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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

They inquired: Is the testimony of ‘a witness repeating from another witness’ considered testimony (*that would be accepted*) in connection with a *bechor*?

Rav Assi forbids it, whereas Rav Ashi permits it.

Rav Assi said to Rav Ashi: Didn’t a *braisa* taught in the school of Menasheh teach us that a witness can only offer testimony from another witness with regard to a woman whose husband has died?

The *Gemora* answers: Explain this [as follows]: It is valid only in respect of testimony which a woman is allowed to give.<sup>1</sup>

Rav Yeimar permitted the evidence of a witness reporting an eye-witness to be valid in connection with a *bechor*. Meremar designated to him the expression. ‘Yeimar, the one who permits *bechor*s’. And the law is that the

evidence of a witness reporting an eye-witness in connection with a *bechor* is valid.

Rabbi Ilai said: If an animal was not thought to be a *bechor* and its owner [a Kohen] came and declared that it was a *bechor* with a blemish on it, he is believed. What does he teach us? ‘The mouth that bound is the mouth that loosens’.<sup>2</sup> But have we not learned this: A woman who said, ‘I was a married woman, but now I am divorced’ is believed, for ‘the mouth which bound is the mouth which loosens’? — You might be under the impression that there she is believed because if she wished she need not have said anything;<sup>3</sup> but here, since it is impossible that he should not inform [the expert]<sup>4</sup> — for [the Kohen] would not eat consecrated [unblemished] animals without the Temple walls<sup>5</sup> — I might not have applied [the principle] ‘the mouth which bound is the mouth which loosens’. He therefore informs us [that he is believed]. For, if this were really so,<sup>6</sup> he would have inflicted on it a recognizable blemish<sup>7</sup> and have eaten it then.

<sup>1</sup> And with reference to a *bechor*, a woman's word is taken if she declares that a certain blemish was not brought about deliberately.

<sup>2</sup> The same person who said it was a *bechor* also said that it had a blemish on it for which he was not responsible and which he shows to the medical expert.

<sup>3</sup> Since it was presumed that she was unmarried; therefore if there was a suspicion that she proposed marrying during her husband's lifetime without a divorce, she could have remained silent.

<sup>4</sup> That the animal is a first-born, in order that the expert might inform him whether the blemish was a permanent or transitory one.

<sup>5</sup> As the penalty for this is *kares*, whereas maiming a *bechor* is only violating a negative precept.

<sup>6</sup> That we suspect the Kohen of causing the blemish.

<sup>7</sup> Which even an ignorant person would have recognized as such, and therefore, there would have been no need to bring the animal before us for the expert to declare that it was a permanent blemish, for no other person knew that he had a *bechor*. But where we are aware that the animal is a *bechor*, we do not believe him when he declares that the blemish was not caused by himself on the ground that he need not have come before us at all, for if he had slaughtered the animal without the expert's instructions, as everybody knew that he had a *bechor*, he would have been suspected of maiming the animal.

Mar bar Rav Ashi demurred to this ruling. Why should this be different from the following case? Once, someone hired out a donkey to a person and he said to him: 'Do not go the way of Nehar Pekod, where there is water; go the way of Naresh where there is no water'. But he went the way of Nehar Pekod and the donkey died. He then came before Rava and said to him: 'Indeed I went the way of Nehar Pekod, but there was no water [and still the donkey died]. Said Rava: Why should he lie? If he wished he could say 'I went the way of Naresh'. And Abaye explained: We do not apply the principle 'why should he lie' where there are witnesses<sup>8</sup> — But is the analogy correct? There [we are witnesses that] there certainly was water [on the way of Nehar Ppekod], but here, [in connection with the *bechor*], is it certain that he caused the blemish? It is only a fear,<sup>9</sup> and where there is only a question of a fear we do say 'why should he lie'.

Ravina sat [lecturing] and reported this tradition without mentioning the authority. Rava Zuti said to Ravina: We learned this in the name of Rabbi l'la.

Rabbi Tzadok had a *bechor*. He set down barley for it in wicker baskets of peeled willow twigs. As it was eating, its lip was slit. He came before Rabbi Yehoshua. He said to him: 'Have we made any difference between [a Kohen] who is a chaver and [a Kohen] who is an 'am ha-aretz'? Rabbi Yehoshua replied 'Yes'.<sup>10</sup> He thereupon came before Rabban Gamliel. He said to him: 'Have we made any difference between [a Kohen] who is a chaver and a Kohen who is an 'am ha-aretz'? Rabban Gamliel replied 'No'.

