an unblemished firstling, although subsequently there appeared a blemish on it and he slaughtered it, the wool is forbidden [to be used].<sup>5</sup> If, however, wool was plucked from a blemished firstling and it died subsequently. Akabya b. Mahalalel allows, whereas the Sages declare it forbidden.

Said R. Judah: Akabya b. Mahalalel does not permit in this case,<sup>6</sup> but in the case where the hair of a blemished firstling became torn away and he placed it in the window, subsequently slaughtering it, Akabya b. Mahalalel allows whereas the Sages declare it forbidden.

Said R. Jose: Abba Halafta<sup>7</sup> agrees in this cases that it is allowed. Indeed the Sages clearly said: He shall place it in the window, as perhaps there is hope [of being able to use it].<sup>9</sup> If he slaughtered it, all unanimously agree that it is allowed. If [the firstling] died, Akabya b. Mahalalel allows [the use of the wool], whereas the Sages declare it forbidden. Now, is not the view of R. Jose identical with that of the first Tanna [quoted above]?<sup>10</sup> Then must you not therefore admit that the difference is in respect of a case where the expert had permitted it, the first Tanna [quoted] above] holding that if the expert permitted the firstling, [the wool] is allowed [to be used], but if not, it is not allowed,<sup>11</sup> while R. Jose comes along and says that even though the expert had not permitted the firstling, [it is still allowed]?<sup>12</sup>

—

Said Raba: No. All agree that if the expert had permitted [the animal, the wool] is allowed [to be used], and if the expert had not permitted it, it is not allowed to be used. There are however three differences of opinion in the matter. For the first Tanna [quoted above] holds that the difference of opinion between Akabya and the Sages refers to a dead firstling and the same

applies in the case where he slaughtered it,<sup>13</sup> and the reason why they differ in connection with a dead [firstling] is to show to what lengths Akabya is prepared to go. And R. Judah holds that in connection with a dead [firstling] all [the authorities concerned] prohibit, and that the difference of opinion is where he slaughtered it. Then R. Jose comes along and says: Where he slaughtered it, all agree that it is allowed but the difference of opinion is where the [firstling] died.

Said R. Nahman: The law is in accordance with R. Judah<sup>14</sup> since we have learnt [in a Mishnah of] Bekirta<sup>15</sup> in agreement with his view. For we have learnt: If the hair of a blemished firstling became torn away and he placed it in a window, subsequently slaughtering it, Akabya b. Mahalalel allows, whereas the Sages declare it forbidden.

R. Nahman b. Isaac said: The [language of the] Mishnah also indicates this: IF WOOL OF A FIRSTLING IS LOOSELY CONNECTED [WITH THE SKIN], THAT WHICH APPEARS [ON A LEVEL] WITH [THE REST OF] THE WOOL IS ALLOWED. WHEREAS THAT WHICH DOES NOT APPEAR [ON A LEVEL] WITH [THE REST OF] THE WOOL IS FORBIDDEN. Whose opinion is this? Shall I say that it is R. Jose's? If so, in what circumstance is this the case? You can hardly say where he slaughtered [the firstling], for both Akabya and the Rabbis in both instances<sup>16</sup> indeed allow. Does then this perhaps refer to the case of a dead [firstling]? But if the Mishnah gives the opinion of the Rabbis, then in both instances they indeed forbid<sup>17</sup> and if it is Akabya's opinion, then the passage ought to be reversed as follows: If it appeared on a level with [the rest of] the wool, then it is forbidden, for death renders it prohibited, whereas if it did not appear on a level with [the rest of] the wool, then it is allowed,<sup>18</sup> having been torn away previously!

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It is evident therefore that the Mishnah represents R. Judah's view. In what circumstances? You can hardly say in a case where [the firstling] died, for both Akabya and the Rabbis, in both instances, prohibit. What is meant then is. in a case where he slaughtered it, and if [the Mishnah represents] Akabya's view, in both instances he indeed allows. Must you not then admit that the Mishnah is the view of the Rabbis<sup>19</sup> and deduce from this that the point at issue is where he slaughtered it?<sup>20</sup> This stands proved.

R. Jannai asked: How is it if one plucks wool from an unblemished burnt-offering?<sup>21</sup> [But if one actually] plucks, is there any authority who allows?<sup>22</sup> —

Rather [the question is regarding] wool which became detached from an unblemished burnt-offering; what is the ruling? Concerning a sin-offering or trespass-offering, there is no need to ask, for since they come to atone, he would not detain them. And as regards a tithing animal, too, [there is no need to ask for], since it does not come to atone, he might detain it.<sup>23</sup> The question does arise, however, concerning a burnt-offering. What is the ruling?

(1) And the Baraitha follows R. Jose who says that when he slaughtered it. the Rabbis allowed the use of the wool, or it follows Akabya in accordance with R. Judah's interpretation of the Mishnah, and even though the expert did not permit the firstling before the wool was plucked. Hence there is a difficulty here with reference to the ruling of Resh Lakish!

(2) Previously. but only after the wool had been plucked.

(3) Although it is in reality blemished, and the expression in the Baraitha 'although subsequently a blemish appeared on it' means after the expert had examined the blemish and pronounced it to be of a permanent character.

(4) The ruling of Resh Lakish.

(5) For in that case, even Akabya agrees that the wool is forbidden to be used, for we apprehend that he may be led to detain the firstling and prevent it from being offered up on the altar. The

same ruling also applies to wool which has become detached from the animal.

(6) Where the firstling died.

(7) One of the Sages who dispute with Akabya.

(8) Where he slaughtered it.

(9) If he should slaughter it as it is stated in the next passage.

(10) From the first Tanna mentioned above we deduce that if he slaughtered a blemished firstling the wool is allowed to be used according to all the authorities concerned, and the difference of opinion relates to where the firstling dies. And R. Jose also declares that the point at issue is where the animal dies.

(11) As this Baraitha above was explained on the view of Resh Lakish as meaning that the expression 'unblemished firstling' meant a blemished firstling which had not yet been shown to the expert, and therefore the wool is forbidden according to all the authorities concerned, but if the expert had permitted the animal, then the wool torn previously is allowed to be used.

(12) For since R. Jose says that there is a hope in slaughtering it, this implies that the expert had not yet examined the animal. We see, therefore, that on the ruling of Resh Lakish there is a difference of opinion among Tannaim.

(13) Since we do not find it stated by the first Tanna quoted above, that where he slaughtered it all maintain that the wool is allowed to be used.

(14) That Akabya only allows the wool to be used where he slaughtered the firstling and that the difference of opinion does not refer to a dead firstling.

(15) The tractate 'Eduyyoth V, 6. On the name Behirta, v. Ed., Sonc. ed., Introduction.

(16) Both where it is on a level with the rest of the wool and where it is not.

(17) For that which is attached to the dead animal requires burial according to all, and of that which is detached the Rabbis prohibit the use, even to place it in the window.

(18) For the wool of the dead firstling which is allowed is that which has fallen off before it died but not that which is plucked after its death.

(19) Who hold that the wool torn away before the slaughtering is forbidden to be used but after the slaughtering it is allowed, and the interpretation of the Mishnah which says: THAT WHICH APPEARS ON A LEVEL WITH, etc. is that the wool which is attached to the skin, i.e., which remains after the killing, is allowed to be used, but 'that which is not on a level, etc. i.e., that which has been detached previously. is forbidden.

(20) Since you cannot explain the Baraitha in any other way. And as R. Judah's view is stated anonymously in the Mishnah, therefore the law is in agreement with his interpretation, that the



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point at issue between Akabya and the Sages is where he slaughtered the firstling.

(21) When alive and it became blemished and was redeemed. What is the ruling according to the Rabbis? The inquiry does not concern a blemished burnt-offering, for since it requires an expert to examine it, there is a fear if the wool may be used, he may, in order to benefit from the wool, postpone the examination and thus possibly come to infringe the prohibitions of working and shearing a disqualified sacrifice.

(22) According to the view of the Rabbis who declare it is forbidden, he is certainly a transgressor. Tosaf. adds that since we are dealing here with an unblemished animal, even Akabya would consider it wrong in accordance with the Baraitha above.

(23) And therefore there is no question but that the wool is forbidden.

## Bechoroth 26b

Since it is essentially not brought to atone, he might detain it, or since a burnt-offering also atones for a transgression of a positive precept. [do we say that] he would not detain it? —

Come and hear: If one plucks wool from an unblemished firstling, although a blemish appeared on it subsequently and he slaughtered it, the wool is forbidden to be used. Now, the reason is because he actually plucks it, but if it became detached, it would be allowed; how much more so, therefore, in the case of a burnt-offering,<sup>1</sup> [is it to be expected] that he would not detain it! —

[No]. The same ruling applies if it became detached from an unblemished animal, that it is forbidden, and the reason, why [the Baraitha states] ‘If one plucks’, is to show the length to which Akabya is prepared to go, that in the case of a blemished sacrifice, one is evenly allowed to pluck it. But have we not learnt: WHICH BECAME TORN AWAY? — It says WHICH BECAME TORN AWAY, to show to what lengths the Rabbis are prepared to go<sup>2</sup> [and] it says ‘If one plucks’, to show the lengths to which Akabya is prepared to go.

