

HALAKHA

הלוקח יין – הלוקח יין: If one buys wine from among the *Kutim* – הלוקח יין: If one buys wine from which *terumot* and tithes have not been separated, he must first separate *teruma* and tithes before he may drink the wine. If the wine is *tevel* only by rabbinic decree, he may drink first before physically separating the *teruma* and tithes, as the principle of retroactive clarification [*bereira*] may be applied with regard to rabbinic decrees (*Kesef Mishne*; Rambam *Sefer Zera'im, Hilkhot Ma'aserot* 7:1).

מאי שנא לְכָאן וּלְכָאן דְּלֵא – דְּאִין בְּרִירָה, לְמִזְרַח לְמַעְרָב נְמִי אִין בְּרִירָה!

The Gemara asks: **What is different** about a case in which one stipulated that if Sages came **from here and from there** he may go to whichever side he chooses, such that his *eiruv* is **not effective**? Apparently, this is due to the principle that **there is no retroactive designation**, meaning that a doubtful state of affairs cannot be clarified retroactively. However, according to this principle, when one established an *eiruv* **to the east and to the west** in order to be able to travel in the direction of one Sage who comes toward the town in a case where one does not know in advance from which direction he will come, we should **also** invoke the principle that **there is no retroactive designation**. Therefore, even if one deposited an *eiruv* at both ends of his town for the sake of one Sage who might come from either side, he should not be able to rely on what becomes clarified afterward and decide retroactively which *eiruv* he is interested in.

אָמַר רַבִּי יוֹחָנָן: וְכָבֵר בָּא חֲכָם.

**Rabbi Yohanan said:** This is not a true case of retroactive designation, as the Sage had already come by twilight but the person who established the *eiruv* did not yet know which side of the town the Sage had come toward. Therefore, at the time the *eiruv* establishes his Shabbat residence it is clear which *eiruv* the person wants, even though he himself will only become aware of that later.

אֲדַרְבֵּיהּ, לִיתָא לְדָאִי מִמַּתְנִיתִין!

The Gemara poses a question with regard to Rav's statement cited above: Why should we reject the mishna because of the *baraita*? **On the contrary**, let us say that the ruling of Ayo should **not** be accepted **because of the mishna**.

לֹא סֵלְקָא דְעֵתְךָ, דְּהָא שְׁמַעִינָן לִיהּ לְרַבִּי יְהוּדָה דְּלִית לִיהּ בְּרִירָה. דְּתַנְּן: הַלּוֹקֵחַ יַיִן מִבֵּין הַכּוּתִים.

The Gemara answers: **It should not enter your mind** to uphold the mishna's ruling because it contradicts other sources, as **we have already heard that Rabbi Yehuda does not** accept the principle of retroactive designation. As it was taught in the *Tosefta*: **One who buys wine from among the Samaritans [Kutim],<sup>H</sup> who do not tithe their produce properly,**

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He redeems [*meihel*] and he may immediately drink – מִיחַל וְשׁוֹתָהּ: Two additional explanations have been put forward for the word *meihel* found in this context. The Rambam understands *meihel* in the sense of *mathil*, meaning begins, i.e., one is permitted to begin to drink. Rav Hai Gaon reads the word as *mohel*, which means dilutes. That is to say, one may dilute his wine with water and drink it (see also *Tosafot*).

אָמַר: שְׁנֵי לוגִין שְׁאֵנִי עֲתִיד לְהַפְרִישׁ הָרִי הֵן תְּרוּמָה, עֲשֶׂרָה מַעֲשָׂר רִאשׁוֹן. תְּשֻׁעָה מַעֲשָׂר שֵׁנִי, וּמִיחַל וְשׁוֹתָהּ מִיָּד, דְּבָרֵי רַבִּי מֵאִיר. רַבִּי יְהוּדָה וְרַבִּי יוֹסִי וְרַבִּי שְׁמַעוֹן אוֹסְרִין.

