

מתני' בית שמאי אומרים: הקדש טעות - הקדש,

MISHNA Beit Shammai say: Consecration that one performs in error nevertheless renders property consecrated,

ובית הלל אומרים: אין הקדש. כיצד? אומר "שור שחור שיצא מביתי ראשון הרי הוא הקדש" ויצא לבן, בית שמאי אומרים: הקדש, ובית הלל אומרים: אינו הקדש. "דינר זהב שיעלה בידי ראשון הרי הוא הקדש" ועלה של כסף, בית שמאי אומרים: הקדש, ובית הלל אומרים: אינו הקדש. "חבית של יין שתעלה בידי ראשונה הרי היא הקדש" ועלתה של שמן, בית שמאי אומרים: הקדש, ובית הלל אומרים: אינו הקדש.

גמ' "בית שמאי אומרים הקדש" כו'. מאי טעמיהו דבית שמאי - דילפינן תחלת הקדש מסוף הקדש; מה תמורה - אפילו בטעות, אף הקדש - אפילו בטעות.

ובית הלל אומרים: הני מילי - תמורה, אבל אחרתי הקדש בטעות - לא מזהתינן.

and Beit Hillel^p say it is not consecrated.^h How so; what is considered an act of erroneous consecration? If one said: **A black bull that will emerge from my house first is consecrated, and a white bull emerged first, Beit Shammai say it is consecratedⁿ and Beit Hillel say it is not consecrated.** Similarly, if one said: **A gold dinar that will come up first in my hand is consecrated, and when he reached into his pocket a dinar of silver came up, Beit Shammai say it is consecrated and Beit Hillel say it is not consecrated.** Likewise, if one said: **A barrel of wine that will come up first in my hand when I enter the cellar is consecrated, and a barrel of oil came up in his hand instead, Beit Shammai say it is consecrated and Beit Hillel say it is not consecrated.**

GEMARA The mishna taught that Beit Shammai say that consecration performed in error renders property consecrated, and Beit Hillel say it is not consecrated. The Gemara analyzes their dispute: **What is the reason of Beit Shammai?** They maintain that we derive the *halakha* of the initial stage of consecration from the final stage of consecration. The final stage of consecration is referring to substitution, when one attempts to substitute a non-consecrated animal for a consecrated one. **Just as an act of substitution takes effect even in error,^h** i.e., if one meant to say that his black bull should be a substitute for his consecrated animal and he actually said: This white bull, the white bull is rendered consecrated, **so too, the initial stage of consecration takes effect even when done in error.**

And Beit Hillel say: **This matter, i.e., the halakha that consecration takes effect even when done in error, applies only to substitution, where there is an animal that is already fully consecrated. However, we do not have the initial status of consecration descend upon an item in error.**

HALAKHA

Consecration that one performs in error...is not consecrated - הקדש טעות...אין הקדש - Any property which is consecrated in error is not considered consecrated. For example, if one said: A black bull that will emerge from my house first is consecrated, and a white one emerged first, it is not consecrated. Similarly, if one said: A gold dinar that will come up in my hand first is consecrated, and he drew out a silver one, it is not consecrated, in accordance with the opinion of Beit Hillel (Rambam *Sefer Hafla'a, Hilkhot Arakhin VaHaramim* 6:34; *Shulhan Arukh, Yoreh De'a* 258:2, in the comment of Rema).

תמורה אפילו - Substitution takes effect even in error - **בטעות**: If one substitutes an animal for an offering his action takes effect in that the animal becomes consecrated and he is liable to receive lashes. This is the *halakha* even if he erred in his statement, e.g., if he intended to say: This is the substitute of a burnt-offering, and he said: This is the substitute of a peace-offering (Rambam *Sefer Korbanot, Hilkhot Temura* 1:2).

NOTES

ויצא לבן...consecrated - **הקדש**: There are two explanations for Beit Shammai's opinion, as cited in the Commentary on *Nazir* and *Tosafot*. According to one interpretation, the meaning is straightforward: Although the individual specified a black bull and a white one emerged, the white bull is consecrated. Likewise, if he spoke of a gold coin and he picked up a silver one, the silver coin is consecrated. Similarly, the barrel of oil is consecrated despite his mention of wine. The idea is that he intended to consecrate the first item to emerge or be picked up, and he merely anticipated that the black bull, gold coin, or barrel of wine would be first. Alternatively, the first black bull to emerge is consecrated, even if it emerges after a white one. The same applies with regard to coins and barrels (Rabbi Avraham min HaHar).

