

OVERVIEW of the Daf

1) Calculating a bechor's year (cont.)

The Gemara continues to record the exchange between Rav and D'vei Rav concerning the source that we count the bechor's year since its birth.

2) Clarifying the Mishnah

The Gemara seeks clarity regarding the Mishnah's last ruling concerning an animal that develops a blemish.

On the second attempt the Gemara proves that the intent of the Mishnah was to teach that if the bechor develops a blemish after its year the owner is given thirty days to slaughter the animal.

This conclusion is a support for R' Elazar who rules that an owner is given thirty days after the bechor develops a blemish.

A second version of R' Elazar's ruling is presented.

This ruling is successfully refuted.

3) MISHNAH: The Mishnah discusses one who slaughters a blemished bechor without first having it evaluated to confirm that the blemish is permanent. The Mishnah also addresses the case of one who slaughtered an animal that was examined by someone who is not an expert.

4) Clarifying the dispute between R' Meir and R' Yehudah

Rabbah bar bar Chana clarifies the point of dispute between R' Meir and R' Yehudah.

A Beraisa is cited that supports this same explanation of the dispute.

R' Nachman bar Yitzchok proves this interpretation of the dispute correct from our Mishnah as well.

The Gemara inquires whether the earlier-cited Beraisa meant that all cataracts change after death or that some cataracts change and other do not.

The practical difference is explained.

The Gemara proves that some cataracts change and others do not.

It is suggested that the Mishnah's latter ruling concerning a blemished animal that was examined by someone who is not an expert follows R' Meir's opinion in the beginning of the Beraisa but this opinion is rejected.

A Beraisa gives the scale for determining how much the non-expert must pay when he ruled that an animal was permanently blemished.

The rationale behind the Beraisa's scale is explained.

5) MISHNAH: The Mishnah discusses the liability of one who makes a judgment in error.

6) The author of the Mishnah

It is assumed that the Mishnah follows R' Meir who adjudicates matters involving garmi.

This assumption is rejected since the Mishnah could be referring to where the judge transferred the money by hand.

How this could happen for all the different cases in the Mishnah is explained.

7) MISHNAH: An example of an expert judge who errs who is not liable is presented.

8) Clarifying R' Akiva's statement

The Gemara clarifies R' Akiva's statement.

9) MISHNAH: The Mishnah begins discussing one who takes money to examine bechoros. ■

Distinctive INSIGHT

Shechting a blemished bechor after thirty days

אבל מפני השבת אבידה לבעלים אמרו רשאי לקיימו שלשים יום

A bechor with a blemish may be given to a kohen, and he will shecht it and eat its meat. Rashi explains that if a yisrael has a bechor and there is no kohen available to whom to present it, the animal may be kept alive an additional thirty days beyond one year as a means to prevent the kohen from financial loss. If the bechor would be shechted immediately at the conclusion of a year even without there being a kohen to whom to present it, the meat would begin to deteriorate and become inedible. Therefore, we keep the bechor alive a bit longer, and hopefully during this time a kohen will be located and we can give it to him. After thirty days, we do shecht the bechor, and we salt the meat in order to preserve it until we can finally find a kohen.

Tosafos explains that the yisrael must maintain and keep the bechor alive even beyond thirty days, until a kohen is found and he will shecht it. The Gemara is addressing the kohen. The kohen who receives the blemished bechor does not have to shecht it immediately, but rather he has up to thirty days to shecht it, and no longer. Tosafos Chitzoniyos adds a clarification of this halacha. If the kohen is not ready to eat the bechor now, if he must shecht it immediately he may sustain a loss because the meat of a bechor is not permitted to be sold publically in the market, and the meat also may not be weighed in a scale in a disrespectful manner. This is why he may wait up to thirty days.

We find that Rashi and Tosafos disagree regarding a yisrael who has a blemished bechor, and the thirty days elapse. Rashi says that the animal is shechted and its meat is preserved. Tosafos holds that the animal is kept alive until we find a kohen to whom to present it. Mahari"t Algazi asks why, according to Rashi, don't we say that the yisrael may eat the meat of the bechor, and later when he finds a kohen he will pay the kohen the value of the meat. This should be similar to the Gemara in Chullin (134b) regarding the meat gifts of the foreleg, the cheek and the stomach, where no kohen is available. In order to prevent a loss for the kohen, the yisrael may eat the gifts, and he later pays a kohen the value of what was eaten. According to Tosafos we can also ask why must the yisrael care for the bechor until finding a kohen? Let him shecht it and eat it, and later pay the kohen the value of the bechor. This question, however, is not difficult, because it is better to keep the animal alive and actually fulfill the mitzvah of giving the bechor itself to the kohen when he finds him rather than to give money.