WOOL OF A FIRSTLING LOOSELY CONNECTED, etc. How is the expression ‘THAT WHICH DOES NOT APPEAR WITH THE WOOL’ to be understood? R. Eleazar reported in the name of Resh Lakish: Wherever the root [of the wool] is turned towards its head.<sup>3</sup> R. Nathan b. Oshaia says: Wherever it is not attached [to the skin] on a line with [the rest of] the wool.<sup>4</sup> Why does not Resh Lakish give the explanation of R. Nathan b. Oshaia?<sup>5</sup> — Said R. Ela: Resh Lakish holds [that the reason is] because it is impossible for wool to be free from loosely connected threads.<sup>6</sup>

## CHAPTER IV

*MISHNAH.* UP TO HOW LONG IS AN ISRAELITE BOUND TO ATTEND TO A FIRSTLING?<sup>7</sup> — IN THE CASE OF SMALL CATTLE, UNTIL THIRTY DAYS, WITH LARGE CATTLE, [THE PERIOD] IS FIFTY DAYS. R. JOSE SAYS: IN THE CASE OF SMALL CATTLE [THE PERIOD] IS THREE MONTHS. IF THE PRIEST SAYS [TO THE ISRAELITE] DURING THIS PERIOD ‘GIVE IT TO ME’, HE MUST NOT GIVE IT TO HIM. BUT IF THE FIRSTLING WAS BLEMISHED AND THE PRIEST SAID TO HIM ‘GIVE IT TO ME SO THAT I MAY EAT IT’, THEN IT IS ALLOWED.<sup>8</sup> AND IN TEMPLE TIMES, IF [THE FIRSTLING] WAS IN AN UNBLEMISHED STATE AND THE PRIEST SAID TO HIM ‘GIVE, AND I WILL OFFER IT UP IT WAS ALLOWED. A FIRSTLING IS EATEN YEAR BY YEAR BOTH IN AN UNBLEMISHED<sup>9</sup> AS WELL AS IN A BLEMISHED STATE,<sup>10</sup> FOR IT IS SAID: THOU SHALT EAT IT BEFORE THE LORD THY GOD YEAR BY YEAR.<sup>11</sup> IF A BLEMISH APPEARED ON IT IN ITS FIRST YEAR, HE IS PERMITTED TO KEEP IT ALL THE TWELVE MONTHS.<sup>12</sup> AFTER THE TWELVE MONTHS, HOWEVER, HE IS NOT PERMITTED TO KEEP IT EXCEPT FOR THIRTY DAYS.

*GEMARA.* Whence is this proved?<sup>13</sup> — Said R. Kahana: Scripture says: The first-born of

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thy sons thou shalt give unto Me.<sup>14</sup> [Likewise shalt thou do] with thy sheep. Thou shalt not delay to offer of the fullness of thy harvest and of the outflow of thy presses.<sup>15</sup> Likewise thou shalt do with thine oxen. And why not reverse this?<sup>16</sup> — It is reasonable to assume that the part which comes first in the first text<sup>17</sup> forms an analogy with that which comes first in the subsequent verse<sup>18</sup> and that which comes later in the first text<sup>19</sup> forms an analogy with that which comes later in the subsequent text. On the contrary, the text that is near to it should rather form an analogy with the text near to it?<sup>20</sup> —

Rather said Raba: The text says: ‘Thou shalt do’. Scripture adds [the duty of] another doing<sup>21</sup> [i.e., attention] in connection with ‘Thine oxen’. Then why not say sixty days?<sup>22</sup> — Scripture refers you to the Sages [for the precise interpretation].<sup>23</sup> It has also been taught to this effect: [Scripture says]: ‘The firstborn of thy sons thou shalt give unto Me. Likewise thou shalt do with thy sheep’. I might [conclude from the Biblical text] that it applies also to ‘Thine oxen’? The text therefore states ‘Thou shalt do’, the text adds [the duty of] another doing [i.e., attention] in connection with an ox and Scripture refers you to the Sages [for the precise interpretation]. Hence [the Sages] said: Up to how long is the Israelite bound to attend to the firstling? In the case of small cattle, until thirty days and in the case of large cattle, fifty days. R. Jose Says: In the case of small cattle, [the period] is three months, because it requires extra attention. What does the expression ‘Because it requires extra attention’ mean?<sup>24</sup> — A Tanna taught: Because its teeth are small.<sup>25</sup>

**IF THE PRIEST SAID TO HIM DURING THIS PERIOD: GIVE IT TO ME’, HE MUST NOT GIVE IT TO HIM.** What is the reason? — Said R. Shesheth: Because it makes him appear like a priest who helps in the threshing floors.<sup>26</sup>

Our Rabbis taught: If Priests, Levites and poor help in the house of the shepherds,<sup>27</sup> in the threshing floors,<sup>28</sup> and in the slaughtering place,<sup>29</sup> we do not give them the priests’ gifts,<sup>30</sup> terumah,<sup>31</sup> or tithes in reward; and if they acted thus, they render them hullin.<sup>32</sup> And concerning these, Scripture says: Ye have corrupted the covenant of Levi.<sup>33</sup> And Scripture further says: And ye shall not profane the holy things of the children of Israel, that ye die not.<sup>34</sup> What need is there for a further text? — You might think that there is no death guilt.

Come therefore and hear: There is a further text, ‘And ye shall not profane the holy things of the children of Israel that ye die not’. And the Sages wished to punish the owners by making them separate Terumah [a second time] from their own. And what was the reason why they did not punish them? Lest<sup>35</sup> [the owners] come to separate from what is exempt [from Terumah] for what is subject [to Terumah]. And in all these cases [mentioned above] the owners enjoy

- (1) That its wool should be allowed to be used.
- (2) That they forbid even if the wool became detached, but in reality according to Akabya, one may actually pluck the wool of a blemished firstling.
- (3) The wool being folded up in the centre so that the two tops of the wool appear outside.
- (4) Where some of it appears to be higher than the rest.
- (5) The query is not raised why R. Nathan does not explain in the same way as Resh Lakish, because R. Nathan is more stringent in this connection than Resh Lakish.
- (6) For it is a usual thing, and, consequently, if we adopted R. Nathan's interpretation, there would scarcely be any wool that would be allowed to be used in such circumstances.
- (7) In our days, after the destruction of the Temple, for what length of time must the Israelite care for and feed the animal perforce the priest claims it?
- (8) For whereas in the previous case where the priest asks for the unblemished firstling it is forbidden because it appears as if the priest receives the animal in exchange for looking after

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it until it becomes blemished, in this instance as the animal can be eaten immediately and there is no necessity for the priest to detain it, it is not so.

(9) In Temple times.

(10) In our days.

(11) Deut. XV, 20.

(12) From its birth.

(13) That the Israelite is bound to care for the firstling for a period of thirty days.

(14) And next to this verse, in Ex. XXII is the verse 'Likewise... with thy sheep' and we interpret the juxtaposition in the following manner: Just as in the case of a first-born son, redemption is necessary after thirty days, similarly in the case of a firstling of small cattle, the Israelite must keep the animal for thirty days.

(15) And next to this verse is another 'Likewise... with thine oxen'. Here also we make a comparison as follows. Just as the fullness of thy harvest, i.e., the first-fruits, ripen on Passover and are brought to the Temple on Pentecost fifty days later, similarly the firstling of oxen, i.e., large cattle, must be looked after for a period of fifty days.

(16) I.e., draw the analogy between the text 'The first-born of thy sons, etc.' and the text 'Likewise shalt thou do with thy oxen', and thus the firstling of large cattle will require only thirty days to be looked after.

(17) 'Thou shalt not delay to offer of the fullness of thy harvest'.

(18) 'Likewise shalt thou do with thy oxen'.

(19) 'The first-born of thy sons' we link up with the text 'Likewise thou shalt do with thy sheep'.

(20) The text 'The first-born of thy sons' should form a comparison with the text 'Likewise thou shalt do with thy oxen' and thus large cattle would have a period of thirty days.

(21) The superfluous text 'Thou shalt do' denotes that in the case of an ox and large cattle in general, a longer period of doing for the animal is demanded than is the case with sheep.

(22) Since the text increases the period in connection with large cattle, why not say that the addition consists of double that of the period of a first-born's redemption?

(23) Scripture does not state sixty days, but the Sages explain that fifty days are required, basing this on a comparison between the text 'The fullness of thy harvest' and the verse 'Likewise thou shalt do with thy oxen'.

(24) This passage is inserted with Sh. Mek.

(25) And it is unable to eat grass and without its mother's care it dies. But after three months it is able to eat without its mother's help.

(26) For in our days a firstling is of no use until a blemish befalls it. As, therefore, the Israelite has to take trouble with the animal for fifty days, if the priest asks him to deliver the firstling to him

during this period to look after, he thus saves the Israelite expense and labor, in consideration for which he takes possession of the firstling and thereby prevents any other priest claiming it. He thus seems to be on a par with a priest who helps with the threshing in order that he may receive the priestly dues for his services, which is forbidden. If, however, the firstling was blemished and the priest asked him for it so that he might eat it, this would be permissible.

(27) This applies only to the priest, who can receive the firstling.

(28) This applies to all the classes mentioned here, to the priests for Terumah, to the Levites who receive the first tithes, and to the poor who are the recipients of the poor men's tithing every third year.

(29) Referring again to the priests who receive the gifts of the shoulder, the jaws and the maw.

(30) V. Marginal Gloss.

(31) The dues of the priests.

(32) The priestly and Levitical dues become secularized, the owners having acted improperly and not having discharged their obligations.

(33) Mal. II, 8.

(34) Num. XVIII, 32. As applied to the case in question, the expression 'death' means that the owner is in danger of committing a sin which involves the penalty of death, not that he is actually guilty of such a sin.

(35) In a case, for example, where there are two se'ahs, one from which Terumah has been separated while the Terumah from the other was given to a priest who helped in the threshing. Now, if you say that the owner is compelled to give Terumah a second time, then he may think that the second se'ah is regarded as if Terumah had not been given from it at all, and he may separate this for the other. This would be separating from what is exempt, etc. for the second se'ah is biblically exempt from Terumah.