<sup>8</sup> For we are witnesses that water is there all the time, and similarly here also, since we are witnesses that Kohanim are suspected concerning blemishes, we should not say 'why should he lie'?

<sup>9</sup> That he caused a blemish.

<sup>10</sup> There is a difference, and therefore being a chaver you are not suspected.

Rabbi Tzadok said to him: 'But Rabbi Yehoshua told me "Yes"! He said: 'Wait until the great debaters enter the Beth Hamidrash'. When they entered the Beis Hamidrash, the questioner arose and asked: 'Have we made any difference between [a Kohen] who is a chaver and one who is an 'am ha-aretz'? Rabbi Yehoshua replied 'No'.<sup>11</sup> Thereupon Rabban Gamliel said: 'Wasn't the answer "Yes" reported to me in your name? Yehoshua, stand on your feet and let them testify against you'. Rabbi Yehoshua stood up on his feet and said: 'How shall I act? If indeed I were alive and he were dead, the living can contradict the dead. But since both he and I are alive, how can the living contradict the living'?<sup>12</sup> And Rabban Gamliel was sitting and discoursing while Rabbi Yehoshua stood on his feet, until all the people murmured and said to Chutzspis the interpreter. 'Silence'. And he was silent.

MISHNAH: A Kohen's word is taken if he says 'I have shown this *bechor*<sup>13</sup> and it is blemished'.<sup>14</sup>

GEMARA: Rav Yehudah said that Rav said: A Kohen's word is taken if he says [to an expert], 'an Israelite gave me this *bechor* with a blemish on it'. What is the reason? 'People are not presumed to tell a lie which is likely to be found out'. Said Rava: We have also learned this: A Kohen's word is taken if he says 'I have shown this *bechor* and it is blemished'. Now, what is the reason? Is it not because we say 'people are not presumed to tell a lie which is likely to

<sup>11</sup> Not wishing to give a contrary decision in the presence of Rabban Gamliel.

<sup>12</sup> 'I therefore certainly said it and withdraw' (Rashi).

<sup>13</sup> To a medical expert.

<sup>14</sup> I.e., that it possesses a permanent blemish provided that there are witnesses to testify that the blemish was not caused intentionally.

be found out!<sup>15</sup> — [No].<sup>16</sup> There, where it is a case of consecrated animals without [the Temple precincts], he will not eat<sup>17</sup> but here, since Kohanim are suspected, they are suspected.<sup>18</sup>

Rav Shizbi raised an objection: He who says to one who is not trustworthy with reference to tithing.<sup>19</sup> 'Purchase on my behalf produce from one who is trustworthy<sup>20</sup> or from one who tithes', he is not believed.<sup>21</sup> Now why [is this so]? Let us adopt the principle that 'people are not presumed to tell a lie which is likely to be found out'? — The case is different there, for he can excuse himself<sup>22</sup> by some subterfuge, [saying, 'As far as I am concerned, his word is taken'].<sup>23</sup>

The second clause however [of the Mishnah just cited] certainly supports [Rav Yehudah's view], for it says: From that man,<sup>24</sup> then he is believed!<sup>25</sup> — There [again] since there is an inquirer, he is afraid.<sup>26</sup>

Rabbi Yirmiyah bar Abba said: From where does Rabbi

Yehudah know this?<sup>27</sup> [It is my own ruling]. I taught it to Giddul and Giddul taught it to [Rav Yehudah]. And this is how I imparted it to him: An Israelite's word is taken when he says: 'This *bechor* I gave to a Kohen with a blemish on it'. [If it refers to] an Israelite,<sup>28</sup> surely this is obvious! — No. The statement is required for the case where [the animal] was small [when he gave it to the Kohen] and it grew up. You might have the impression that the Israelite cannot now establish the identity [of the animal].<sup>29</sup> He therefore teaches us [that it is not so].

In Sura they reported this in the last version,<sup>30</sup> whereas in Pumbedisa [they reported this] in the former version. The law is decided in accordance even with the first version.

Rafram of Pumbedisa possessed a *bechor* which he gave to a Kohen without a blemish. The latter made it blemished. One day his [Rafram's] eyes were affected. [The Kohen] brought the [same] animal before him,<sup>31</sup> and said to him, 'This *bechor* an Israelite gave to me with a blemish on it'! He [forcefully] opened his eyes [wide] and

<sup>15</sup> I.e., by inquiry from the expert.

