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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

The *Mishna* had stated: If a *Kohen* sells an animal to a *Yisroel*, and he says to him, “I am selling you the animal except for its gifts,” he is exempt from giving the gifts.

The *Gemora* points out a contradiction to this from that which was taught in the following *braisa*: If a *Kohen* sells an animal to a *Yisroel*, and he says to him, “I am selling you the animal on the condition that its gifts are mine,” he may give the gifts to any *Kohen* that he chooses.

The *Gemora* answers: Do you mean to oppose the terms ‘except’ and ‘on condition’ against each other? The term ‘except’ is an exclusion, but the term ‘on condition’ is not an exclusion at all (*but rather – a stipulation; and since the condition is not binding, he may give the gifts to any Kohen that he chooses*).

There is, however, a further contradiction, for it was taught in a *braisa*: If he said, “On condition that its gifts are mine,” the gifts must then be given to him!?

The *Gemora* answers: They disagree as follows: One holds that ‘on condition’ is an exclusion, and the other maintains that ‘on condition’ is not an exclusion.

The *Mishna* had stated: If one asked the butcher to sell him the innards (*and he bought it by weight with abomasums included, the buyer is obligated to give it to a Kohen; he then can go back to the butcher to be compensated; seemingly, it is only the buyer who gives it to the Kohen, not the butcher; the butcher need not get it from the buyer to give to the Kohen*).

Rav said: They taught this (*that it is not the butcher’s obligation*) only where the purchaser weighed them for himself, but if the butcher weighed them for him, then the *Kohen’s* claim is against the butcher as well. Rav Assi said: Even though the butcher weighed them for him, his claim is with the buyer only.

The *Gemora* notes: Shall we say that they differ regarding the ruling of Rav Chisda? For Rav Chisda said that if one robs an item, without the victim despairing of retrieving the item, and then another person consumed the item while it was in possession of the first burglar, the victim may collect from either thief. [*The Gemora in Bava Kamma explains that Rav Chisda holds that until the victim despairs of recovering the item, it is in his possession; therefore, both thieves have stolen it from him, and are liable.*] Now is it to be said that Rav agrees with Rav Chisda (*and the Kohen may claim his gifts from either one of them*), and Rav Assi does not agree with Rav Chisda?

The *Gemora* disagrees: No, all agree with Rav Chisda, but they differ as to whether the *Kohanic* gifts are subject to the law of theft. Rav holds that they are subject to the law of theft (*and the butcher is always liable*), and Rav Assi holds that they are not (*and therefore the obligation of returning them is dependent on their location*).

Some report the above argument independently as follows: Rav said: The *Kohanic* gifts are subject to the law of theft, whereas Rav Assi said that they are not.

If a convert had a cow and he slaughtered it before he became a convert, he is exempt from giving the *Kohanic* gifts; if he slaughtered it after he became a convert, he is liable. If there was a doubt about it, he is exempt, for the burden of proof lies upon the one seeking to exact payment from his fellow.

When Rav Dimi came (*from Eretz Yisroel to Bavel*), he reported that Rabbi Shimon ben Lakish pointed out the following contradiction to Rabbi Yochanan. We have learned in our *Mishna*: If there was a doubt about it, he is exempt - which shows that the doubt (*regarding the Kohanic gifts*) is decided in favor of leniency. But there is a contradiction to this, for it was taught in the following *Mishna*: The grain found in ant-holes among the standing crop belong to the owner (*for since this part of the field had not been harvested yet, the grains cannot be regarded as leket – the grain which falls during harvesting*), but as for the grain found in ant-holes behind the reapers, the upper layer belongs to the poor, but the lower layer belongs to the owner. Rabbi Meir says: It all belongs to the poor, since grains that are in doubt if they are *leket* or not are deemed to be *leket*. [*R' Meir here rules stringently regarding a doubt!?*]

Rabbi Yochanan answered: Do not irritate me with your arguments, since I quote that *Mishna* as the opinion of an individual; for it has been taught in a *braisa*: Rabbi Yehudah ben Agra says in the name of Rabbi Meir: Grains that are in doubt if they are *leket* or not are deemed to be *leket*; forgotten sheaves that are in doubt are deemed to be *shich'chah*; and corners of the field that are in doubt are deemed to be *pe'ah*.

Rish Lakish retorted: Teach it even in Ben Taddal's name (*a certain fool*), but the difficulty, however, remains, for there is a legitimate reason for this view, for Rabbi Shimon ben Lakish said: It is written: *Favor the poor and the impoverished*. Now, it cannot mean to favor him in his lawsuit, for it is written: *You shall not glorify a poor man in*

his dispute. Rather, it means: Favor him with what is yours and give it to him!?

