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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

**MISHNAH:** Whoever is eligible to act as judge is eligible to act as witness, but one may be eligible to act as witness and not as judge.

**GEMARA:** What [was this intended] to include? — Rabbi Yochanan replied: To include one who is blind in one eye;<sup>1</sup> and who is the author? — Rabbi Meir. For it was taught: Rabbi Meir used to say: What was the purpose of the Scriptural text: According to their word shall every controversy and every tzaraas be? What connection could controversies have with tzaraas? But controversies were compared to tzaraas, as tzaraas must be examined by day, since it is written: And in the day when . . . appears in him, so must controversies be tried by day; and as tzaraas are not to be examined by a blind man, since it is written: Wherever the Kohen looks, so are controversies not to be tried by a blind man. And tzaraas are further compared to controversies: As controversies are not to be tried by relatives, so is tzaraas not to be examined by relatives. In case [one were to argue:] ‘As controversies must be tried by three men so must tzaraas also be examined by three men, this being logically arrived through a kal vachomer: If controversies affecting one’s wealth must be tried by three men, how much more so matters affecting one’s body’, it was explicitly stated: When he shall be

brought unto Aaron the Kohen or unto one of his sons the Kohanim. Thus you have learned that even a single Kohen may examine tzaraas.<sup>2</sup>

A certain blind man who lived in the neighborhood of Rabbi Yochanan used to try lawsuits and the latter told him nothing against it. But how could he act in this manner, seeing that Rabbi Yochanan actually stated: ‘The halachah is in agreement with an anonymous Mishnah’, and we have learned: Whoever is eligible to act as judge is eligible to act as witness, but one may be eligible to act as witness and not as judge, and when the question was raised, ‘What was this intended to include?’ Rabbi Yochanan replied, ‘To include one who is blind in one eye’?<sup>3</sup> — Rabbi Yochanan found another anonymous Mishnah. For we have learned: Monetary suits must be tried by day and may be concluded by night.<sup>4</sup> But why should this anonymous Mishnah be deemed more authoritative than the former? If you wish I might reply: An anonymous Mishnah which represents the view of a majority<sup>5</sup> is preferable. And if you prefer I might reply: Because it<sup>6</sup> was taught among the laws of legal procedure.<sup>7</sup>

**MISHNAH:** Whatever is subject to ma’asros is susceptible to food-tumah;<sup>8</sup> but there is a kind of foodstuff that is susceptible to food-tumah and is not subject to ma’asros.

<sup>1</sup> Such a person is eligible as witness but not as judge. One blind in both eyes is ineligible even as witness.

<sup>2</sup> At any rate it follows, as was stated above, that according to Rabbi Meir a blind man (even if in one eye only) is eligible as judge. Our Mishnah, therefore, represents his view.

<sup>3</sup> Which clearly shows that according to Rabbi Yochanan no blind man is eligible to act as judge. Why then did he raise no objection against the blind man’s conduct?

<sup>4</sup> Which shows that, according to this Mishnah, ‘controversies’ were not compared to ‘tzaraas’ for though the latter may not be examined by night

the trying of the former may well be concluded by night. And since the two were not compared in this respect they were not compared as regards the ineligibility of a blind man either.

<sup>5</sup> As does the one from Sanhedrin. Our Mishnah, as was explained, represents the view of Rabbi Meir alone.

<sup>6</sup> The latter.

<sup>7</sup> With which the tractate of Sanhedrin deals. A law occurring in a tractate that is devoted to similar laws is more reliable than one occurring in a tractate that is mainly devoted to a totally different subject.

<sup>8</sup> Since only foodstuffs are subject to ma’aser.

GEMARA: What was this intended to include? — To include flesh, fish and eggs.<sup>9</sup>

MISHNAH: Whatever is subject to the obligation of pe'ah is also subject to that of ma'asros; but there is a kind of produce which is subject to the obligation of ma'asros and is not subject to that of pe'ah.