may say: **Two log** of the hundred *log* present here, **which I will separate in the future**, when I have finished drinking, **shall be the great teruma** given to a priest; **ten log** shall be **first tithe**; and **nine log**, which are a tenth of the remaining ninety *log*, shall be **second tithe**. He then redeems the second-tithe with money because in its sanctified state second tithe may only be consumed in Jerusalem, and he may then **immediately drink<sup>N</sup>** the wine, and the wine remaining at the end will be *teruma* and tithes. One may rely on the principle of retroactive designation and say that when he is finished drinking, the wine that is left becomes retroactively designated as *teruma* and tithes, such that the wine he drank was permitted for consumption. This is **the statement of Rabbi Meir**. However, **Rabbi Yehuda, Rabbi Yosei, and Rabbi Shimon prohibit** drinking the wine in this manner. Therefore, it would appear that Rabbi Yehuda rejects the principle of retroactive designation, contrary to the ruling of the mishna and in accordance with the opinion of Ayo.

עוֹלָא אָמַר: לִיתָא לְדָאִי מִמַּתְנִיתִין. וְאֵלָּא הָא דְקִתְנִי רַבִּי יְהוּדָה וְרַבִּי יוֹסִי וְרַבִּי שְׁמַעוֹן אוֹסְרִין?

Ulla also took note of this contradiction between the statements of Rabbi Yehuda, but he said the opposite: The statement of Ayo should **not** be accepted **because** it contradicts what is stated in **the mishna**. The Gemara raises a difficulty: **But that which was taught in the Tosefta: Rabbi Yehuda, Rabbi Yosei, and Rabbi Shimon prohibit** drinking the wine in this manner, indicates, as was demonstrated above, that Rabbi Yehuda rejects the principle of retroactive designation.

עוֹלָא זְוִי זְוִי קִתְנִי: דְּבָרֵי רַבִּי מֵאִיר וְרַבִּי יְהוּדָה, רַבִּי יוֹסִי וְרַבִּי שְׁמַעוֹן אוֹסְרִין.

Ulla taught the names of the authorities mentioned in the *Tosefta* dealing with wine in pairs, as follows: The allowance mentioned in the *Tosefta* is according to **the statement of Rabbi Meir and Rabbi Yehuda**, whereas **Rabbi Yosei and Rabbi Shimon prohibit** drinking the wine in this manner. Therefore, Rabbi Yehuda agrees with Rabbi Meir and accepts the principle of retroactive designation, in accordance with the mishna.

וסָבַר רַבִּי יוֹסֵי אֵין בְּרִירָה? וְהִתְנַן, רַבִּי יוֹסֵי אָמַר: שְׁתֵּי נָשִׁים שֶׁלְקָחוּ אֶת קִינִיָּהּ בְּעִירוֹב, אוֹ שֶׁנִּתְּנוּ קִינִיָּהּ לַבֵּהֶן – אֵיזְהוּ שְׂרִיצָה בֵּהֶן יִקְרִיב עוֹלָה, וְלֵאִיזְהוּ שְׂרִיצָה יִקְרִיב חֲטָאת!

To this point, it has been accepted that Rabbi Yosei clearly prohibits the procedure described in the *Tosefta*. Therefore, he apparently rejects the principle of retroactive designation. With regard to this point, the Gemara asks: **Does Rabbi Yosei really hold that there is no retroactive designation? Didn't we learn in a mishna elsewhere that Rabbi Yosei says: If two women took their birds' nests,**<sup>n</sup> pairs of turtledoves or pigeons as purification offerings following childbirth, **jointly** and without specifying which pair of birds was for which woman, **or if they gave their birds' nests to a priest but did not inform him which birds were consecrated as sin-offerings and which as burnt-offerings, whichever the priest wishes he may offer as a burnt-offering, and whichever he wishes he may offer as a sin-offering.**<sup>h</sup> Therefore, Rabbi Yosei must accept the principle of retroactive designation, such that when the priest offers any of the birds as a sacrifice, it is retroactively clarified that the bird had been selected for that woman and as that sacrifice.

אָמַר רַבָּה: הֵתֵם בְּשֶׁהֲתֵנוּ.