PERSONALITIES

Beit Shammai and Beit Hillel - **בית שמאי ובית הלל** - These titles refer to the schools of thought carried on by the disciples of Hillel the Elder and Shammai the Elder. Although there are only three recorded matters of dispute between Hillel and Shammai themselves, their students were relentless adversaries who served together in the Sanhedrin at the end of the Second Temple period and after its destruction. Their students were known to differ in many areas of *halakha*. With regard to the disagreements of these two houses, a mishna states (*Avot* 5:20): Any controversy waged for the sake of Heaven shall ultimately be of lasting worth, but any that is not waged for the sake of Heaven shall ultimately lead

to no permanent result. Which controversy serves as an example of one waged in the service of Heaven? The controversy of Hillel and Shammai. And which was not for the sake Heaven? The controversy of Korah and his companions.

Generally speaking, the disciples of Hillel and Shammai mirrored the personalities of their respective teachers: The open and tolerant Hillel, and the harsh, severe Shammai, although there are exceptions to this rule. A list of the cases in which the disciples of Shammai were more lenient than the disciples of Hillel appears in tractate *Eduyyot*. In almost all disputes between the two schools, the *halakha* is in accordance with the opinion of Beit Hillel.

For this reason he states first – לְכַךְ נֶאֱמַר ראשון – Some commentaries explain Rav Pappa's statement as follows: This case does not in fact involve the unintentional application of consecration. Rather, the one who stated the vow of consecration initially meant to consecrate the first black bull to emerge, whether or not it was preceded by a white one (*Tosafot*). According to the earlier explanation of the mishna, Rav Pappa disputes the initial understanding of the opinion of Beit Shammai, as he maintains that the white bull is not consecrated. Others contend that Rav Pappa maintains that the white bull is consecrated, as the term: First, refers to any bull that exits first. This individual specified a black bull merely because he thought a black one would emerge first (Commentary on *Nazir*). In any case, Rav Pappa apparently maintains that Beit Shammai do not derive their ruling from the case of substitution.

But he said, black bull – וְהָא שׁוֹר שְׁחוֹר קָאָמַר – As the case of the mishna discusses one who owned only a single black bull, the previous interpretation, that he is referring to the first of all his black bulls, cannot be correct. According to the explanation of Rabbi Avraham min HaHar, the Gemara is arguing the reverse: The fact that he specified the first black bull indicates that he owns several bulls of this kind, and he did not have a white one in mind at all. Rather, he was referring to the first of his black bulls to emerge. According to this explanation, the text of the Gemara must be emended, so that it reads: Are we not dealing with one who has two or three black bulls?

Where he has two or three – דְּאִית לֵיה תְּרִין תְּלָתָא – If the individual owns several black bulls, it is therefore understood that he was referring to the first of his black bulls to emerge from the house. According to the explanation of Rabbi Avraham min HaHar, the text of the Gemara should be emended to read: Where he has only one black bull, and therefore he intended to consecrate the first bull to emerge, regardless of its color.

וּלְבֵית שְׁמַאי, מַה אֵילּוּ אָמַר "הָרִי זֶה תַּחַת זֶה לְחֻצֵי הַיּוֹם" מִי הוּא תְּמוּדָה מִהֵיא שְׁעָתָא? אֵלָּא, עַד דְּמַטִּי חֻצֵי הַיּוֹם הוּא דְּהוּא תְּמוּדָה. הֲכִי נִמְי, לְכִי מִינְלָא מִיְלָתָא!

אָמַר רַב פַּפְּא: לְכַךְ נֶאֱמַר ראשון – לְכַשְׁיַצָּא ראשון.

וְהָא "שׁוֹר שְׁחוֹר" קָאָמַר, מִי לָא עֲסָקִינָּן דְּלִית לֵיה אֵלָּא הָאֵי? לָא צְרִיכָא, דְּאִית לֵיה תְּרִין תְּלָתָא. וּבֵית הַלֵּל אֹמְרִים: אִם כֵּן "שְׁיַצָּא בְּרֵאשׁוֹן" מִיבְעֵי לֵיה.