## Bechoroth 27a

the benefit for putting a person under an obligation.<sup>1</sup> In what way? — If an Israelite separated Terumah from his pile and another Israelite found him and said to him: 'Here is a sela' for you and give it to the son of my daughter, a priest', it is permitted. If, however, a priest [approached him] on behalf of another priest, it is forbidden.<sup>2</sup> And why does not the Tanna [of the Baraita] also mention the case of the priest's gifts?<sup>3</sup> — He can explain it to you [as follows]. When Terumah is consecrated as

## BECHOROS – 2a-31a

such, since it is not redeemed, no mistake can be made with it.<sup>4</sup> But in these cases [of the firstling and priest's gifts], since they are consecrated only for their value, the priest may make a mistake with them, thinking that their holiness is redeemed for the four Zuz [i.e., the sela'] and thus will come to treat them after the manner of hullin.<sup>5</sup>

Raba said: Terumah from abroad<sup>6</sup> is not subject to the ruling of a priest who helps in the threshing floors.<sup>7</sup> R. Hama gave it to his attendant.<sup>8</sup> Samuel said: Terumah from abroad is neutralized in a larger quantity.<sup>9</sup> Rabbah<sup>10</sup> neutralized it in a larger quantity and used to eat it in the days of his [Levitical] impurity.

R. Huna the son of R. Joshua, when he happened to have wine of Terumah [from abroad], used to mix two natla<sup>11</sup> of Hullin with one natla of Terumah, and after that he would add one [natla] and take one.<sup>12</sup>

Samuel further said: Terumah from abroad one may go on eating, leaving the separation for afterwards.<sup>13</sup> Samuel further said: Terumah from abroad is forbidden only for one whose uncleanness issues from his body;<sup>14</sup> and this is the case only as regards eating, but as regards touching, there is no objection.<sup>15</sup>

Said Rabina: Therefore a woman during menstruation may separate the hallah<sup>16</sup> and a priest who is a minor,<sup>17</sup> eats it; and if there is not a priest who is a minor, she takes it on the point of the shovel<sup>18</sup> and throws it in the oven, and then separates other hallah<sup>19</sup> in order that the law of Hallah may not be forgotten and an adult priest eats it.

R. Nahman, R. Amram and Rami b. Hama were sailing in a boat. R. Amram went away to ease himself. A certain woman came, approached and asked them: Is it allowed for one made unclean through a corpse that he should bathe and eat Terumah from

abroad?<sup>20</sup> — Said R. Nahman to Rami b. Hama:

- (1) Receiving in return a small amount for this privilege.
- (2) For it looks as if the priest buys the right of the Terumah on behalf of another priest, although he can claim it himself. It, therefore, comes under the category of the action of a priest who helped in the threshing floor.
- (3) Of a butcher who separates the priest's gifts or that of a shepherd who gives up the firstling, in each of which cases he may receive a sela' from another Israelite who said to him: 'Here is a sela' and give it, etc.'
- (4) Since everybody is aware that Terumah cannot lose its holiness, and therefore the priest on whose behalf the sela' was paid by the Israelite will not mistakenly use it as Hullin.
- (5) For if the priest chose to sell to an Israelite the firstling's flesh, or the shoulder, etc. he can do so and the latter is no longer required to eat the flesh roasted and with mustard, the royal manner of eating, as the priest is compelled to do, and thus he may be led to give the flesh to dogs to eat, treating it as mere Hullin.
- (6) Lit., outside Palestine.
- (7) The ruling mentioned here is not applied, because the giving of such Terumah is only a Rabbinic enactment, and therefore we are not particular with reference to it.
- (8) Who was a priest, in lieu of payment for his services, and he had no fears about its being similar to the case of a priest who helps in the threshing floor.
- (9) One measure of Terumah is nullified in two of Hullin, and it is not required that the one measure of Terumah should be neutralized in a hundred, as is the case with Terumah in the Holy Land. Also, after being neutralized, the whole mixture may be eaten by a non-priest or by the priest himself in his days of Levitical impurity.
- (10) He was a priest, being a descendant from the House of Eli.
- (11) A measure, one-fourth of a log.
- (12) And proceeded to act thus until all the Terumah was neutralized, there being always a greater quantity of Hullin to neutralize the Terumah. (R. Gershom.)
- (13) Even delaying the separation until the end. According to Tosaf., however, there must remain a portion of the pile even after the separation, to carry out the principle of mukaf (lit., 'brought near') requiring that the Terumah must be of a mass in close neighborhood of the products from which it is set aside.
- (14) E.g., one afflicted with gonorrhoea, or who has become defiled.



# BECHOROS – 2a-31a

(15) And although he makes the Terumah unclean, we do not trouble, as there is no obligation to preserve it in a state of cleanliness.

(16) The Priest's share of the dough, since as regards coming in contact, there is no restriction on a menstruant woman.

(17) The woman herself being unclean through an uncleanness which issues from the body, and therefore only a minor but not an adult priest may eat it. And even an adult priest, if he bathes and purifies himself from pollution is considered as a minor in this respect. Another reason why it says 'a minor' is because a minor is not subject to pollution and thus did not become unclean. Still another reason is because Hallah can be of a small quantity which is only sufficient for a minor, as the expression later on 'on the point of a shovel' indicates.

(18) Avoiding direct contact, for we are endeavoring as far as possible to prevent her touching it (Rashi). Tosaf. observes that this refers to a baker's shovel used in order to place it more easily in the oven and in the fire, for if according to Rashi's explanations the difficulty arises that coming into direct contact, as we are taught above, is not forbidden at all.

(19) This implies that where there is a minor who is a priest we do not demand the separation of two hallahs. In places, however, near the Holy Land, two hallahs are required to be separated, one for the fire and the other for the priest.

(20) Without the sprinkling and waiting for sunset, for complete purification.

## Bechoroth 27b

And have we [in these days] sprinkling [on the unclean]?<sup>1</sup> Rami b. Hama replied to him: 'Should we not take into consideration the views of the Elder'?<sup>2</sup> While this was going on, R. Amram arrived. He said to them: This is what Rab said: One made unclean through a corpse, bathes and eats of the Terumah from abroad.<sup>3</sup> The law however is not in accordance with his view.<sup>4</sup> Mar Zutra<sup>5</sup> reported in the name of R. Shesheth: One made unclean through a reptile bathes and eats the Terumah from abroad. The law however is not in accordance with his view.

**A FIRSTLING IS EATEN YEAR BY YEAR, etc.** Since [the Mishnah] says: **IF A BLEMISH APPEARED ON IT DURING ITS FIRST YEAR,** we infer that we count according to its own year.<sup>6</sup> Whence is this

proved: As Rab Judah reported in the name of Rab: Scripture says: Thou shalt eat it before the Lord thy God, year by year.<sup>7</sup> Now, what year is it which enters into another? One must say it is the year of a firstling.<sup>8</sup> The school of Rabbi,<sup>9</sup> however, taught: The text 'year by year' denotes one day in this year and one day in the next year, and teaches that a firstling may be eaten for two days and a night.<sup>10</sup> And according to the school of Rabbi, whence do they derive this?<sup>11</sup> — They infer it from dedicated sacrifices.<sup>12</sup> And as regards to dedicated sacrifices themselves, whence do we deduce this? —

Said R. Aha the son of Jacob, Scripture says: A lamb of the first year,<sup>13</sup> implying the year of the lamb, but not the year counted according to the Creation.<sup>14</sup> And whence does Rab derive that a firstling may be eaten for two days and a night? — He derives it from the text: And the flesh of them shall be thine as the wave-breast and as the right thigh:<sup>15</sup> Scripture compares it to the wave-breast and the right thigh of peace-offerings. Just as there they may be eaten for two days and a night, so here it may be eaten for two days and a night.

(1) As there is no sprinkling there is no need for awaiting sunset.

(2) R. Amram. It is not proper to give a decision in his absence.

(3) And he does not need to wait for sunset in order to complete his purification.

(4) Which required him to bathe but even bathing is not necessary, since it is Terumah from abroad (Tosaf.) According to Rashi, however, it appears that the law is that one made unclean through a corpse may not eat Terumah from abroad and Rabbenu Gershom says explicitly that this is the case.

(5) So Sh. Mek., Cur. edd. 'For Mar Zutra'.

(6) So that if it was born in Nisan, he may keep it until the following Nisan, and we have not to consider that a new year commences in Tishri in this connection.

(7) Deut. XV, 20.

(8) For such a year enters into the new year commencing in Tishri.

(9) So Sh. Mek. Cur. edd. Rab.

# BECHOROS – 2a-31a

(10) If he slaughters it on the last day of its first year he may continue eating it on the first day of the second.

(11) That the firstling's year is counted from its birth.

(12) From other dedicated sacrifices, which are offered up a year old counting from their birth.

(13) Lev. XII, 6. Lit., 'of its first year'.

(14) I.e., commencing in Tishri.

(15) Num. XVIII, 18. The text refers to a firstling.

## Bechoroth 28a

And [what says] the other [to this]? — From that text one could say that it refers to the wave-breast and the right thigh of a thanksgiving offering.<sup>1</sup> And the other? — Scripture says: 'Shall be thine' thus adding another 'being' in connection with the first-born.<sup>2</sup> And the other? — If we go by that text, we could say that it teaches concerning a blemished firstling that he gives it to the priest,<sup>3</sup> as we do not find this stated [explicitly] in the whole of the Torah.<sup>4</sup> And the other?<sup>5</sup> — It says: 'And the flesh of them', intimating that an unblemished as well as a blemished firstling [may be eaten]. And the other? — The text: 'And the flesh of them' refers to the firstlings of all the Israelites.<sup>6</sup>

**IF A BLEMISH APPEARED ON IT DURING ITS FIRST YEAR, HE IS PERMITTED TO KEEP IT ALL THE TWELVE MONTHS.** The query was put forward. What does [the Mishnah exactly] mean? Does it mean that if a blemish appeared on it during its first year, he is allowed to keep it all the twelve months and thirty days besides? Or does [the Mishnah] mean that where a blemish appeared on it during its first year, he is allowed to keep it all the twelve months but no longer, and where a blemish appeared on it after its first year, he is not allowed to keep it except for thirty days? —

Come and hear: It was taught: A firstling in our days,<sup>7</sup> so long as it is not fit to show to a Sage,<sup>8</sup> is allowed to be kept for two or three years. And when it is fit to show to a Sage, if

a blemish appeared on it during its first year, he is allowed to keep it all the twelve months, whereas after its first year, he is not allowed to keep it even one day nor even one hour.<sup>9</sup> On the ground, however, of restoring a lost object to the owners,<sup>10</sup> [the Rabbis] said that he is allowed to keep it for thirty days!<sup>11</sup> But I can still however raise the question [concerning the Baraita itself]: Does it mean thirty days after its first year<sup>12</sup> or before its first year?<sup>13</sup> —

Come and hear: If a blemish appeared on it fifteen days during its first year, we complete for it fifteen days after its first year.<sup>14</sup> This proves it.<sup>15</sup> This supports the views of R. Eleazar. For R. Eleazar said: We give it thirty days from the time when the blemish appeared on it. Some there are who read: R. Eleazar said: Whence do we know that if a blemish appeared on a firstling in its first year we give it thirty days after its year? It is said: Thou shalt eat it before the Lord thy God year by year.<sup>16</sup> Now, what is the number of days which is reckoned [by all authorities] as a year? You must admit that it is thirty days. An objection was raised: [It is taught]: If a blemish appeared on it fifteen days in its first year, we complete for it fifteen days after its year. We deduce from here that we complete thirty days, but we do not give it [thirty full days after its first year]. This is a refutation of R. Eleazar! It is indeed a refutation.