Mahari"t Algazi answers that Rashi holds that there is no mitzvah to eat a blemished bechor. The reason the yisrael shechts the animal when it is a year old is only in order to avoid the possibility of the animal inadvertently having its wool shorn or the animal being worked. ■

HALACHA Highlight

Relying upon the professional opinion of a doctor

ומעשה בפרה שנטלה האם שלה

It happened once concerning a cow whose womb was removed

The Mishnah reports that R' Tarfon ruled that a cow whose womb was removed is a tereifah and as such even if it is slaughtered it is prohibited for consumption. When word of this ruling reached the Chachamim in Yavneh they declared the animal permitted for consumption. The basis of their opinion was that Tudus the doctor reported that all the cows and pigs exported from Alexandria have their wombs removed and they do not die prematurely. This Mishnah indicates that it is acceptable to determine matters of prohibition based on a doctor's assessment concerning an animal's condition. This is one of the primary sources that it utilized to determine the halachic reliability of doctor's reports.

Teshuvos Panim Meiros¹ once addressed a woman who could not become tehorah from being a niddah. The doctors claimed that she suffered a wound and thus she should not remain a niddah. Panim Meiros wrote that we do not find that we rely on the assumption of a doctor for Biblical matters other than ones that involve life threatening situations – פיקוח נפש. The reason is that although we do not fully trust the doctor's assumption, his report is enough to create a doubt and once there is a doubt we are stringent when it comes to a person's life. Regarding other prohibitions, however, there is no reason to assume that the doctor's assumption is accurate or that the To-

REVIEW and Remember

1. What is done with a bechor to prevent a kohen from suffering a loss ?

2. What is done with a bechor that was slaughtered when it was examined by a non-expert ?

3. Do all cataracts change after the animal's death ?

4. What is דינא דגרמי ?

rah believes someone who constitutes less than a single witness. The reason that the Chachamim relied on Tudus is that he personally witnessed the wombs of the animals being removed and then saw those animals continue to live for many years. Regarding something that was personally witnessed one may rely on his report but not regarding matters that are assumptions.

Teshuvos Beis Yitzchok² asserts that doctors may be relied upon for their assumptions based on the principle that a professional does not want to harm his professional reputation since that would go against his self-interest. Additionally, whenever the matter could be checked and confirmed or refuted by other professionals there is an additional reason for a doctor or professional to be trusted since there is the fear that his error will be discovered if one will seek a second opinion. ■

¹ שו"ת פנים מאירות סי' י"ב.

² שו"ת בית יצחק יו"ד ח"א סי' קמ"א. ■

STORIES off the Daf

The Careless Farmer

"נולד לו מום..."

On today's daf we find that a blemished firstborn animal is eaten by the kohain.

Living on a remote farm can sometimes be a bit dangerous. Although it is beautiful to commune with nature and be alone, solitude has its negative aspects. A person who needs help in places off the beaten track might not be able to get the assistance he needs in time. An additional problem is that quiet and repeti-

tive chores in the outdoors can sometimes lull a person into a distracted state.

One farmer was thinking deep thoughts while plowing up and down the rows when his tractor suddenly hit an obstacle. His reverie broken, the farmer was shocked to find that he had struck his neighbor's animal! He was disturbed at the prospect of paying for his stupidity until he found out that the animal was a bechor. "Great, that means I don't have to pay," he thought.

When he explained to the angry owner—who was a kohen—that he was not obligated to pay since the animal was hekdesch for which one is not obligated to pay damages, the owner got very upset. "That's ridiculous! How could it be that

you can damage my animal and not have to pay?"

"But that's the point, isn't it?" his friend retorted. "The animal is not yours, it is God's. I am sorry about the mistake, but since you lost nothing, I shouldn't have to pay you for it, should I?"

When this question reached the Steipler, zt"l, he ruled in an intriguing manner. "It is true that the animal is not the kohen's unless it gets a blemish. Nevertheless, he still had a right to eat it if it got blemished. Presumably this is no less than damaging another's encumbrance, for which one must pay..."¹ ■

¹ קהלת יעקב, סי' כ"ז ■