אָמַר לֵיה רַבָּא מִבְּרַנִּישׁ לְרַב אֲשִׁי: הָאֵי הֲקֻדְּשׁ בְּטֻעוֹת הוּא? הֲקֻדְּשׁ בְּכֻוֹנָה הוּא! מִשּׁוּם דְּאֵטְעִינָּה לְדִיבּוּרֵיה קָמָא.

וּסְבָרֵי בֵּית שְׁמַאי הֲקֻדְּשׁ בְּטֻעוֹת לָא הוּי הֲקֻדְּשׁ? וְהִתְנַן: מִי שְׁנָדַר בְּנָזִיר וְנִשְׁאַל לְחֻכְמִים וְהִתְיָו, וְהִיָּתָה לוֹ בְּהֵמָה מוֹפְרָשֶׁת – תֵּצֵא וְתִרְעָה בְּעֵדֵר.

אָמְרוּ בֵּית הַלֵּל לְבֵית שְׁמַאי: אֵי אַתָּם מוֹדִים שֶׁהֲקֻדְּשׁ בְּטֻעוֹת הוּא, וְתֵצֵא וְתִרְעָה בְּעֵדֵר? מִכֵּלל דְּסְבָרֵי בֵּית שְׁמַאי הֲקֻדְּשׁ בְּטֻעוֹת הוּי הֲקֻדְּשׁ.

The Gemara asks: **And according to the opinion of Beit Shammai**, who derive the *halakha* of the initial stage of consecration from substitution, **just as if one said**, at the start of the day: **This animal is a substitute in exchange for this animal in the middle of the day, would it become a substitute from that time** when he issued the statement, in opposition to his explicit statement? It would not. **Rather**, Beit Shammai certainly concede that the animal does not become a consecrated as a substitute **until the middle of the day arrives**, at which point it becomes a substitution. **So too**, in the case of the mishna, the consecration should take effect **when the situation is revealed** to be in accordance with his statement, i.e., only if a black bull emerges first. Only then should the animal be rendered consecrated, but not if a white bull emerges first. Why do Beit Shammai hold that in the case of the mishna the consecration takes effect in opposition to his explicit statement.

Rav Pappa said: Beit Shammai concede that consecration does not take effect in opposition to one's explicit statement. Rather, they maintain that it is **for this reason** that the man states: The black bull that will emerge from my house **first**,^N as he means the following: **When the first** black bull of all the black bulls I possess **will emerge** from my house, it will be consecrated. When Beit Shammai ruled that the bull is consecrated, they were referring to the first black bull that emerged, even if it was not the first bull that emerged, as a white bull preceded it.

The Gemara asks: **But he said: Black bull**,^N and are we not dealing even with a case **where he only has this one black bull**? If so, the Gemara's initial interpretation of his statement is correct: The black bull is consecrated only if it is the first to emerge, but not if a white bull precedes it. The Gemara answers: **No**; it is **necessary** to state this *halakha* with regard to a case **where he has two or three**^N black bulls. **And Beit Hillel say: If so**, i.e., if he intended to consecrate the first of his black bulls to emerge from the house, **he should have said**: The **first** black bull that will emerge from my house. Since he did not say this, he must have meant that the black bull should be consecrated only if it is the first bull of any kind to emerge.

Rava from Barnish said to Rav Ashi, with regard to the explanation of Rav Pappa: Is **this case** he mentioned one of **erroneous consecration? It is intentional consecration**. According to the interpretation of Rav Pappa, there is no error. He intended to consecrate the first black bull that emerged, and that is what was consecrated. The Gemara answers: Nevertheless, it is called an erroneous consecration **because he erred in his first statement**. His statement of consecration gave the mistaken impression that he desired to consecrate the first bull that emerges, even if it is white.

In any case, Rav Pappa indicates that even Beit Shammai hold that an erroneous act of consecration does not take effect. The Gemara questions this assumption: **And do Beit Shammai hold** that an indisputably **erroneous act of consecration is not considered an act of consecration? But didn't we learn** in the mishna (31b): With regard to **one who took a vow of naziriteship and later made a request to the halakhic authorities to dissolve his vow, and they dissolved his vow, and he had already separated an animal for one of his nazirite offerings beforehand, it shall go out and graze among the flock**, like any other non-sacred animal.