Rabba said: There is no proof from there, with regard to retroactive designation, as the mishna **there** deals with a special case, **where the women stipulated**<sup>n</sup> from the outset that the priest would decide which bird would be offered for which woman and as what sacrifice.

אִי הָבֵי מַאי לְמִימְרָא? קַא מְשַׁמַּע לָן בְּדַרְבֵּי חֲסָדָא, דְּאָמַר רַב חֲסָדָא: אֵין הִקְיִינוּ מִתְּפָרְשׁוֹת

The Gemara asks: **If so, what need was there for the mishna to say anything?** If they made an explicit stipulation to that effect, then the priest certainly has the power to fulfill their condition. The Gemara answers: The mishna nonetheless **teaches us** that the law is in accordance with the opinion of **Rav Hisda, as Rav Hisda said: Birds' nests become designated as burnt-offerings or sin-offerings only**

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אֵלָא אִי בְּלִקְיַחַת בְּעָלִים אִי בְּעֵשִׂית בֵּהֶן.

when they are purchased by their owner, if the owner explicitly consecrated it as a burnt-offering or sin-offering when he purchased it, **or through the actions of the priest** when he offers the birds as sacrifices. Therefore, even if the women did not verbalize their intentions, it is considered as if they had made a stipulation from the outset. Therefore, this case is not an instance of retroactive designation.

וְאִבְתֵּי, סָבַר רַבִּי יוֹסֵי אֵין בְּרִירָה? וְהִתְנַנָּא: עִם הָאָרֶץ שְׂאָמַר לְחֵבֵר "קַח לִי אֲגוּדָה אַחַת שֶׁל יֶרֶק אוֹ גְּלוֹסְקָא אַחַת" – אֵינוּ צְרִיךְ לְעֵשֶׂר, דְּבָרֵי רַבִּי יוֹסֵי.

And still the question may be raised: Does **Rabbi Yosei really hold that there is no retroactive designation? Wasn't it taught in a baraita: If an *am ha'aretz*, who is not known to be scrupulous in separating tithes, said to a *haver*, one known to be meticulous in his observance of *halakha* and especially the laws of *teruma* and tithes, before the *haver* went to the market to buy himself vegetables from another *am ha'aretz*: Buy for me as well a bundle of vegetables or a cake [geluska],<sup>l</sup> the *haver* does not need to tithe<sup>n</sup> the food that he gives to the *am ha'aretz*.**<sup>h</sup> The only reason the food needs to be tithed is because it is *demai*, and an *am ha'aretz* is not particular about that issue. This is the **statement of Rabbi Yosei**. It can be deduced from this ruling that Rabbi Yosei accepts the principle of retroactive designation, as the *haver* purchased bundles of vegetables without specifying which was for himself and which was for the *am ha'aretz*, and when he gave one to the *am ha'aretz*, it became retroactively clear that he had purchased that bundle for the *am ha'aretz* from the start, and therefore he does not need to separate tithes from it as *demai*.

NOTES

**Birds' nests [kinnim] – קִינִים:** The Torah states that after a certain period of time has passed, a woman who gave birth must offer a purification sacrifice in the Temple. This sacrifice consists of a lamb as a burnt-offering and a young pigeon or turtledove as a sin-offering. If she cannot afford the cost of the lamb, she may bring a nest [ken], which is a pair of turtledoves or young pigeons, one for a burnt-offering and the other for a sin-offering (see Leviticus 12:1–8). Similarly, a man suffering from an emission [zav] or a woman who experiences an irregular, unexpected flow of uterine blood for three days [zava] must bring a sacrifice as part of their purification process, which consists of two turtledoves or two young pigeons, one for a burnt-offering and the other for a sin-offering (Leviticus 15:14, 29). The laws relating to the offering of these sacrifices and the resolution of complications that might result from a mix-up of the birds are elucidated in the tractate *Kinnim*.

**The mishna there is about a case where the women stipulated – הֵתֵם בְּשֶׁהֲתֵנוּ:** Some commentaries explain that sacrifices of this kind include an automatic stipulation that the designation of one bird as a burnt-offering and the other as a sin-offering will be determined by the priest, and those who bring bird sacrifices rely on his decision (*Me'ir*).