Rava answered: Here, the cow has the status of exemption from the *Kohanic* gifts (*since it was owned by an idolater*), but the grain has the status of being subject to the laws of *leket* (*since it was always owned by a Jew*).

Abaye asked him: But what about the case of the dough (*of a convert*), of which we learned in a *Mishna*: If it was mixed before he became a convert, he is exempt from giving *challah*; if it was mixed after he became a convert, he is liable to give it. If there was a doubt about it, he is liable!

He replied: Where the doubt concerns a prohibition, we must take the more stringent view; where the doubt concerns a monetary matter, we take the more lenient view.

This distinction is supported by that which Rav Chisda stated, and Rabbi Chiya taught a *braisa* as well: Eight cases of doubt were cited in connection with a convert; in four he is held liable, and in four he is exempt. They are the following: with regard to his wife's sacrifice (*where there was a doubt whether she birth to a child before she converted or afterwards; this case of doubt may involve a penalty of kares, for if she is tamei she is required to bring a korban and if she failed to do so and ate consecrated food she would be liable to the penalty of kares*), *challah*, the firstborn of a non-kosher animal, and the firstborn of a kosher animal – in each of these cases, he is held liable; with regard to the first of the fleece, the *Kohanic* gifts, the redemption of his firstborn son, and the redemption of the firstborn of a donkey, he is exempt.

Levi once sowed grain in Kishor, and there were no poor to collect the gleanings (*leket*), so he came before Rav Sheishes.

He told him: It is written: You shall leave them for the poor and the convert, but not for ravens and bats.¹

An objection was raised: One is not obliged to bring in the terumah from the threshing-floor into the town, nor from the desert into the inhabited place;² if, however, there is no Kohen there [in the district], one must hire a cow and bring it in, for otherwise there would be a waste of terumah!³

The Gemara answers: In the case of terumah it is different, for [without setting apart the terumah] it is forbidden,⁴ and therefore one has no choice but to set it apart.⁵

The Gemara asks: But take the case of the Kohanic gifts⁶ that do not render the whole forbidden (as tevel), nevertheless it has been taught: Where the custom is only to scald [with boiling water the limbs] of calves,⁷ one should not remove the skin from the foreleg;⁸ moreover, where the custom is to remove the skin from the head one should not remove the skin from the jaw. If there is no Kohen [to whom to give these dues], one must estimate their value⁹ and then eat them, so that there should be no loss to the Kohen!

The Gemara answers: In the case of the Kohenic gifts it is different, for in regard to them the term giving is used.¹⁰ And now that you have suggested this, you may also say that in regard to terumah the term 'giving' is used.

The Gemara asks: For what purpose then do I require the additional expression 'You shall leave them'?

The Gemara answers: For the following teaching: If a man renounced the ownership of his vineyard and rose early on the following morning and gathered the grapes, he is liable to the laws of the fallen grapes, the small clusters, the forgotten clusters, and the corners [of the vineyard], but he is exempt from the tithe.¹¹

There once arrived at the Beis Hamidrash [a gift of] a bag of [golden] dinars, whereupon Rabbi Ammi came in first and acquired them. But how may he do such a thing? Is it not written: And they shall give, but he shall not take it himself? — Rabbi Ammi acquired them on behalf of the poor. Or, if you wish, you may say that in the case of an eminent person it is different.¹² For it has been taught: The verse: And the Kohen that is highest among his brethren, implies that he shall be highest among his brethren in beauty, in wisdom and in wealth. Others say: From where is it proved that if he does not possess any wealth, his brethren, the Kohanim, shall make him great? Because Scripture says: And the Kohen that is highest by reason of his brethren that is, he must be made the highest [by reason of gifts] from his brethren.

¹ So that where there are no poor the gleanings may be gathered by the owner and consumed by him, but on no account are they to be left in the open field to be consumed by birds.

² The Kohen must go and fetch it himself.

³ The owner must then bring it in and store it for the Kohen (no doubt he could claim his expenses from the Kohen); the same should also be the rule with the dues to the poor, i.e., the owner should collect and keep them for the poor, but not consume them himself.

⁴ As tevel - untithed produce, which is forbidden to be eaten under the penalty of death at the hands of Heaven.

⁵ And since one must set it apart in order to render the rest of the produce permitted, it becomes one's duty also to keep it in store for the Kohen; but this is not the case with gleanings, for the produce is under no restriction even though the gleanings were not left.

⁶ The foreleg, jaws and abomasum.

⁷ And cook it together with its skin and eat it.

⁸ But one should give it to the Kohen with the skin upon it.

⁹ And set aside the money to be given to the first Kohen that claims it. This should be the case, should it not, with the gifts to the poor too?