The mishna continues: **Beit Hillel said to Beit Shammai: Don't you concede** that the reason for this ruling is because **it is an erroneous act of consecration**, and that a consecration of this kind does not take effect, and that is the reason it **shall go out and graze among the flock**? The same *halakha* should apply to all erroneous acts of consecration. One can learn from here by **inference that Beit Shammai hold** that an entirely **erroneous act of consecration is considered consecration**, as is evident from Beit Hillel's question.

אֶלָּא, בֵּית הַלֵּל הוּא דְקָא טְעוּ. סְבָרֵי טְעֵמֵיהוּ דְבֵית שַׁמַּי מְשוּם דְהִקְדַּשׁ בְּטָעוּת הוּי הִקְדַּשׁ, וְאִמְרֵי לְהוֹן בֵּית שַׁמַּי: לֹא מְשוּם הִקְדַּשׁ בְּטָעוּת הוּא, אֶלָּא מְשוּם דְאִטְעִיָּה לְדִיבּוּרֵיהּ קָמָא.

The Gemara answers: This is not the case; rather, it is Beit Hillel who erred in their understanding. They thought that Beit Shammai's reasoning was because an erroneous act of consecration is considered consecration, and therefore they raised a difficulty with regard to the case of a nazirite. And Beit Shammai said to them: Our reasoning in the case of the black bull is not because it is an erroneous act of consecration. Rather, it is merely called an erroneous consecration because he erred in his first statement, as he actually meant to consecrate the first of his black bulls to emerge from his house.

וְסָבְרֵי בֵּית שַׁמַּי הִקְדַּשׁ בְּטָעוּת לֹא הוּי הִקְדַּשׁ? תָּא שְׂמַע: הָיוּ מְהַלְכִין בַּדֶּרֶךְ,

The Gemara continues to ask: And do Beit Shammai hold that an indisputably erroneous act of consecration is not considered consecration? Come and hear proof from the mishna (32b) that they maintain that an erroneously consecrated item is considered consecrated: If there were several people walking along the way,

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וְאֶחָד בָּא בְּנִגְדָן, וְאָמַר אֶחָד "הֲרִינִי נוֹזֵר שְׁזָה פְלוֹנִי", וְאֶחָד אָמַר "הֲרִינִי נוֹזֵר שְׁאִין זֶה פְלוֹנִי", הֲרִינִי נוֹזֵר שְׁאֶחָד מִכֶּם נוֹזֵר, "שְׁאִין אֶחָד מִכֶּם נוֹזֵר", "שְׁשֵׁנִיכֶם נוֹזֵרִים", "שְׁבוֹלְכֶם נוֹזֵרִים", בֵּית שַׁמַּי אוֹמְרִים: כּוֹלֵם נוֹזֵרִים.

and one other person was approaching them, and one of those walking said: I am hereby a nazirite if this person coming toward us is so-and-so. And another one of them said: I am hereby a nazirite if this is not so-and-so, while a third member of the group said: I am hereby a nazirite if one of you two is a nazirite, and a fourth said: I am hereby a nazirite if neither of you is a nazirite, and another added: I am hereby a nazirite if both of you are nazirites. Finally, the last person said: I am hereby a nazirite if all you who spoke before me are nazirites. Beit Shammai say that they are all nazirites, as by saying: I am hereby a nazirite, they have accepted naziriteship upon themselves even if their statement turns out to be incorrect.

וְהָא הֵכָא, הִקְדַּשׁ בְּטָעוּת הוּא, וְקִתְנִי: כּוֹלֵם נוֹזֵרִים! אִמְרֵי: סְבָרֵי בֵּית שַׁמַּי הִקְדַּשׁ בְּטָעוּת הוּי הִקְדַּשׁ, הֵכָא לֹא.

The Gemara analyzes this mishna: But here, it is clearly a case of an erroneous act of consecration, as the statements of some of these individuals must have been incorrect, and yet the mishna teaches that Beit Shammai maintain that they are all nazirites. The Sages say in response: In fact, in general Beit Shammai hold that an erroneous act of consecration is considered consecration, as is evident from this halakha involving nazirites. However, the particular mishna here, concerning black and white bulls, is notⁿ based on that halakha. Rather, Rav Pappa's explanation is the correct one.