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**Designated birds' nests – הִפְרָשֵׁת קִינִים:** If two women bought bird sacrifices in partnership, or if they jointly gave a priest money for such sacrifices, the priest offers whichever bird he selects as a sin-offering and whichever bird he selects as a burnt-offering, as the determination of which is the sin-offering and which is the burnt-offering is determined either by the owner at the time of purchase or by the priest at the time of the sacrifice. This ruling is in accordance with the opinion of Rav Hisda (Rambam *Sefer Avoda, Hilkhhot Pesulei HaMukdashin* 8:8).

LANGUAGE

**Cake [geluska] – גְּלוֹסְקָא:** From the Greek κόλλιξ, *kolix*, meaning cake or round bread.

NOTES

**He does not need to tithe – אֵינוּ צְרִיךְ לְעֵשֶׂר:** Rabbeinu Hananel had a different reading: He eats and need not tithe. If the *haver* tithed a portion of the produce and gave the rest to the *am ha'aretz* without precisely determining which portion he had tithed, it becomes retroactively determined that he tithed the portion he kept for himself and did not tithe the portion he gave to the *am ha'aretz*. In the Jerusalem Talmud it is indicated that the dispute does not concern retroactive designation because they disagree even in a case where one bought only a single vegetable bundle. Rather, the dispute is over whether the *haver* is considered to be acting as the agent of the *am ha'aretz* or whether he is considered to have acquired the bundle, in which case he is obligated to tithe it due to the decree pertaining to *demai*.

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**An *am ha'aretz* for whom a *haver* bought produce – עִם הָאָרֶץ:** If an *am ha'aretz* gave money to a *haver* and asked him to buy a bundle of vegetables for him, the *haver* may buy the produce and give it to him without tithing it. However, if the *haver* bought the produce with different coins, he must tithe it before giving it to the *am ha'aretz* (Jerusalem Talmud; *Kesef Mishne*; Rambam *Sefer Zera'im, Hilkhhot Ma'aserot* 10:8).

וְחֻכְמֵי אֹמְרִים: צְרִיךְ לְעֵשֶׂר!  
אִיפֹךְ.

And the Rabbis say: He must tithe it. Since we do not accept the principle of retroactive designation, everything that the *haber* bought was bought for himself, and the fact that he later gave part of it to the *am ha'aretz* does not exempt him from his original obligation to separate tithes from the *demai*. In any case, it seems that Rabbi Yosei's opinion in this *baraita* contradicts his opinion in the *Tosefta* cited above with regard to wine. The Gemara answers: Reverse the opinions in the *baraita* and say that according to Rabbi Yosei he must tithe the produce he gives to the *am ha'aretz*, while the Rabbis permit him to proceed without tithing.

תָּא שָׁמַע: הָאֹמֵר "מַעֲשֵׂר שְׁנַיִם לִי  
בְּבֵיתִי מִחוּלָּל עַל סֶלַע שֶׁתַּעֲלֶה בְּיָדִי  
מִן הַכֵּיס", רַבִּי יוֹסֵי אֹמֵר: מִחוּלָּל!

The Gemara attempts to bring another proof. Come and hear a proof from a different *Tosefta*: In the case of one who says: The second tithe that I have in my house shall be redeemed upon the *sela* coin that will happen to come up in my hand when I remove it from the pouch,<sup>14</sup> i.e., he did not have a particular coin in mind, Rabbi Yosei says: The second tithe is redeemed. When the coin is removed from the pouch, it is retroactively clarified that this is the coin that he had in his mind from the outset. This indicates that Rabbi Yosei accepts the principle of retroactive designation.

אִיפֹךְ, אִימָא: רַבִּי יוֹסֵי אֹמֵר: לֹא  
חִילָּל. וּמַאי חֲזִית דְּאַפְכַּת תְּרֵיתִי  
מִקְמֵי תְּדָא?! אִיפֹךְ תְּדָא מִקְמֵי  
תְּרֵיתִי!