**MISHNAH.** IF ONE SLAUGHTERED THE FIRSTLING AND SHOWED ITS BLEMISH [TO AN EXPERT],<sup>17</sup> R. JUDAH PERMITS,<sup>18</sup> WHEREAS R. MEIR SAYS: SINCE IT WAS NOT SLAUGHTERED BY THE INSTRUCTIONS OF THE EXPERT, IT IS FORBIDDEN.<sup>19</sup> IF ONE WHO IS NOT AN EXPERT SEES THE FIRSTLING AND IT WAS SLAUGHTERED BY HIS INSTRUCTIONS, IN SUCH A CASE IT SHALL BE BURIED AND HE SHALL MAKE REPARATION OUT OF HIS OWN ESTATE.

# BECHOROS – 2a-31a

**GEMARA.** Said Rabba b. Bar Hana: In the case of a blemish of withered spots in the eye,<sup>20</sup> all agree that it is forbidden, for they change.<sup>21</sup> They only differ regarding blemishes of the body.<sup>22</sup> R. Meir maintaining that we prohibit blemishes of the body on account of withered spots in the eye, whereas R. Judah maintains that we do not prohibit blemishes of the body on account of withered spots in the eye. It has also been taught to the same effect: If one slaughtered a firstling and showed [an expert] its blemish [after its slaughter], R. Judah says: If there are withered spots in the eye, it is forbidden, since they change, whereas if there are bodily blemishes, it is permitted because they do not change.

But R. Meir says: Both in the one case as in the other it is forbidden, because they change. [You say] ‘Because they change’ — you cannot mean that? Do bodily blemishes change? — Rather what R. Meir means is on account of those [blemishes] that change.<sup>23</sup> Said R. Nahman b. Isaac:

(1) Which can only be eaten for one day and a night. Therefore the school of Rabbi infers this from the text ‘Thou shalt eat it’, etc.

(2) Which shows that it is to be eaten for two days and a night, unlike some sacrifices,

(3) Therefore the school of Rabbi cannot derive the period of eating for a firstling from ‘Shall be thine’, as Rab maintains.

(4) Tosaf. however explains that this means that we do not find elsewhere that the priest should benefit from a sacrifice which became blemished, as is the case with regard to a firstling.

(5) Rab who deduces the period of two days and a night from ‘Shall be thine’ whence does he infer that a blemished firstling may be eaten?

(6) The text ‘And the flesh of them’ only refers to unblemished firstlings, and the plural ‘them’ alludes to the Israelites.

(7) When an unblemished firstling is not fit for anything.

(8) I.e., before a blemish appears on it so that he can show it to a Sage in order to decide whether it is a transitory or permanent blemish. Tosaf. explains the expression as meaning where a Sage is not at hand, for the Israelite is not compelled to go to distant parts to have the blemish examined.

(9) Now it is assumed that the Baraita deals here with a case where the blemish appeared in its first year.

(10) I.e., the priest, for if the firstling must not be kept for any period in the possession of the Israelite, he may not find a priest to whom to give it, and if he kills it, it will become putrid, thus making a loss for the priest. Therefore the Israelite must keep it for thirty days, after which period he is allowed to kill and salt it keeping it until he finds a priest. The comment of Tosaf., however, is that we are dealing where the firstling is in the possession of the priest, giving the latter a period of thirty days to hold it, in case he had no need for the flesh at the moment. But the Israelite must always wait until he finds a priest to receive the firstling.

(11) We consequently see that the thirty days of the Mishnah refers to a blemish in its first year.

(12) I.e., that the blemish appeared after its first year.

(13) The blemish appeared before the first year ended, and he keeps it for thirty days after its first year. The words ‘whereas after its first year’ can bear either interpretation.

(14) We give the animal thirty days from the time when a blemish appears on it, and if a blemish appeared after the year or a little while before the expiration of the year, we give it thirty days from the time of the blemish for the Israelite to keep it. And we also infer that if the blemish appeared a month or three months in its first year, the Israelite waits until the end of its year.

(15) That the thirty days of the Mishnah refers to where a blemish appears after its year, for if the blemish appeared in its first year even a day before its expiration, we do not give the animal thirty full days but only complete the period of thirty days.

(16) Deut. XV, 20. Which implies that it is not eaten in the year of its blemish.

(17) After its killing, and the expert discovered that it was a permanent blemish.

(18) Since the animal was after all seen by an expert.

(19) We punish him because he did not show it to an expert before its killing:

(20) If he showed it after its killing.

(21) Owing to its death agony the eye is liable to change and therefore although at the moment the blemish seems to be a permanent one, it is possible that if he had examined it when the animal was still alive, the blemish might have been found to be a transitory one.

(22) E.g., a slit in the ear.

(23) I.e., withered spots in the eye, we penalize the Israelite even in cases of bodily blemishes.

# BECHOROS – 2a-31a

## Bechoroth 28b

I can prove it from our Mishnah.<sup>1</sup> R. MEIR SAYS: SINCE IT WAS NOT SLAUGHTERED ACCORDING TO THE INSTRUCTIONS OF AN EXPERT IT IS FORBIDDEN.<sup>2</sup> Deduce from here that R. Meir does indeed penalize him. This stands proved. The question was raised: Does [the statement above] ‘on account of those blemishes that change’, imply that all [the withered spots in the eye] change, or that some change and others do not change?<sup>3</sup> What is the practical difference?<sup>4</sup> — Whether we should declare the witnesses false or not.<sup>5</sup> If you say that in all cases withered spots in the eye change, then they are false.<sup>6</sup> But if you say that there are some that change and other do not, we rely on them. What is the ruling? —

Come and hear. For Rabbah b. Bar Hana reported in the name of R. Johanan: R. Josiah of Usha told me: ‘Come and I will show you withered spots in the eye that change’. Now, since he said to him ‘Come and I will show you’, this implies that there are some that change and others which do not change.

IF ONE WHO WAS NOT AN EXPERT SEES THE FIRSTLING AND IT WAS SLAUGHTERED BY HIS INSTRUCTIONS, IN SUCH A CASE IT SHALL BE BURIED. May we say that the Mishnah states anonymously that the ruling is in accordance with R. Meir?<sup>7</sup> — Perhaps it refers to a case of withered spots in the eye, and thus it will be according to the view of all the authorities concerned.<sup>8</sup>

AND HE SHALL MAKE REPARATION OUT OF HIS OWN ESTATE. A Tanna taught: When he pays [the priest], he pays a quarter [of the loss] for [a firstling of] small cattle and a half for [a firstling of] large cattle.<sup>9</sup> What is the reason [for this disparity in reparation]? In one case the loss is great, whereas in the other it is small. If this be a

fact, let him pay [the priest] in proportion to the loss?<sup>10</sup> — R. Huna b. Manoah reported in the name of R. Aha b. Ika: They inflicted on him only [a quarter of the loss] because of the trouble of raising small cattle.<sup>11</sup>

*MISHNAH.* IF A JUDGE IN GIVING JUDGMENT HAS DECLARED INNOCENT A PERSON WHO WAS REALLY LIABLE OR MADE LIABLE A PERSON WHO WAS REALLY INNOCENT, DECLARED DEFILED A THING WHICH WAS LEVITICALLY CLEAN OR DECLARED CLEAN A THING WHICH WAS REALLY DEFILED, HIS DECISION STANDS BUT HE HAS TO MAKE REPARATION OUT OF HIS OWN ESTATE. IF, HOWEVER, THE JUDGE WAS AN EXPERT FOR THE BETH DIN,<sup>12</sup> HE IS ABSOLVED FROM MAKING REPARATION.

*GEMARA.* May we say, the anonymous statement of the Mishnah is in accordance with R. Meir who is prepared to adjudicate liability for damage done indirectly?<sup>13</sup> — R. Ela reported in the name of Rab: [We suppose that] he personally executed the judgment by his own hand.<sup>14</sup> Now, this is quite intelligible where the judge made liable a person really innocent, [the explanation being] e.g., where he personally executed the judgment by his own hand; but where he declared innocent the person who was really liable, how are we to understand it? For if you say it means where he said to him: ‘You are innocent’, he does not personally execute the judgment by his own hand! — Said Rabina: The case deals here where e.g. [the creditor] had a pledge and [the judge] took it from him.<sup>15</sup> The case also where he declared defiled a thing which was really clean, [can be explained], where he touched clean things with a [dead] reptile;<sup>16</sup> and the case where he declared clean a thing which was really defiled, [can be explained] where he mixed them with his fruits.<sup>17</sup>

*MISHNAH.* IT HAPPENED ONCE THAT A COW'S WOMB WAS TAKEN AWAY AND R. TARFON GAVE IT TO THE DOGS TO EAT.<sup>18</sup>



# BECHOROS – 2a-31a

THE MATTER CAME BEFORE THE SAGES AT JABNEH AND THEY PERMITTED THE ANIMAL [FOR] THEODOS THE PHYSICIAN HAD SAID: NO COW NOR SOW LEAVES ALEXANDRIA OF EGYPT BEFORE ITS WOMB IS CUT OUT IN ORDER THAT IT MAY NOT BREED.<sup>19</sup> SAID R. TARFON: 'YOUR ASS IS GONE, TARFON'.<sup>20</sup> SAID R. AKIBA TO HIM: YOU ARE ABSOLVED, FOR YOU ARE AN EXPERT AND WHOEVER IS AN EXPERT FOR THE BETH DIN IS ABSOLVED FROM REPARATION.