אֲבַיִי אָמַר: לֹא קָא סְלָקָא דְעֵתָךְ דְקָאִים בְּצַפְרָא, אֶלָּא הֵכָא בְּמַאי עֲסָקִינָן – דְקָאִים בְּטִיהָרָא, וְאָמַר: שׁוֹר שְׁחֹר שְׁיִצָּא מִבֵּיתִי רֵאשׁוֹן – לִיהוּי הִקְדַּשׁ. וְאָמַר לִיהוּ: לְבָן נֶפֶק. וְאָמַר לְהוֹן: אִי הוּא יִדְעָנָא דְלָבָן נֶפֶק – לֹא אִמְרֵי שְׁחֹר.

Abaye said a different explanation of the mishna: It should not enter your mind that the mishna is dealing with one who was standing in the morning and referred to a future event, i.e., that an animal will emerge from the house. Rather, with what are we dealing here? With one who is standing at noon,ⁿ after the bulls had already left the house, and said: The black bull that emerged first from my house first shall be consecrated. And people said to him: A white bull emerged first. And he said to them: Had I known that a white bull emerged, I would not have said black. Therefore, the consecration was erroneous.

וּמִי מְצִית אֲמַרְתָּ דְקָאִים בְּטִיהָרָא עֲסָקִי? וְהִקְתְּנִי: "דִּינָר שֶׁל זָהָב שְׁעֵלָה!" תִּנִּי "שְׁעֵלָה". חֲבִית שֶׁל יַיִן שְׁתַּעֲלָה! תִּנִּי "שְׁעֵלָתָה".

The Gemara asks: How can you say that the mishna deals with one who is standing at noon and is speaking of a past event? But in a subsequent example the mishna teaches: A gold dinar that will come up in my hand first shall be consecrated, which is clearly referring to a future event. The Gemara answers: You should emend the mishna and teach: A gold dinar that came up, in the past tense. The Gemara continues to ask: Didn't the mishna state: A barrel of wine that will come up in my hand first shall be consecrated, which is also referring to the future tense. The Gemara similarly answers that one should teach in the mishna: A barrel that already came up.

NOTES

Here not – הֵכָא לֹא: Beit Shammai maintain that an erroneous act of consecration is considered consecration; however, this cannot be proven from this mishna, which is properly explained in accordance with the explanation of Rav Pappa (Commentary on Nazir). Alternatively, the Gemara intends to draw a distinction between the case of the mishna and the case of the nazirites. In the case of the mishna, where the one taking the vow of consecration specified a black bull, Beit Shammai may maintain that the white bull does not become consecrated, as that would be in contradistinction to his explicit statement. By contrast, in the case of the people walking along their way, each of them thought he was correct in his statement, and intended to accept naziriteship accordingly. In this type of case, even if one of them was found to have been in error, Beit Shammai maintain that this act of erroneous consecration, i.e., acceptance of naziriteship, does take effect.

With what are we dealing here, with one who is standing at noon – הֵכָא בְּמַאי עֲסָקִינָן דְקָאִים בְּטִיהָרָא: The early commentaries ask: If the case involves one who claims to have made an error, why is it necessary to emend the mishna so that it refers to the past rather than the future? One can simply say that the mishna is dealing with a person who in the morning said that the black bull that will emerge is consecrated, and afterward explains that he merely assumed that the black bull would emerge first. The answer is that since he had no way of knowing which bull would emerge first when he took the vow, his mention of a black bull demonstrates his intention, and therefore he cannot revise his statement after the fact. As he has no way of predicting future events, he must have meant a black bull, not a white one (Tosafot; see Commentary on Nazir).

BACKGROUND

A white patch on a black bull is a deficiency – חֵיוֹרָא – בְּאוֹכְמָא לְקִיָּא: If there is a breed of bull whose skin color is entirely black, a white spot on its skin is not the product of mixed breeding, but rather, is the result of a blemish. It is possible that a wound on that spot caused the roots of the hair to lose their natural pigment. Although the wound did not leave any other marks on the bull, nevertheless it can be assumed that there is a defect in the flesh beneath the white patch.

Karmanian – קַרְמָנַיָּא: This term apparently refers to a Persian province that was once known as Carmania and is now referred to as the Kerman Province. Its capital is the city of Kerman. This province is found in western Iran, just south of Kurdistan. For many generations it was an important agricultural center which exported fruits and vegetables to the rest of the country.