The Gemara answers again: Reverse the attributions, and say that Rabbi Yosei says: He has not redeemed the second tithe. The Gemara raises a difficulty: What did you see that you reversed two sources because of one, and made the two *baraitot* conform to the mishna, which indicates that Rabbi Yosei holds that there is no retroactive designation? Perhaps I should reverse one source, i.e., the mishna, because of the two *baraitot* and say that in fact Rabbi Yosei accepts the principle of retroactive designation, and it is the lone source that indicates otherwise that must be revised.

הָא וְדָאֵי אִיפְכָא תַנְיָא, דְּקִתְנֵי סִיפָא:  
וּמוֹדָה רַבִּי יוֹסֵי בְּאֹמֵר "מַעֲשֵׂר שְׁנַיִם  
לִי בְּתוֹךְ בֵּיתִי יִהְיֶה מִחוּלָּל עַל סֶלַע  
חֲדָשָׁה שֶׁתַּעֲלֶה בְּיָדִי מִן הַכֵּיס" –  
שְׁחִילָּל. מִדְּקָאֵר הֵכָא שְׁחִילָּל –  
מִכְּלָל דְּהֵתֵם לֹא חִילָּל.

The Gemara answers: This *Tosefta* was certainly taught in reverse, as the latter clause states: And Rabbi Yosei concedes with regard to one who says: The second tithe that I have in my house shall be redeemed with the new *sela* coin that will happen to come up in my hand when I remove it from the pouch, that he has redeemed the second tithe. The Gemara makes the following inference: From the fact that it said here that he has redeemed the second tithe, it can be proven by inference that there, in the first clause of the *Tosefta*, he did not redeem the second tithe. Therefore, the wording found in the earlier part of the *baraita* is clearly incorrect and must be reversed.

הָאֵי סֶלַע חֲדָשָׁה הֵיכִי דְּמִי? אִי  
דְּאִיפְכָא תְּרֵיתִי תְּלָת, דִּישׁ בְּרִירָה –  
הֵינֵנו קְמוּיָתָא! אֵלָא דְּלִיכָא אֵלָא  
חֲדָא – מַאי תַעֲלֶה?

The Gemara raises a question with regard to the *halakha* cited in the *Tosefta*: This new *sela*, what are its circumstances? If it is referring to a situation where there are two or three coins in his pouch, so that it is not clear which coin he is referring to, and there is the possibility of retroactive designation, this is exactly the same as the first case. Why does he rule here, as opposed to the earlier case, that there is retroactive designation? Rather, it must refer to a situation where he has only one coin in his pouch. But if so, what is the meaning of the expression: Will happen to come up?

אִיִּדִי דְּתַנִּי רִישָׁא "תַעֲלֶה" תַנְיָא  
סִיפָא נְמִי "תַעֲלֶה".

The Gemara answers: In fact, it is referring to a case where one has only one coin in his pouch, and the wording of the latter clause is imprecise. Since the first clause taught the *halakha* using this expression: Will happen to come up, the latter clause also taught the *halakha* using this same expression: Will happen to come up, even though he was referring to the only new coin that he has in his pouch.

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הַמְחִיל – הַמְחִיל – הַמְחִיל – is redeemed. Apparently, this ruling only applies nowadays, when the obligation to separate tithes is a rabbinic enactment (Kesef Mishne; Rambam *Hilkhot Ma'aser Sheni* 4:15).

It is a dispute among the *tanna'im* – תנאי היא – Rav Yosef proves that there is a *tanna* who holds that there is no retroactive designation with regard to the laws of *eiruv*, even though they are rabbinic in origin. However, the following question has been asked: Why did Rav Yosef find it necessary afterward to reverse the opinions in the *baraita* to prove that Rabbi Shimon had that opinion, thereby entering himself into difficulties? Some commentaries explain that the discussion reversing the opinions is not part of Rav Yosef's statement (Maharshal). *Tosafot* explain that Rav Yosef wanted to identify the *tanna* by name and therefore proved that it was Rabbi Shimon's opinion. He had to prove it from this *baraita* rather than from any other source because not everyone accepts the principle that there is no difference between Torah law and rabbinic decrees with regard to retroactive designation. Consequently, at least the basis of his proof remains intact, even if the reversal of opinions is not accepted (Rashba).