GEMARA: What was this intended to include? — To include the fig-tree and vegetables, which are not subject to the obligation of pe'ah. For we have learned: They have laid down a general rule concerning pe'ah. Whatever is a foodstuff, is kept under watch, grows from the ground, is all harvested at the same time, and is taken in for storage, is subject to pe'ah. 'A foodstuff', excludes the after-growths of safflower and woad;<sup>10</sup> 'is kept under watch', excludes hefker; 'grows from the ground', excludes truffles and mushrooms; 'is all harvested at the same time', excludes the fig-tree; and 'is taken in for storage', excludes vegetables. As regards ma'asros, however, we have learned: Whatever is a foodstuff, is kept under watch and grows from the ground is subject to the obligation of ma'asros; whereas 'is all harvested at the same time'<sup>11</sup> and 'is taken in for storage'<sup>12</sup> was not mentioned.<sup>13</sup>

But if garlic or onions<sup>14</sup> grew among them they are subject [to pe'ah]. For we have learned: As regards plots of onions between

other vegetables, Rabbi Yosi ruled: Pe'ah must be left from each<sup>15</sup> and the Sages ruled: From one for all.

Rabbah bar bar Chanah citing Rabbi Yochanan ruled: If endives were originally sown for cattle-food and then [the owner] changed his mind<sup>16</sup> to use them for human food, it is necessary<sup>17</sup> that he should intend them for the purpose after they had been detached; he being of the opinion that intention concerning attached [produce] is no valid intention.

Rava observed: We also have learned a rule to the same effect: Thirteen things have been said about the neveilah of a kosher bird, (and the following is one of them). It is necessary that it should be intended for food but there is no need for it to be rendered<sup>18</sup> susceptible to tumah.<sup>19</sup> Thus it is clearly evident that<sup>20</sup> an intention concerning a live being is no valid intention; so also here it must be said, that an intention concerning attached [produce]<sup>21</sup> is no valid intention.

Rabbi Zeira said: We are dealing here with a [flying] pigeon that dropped from on high, so that it was not before us<sup>22</sup> to enable one to have any intentions about it.<sup>23</sup>

Said Abaye to him: What can be said about the [case of the] hen of Yavneh?<sup>24</sup> — That, the other replied, was a wild cock.<sup>25</sup> They laughed at him: A wild cock is a non-kosher bird and a non-kosher bird does not convey tumah! — 'When a great man', Abaye told them, 'said something, do not laugh at him. This was

<sup>9</sup> Only foodstuffs that grow from the ground are subject to ma'aser.

<sup>10</sup> Plants used only in dyeing which are unsuitable as food.

<sup>11</sup> Which would have excluded the fig-tree and the like.

<sup>12</sup> Which would have excluded vegetables.

<sup>13</sup> It thus follows that figs and vegetables are liable to tithes though exempt from pe'ah. The ma'aser mentioned is, of course, only Rabbinical, since Biblically only corn, wine and oil are subject to the obligations of ma'aser.

<sup>14</sup> Vegetables that are taken in for storage.

<sup>15</sup> Since the other vegetables form a division between one plot and another.

<sup>16</sup> While they were still attached to the ground.

<sup>17</sup> If they are to be rendered susceptible to food-tumah as human food.

<sup>18</sup> By intentionally wetting it.

<sup>19</sup> As is the case with other dry foodstuffs which must come in contact with liquids before they can be capable of contracting tumah.

<sup>20</sup> Since intention is required when it is already neveilah, though a live bird is usually intended for food.

<sup>21</sup> Which, analogous to a live animal, is not susceptible to tumah.

<sup>22</sup> While it was yet alive.

<sup>23</sup> Hence the ruling that 'it is necessary that it should be intended for food' after it was neveilah. Where, however, a live animal was intended to be used in due course as food no further intention is necessary after it had been killed.

<sup>24</sup> Which was in its owner's possession before it died and yet was regarded as a food for the sole reason that the Cutheans living there intended it as such after it was dead.

<sup>25</sup> Not usually intended for food. Hence the necessity for intention after its death.

a case of a hen that ran away;<sup>26</sup> and as to the meaning of "wild", it turned wild as far as its master was concerned'.<sup>27</sup>

Rav Pappa said: It was a field-hen. Rav Pappa thus followed his known view. For Rav Pappa ruled: A field-cock is forbidden and a field-hen is permitted; and your mnemonic is 'A male Ammonite but not a female Ammonite'.