**GEMARA.** And why does not [R. Akiba] infer this<sup>21</sup> from the fact that he had erred in a matter where the Mishnah is explicit, and one who errs in a matter where the Mishnah is explicit can reconsider his decision?<sup>22</sup> — He gave him one reason and then another: One reason for absolving is because you gave a wrong decision against an explicit law in the Mishnah. And another is that even if your mistake was made against the common practice,<sup>23</sup> you are an expert for the Beth din, and whoever is an expert for the Beth din is absolved from reparation.

**MISHNAH.** IF ONE TAKES PAYMENT FOR SEEING THE FIRSTLINGS, THEY MUST NOT BE SLAUGHTERED BY HIS INSTRUCTIONS,<sup>24</sup> UNLESS HE WAS AN EXPERT

(1) That the controversy refers to bodily blemishes.

(2) Now, since R. Meir adduces as the reason for prohibiting that we penalize the Israelite because he did not show the blemished firstling to the expert before its killing, therefore if the difference of opinion applied also to the case of withered spots in the eye, then surely he would have given a more effective reason why he forbids, i.e., that the eye is liable to vary. Consequently, the controversy relates to bodily blemishes, and according to R. Meir we forbid in these cases on account of the case of withered spots in the eye, punishing him for not showing it to the expert.

(3) And yet in the case of bodily blemishes we forbid, on account of withered spots in the eye.

(4) Even in cases where the spots do not change, since we cannot be sure which change and which

do not, the animals are forbidden in all cases if they are not examined previous to their killing!

(5) If he killed a firstling without previously consulting an expert, a permanent blemish being discovered now, and witnesses declare that the spots in the eye did not change and that they were the same when the animal was alive.

(6) And it is forbidden unanimously.

(7) For although after its killing it is discovered to possess a permanent blemish, nevertheless it is buried, which is according to the view of R. Meir, who punishes the Israelite in such circumstances.

(8) And spots in the eye are liable to change, and therefore the Mishnah says it shall be buried.

(9) He gives a half because it is money of doubtful ownership, as one might say that the Israelite made the priest suffer a complete loss, for had an expert seen the animal when it was alive, he might have permitted it, whereas now it has to be buried. On the other hand, perhaps there was no permanent blemish and an expert would not have permitted it, and also it may be that the firstling would have died without a blemish appearing on it at all.

(10) In one case a half of its larger value and in the other also, half of its smaller value.

(11) The firstling saved the priest considerable trouble as small cattle can only be raised on untilled land. Moreover, if the Israelite had shown it to another, he might not have permitted it and then the priest would have had to attend to it until it became blemished; hence the reparation is only a quarter. Another explanation why he only receives a quarter of its value is because he transgressed the prohibition enacted against raising small cattle in the Holy Land (v. B.K. 79b), and we are therefore dealing here with a case where it was the firstling of a priest's animal and the priest was raising small cattle.

(12) Court of Law. Another version is: An expert for the public.

(13) V. B.K. 100a. And here the judge by his words caused a damage.

(14) Taking the money from one and giving it to the other party of the suit.

(15) And exempted the debtor from any liability.

(16) In order that his decision might stand and that there should be no doubt in the matter.

(17) He took defiled fruits and declared them clean and then proceeded to mix them with fruit belonging to another, thus doing something direct in causing the damage.

(18) I.e., he caused it to be given to the dogs, having declared the animal Trefah.

(19) For their cows and sows were highly rated, and therefore, to prevent them breeding elsewhere and thus compel buyers to come to Alexandria, they used to cut out the womb, and the animal did not suffer a fatal injury on

# BECHOROS – 2a-31a

account of this. We see, therefore, that the animal does not become Trefah where the womb is absent.

(20) In order to make reparation for the cow which he had mistakenly made Trefah.

(21) Absolving R. Tarfon from reparation.

(22) And therefore even if R. Tarfon were not an expert, he should be absolved, for there exists an explicit Mishnah in Hul. (54a) stating that an absent womb in an animal does not render the animal Trefah. In this case therefore, if the cow were in existence, R. Tarfon could have permitted it, and consequently the person who gave it to the dogs to eat is himself responsible for the loss, v. supra n. 1.

(23) Lit., 'weighing of opinion', in a case concerning which there are opposing views among Tannaim or Amoraim no definite ruling existing, but there being an established practice.

(24) As we apprehend that he might be influenced to permit this by the hope of pecuniary gain.

## Bechoroth 29a

LIKE ILA<sup>1</sup> IN JABNEH WHOM THE SAGES PERMITTED TO ACCEPT FOUR AS<sup>2</sup> FOR SMALL CATTLE AND SIX AS FOR LARGE CATTLE, WHETHER UNBLEMISHED OR BLEMISHED.<sup>3</sup>

*GEMARA.* What is the reason?<sup>4</sup> — In one case, [i.e., of large cattle], he has much trouble,<sup>5</sup> whereas in the other case, he has not much trouble.

WHETHER UNBLEMISHED OR BLEMISHED. Now, we quite understand this in the case of a blemished firstling,<sup>6</sup> because in this case he permits it; but in the case of an unblemished firstling,<sup>7</sup> why [does he take payment]? — The reason is that otherwise he might be suspected, and it might be said that the animal pronounced blemished is unblemished, and the reason he permits it is because he receives payment. If your argument is true, in the case of an unblemished firstling also it might be said that it is really blemished and the reason why he does not permit it is because he thinks that he might be able to take payment a second time? — The Rabbis enacted payment for the first examination but they

did not enact payment twice [for the same firstling].<sup>8</sup>

*MISHNAH.* IF ONE TAKES PAYMENT TO ACT AS A JUDGE, HIS JUDGMENTS ARE VOID; TO GIVE EVIDENCE, HIS EVIDENCE IS VOID; TO SPRINKLE<sup>9</sup> OR TO SANCTIFY,<sup>10</sup> THE WATERS ARE CONSIDERED CAVE WATERS AND THE ASHES ARE CONSIDERED CALCINED ASHES.<sup>11</sup> IF HE<sup>12</sup> WAS A PRIEST AND HE WAS MADE UNCLEAN REGARDING HIS TERUMAH,<sup>13</sup> HE<sup>14</sup> MUST GIVE HIM FOOD AND DRINK AND RUB HIM WITH OIL. AND IF HE WAS AN OLD MAN, HE MOUNTS HIM ON AN ASS. HE ALSO PAYS THE PRIEST AS HE WOULD A WORKMAN.<sup>15</sup>

*GEMARA.* Whence is it proved?<sup>16</sup> — Rab Judah reported in the name of Rab: Scripture says: Behold I have taught you, etc.:<sup>17</sup> Just as I teach gratuitously, so you should teach gratuitously. It has also been taught to the same effect. Scripture Says: Even as the Lord my God commanded me,<sup>18</sup> [intimating], just as I teach gratuitously, so you should teach gratuitously. And whence do we derive that if he cannot find someone to teach him gratuitously, he must pay for learning? The text states: Buy the truth.<sup>19</sup> And whence do we infer that one should not say 'as I learnt the Torah by paying, so I shall teach it for payment'? The text states: And sell it not.<sup>19</sup>

TO SPRINKLE OR TO SANCTIFY, ITS WATERS ARE CONSIDERED CAVE WATERS AND ITS ASHES ARE CONSIDERED CALCINED ASHES. The following was cited in contradiction: If one betroths a woman with the waters of purification or with the ashes of purification, she is betrothed, although he is an Israelite?<sup>20</sup> — Said Abaye: This offers no difficulty. In the case mentioned above [in the Baraitha] it is payment for bringing the ashes<sup>21</sup> or filling the waters, whereas in the case [of the Mishnah] it is payment for actual sprinkling or sanctification.<sup>22</sup> I can

# BECHOROS – 2a-31a

also prove it. For here in our Mishnah it states: **TO SPRINKLE OR TO SANCTIFY**, whereas there [in the Baraita] it states: If one betroths a woman with the waters of purification<sup>23</sup> or with the ashes of purification. It stands proved.

**IF HE WAS A PRIEST, AND HE WAS MADE UNCLEAN IN RESPECT OF HIS TERUMAH.** How could the priest go to a place of uncleanness?<sup>24</sup> — He went to a Beth ha-peras,<sup>25</sup> the prohibition being a rabbinical enactment. For Rab Judah reported in the name of Rab: A man can blow away the bones of a Beth ha-peras and may then proceed.<sup>26</sup>

- (1) A pious person and above suspicion in these matters.
- (2) A Roman coin usually of the value of one twenty-fourth of a dinar.
- (3) Whether he pronounced the firstling to be unblemished or possessing a permanent blemish, he used to take full payment for his examination.
- (4) That for small cattle he took four as and for large cattle six as.
- (5) To cast it on the ground in order to bind it so as to enable the expert to examine it.
- (6) That the expert takes payment where he decides that it possesses a permanent blemish.
- (7) Where the priest pronounces the animal unblemished or having only a transitory blemish.
- (8) There is no fear, therefore, lest the firstling is really blemished and that it is pronounced unblemished in order that the priest might receive a further payment in a subsequent examination as there is no double payment for the same animal.
- (9) The water of purification.
- (10) To mix the ashes of purification with living water in a vessel.
- (11) I.e., ordinary ashes.
- (12) The expert, witness or judge.
- (13) If the person who required the priest's services led him to inspect the firstling or to give evidence, etc. through a path which inevitable caused the priest to become unclean. The latter cannot therefore now eat Terumah, which is cheaper in price than Hullin, since the latter can be eaten by everybody whereas Terumah is only suitable for priests.
- (14) The person who accompanies the priest.
- (15) This is explained in the Gemara.
- (16) That it is forbidden to take payment for giving decisions on Jewish Law and teaching the Torah.