## HALAKHA

**עירוב לכל השנה** – An *eiruv* for the entire year – One may establish an *eiruv tehumin* for the entire year, which will permit him to make use of it even if he decides to invalidate it only on Shabbat. The *halakha* is in accordance with the lenient opinion with regard to *eiruv*, and there is retroactive designation with regard to rabbinic decrees (*Shulhan Arukh, Orah Hayyim* 413:1).

אמר ליה רבא רבא לרב נחמן: מאן האי תנא דאמילו בדרבנן לית ליה ברירה? דתנא, אמר לחמשה: הריני מערב על איזה מקום שארצה, רציתי – ילך, לא רציתי – לא ילך, רצה מבעוד יום – עירובו עירוב, משחשיכה – אין עירובו עירוב.

Rava said to Rav Nahman: Who is this *tanna* who does not accept the principle of retroactive designation even concerning rabbinic decrees? As it was taught in a *baraita*: If one person said to five people: I am hereby establishing an *eiruv* for whichever one of you I will choose, so that the person I have chosen will be able to walk two thousand cubits from the spot of the *eiruv*, whereas whomever I have not chosen will not be able to walk two thousand cubits from the location of the *eiruv*, the following distinction applies: If he chose the person for whom he was making the *eiruv* before Shabbat, while it was still day, his *eiruv* is a valid *eiruv*; but if he only chose him after nightfall, his *eiruv* is not a valid *eiruv*. The *tanna* of this *baraita* apparently rejects the principle of retroactive designation, even with regard to rabbinic enactments, as if that were not the case, the *eiruv* should be valid even if he only chose the person for whom he was making the *eiruv* after nightfall.

אישתיק ולא אמר ליה ולא מדי. ולימא ליה: תנא דבי איז הוא! לא שמיע ליה.

Rav Nahman was silent and did not say anything to Rava. The Gemara asks: And let Rav Nahman say to him that the *baraita* is the opinion of a Sage of the school of Ayo, in accordance with the opinion of Rabbi Yehuda, which maintains that even with regard to an *eiruv* there is no retroactive designation. The Gemara answers: He did not accept Ayo's version of Rabbi Yehuda's opinion and considered it incorrect.

רב יוסף אמר: תנאי שקלת מעלמא?! תנאי היא. דתנא: הריני מערב לשבתות של כל השנה, רציתי – אלך, לא רציתי – לא אלך. רצה מבעוד יום – עירובו עירוב, משחשיכה; רבי שמעון אומר: עירובו עירוב, וחכמים אומרים אין עירובו עירוב.

Rav Yosef said, in his unique style: Have you removed the *tanna'im* from the world? Is there no *tanna* who holds this position? The possibility of retroactive designation with regard to rabbinic enactments is a dispute among *tanna'im*,<sup>n</sup> as it was taught in a *baraita*: One said: I am hereby establishing an *eiruv* for the Shabbatot of the entire year,<sup>h</sup> so that if I want to make use of it, I will be able to walk two thousand cubits from the *eiruv*, and if I do not want to do so, I will not walk. If he wanted to make use of the *eiruv* for a particular Shabbat while it was still day, his *eiruv* is a valid *eiruv* for that Shabbat. However, if he only decided after nightfall that he wanted the *eiruv* to be in effect, the *tanna'im* disagree: Rabbi Shimon says: His *eiruv* is a valid *eiruv*; and the Rabbis say: His *eiruv* is not a valid *eiruv*. This indicates that according to the Rabbis there is no retroactive designation, even with regard to *eiruv*, while Rabbi Shimon holds that his *eiruv* is in effect because of the principle of retroactive designation.

והא שמעינן לרבי שמעון דלית ליה ברירה, קשיא דרבי שמעון אדרבי שמעון! אלא איפוך.

The Gemara asks: Didn't we hear that Rabbi Shimon does not accept the principle of retroactive designation in the case of wine from *Kutim*? The contradiction between one ruling of Rabbi Shimon and another ruling of Rabbi Shimon himself is difficult. The Gemara answers: Rather, reverse the opinions and say that it is Rabbi Shimon who holds that his *eiruv* is not valid, and therefore he can be identified as the *tanna* who holds that there is no retroactive designation at all, even with regard to rabbinic decrees.