<sup>16</sup> One may still say that we cannot deduce from the Mishnah the principle 'people are not presumed to tell a lie' etc.

<sup>17</sup> Unblemished consecrated animals. Consequently, unless the expert had permitted the *bechor* on the evidence of witnesses, he would not have declared that the *bechor* was permitted to be slaughtered by him.

<sup>18</sup> Even in this case of causing a blemish and pretending that an Israelite gave an animal to him in a blemished state.

<sup>19</sup> Who is known not to be observant as regards tithing.

<sup>20</sup> Not to purchase produce from an 'am ha-aretz or, if he does so, to give dem'ai before selling it.

<sup>21</sup> On saying that he bought from a person trustworthy in these matters.

<sup>22</sup> When inquiries are made and it is discovered that he bought the produce from an untrustworthy person.

<sup>23</sup> That although the seller may not be trustworthy in the sender's opinion, he is regarded as trustworthy by his agent. Therefore the agent has no fear of being found out.

<sup>24</sup> Whose name the sender explicitly mentioned.

<sup>25</sup> For there is the fear here that the sender might make investigations as to whether his instructions were carried out. There is therefore here a confirmation of Rav Yehudah's view.

<sup>26</sup> Since he sees that the sender is particular, having mentioned a specific name, he is aware that the sender will certainly make inquiries, and therefore the agent is believed, but not for the reason which Rav Yehudah states. In the case, however, of the *bechor*, the Kohen is not afraid, thinking that nobody will trouble to ascertain whether his statement is correct.

<sup>27</sup> That a Kohen is trustworthy to declare that an Israelite etc.

<sup>28</sup> And not to a Kohen who said 'this *bechor* an Israelite gave to me with its blemish'.

<sup>29</sup> The animal having grown up. And therefore it might not be the same one which the Kohen gave him, and thus it is possible that the Israelite actually caused the blemish.

<sup>30</sup> That an Israelite is trustworthy to say 'this *bechor* etc.'

<sup>31</sup> For Rafram to decide whether the blemish was of a permanent character, the Kohen thinking that now that Rafram's eyes were bad, he would not recognize the animal.

perceived his fraud.<sup>32</sup> Rafram said to him: 'Was it not I who gave it to you?' Nevertheless, the incident did not make Rafram anxious,<sup>33</sup> [because he held that] this Kohen happened to be impudent<sup>34</sup> but everybody was not impudent.

Once a case of sarua<sup>35</sup> came before Rav Ashi.<sup>36</sup> He said: What can we fear in connection [with the animal]? For whether [the owner be] a Kohen or Israelite, here is a *bechor* with a blemish on it.<sup>37</sup> Ravina said to Rav Ashi: But perhaps [the animal] belongs to an Israelite and Rav Yehudah ruled: A *bechor* of an Israelite must not be examined unless a Kohen is present?<sup>38</sup> — He replied to him: But is the analogy correct? There,<sup>39</sup> granted that he will not eat consecrated animals without [the Temple precincts],<sup>40</sup> he is nevertheless suspected as regards the Kohen's property;<sup>41</sup> but here, well, he knew that this blemish was a well-marked one, and why did he bring it before the Rabbis? Out of respect for the Sage. Now, if he did not neglect showing respect to the Sage, will he actually commit an offence?<sup>42</sup>

<sup>32</sup> Recognizing that it was the *bechor* he had given him and that the Kohen was responsible for the blemish.

<sup>33</sup> To decree that a Kohen in no circumstances should be believed when he declares that an Israelite gave him a blemished *bechor*.

<sup>34</sup> For he exhibited inordinate impudence, in the first place in causing the blemish, and secondly in showing the *bechor* to the person who gave him the animal instead of to another expert.

<sup>35</sup> An animal with one eye abnormally small and the other large.

<sup>36</sup> To give a decision on the animal.

<sup>37</sup> For in either case there can be no suspicion, since it was born with this defect.

<sup>38</sup> Lit., 'with him'. The reason is because we fear that when the blemish is pronounced a permanent one, he will eat it himself and deprive the Kohen of his due.

<sup>39</sup> With reference to Rav Yehudah's ruling.

<sup>40</sup> As we see that he would not slaughter the animal before he showed it to the expert.