(17) Deut. IV, 5.

(18) Ibid.

(19) Prov. XXIII, 23.

(20) For usually priests carry out these offices. Hence we see that one is permitted to take payment, for otherwise how could she be betrothed?

(21) From a distance to Jerusalem, and for the money earned in that manner he betroths a woman.

(22) This being part of the preparation for the performance of the precept for which there is no reward.

(23) The language employed in the Baraita, i.e., 'With the waters, etc.' suggests payment for bringing the waters, whereas the language used in the Mishnah indicates that the priest receives reward directly for sprinkling of sanctification.

(24) Thus transgressing the negative precept There shall none be defiled for the dead (Lev. XXI, 1).

(25) A field rendered unclean on account of crushed bones carried over it from a plowed grave.

(26) To bring the Paschal lamb, since abstaining from this fear of uncleanness would render him liable to the guilt of excision; but in respect of Terumah the rabbinic enactment stands.

## Bechoroth 29b

And R. Judah b. Ami reported in the name of Rab Judah: A Beth ha-peras which has been trodden is Levitically clean.<sup>1</sup> Or, we may also say: [The Mishnah refers] to other impurities,<sup>2</sup> concerning which he is not warned [against coming into contact].

**IF HE WAS AN OLD MAN, HE MOUNTS HIM ON AN ASS.** A Tanna taught: He receives payment on the scale of a workman with nothing to do. [What does the expression 'an idle workman' mean, since it does not render him idle?] — Abaye said: He pays the priest like a workman idle from his particular occupation.<sup>3</sup>

**MISHNAH.** IF ONE IS SUSPECTED IN CONNECTION WITH FIRSTLINGS,<sup>4</sup> EVEN DEER'S FLESH<sup>5</sup> WE MUST NOT BUY FROM HIM, NOR UNDRESSED HIDES. R. ELIEZER SAYS: FEMALE HIDES WE MAY BUY FROM HIM. WASHED OR DIRTY WOOL WE MUST

# BECHOROS – 2a-31a

NOT BUY FROM HIM BUT SPUN WOOL OR GARMENTS WE MAY BUY FROM HIM.

*GEMARA.* [The reason for prohibiting] deer's flesh is because it might be exchanged for calf's flesh. Undressed skins are forbidden [to be bought], thus implying that dressed skins we may buy. What is the reason? — If there was any substance in the suspicion that they might be of a firstling, he would not have troubled in the matter, reflecting thus: If the Rabbis heard about me,<sup>6</sup> they would make me forfeit them.

**R. ELIEZER SAYS: FEMALE HIDES WE MAY BUY FROM HIM.** What is the reason? — It is easily recognized.<sup>7</sup> And the first Tanna?<sup>8</sup> If this be so, then in the case of a male also he might cut away the male genital<sup>9</sup> and maintain that mice have devoured it. And the other? — The action of mice is easily recognized.

**WASHED OR DIRTY WOOL WE MUST NOT BUY FROM HIM.** If we must not purchase washed wool<sup>10</sup> [from], him is there any question about dirty wool? — Rather this is stated as one case: Wool washed from its dirt.

**BUT SPUN WOOL OR GARMENTS WE MAY BUY FROM HIM.** Now if we must not buy spun wool, is there any question as to garments?<sup>11</sup> — The kind of garments meant are felt spreadings.<sup>12</sup>

*MISHNAH.* IF ONE IS SUSPECTED OF IGNORING THE SABBATICAL YEAR,<sup>13</sup> FLAX MUST NOT BE BOUGHT FROM HIM, EVEN CARDED;<sup>14</sup> BUT SPUN OR WOVEN WOOL MAY BE BOUGHT FROM HIM.

*GEMARA.* Now if spun wool may be bought, is there any question with regard to woven wool?<sup>15</sup> — 'Woven' means here twists.<sup>16</sup>

*MISHNAH.* IF ONE IS SUSPECTED OF SELLING TERUMAH AS HULLIN, EVEN WATER AND SALT MUST NOT BE BOUGHT

FROM HIM.<sup>17</sup> THESE ARE THE WORDS OF R. JUDAH. R. SIMEON SAYS: WHATEVER COMES UNDER THE OBLIGATION OF TERUMAH AND TITHES MUST NOT BE BOUGHT FROM HIM.

*GEMARA.* [The expression 'WHATEVER' of R. Simeon], what does it include? — It includes the entrails of fish in which oil is mixed.<sup>18</sup> There was a certain butcher suspected of selling

(1) The field having been trodden by several people, it is impossible that a dead man's bone the size of a barley-corn could remain to cause uncleanness, v. Pes. 92b.

(2) E.g., coming in contact with a carcass or dead reptile, the negative precept cited above referring exclusively to a corpse.

(3) If, for example, he performs light work and earns a big wage, then the priest's compensation would only be slightly less than what he receives for his normal work. But if his work was of an arduous kind for which he received say, three Zuz, then if he had invited him to take a Zuz for much lighter work, he would probably have accepted the offer, This is therefore what the priest receives now for his services which prevented him following his occupation, but not the whole of his usual wages, as the work which the priest is performing for him is not arduous.

(4) E.g., of causing blemishes.

(5) The flesh being red, it can be exchanged for calf's flesh, and he might therefore sell him the flesh of an unblemished firstling calf, pretending that it is deer's flesh.

(6) That I took it from an unblemished firstling which requires burial. Therefore to spare himself unnecessary trouble, he would not dress the skins, if they came from firstlings.

(7) The difference between the skin of a male and a female. A female animal is not subject to the law of the firstling.

(8) In our Mishnah, who forbids the purchasing of skins of both sexes, as he makes no distinction. But surely one can observe a difference in the skins!

(9) And make the part look like a female organ and when questioned about the cut in the organ, he may ascribe it to the work of mice.

(10) Where one might have said that he would not take the trouble to wash the wool if it came from a firstling, for fear that the Rabbis might hear of the case and he would as a result have to forfeit it.

(11) Since we have already permitted it from the moment when the wool was spun.



# BECHOROS – 2a-31a

(12) Which were never spun and therefore our Mishnah needs to inform us what the ruling is.

(13) I.e., of sowing or doing business with the spontaneous growth of the sabbatical year.

(14) And prepared with a comb.

(15) As we have already permitted the buying of the wool in the earlier stage of spinning.

(16) Ropes made from flax before they are spun.

(17) As a punishment.

(18) Oil being subject to the law of Terumah.

## Bechoroth 30a

kidney fat for the fat of ileum.<sup>1</sup> Raba punished him by forbidding him to sell even nuts. Said R. Papa to Raba: What opinion does this represent? R. Judah's!<sup>2</sup> If it is the opinion of R. Judah, then the prohibition should apply even to water and salt?<sup>3</sup> — It may still represent the opinion of R. Simeon, and we punish him through the very object which caused the offence. Young children are generally attracted by nuts. He goes and misleads the children of butchers, attracting them by means of nuts. They bring him kidney fat<sup>4</sup> and he sells it for the fat of ileum.

**MISHNAH.** ONE WHO IS SUSPECTED OF IGNORING THE SABBATICAL YEAR IS NOT SUSPECTED OF IGNORING [ALSO] THE TITHES.<sup>5</sup> ONE WHO IS SUSPECTED OF IGNORING TITHES IS NOT SUSPECTED OF IGNORING [ALSO] THE SABBATICAL YEAR. ONE WHO IS SUSPECTED OF IGNORING BOTH IS SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY. AND IT IS POSSIBLE FOR ONE TO BE SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY AND YET NOT SUSPECTED OF IGNORING THE TWO LAWS [CITED ABOVE]. THIS IS THE GENERAL RULE: ONE WHO IS SUSPECTED OF IGNORING A RELIGIOUS LAW MUST NOT GIVE JUDGMENT ON IT OR TESTIFY CONCERNING IT.

**GEMARA.** What is the reason? — Fruits of the sabbatical year are not required to be eaten within the walls [of Jerusalem],<sup>6</sup> whereas tithes are required to be eaten

within the walls and therefore the rule is more stringent with regard to them.

**ONE WHO IS SUSPECTED OF IGNORING TITHES.** What is the reason? — The tithe can be redeemed, whereas fruit of the sabbatical year is forbidden to him<sup>7</sup> and cannot be redeemed;<sup>8</sup> and therefore the rule is more stringent in regard to it.

**ONE WHO IS SUSPECTED OF IGNORING BOTH LAWS.** Since he is suspected of ignoring both laws of biblical enactment, how much more so is he suspected of ignoring a rabbinic enactment [like eating Hullin Levitically prepared]?

**AND IT IS POSSIBLE FOR ONE WHO IS SUSPECTED OF IGNORING THE RULES OF LEVITICAL PURITY.** What is the reason? — Even though he is suspected of ignoring a rabbinic enactment,<sup>9</sup> he is not suspected of ignoring a biblical enactment. The following was cited in contradiction: One who can be relied upon in respect of the rules of purity, is relied upon with respect to the sabbatical year and tithes. This allows the inference that one who is suspected of ignoring [the rules of Levitical purity] is suspected [of ignoring the laws just cited]!

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Said R. Elai: The Mishnah refers to a case where we saw him practice privately at home.<sup>10</sup> R. Jannai son of R. Ishmael said: [The Baraita refers to a case] where e.g., he was suspected of ignoring both the sabbatical year and Levitical purity, and he came before the Rabbis and received a warning concerning both of them; and subsequently he was again suspected of ignoring one of them. We then hold that since he is suspected of ignoring the one, he is also suspected of ignoring the other.