מאי קשיא? דילמא, כי לית ליה לרבי שמעון ברירה – בדאורייתא, אבל בדרבנן – אית ליה!

The Gemara asks: What is the difficulty here? Perhaps it is with regard to Torah law that Rabbi Shimon does not accept the principle of retroactive designation, but with regard to rabbinic decrees, he does accept the principle of retroactive designation. Therefore, it is not necessary to reverse the opinions.

קסבר רב יוסף: מאן דאית ליה ברירה – לא שנא בדאורייתא, לא שנא בדרבנן – אית ליה. ומאן דלית ליה ברירה – לא שנא בדאורייתא, ולא שנא בדרבנן – לית ליה.

The Gemara answers: Rav Yosef holds that one who accepts the principle of retroactive designation accepts it in all cases; there is no difference between Torah law and rabbinic decrees. And one who does not accept the principle of retroactive designation does not accept it at all; there is no difference between Torah law and rabbinic decrees.

רבא אמר: שאני התם, דבעינן ראשית ששוריה נכרין.

Rava said: The distinction between the case of the wine and the other cases is not related to the principle of retroactive designation. Rather, there, the case of the wine of a *Kuti*, is different, as we require that the *teruma* be the first of your produce, whose remnants are recognizable. Since *teruma* is called the first, if it is not clear which portion was separated and which portion is left over, the designation of part of the wine as *teruma* is not effective, despite the fact that Rabbi Shimon accepts the principle of retroactive designation.

NOTES

If there were two pomegranates before him – היו – לְפָנָיו שְׁנֵי רְמוֹנִים: Some commentaries explain that the question of retroactive designation is based on the general principle that one cannot acquire or transfer ownership of something that has not yet come into the world. In other words, one cannot perform a legally valid act that relates to an object or state of affairs not currently in existence. Consequently, there is a distinction between the case of pomegranates and the separation of *terumot* and tithes from the leather flask. With regard to pomegranates, one can tithe them whenever one wishes. Their case does not constitute bona fide retroactive designation at all, as everything is already in existence. In the latter case, however, one is either not currently able to separate the *teruma* and tithes, e.g., if he is not in the same vicinity as the produce, or he is not permitted to do so, e.g., if it is Shabbat, and therefore it is considered something that has yet to come into the world (*Ketzot HaHoshen*).

Perhaps the leather flask will burst – שָׂמָא יִבְקַע הַנּוֹד: Some commentaries explain that this detail is not mentioned earlier in the discussion, even though it is written explicitly, because the Sages thought at first that if it is not a Torah prohibition, then there is no reason to be worried about the leather flask bursting, which is a far-fetched concern. Consequently, they considered it reasonable to suggest that the basic concern is the prohibition of *tevel* (*Yad Shlomo*).

אָמַר לִיָּה אַבְיִי: אֵלֶּא מַעַתָּה, הֲיִו לְפָנָיו שְׁנֵי רְמוֹנִים שֶׁל טָבֵל, וְאָמַר: אִם יֵרְדוּ גְשָׁמִים הַיּוֹם – יִהְיֶה זֶה תְרוּמָה עַל זֶה, וְאִם לֹא יֵרְדוּ גְשָׁמִים הַיּוֹם – יִהְיֶה זֶה תְרוּמָה עַל זֶה. הֲכִי נִמְי, בֵּין יֵרְדוּ בֵּין לֹא יֵרְדוּ דָּאִין בְּדַבְּרֵי בְלוּם?

וְכִי תֵימָא הֲכִי נִמְי – וְהִתְנַן: תְרוּמַת הַכֶּרִי הַזֶּה וּמַעֲשֵׂרוֹתָיו בְּתוֹכוֹ, וְתְרוּמַת מַעֲשֵׂר זֶה בְּתוֹכוֹ, רַבִּי שְׁמַעוֹן אוֹמֵר: קָרָא הַשֵּׁם!