¹⁰ It is thus one's duty to give them to the Kohen, even though no Kohanim are available at the time.

¹¹ For although ownerless property or property that has been renounced by its owner is free from these poor laws, in this case the original owner has by his conduct resumed the ownership of the vineyard and is therefore liable to these poor laws. This is inferred from the superfluous expression 'You shall leave them', which, as shown refers only to the poor laws but not to the tithe.

¹² Rabbi Ammi as head of the Academy was permitted to acquire the money for himself; indeed, it is a duty upon all to make him 'the greatest among his brethren'.



MISHNAH. What counts as ‘the foreleg’? From the joint¹³ up to the shoulder blade; and this is the same for the¹⁴ nazir. The corresponding part of the hind leg is called the thigh.¹⁵ Rabbi Yehudah says: the thigh extends from the joint up to the fleshy part of the leg. What counts as ‘the jaw’? From the joint of the jaw to the opening of the trachea.¹⁶

GEMARA: Our Rabbis taught: The foreleg, that is, the right foreleg. You say it is the right foreleg, but perhaps it is the left? Scripture therefore says: ‘The foreleg’. How is this implied? — As Rava said: ‘The thigh’¹⁷ means the right thigh, so ‘the foreleg’ means the right foreleg. And for what purpose is ‘the jaws’ stated? — To include the wool upon the head of sheep and the hair of the beard of goats. And for what purpose is ‘the abomasum’ stated? — To include the fat that lies upon the stomach and the fat within the stomach. For Rabbi Yehoshua said: The Kohanim were in the habit of being generous with this and used to return it to the owners. The only reason [for returning it] is that they were in the habit [of doing so], but had they not been of this habit it certainly would have belonged to them.

The expounders of concealed verses used to say: ‘The foreleg’ represents the hand [of Pinchas],¹⁸ for it is written: And he took a spear in his hand. ‘The jaws’ represent his prayer, for so it is written: Then Pinchas stood up and prayed. ‘The abomasum’ — this is to be taken in its literal sense, for so it is written: And the woman through her stomach.

A Tanna derives it from the following: It is written: And the right thigh; from this I only know the right thigh, from where

do I know this of the foreleg of consecrated animals? Because the text states: As a terumah. And from where do I know this of the foreleg of unconsecrated animals? Because the text states: You shall give.

The Mishnah had stated: What counts as ‘the jaw’? From the joint of the jaw to the opening of the trachea.

The Gemara asks: But it has been taught: One should cut it away and the place of slaughtering should go with it!¹⁹

The Gemara answers: This is no contradiction, for the one [our Mishnah] gives the opinion of the Rabbis, and the other [the Baraisa] the opinion of Rabbi Chanina ben Antigonus. For it was taught: Any deflection [of the knife outside the top ring] invalidates the slaughtering. Rabbi Chanina ben Antigonus testified that a deflection is permitted.²⁰ Or, if you wish, you may say that both statements accord with the opinion of the Rabbis, for ‘with it’ [in the Baraisa] means with the [rest of the] animal.²¹

WE SHALL RETURN TO YOU, HAZEROA VEHALECHAYIM

DAILY MASHAL

Gifts for the Kohen to the Rabbi

When the Malbim was appointed Rabbi, he addressed his congregation and said, “I only ask you for gifts like the gifts to the *kohanim*: the foreleg, cheeks and stomach. The arm — that you should care about putting on *tefillin*. The cheeks — be careful about shaving with a razor. And the stomach — take care not to eat forbidden food...

¹³ The carpus.

¹⁴ Foreleg of the shelamim.

¹⁵ I.e., from the tarsus to the innominate bone; this also consists of two bones, the tibia and the femur. This portion together with the breast was to be given to the Kohen from every shelamim.

¹⁶ I.e., the tip of the thyroid cartilage. This extent includes the whole of the lower jaw and the tongue.

¹⁷ Referring to the prohibition of eating the gid hanasheh.

¹⁸ These portions were granted to the Kohanim as a reward for Pinchas's zealous act in slaying Zimri, and so turned away God's wrath from Israel.

¹⁹ This apparently implies that a part of the area prescribed for slaughtering must be included in ‘the jaw’. This however is not the case according to the description of ‘the jaw’ in our Mishnah, for the tip of the thyroid cartilage, which is the limit described in the Mishnah, is surely not within the area prescribed for slaughtering.

²⁰ According to Rabbi Chanina ben Antigonus the tip of the thyroid cartilage is within the area prescribed for slaughtering. It must be observed that with regard to the extent of the jaw that is given to the Kohen there is no difference of opinion between Rabbi Chanina and the Rabbis.

²¹ But it is not included in the portion of ‘the jaw’.