Ameimar laid down in his discourse that a field-hen is forbidden. The Rabbis observed that it stamps on its prey when eating it,<sup>28</sup> and it is this bird that is known as girusa.

Our Rabbis taught: If a pigeon fell into a winepress<sup>29</sup> and it was intended to pick it up for a Cuthean, it is tamei; but if it was intended for a dog it is tahor. Rabbi Yochanan ben Nuri ruled: Even if intended for a dog it is tamei.<sup>30</sup> Rabbi Yochanan ben Nuri argued: This is arrived at through a kal vachomer: If it<sup>31</sup> conveys a major tumah,<sup>32</sup> though there was no intention,<sup>33</sup> should it not convey a minor tumah<sup>34</sup> though there was no intention? They answered him: No; if you maintain your view in the case of a major tumah, which never descends to that, would you also maintain it in the case of a minor tumah which does descend to that? He replied: The hen of Yavneh proves my contention, for it descends to that and, though there was no intention, it was declared tamei. 'From there', they retorted, 'is your proof? In

that place there were Cutheans and it was intended that they shall eat it.'

Now with what case are we dealing here? If it be suggested with big cities [the objection would arise]: What need was there for intention, seeing that we have learned: The neveilah of a kosher animal anywhere<sup>35</sup> and the neveilah of a kosher bird and forbidden fat in large towns<sup>36</sup> require neither intention nor to be rendered susceptible.<sup>37</sup> If, however, it is suggested: Of villages, [the difficulty arises:] Is there any authority who maintains that in this case no intention is required, seeing that we have learned: The neveilah of a non-kosher animal anywhere<sup>38</sup> and the neveilah of a kosher bird in villages<sup>39</sup> require<sup>40</sup> intention<sup>41</sup> but need not be rendered susceptible?<sup>42</sup> — Rabbi Ze'ira bar Chanina replied: We are in fact dealing with an incident in a big city, but<sup>43</sup> the winepress caused it<sup>44</sup> to be objectionable<sup>45</sup> and thus caused the town to be regarded as a village.

<sup>26</sup> Lit., 'rebelled', and thus was not before us while alive and for this reason intention would be necessary after it died.

<sup>27</sup> As the bird in question was consequently a kosher one it may well have conveyed tumah (as stated) through swallowing.

<sup>28</sup> No kosher birds eat in this manner.

<sup>29</sup> Where it got crushed and died, becoming repulsive for eating.

<sup>30</sup> Food-tumah. It conveys tumah to other foodstuffs through contact, without being rendered susceptible.

<sup>31</sup> The pigeon.

<sup>32</sup> The tumah of the person and the clothes worn by him when he ate it.

<sup>33</sup> When, for instance, the man was unaware that he was eating that particular pigeon.

<sup>34</sup> That of food and drink by means of contact.

<sup>35</sup> Even in a village where there are not many consumers.

<sup>36</sup> Where consumers are many and any sort of food finds buyers.

<sup>37</sup> Since a kosher animal is usually intended for food both in town and in villages while the neveilah of a kosher bird and forbidden fat would find

consumers in large towns only but not in villages. Intention, therefore, is required in the latter case but not in the former.

<sup>38</sup> Even in large towns.

<sup>39</sup> Where consumers are few.

<sup>40</sup> Since they are not usually eaten.

<sup>41</sup> To enable them to convey tumah. In the case of the former, tumah is conveyed even in the absence of intention provided its bulk was no less than that of an olive. The intention, however, avails where the bulk of neveilah was

less than that of an olive and that of other food was less than the bulk of an egg. In such a case the two quantities combine to form together the prescribed bulk of an egg which contracts tumah through contact with a dead creeping thing.

<sup>42</sup> Since they would eventually be subject to a major tumah.

<sup>43</sup> The reason why the Rabbis require intention.

<sup>44</sup> The pigeon.

<sup>45</sup> So that it is not so very suitable for consumption.