MISHNAH: All are trust worthy<sup>43</sup> as regards the blemishes of a tithing animal.

GEMARA: What is the reason? — Because if he wished he could cause a blemish originally [before the tithing]. But how does he know which goes out [through the door]?<sup>44</sup> And if you will say that he brings out an animal as the tenth and blemishes it, doesn't the Merciful One say: He shall not search whether it be good or bad? — Rather explain thus: If he wished he could have caused a blemish to the whole herd [of animals before tithing].<sup>45</sup>

MISHNAH: a *bechor* whose eye was blinded<sup>46</sup> or whose fore-foot was cut off, or whose hind-leg was broken, may be slaughtered with the approval of three [persons] of the Synagogue.<sup>47</sup> But Rabbi Yosi says: even if a Kohen Gadol was present, a *bechor* must not be slaughtered except with the approval of an expert.

GEMARA: Both Rabbi Simlai and Rabbi Yehudah haNasi reported in the name of Rabbi Yehoshua ben Levi, (another version is: Rabbi Simlai and Rabbi Yehoshua ben

<sup>41</sup> For the penalty is not as severe as for eating consecrated animals outside the Temple, which involves kares, and therefore the Kohen must be present when the examination takes place.

<sup>42</sup> Of stealing, which is a much more serious thing than not showing respect to the expert by not showing him the animal in the case under discussion.

<sup>43</sup> To testify that the blemish was not caused deliberately. The Mishnah refers to a doubtful tithing animal, e.g., where he called the ninth animal, when counting the tenth, the law being that it is not eaten unless blemished.

<sup>44</sup> I.e., the tenth, so that he might cause a blemish at the outset.

<sup>45</sup> When the animals are all *chullin*, and this is permissible. He can then proceed to tithe, for tithing takes effect even with blemished animals, the text saying 'Good or bad', i.e., unblemished or blemished. Therefore we believe him when he declares that the blemish on the doubtfully tithed animal was not caused intentionally.

<sup>46</sup> I.e., a prominent and visible blemish.

<sup>47</sup> Who are not necessarily experts.

Levi both reported in the name of Rabbi Yehudah haNasi): The permitting of a *bechor*<sup>48</sup> abroad<sup>49</sup> is by three persons of the Synagogue. Said Rava: This is so [even] in the case of prominent blemishes. What does he teach us? We have learned this: A *bechor* whose eye was blinded or whose fore-foot was cut off or whose hind leg was broken, may be slaughtered with the approval of three [persons] of the synagogue? — From the Mishnah I might have thought that blemishes which are not prominent are also permitted abroad, and the reason why the Mishnah speaks of ‘prominent’ [blemishes] is for the purpose of showing to what a length Rabbi Yosi is prepared to go [insisting that even so an expert is required]. He therefore informs us [that it is not so].

Rav Yehudah said that he was in doubt whether Rabbi Yirmiyah reported in the name of Rav or in the name of Shmuel [the following ruling]: Three [ordinary] persons are required to permit a *bechor* [to be slaughtered when blemished] in a place where there is no expert. What does it teach us? We have learned this: The animal may be slaughtered with the approval of three [persons] of the synagogue? From the Mishnah I might have said that even where an expert is available, [three ordinary persons are required to permit it]. He therefore informs us that in a place where there is no expert it is [as the Mishnah states], but in a place where there is an expert, it is not so.

Rabbi Chiya bar Avin reported that Rav Amram said: Three persons are necessary to permit a *bechor* [to be slaughtered] in a place where there is no expert. Three persons are required to annul vows, where there is no Sage. ‘Three persons are necessary to permit a *bechor* in a place where there is no expert’; this excludes the ruling of Rabbi Yosi [in the Mishnah]. ‘Three persons are required

to annul vows in a place where there is no Sage’; this excludes the ruling of Rabbi Yehudah. For it has been taught: The annulment of vows requires three persons; ‘Rabbi Yehudah rules: One of them must be a Sage’. ‘In the place where there is no Sage’. Who, for example? — Said Rav Nachman: for example, myself. ‘Rabbi Yehudah rules: One of them must be a Sage’. Does this imply, therefore, that the rest can be people of any kind? — Said Ravina: They are explained to them and they understand.

<sup>48</sup> To be slaughtered in consequence of a blemish.

<sup>49</sup> The reason is because even in Temple-times it was not fit to be sacrificed.