Rabbah b. Bar Hana reported in the name of R. Johanan: Those are the words<sup>11</sup> of R. Akiba, whose opinion has been adopted without naming him; but the Sages say: One

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who is suspected of ignoring the laws of the sabbatical year is suspected of ignoring the laws of tithes. Who are the Sages [referred to]? — R. Judah, for in the place of R. Judah the sabbatical year was strictly observed by the people.<sup>12</sup> For there was a certain party<sup>13</sup> who called after his companion: proselyte son of a proselyte, and the latter retorted ‘May I merit [divine reward] as I have not eaten the fruits of the sabbatical year like you’.<sup>14</sup> Some there are who say: Rabbah b. Bar Hana reported in the name of R. Johanan: Those are the words of R. Akiba whose opinion has been adopted without naming him; but the Sages say: One who is suspected of ignoring tithes is suspected of ignoring the law of the sabbatical year. And who are the Sages [referred to]? It is R. Meir who said: One who is suspected of ignoring one religious law is suspected of disregarding the whole Torah.

R. Jonah and R. Jeremiah, the pupils of R. Ze’ira, or according to others, R. Jonah and R. Ze’ira, pupils of R. Johanan [reported differently]. One said: But the Sages said: One who is suspected of ignoring the sabbatical year laws

(1) The former fat is prohibited, the latter permitted, v. Hul. 48b.

(2) Who punishes by forbidding to buy in all cases.

(3) And why therefore did Raba penalize him only as regards nuts.

(4) Stolen from their father's houses.

(5) The fruits in other years, however, may be bought from him.

(6) Scripture saying: And thou shalt eat before the Lord thy God, etc. (Deut. XIV, 23).

(7) To do business with.

(8) For no matter how many successive exchanges of the fruit of the sabbatical year took place, only the last object is invested with restrictions of the sabbatical year whereas the fruit of the sabbatical year itself always remains forbidden (R. Gershom).

(9) For the eating of Hullin (ordinary food and not Terumah) with Levitical cleanness is only a rabbinical injunction.

(10) The regulation pertaining to tithes and the sabbatical year and therefore the Mishnah states that he is not suspected of disregarding them in public, albeit he ignores the rules of Levitical purity.

(11) That one who is suspected of ignoring the sabbatical year is not suspected of disregarding the law of tithes.

(12) Consequently, if one was suspected of disregarding the sabbatical law he was certainly suspected with regard to tithes, since the former was kept more strictly in R. Judah's locality.

(13) In the place of R. Judah.

(14) And since he boasts of this, we see that in that place, the sabbatical law was held strictly. Another explanation is:

May a curse come to me if I partook of the fruits of the sabbatical year, as you have done.

## Bechoroth 30b

is suspected of ignoring the laws of tithes. And who are the Sages [referred to]? R. Judah, for in the place of R. Judah the sabbatical year law was kept strictly by the people. And the other said: One who is suspected of ignoring the laws of tithes is suspected of ignoring the sabbatical year laws. And who are the Sages [referred to]? — R. Meir, as it has been taught: An ‘am ha-arez<sup>1</sup> who accepted the obligations of a haber<sup>2</sup> and who is suspected of ignoring one religious law is suspected of disregarding the whole Torah. But the Sages say: He is only suspected of ignoring that particular religious law. And a proselyte, who accepted the teachings of the Torah, though he is suspected of ignoring only one religious law, is suspected of disregarding the whole Torah,<sup>3</sup> and he is considered as a non-observant Israelite.<sup>4</sup> The differences<sup>5</sup> would be that if he betroths a woman, [even after his relapse], his betrothal is valid, [the woman thus requiring a divorce.]

Our Rabbis taught: If one is prepared to accept the obligation of a Haber except one religious law, we must not receive him as a Haber. If a heathen is prepared to accept the Torah except one religious law, we must not receive him [as an Israelite]. R. Jose son of R. Judah says: Even [if the exception be] one point of the special minutiae of the Scribes' enactments. And similarly if a son of a Levite was prepared to accept the duties of the community of Levites<sup>6</sup> except one

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religious law, we must not receive him [as a Levite]. If a priest was prepared to accept the duties of the priesthood except one religious law, we must not receive him [as a priest], as it is said, He [among the sons of Aaron] that offereth the blood, etc.<sup>7</sup> implying the [entire] service that is transmitted to the sons of Aaron and that any priest who does not acknowledge this has no share in [the privileges of] the priesthood.

**Our Rabbis taught:** If one applies to become a Haber, if we saw him practicing these privately at his house,<sup>8</sup> we receive him and subsequently instruct him, but if not, we first instruct him and then receive him [as a Haber]. But R. Simeon b. Yohai says: Both in the first case and the second, we receive him [as a Haber] and he learns incidentally as he goes on.

**Our Rabbis taught:** We accept a Haber if he promises to observe cleanness of hands<sup>9</sup> and afterwards we accept him as one who will observe the other rules of Levitical purity.<sup>10</sup> If he said: I only promise to observe cleanness of hands, we receive him [as a Haber, as his promise is important in connection with Levitical purity]. If, however, he promised to observe the rules of Levitical purity but not cleanness of hands, then even his promise to observe the rules of Levitical purity is not regarded as a genuine promise.<sup>11</sup>

**Our Rabbis taught:** How long is the period<sup>12</sup> before we receive him [as a Haber]? Beth Shammai say: As regards [the purity of his] liquids, [whose uncleanness is of a light character], the period is thirty days, but as regards the purity of [his] garment,<sup>13</sup> the period is twelve months; whereas Beth Hillel Say: Both in the one case as well as in the other, the period is twelve months. If this be so, then you have here a ruling where Beth Shammai is more lenient and Beth Hillel is the stricter?<sup>14</sup> — Rather [read]: Beth Hillel

Say: Both in the one case as well as in the other, the period is thirty days.

(Mnemonic: *A Haber, Scholar, Purple-blue, Repent, Tax collector.*)

**Our Rabbis taught:** One who desires to accept the obligations of a Haber is required to do so in the presence of three Haberim, whereas his sons and the members of his family are not required to accept [these obligations] in the presence of three Haberim. But R. Simeon b. Gamaliel says: His sons and the members of his family are also required to accept [these obligations] in the presence of three Haberim, because the case of a Haber who accepts [these obligations] is not on a par with the case of the son of a haber<sup>15</sup> who accepts [them].

**Our Rabbis taught:** One who desires to accept the obligations of a Haber is required to accept them in the presence of three Haberim, and even a Talmid Hakam [a scholar] is required to accept the obligations in the presence of three Haberim. An elder, a member of a scholars' council, is not required to accept [these obligations] in the presence of three Haberim, having already accepted them from the time when he took his place at the council. Abba Saul Says: Even a Talmid Hakam is not required to accept the obligations of a Haber in the presence of three Haberim. And not only this, but even others may accept the obligations of a Haber in his presence.

**Said R. Johanan:** In the days of the son of R. Hanina b. Antigonus was this teaching taught.<sup>16</sup> For R. Judah and R. Jose were in doubt concerning a matter of Levitical cleanness. They sent a pair of scholars to the son of R. Hanina b. Antigonus. They went and asked him to inquire into the matter. They found him carrying<sup>17</sup> Levitically prepared food. He seated some of his own disciples<sup>18</sup> with them,<sup>19</sup> while he stood up to look in to the question. They came and informed R. Judah and R. Jose [of his

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conduct towards them].<sup>20</sup> R. Judah said to them: His father<sup>21</sup> held scholars in contempt and he also holds scholars in contempt. R. Jose replied to him: Let the dignity of the elder<sup>22</sup> lie undisturbed in its place,<sup>23</sup> but from the day that the Temple was destroyed, the priests<sup>24</sup> guarded their dignity by not entrusting matters of Levitical cleanness to everybody.<sup>25</sup>

Our Rabbis taught: [The wife of a Haber is considered as a Haber].<sup>26</sup> If a Haber dies, his wife and the members of the family retain their status until there is reason to suspect them.<sup>27</sup> And similarly a court-yard in which tekeleth [purple-blue]<sup>28</sup> was sold retains its status until it is disqualified.<sup>29</sup>

Our Rabbis taught: The wife of an ‘am ha-arez who was married to a Haber, likewise a daughter of an ‘am ha-arez who was married to a Haber, and similarly the slave of an ‘am ha-arez who was sold to a Haber — all of these must first<sup>30</sup> accept the obligations of a haber.<sup>31</sup> But the wife of a Haber who was married to an ‘am ha-arez, likewise the daughter of a Haber who was married to an ‘am ha-arez and similarly the slave of a Haber who was sold to an ‘am ha-arez, need not first accept the obligations of a haber.<sup>32</sup>

R. Simeon b. Eleazar says: Even the latter require first to accept the obligations of a Haber. For R. Simeon b. Eleazar reported in the name of R. Meir: It happened with a certain woman who was married to a Haber that she fastened the straps of the Tefillin [phylacteries] on his hand and when afterwards married to a publican, she knotted the custom seals for him.<sup>33</sup>

(1) One who is not relied upon, especially in connection with Terumah and tithes.

(2) A member of an order who were very scrupulous in the observance of the Levitical laws in daily intercourse; v. Glos.

(3) Sh. Mek. adds, Or even if he is suspected of ignoring the whole Torah.

(4) And we do not maintain that he is considered as a real heathen, as if he had not become a proselyte.

(5) In regarding him as a non-observant Israelite and not as a real heathen.

(6) To sing, minister and serve as a gate-keeper of the Temple.

(7) The verse continues: Of the peace-offering and the fat, shall have the right thigh for a portion (Lev. VII, 33), thus teaching that the priest must practice all the laws devolving upon the sons of Aaron, and then only he is entitled to his dues.