שָׂמָא הֵתֵם דְּאִיבָא סְבִיבִיו.

וְאִי בְעֵית אֵימָא בְּדַקְתָּנִי טַעְמָא: אָמְרוּ לוֹ לְרַבִּי מֵאִיר: אִי אַתָּה מוֹדָה שָׂמָא יִבְקַע הַנּוֹד וְנִמְצָא זֶה שׁוֹתָה טְבָלִים לְמַפְרַע? אָמַר לְהֵן: לְכִשְׁיִבְקַע.

וְלִמָּא דְסָלִיק אֲדַעֲתִין מַעֲקָרָא דְבְּעִינִין רַאשִׁית שְׁשִׁירְיָה נִבְרִין, מֵאִי קָאֲמְרִי לִיָּה?

הֲכִי קָאֲמְרִי לִיָּה: לְדִידָן – בְּעִינִין רַאשִׁית שְׁשִׁירְיָה נִבְרִין, לְדִידָן –

Abaye said to him: Do you really think that this ruling is correct? But if that is so, if there were two pomegranates that were *tevel* before him,<sup>N</sup> and he said: If rain falls today, this pomegranate shall be *teruma* for that other pomegranate, and if rain does not fall today, that second pomegranate shall be *teruma* for this first one, so too, whether rain fell or did not fall, there is no significance to his statement because the remnants that are not *teruma* are not immediately recognizable.

And if you say that indeed, it is so, there is a difficulty. Didn't we learn in a mishna that if one says: The *teruma* of this pile of produce and its tithes shall be inside it, without specifying the location of the produce that he is designating for these purposes, and similarly, if one says about a pile of first-tithe produce: The *teruma* of this tithe shall be inside it, without specifying the location, Rabbi Shimon says: He has given it a name, i.e., the designation of the *teruma* and tithes take effect, even though it is impossible to distinguish between them and the permitted portion of the produce? Therefore, it is not necessary for the remnants of the act of separation to be recognizable.

Rava refutes this argument: There, with regard to a pile of produce, it is different because there are recognizable remnants around it. He specified that the *teruma* should be inside the heap, which indicates that it is in the middle of the pile, and therefore the produce on the perimeter of the pile is certainly not *teruma*, and some of the remnants of the act of separation are recognizable.

And if you wish, you can reconcile the difference between the case of separating *teruma* from wine and the other cases and say in accordance with the reason that was taught in the case of the wine: The Rabbis said to Rabbi Meir: Don't you concede that perhaps the leather flask will burst<sup>N</sup> before he manages to separate the *teruma*, and retroactively this person would have been drinking *tevel*? Since he never ended up separating *teruma*, the wine remained *tevel* all along. Rabbi Meir said to them: When it bursts, I will consider the matter, but presently I am not concerned that the bottle might burst. Therefore, we see that these *tanna'im* do not disagree about the principle of retroactive designation but over the likelihood that the flask will burst.

The Gemara now asks: And according to what initially entered our minds, which is that we require *teruma* that is the first, whose remnants are recognizable what did the Rabbis say to Rabbi Meir about that? That is the objection they should have raised against him.

The Gemara answers: This is what they said to him: According to our own opinion, we require *teruma* that is the first, whose remnants are recognizable; according to your opinion,

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אִי אַתָּה מוֹדָה שָׂמָא יִבְקַע הַנּוֹד, וְנִמְצָא שׁוֹתָה טְבָלִים לְמַפְרַע? אָמַר לְהֵן: לְכִשְׁיִבְקַע.

don't you at least concede that we must be concerned that perhaps the leather flask will burst, and retroactively this person would have been drinking *tevel*? Rabbi Meir said to them: When it bursts,<sup>N</sup> I will consider the matter, but now I am not concerned about this possibility.

NOTES

When it bursts – לְכִשְׁיִבְקַע: This is not a Torah prohibition because the obligation to separate *teruma* from this barrel is only by rabbinic decree. Therefore, this doubt resembles all other doubts relating to rabbinic decrees, and one may be lenient (*Yad Shlomo*).