

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses different halachos that relate to twin boys that are born and it is not known which came out first.

2) Clarifying R' Meir's position

The Gemara questions the exact circumstances of R' Meir's ruling.

R' Yirmiyah suggests a halacha that would explain R' Meir's position in the Mishnah.

Rava rejects this interpretation and offers an alternative explanation for R' Meir.

The Gemara rejects this interpretation and offers another explanation of the Mishnah.

According to a second version the previous discussion occurred in reference to the latter segment of the Mishnah.

3) **MISHNAH:** The Mishnah discusses the uncertainties that arise when a man's two wives give birth to males and it is not known which one is the bechor. The next case discussed involves two children born to two wives of two different husbands.

4) Two fathers of two sons

The Gemara questions why in the latter part of the Mishnah there is difference between the two fathers giving five selaim each to two kohanim and the two fathers giving five selaim each to the same kohen. ■

REVIEW and Remember

1. Why does Rava reject R' Yirmiyah's explanation of the Mishnah?
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2. What are the rulings of R' Assi and R' Pappa that are relevant to our Mishnah?
.....
3. What is the underlying principle for determining whether a father must give five selaim to a Kohen when there is an uncertainty whether he has a bechor?
.....
4. What is the point of dispute between Tanna Kamma and R' Yehudah?
.....

Today's Daf Digest is dedicated
לע"נ מרת שיינדעל מרים בת ר' יחיאל יוסף
Jean Erdfrucht, a"h

Distinctive INSIGHT

In a case where the redemption of the firstborn is in doubt

שני זכרים ונקבה נותן חמש סלעים לכהן

The Mishnah discusses the halacha of a man who has two wives, neither of whom had given birth before. In one of the cases, the two women give birth to two males and one female, and the children become mixed up such that we do not know which wife gave birth to which child or children. The halacha is that the husband must give a kohen five shekalim because one of the males is certainly a first born, while there is a doubt regarding whether the other male born as a twin was born first or whether he was born after the female. In this case of doubt we use the rule (Bava Metzia 6b) "the one attempting to take money from another must bring a proof." The kohen may only collect the redemption money for the second male if he can prove that he too was a firstborn.

The Gemara (Chullin 134b) applies this rule in regard to the gifts for the kohen such as the meat gifts listed in Devarim 18:3 (foreleg, jaw and stomach) and redemption for the first born. We are lenient for the one who might give them, because there is no intrinsic sanctity upon the meat gifts or the first born son, and these are financial obligations owed to the kohen, but only when the obligation is known.

Shach (Y..D. 177: #68) writes that whenever a case of doubt arises regarding redemption of a behor, the issue does not only involve a monetary concern, but it also is an issue of a doubt regarding fulfillment of the mitzvah. Nevertheless, we do not require that the father be strict, which is standard procedure when a Torah law is involved, but we rather use the rule of "the one who is trying to remove money must prove his case," and the yisrael may keep the five shekalim in question.

Yeshuos Yaakov (Y.D. 305:12) explains that the reason the yisrael may keep the money is that the Torah only requires redemption in cases of certainty, but not in cases of doubt. Using this definition, he proposes that if there is a consideration of majority it can be used to evaluate the

Continued on page 2)

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By Mr. and Mrs. Bruce Leon
in memory of their mother
מרת ח' בת ר' מרדכי, ע"ה

HALACHAH Highlight

Does Beis Din redeem a child?

מת האב והבנים קיימים

If the father died and the children are alive

Maharil¹ recounts an incident in which a father died before he could redeem his bechor and they hung around the baby's neck a silver necklace that said, "The son of a kohen" so that he should know that he must redeem himself when he is old enough. Divrei Chamudos² notes that since a bechor who is still a minor is not obligated to perform mitzvos if he was redeemed while still a minor the redemption does not take effect even if others redeemed him. Even Beis Din should not redeem the child on his behalf by giving five selaim to a kohen on condition that the redemption will take effect when he becomes an adult. The reason is that if the money is no longer extant when the child becomes an adult the redemption does not take effect. He therefore advises that Beis Din should redeem him while yet a child but the beracha should not be recited at that time. Additionally, a silver necklace should be placed on the child's neck that indicates that it is uncertain whether he was redeemed so that a beracha will not be recited when he is redeemed as an adult. Taz³ maintains that Beis Din should not redeem the child altogether since by doing so they take away his mitzvah.

Shach⁴ disagrees, and asserts that when Beis Din re-

(Insight...continued from page 1)

situation. Relying upon majority in the Torah is considered as if the situation is certain, so redemption in this case would be warranted.

Sha'arei Yosher (Y.D. 305:87) defines the presenting of gifts of the kohanim to a kohen as an act of returning money to its owner. Returning money to its owner is only applicable when the owner's possession is established, but not when his very possession is in question. ■

deems a child they are in effect transferring ownership of the money to the child and it becomes the child's money that is used for the pidyon haben and it is the child who fulfills the mitzvah. Minchas Chinuch⁵ suggests that the point of dispute between Divrei Chamudos and Shach relates to the nature of the mitzvah of pidyon haben. According to Shach the mitzvah creates a monetary obligation to give five selaim to a kohen. Accordingly the redemption money could be collected even without the awareness of the child similar to the right of a creditor to collect a debt without the awareness of the debtor. Divrei Chamudos, in contrast, contends that the mitzvah is to give five selaim to a kohen. Accordingly, the mitzvah cannot be done for a child since while he is a child he is exempt from mitzvos.

1. מהרי"ל פדיון הבן.
2. דברי חמודות אות י"ז.
3. ט"ז יריד סי' ש"ה ס"ק י"א.
4. נקודת הכסף שם.
5. מנחת חינוך מצוה שצ"ב אות ב'. ■

STORIES Off the Daf

The Mixed-Up Twins

יולדיה שני זכרים

Erev Pesach is a very hectic time. For bechorim it is even more complex since in addition to all the mitzvos and last-minute preparations, they must either fast or at least participate in a siyum. The father of a bechor between thirty days old and bar mitzvah must also fast.¹

A certain family had twin boys who were mixed up at birth. No one was sure which of them had been born first and which second. As we find on

today's daf, in such a situation, the twins must be redeemed with five shekalim since one is certainly a bechor. When Pesach came around, the father wondered whether he was required to fast. After all, how could he avoid fasting when one child was a bechor? On the other hand, the Pri Megadim rules that both children would not have to fast when they grow up since both could claim the other one is the bechor. So why should the father have to fast?

When this question reached the Maharash Engel, ז"ל, he ruled that he need not fast. "This is clear from the Gemara in Bechoros 48. There we find that if twin boys were mixed up the

father must redeem them. Yet if the father dies, the estate doesn't need to pay, even though the money is both of theirs and one might have thought that, like the father, money is appropriated from the estate to pay them. Yet we do not hold this way. If the father died after the time came to redeem them, it is clear that we don't take the money from the estate, since it is not clear who owes it. Similarly, the father need not fast for his twin boys. Since it is not clear for whom he is fasting, there is no need to fast."² ■

1. ע"רמ"א סי' ת"ע סי' ב' ומ"ב ס"ק י'
2. שו"ת מהרי"ש ענגיל, ח"ג, סי' ק"ד ■