(8) Prior to agreeing to observe them publicly so that he cannot be accused of doing so merely for show.

(9) Washing the hands before eating and before touching food of Terumah.

(10) To partake of his Terumah on the assumption of it being Levitically clean.

(11) For, if he will not undertake to keep a simple matter like the washing of hands, then we can have no confidence in

his promise to observe other Levitical restrictions.

(12) During which he must practice the laws of Levitical purity.

(13) The garment of an ‘am ha-arez is considered unclean by a person observant of the rules of Levitical purity, through the former leaning and pressing on it.

(14) In ‘Ed. only six examples of these are quoted. This case would therefore constitute one more example.

(15) The father, a Haber, will be more strict, as he publicly accepted in the presence of three Haberim the obligations involved, whereas the son of a Haber only sees his father practice these laws. Another interpretation is as follows: The reason, according to the first Tanna quoted above, why the sons and the members of the family of a Haber are not required to accept these obligations is because the family of a Haber actually seeing these Levitical laws observed at home, are not suspected of disregarding them and therefore there is no necessity for them to accept these obligations in the presence of three Haberim.

(16) That even a Talmid Hakam is required to accept the obligations of a Haber in the presence of three Haberim, for even he was suspected in such matters.

(17) Sh. Mek. has ‘guarding’.

(18) Who scrupulously observed the Levitical rules regarding food.

(19) To keep an eye on his Levitically prepared food, against the touch of the Rabbis who had been sent on the mission.



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(20) That he did not trust them in matters of Levitical purity.

(21) He said this in a temper, but this was not actually the case.

(22) I.e., the father and the son.

(23) Do not accuse him of despising scholars.

(24) R. Hanina b. Antigonus was a priest.

(25) It was not therefore because R. Hanina held scholars in contempt that he seated some of his disciples with the Rabbis.

(26) So Sh. Mek.

(27) Of disregarding the rules of Levitical cleanness.

(28) For the fringes, in accordance with Num. XV, 38.

(29) By selling therein a vegetable blue dye for genuine tekeleth.

(30) Before we can receive them as Haberim.

(31) And although it is stated above that the members of the family are not required to accept the obligations of a Haber, the case is different here because when acceptance took place the wife, daughter and slave were not with him and there is, consequently, the fear that earlier habits may still influence their conduct.

(32) If they return to the sphere of the Haber.

(33) We see therefore that even a wife originally of a Haber can alter her habits in a changed environment and the same applies to a slave, etc.

required the teaching of R. Huna b. Hiyya.<sup>8</sup> Rabbah and R. Joseph went in to him together with four hundred pairs of scholars. When he learnt that they were coming, he wreathed<sup>9</sup> four hundred stools for them. Eventually they heard that he had become a tax-collector. Thereupon they sent him a message that he should adhere to his office.<sup>10</sup> He went back to his former position,<sup>11</sup> and sent back to them: 'I have withdrawn'.<sup>12</sup> R. Joseph did not go, but Rabbah went. R. Joseph said:<sup>13</sup> We have learnt: If he withdrew from the office, he must not be received [as a Haber]. Rabbah however says: We have learnt: They subsequently decided that if he withdrew, he is regarded like any other person.

Our Rabbis taught: A man may examine all firstlings, except his own;<sup>14</sup> he may examine his holy sacrifices<sup>15</sup> and his animal tithes.<sup>16</sup> He also allows himself to be asked with reference to his Levitically prepared food.<sup>17</sup> The master said: 'A man may examine all firstlings except his own'. What are the circumstances? Shall I say that only one person [examines]? But is one person believed?<sup>18</sup> Then we must suppose that three persons [examine]. But are three persons suspected [on his account]? Have we not learnt: If a woman made a declaration of protest<sup>19</sup> or performed halizah<sup>20</sup> before him [a scholar], the latter may marry her because he is of the Beth din?<sup>21</sup> —

I may still say it refers to one person and as R. Hisda reported in the name of R. Johanan elsewhere that it was a case of an individual expert, so also here it is the case of an individual expert [who examined the firstling]. 'He may examine his holy sacrifices', [the reason being] because if he wished, he could ask for their release [from a scholar].<sup>22</sup> And as regards 'his [animal] tithes', [the reason is] because if he wished, he could cast a blemish in the entire herd [of animals].<sup>23</sup> 'He also allows himself to be asked with reference to his Levitically prepared food', [the reason being] because

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Our Rabbis taught: And all of these<sup>1</sup> if they repented must never be received. [These are] the words of R. Meir. R. Judah says: If they repented only in secrecy, we must not receive them, but if publicly, they may be received. Some there are who say: If what they did<sup>2</sup> was in secrecy, they may be received, but if publicly, they must not be received. But R. Simeon and R. Joshua b. Karha say: Both in the first case as in the other, they may be received because of what is said, Turn, O backsliding children.<sup>3</sup> R. Isaac of Kefar Acco<sup>4</sup> reported in the name of R. Johanan: The Halachah is in accordance with the view of that pair.<sup>5</sup>

Our Rabbis taught: At first [the Sages] said: If a Haber became a tax-collector he is expelled from the order.<sup>6</sup> If he withdrew,<sup>7</sup> he is not received [as a Haber]. They subsequently declared: If he withdrew, he is regarded like any other person. The scholars

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they are fit to eat during the period of his uncleanness.<sup>24</sup>

## CHAPTER V

**MISHNAH.** THE PROFIT ON ALL DEDICATED OBJECTS WHICH BECAME UNFIT [FOR THE ALTAR] GOES TO THE SANCTUARY.<sup>25</sup> THEY ARE SOLD IN A MARKET,<sup>26</sup> SLAUGHTERED IN A MARKET AND WEIGHED BY THE POUND,<sup>27</sup> EXCEPT IN THE CASE OF A FIRSTLING OR A TITHING ANIMAL, AS THEIR PROFIT GOES TO THE OWNERS.<sup>28</sup> THE PROFIT ON DEDICATED OBJECTS WHICH BECAME UNFIT [FOR THE PURPOSE CONSECRATED] GOES TO THE SANCTUARY. YOU MUST WEIGH ONE PIECE OF MEAT OF THE FIRST-BORN AGAINST ANOTHER PIECE OF ORDINARY MEAT OF ASCERTAINED WEIGHT.

(1) The reference is to the second clause of the Baraitha in Tosef. Dem'ai. II, concerning one accepting the obligations of a Haber except one religious law, a priest who accepts all priestly obligation except one, and similarly a Levite. Tosaf explains that it refers to an earlier clause in the Tosef. with reference to an 'am ha-arez accepting the obligations of a Haber, a heathen who accepts the teachings of the Torah and a priest who accepts the full obligations of the priesthood. Now, if any of these retracted, i.e., returned to their former habits, they are never received again, since they have shown their weakness, whereas R. Judah maintains that if this relapse was in secrecy, they must not be received because they are merely deceiving people and doing it for show, but if their relapse was both privately and publicly, then if they retracted, we accept them again as genuine penitents.

(2) I.e., ignoring the rules of Levitically prepared food. Tosaf. interprets this as follows: If we recognized from the beginning, prior to their lapse, that they observed the obligations of a Haber even privately, then we receive them when they return. But where we saw them keeping those obligations only in public but not privately, they must not be received back by us, as we suspect them merely of deceiving people.

(3) Jer. III, 14.

(4) [Caphare Accho in Lower Galilee; v. Hildesheimer, Beitrige, p. 81.]

(5) R. Simeon and R. Judah b. Karha.

(6) Publicans or customs-collectors had the taxes farmed out to them by the crown and as a rule recouped themselves by imposing iniquitous burdens on the people; consequently they were considered robbers in Jewish law.

(7) From the office of publican.

(8) In order to consult him on some point of Jewish law. Lit., 'the time needed him'. Another explanation is that he fell ill and it was necessary for them to visit him.

(9) So Jast.

(10) Since he was already a publican, let him cling to the position, but as far as they were concerned, they would not visit him.

(11) I.e., resigned his office. Read זיל for זיל. So Jast. According to cur. edd. this was the continuation of the message, viz., that he should adhere 'to his (new position) before him'.

(12) V. supra p. 196, n. 6.

(13) Explaining why he did not go.

(14) A priest is not allowed to inspect his own firstling and to permit it.

(15) Peace-offerings, in which a blemish appears in order to ascertain whether it is a permanent blemish, so as to redeem them as Hullin.

(16) In which a permanent blemish appeared.

(17) If he is versed in such matters, and there is a doubt on some point, he need not go to a scholar to inquire.

(18) For even to permit firstlings belonging to others we require the decision of three persons.

(19) Against a marriage contracted during her minority; v. Glos. s.v. Mi'un.

(20) V. Glos.

(21) For he was not there alone, as a Beth din of three were present. Therefore we do not suspect him of permitting her for the purpose of marrying her.

(22) By pleading that the consecration was a mistake, thus finding a way out to free the animal from its sanctity. We therefore do not entertain the suspicion that he would declare the blemish to be a permanent one when it is transitory. This method, however, of releasing the animal from its holiness does not apply to a firstling which is hallowed from birth, and consequently there is room for suspicion here.

(23) Before tithing his herd, tithing taking effect even on blemished animals, and from the very beginning he could have released them from their holiness in the matter of eating them within the walls of Jerusalem.

(24) He is consequently not suspected of declaring something which is unclean to be clean, since he can make use even of unclean food. This of course only refers to Hullin, but unclean Terumah is not suitable for him to eat even when he is Levitically unclean, as it requires to be burnt.

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(25) Their profit is obtained by selling at a high price.

(26) Where much is bought and at a high price.

(27) Lit. 'Litra', the Roman Libra, a pound, in the manner butchers who sell Hullin.

(28) In the case of a firstling, the owner is the priest, who sells its flesh to anybody. Since therefore the profit belongs to private people, it was not permitted to sell the meat and treat it lightly like Hullin by selling it in the market, etc. in order to gain more profit.