Kerman Province

Black, red, white – חֵיוֹרָא, סוּמְקָא, אוֹכְמָא: It can be inferred from the Gemara that this does not refer to a single breed of bull comprised of animals of various colors. Rather, it is speaking of different breeds, each of which has a distinct color, as certain types of spotted cattle and other breeds have only one color. This helps clarify the Gemara's claim that a particular breed of bull is better for plowing, due to its strength and temperament, whereas another kind has finer skin. It is noteworthy that the black bull is described elsewhere in the Talmud as a highly dangerous animal.

NOTES

When one consecrates – בִּי מְקַדֵּישׁ: Whenever one consecrates an item to the Temple by means of a vague formulation, his words are interpreted in a limited, restricted manner. Consequently, one who mentions a bull presumably has his most inferior quality bull in mind. In this case, the bull that emerged was of the superior white variety, and therefore it is assumed that this was not his initial intention (Commentary on Nazir). Even Beit Shammai agree that this kind of erroneous act of consecration is invalid, as he certainly did not intend to consecrate the animal in this manner (Tosafot).

HALAKHA

Consecrates generously – בְּעֵינֵי יָפֵה מְקַדֵּישׁ: If one consecrates a field full of trees to the Temple treasury, the trees themselves are also consecrated even if the individual did not say so explicitly, as it is presumed that one consecrates in a generous manner (Rambam Sefer Hafla'a, Hilkhot Arakhin VaHaramim 4:15).

One who took a vow of naziriteship, and requested of a halakhic authority to dissolve it, and the authority ruled that he is bound by his vow – מִי שֶׁנִּדְרָא בְּנֵזִיר וְנִשְׁאַל לְחֻכְּם – וְאִסְרוּ: If one vows to be a nazirite and, under the impression that his vow is invalid, proceeds to drink wine, if he later requests of a halakhic authority to dissolve his vow, yet that one rules that the vow is in force, he counts the duration of his naziriteship from the time he took the vow. However, the Sages decreed that he must add additional days to his term to compensate for the days during which he neglected to observe the halakhot of naziriteship (Rambam Sefer Hafla'a, Hilkhot Nezirut 4:13).

If he had an animal separated – הֵיטָה לֹוּ בְּהֵמָה מוּפָרֶשֶׁת: If a nazirite set aside his offerings and later had his vow of naziriteship dissolved by a halakhic authority, the animals he separated are non-sacred and may rejoin the rest of his flock, as the consecration was in error (Rambam Sefer Hafla'a, Hilkhot Nezirut 9:8).

אָמַר רַב חֲסֵדָא: אוֹכְמָא בְּחֵיוֹרָא – לְקִיָּא. חֵיוֹרָא בְּאוֹכְמָא – לְקִיָּא. תַּנּוּן: "שְׁחוֹר שְׂוִיָּא מִבֵּיתֵי רַאשׁוֹן הַקְּדוֹשׁ". קָא סְלָקָא דְעֵתֵין: כִּי מְקַדֵּישׁ – בְּעֵינֵי רַעְיָה מְקַדֵּישׁ, וְאָמְרֵי בֵּית שְׁמַאי: הֲוֵי הַקְּדוֹשׁ!

וְאֵלָּא מַאי – בְּעֵינֵי יָפֵה מְקַדֵּישׁ? "דִּינָר שְׁלֵי וְהָבִי שְׂוִיעָלָה בְּיַדֵּי רַאשׁוֹן" וְעֵלָּה כֶּסֶף, בֵּית שְׁמַאי אוֹמְרִים: הַקְּדוֹשׁ!

וְאֵלָּא מַאי – בְּעֵינֵי רַעְיָה מְקַדֵּישׁ? "חֻבֵּית שְׁלֵי וִין שְׂוִיעָלָה בְּיַדֵּי רַאשׁוֹן" וְעֵלָּה שְׁלֵי שְׁמֹן, בֵּית שְׁמַאי אוֹמְרִים: הַקְּדוֹשׁ. וְהָא שְׁמֹן עֲדִיף מִיַּיִן! אִי מִשּׁוֹם הָא לֹא קִשְׂיָא, בְּגִלְיָא שְׁנֹן, דְחִמְרָא עֲדִיף מִמִּשְׁחָא.

רִישָׁא קִשְׂיָא לְרַב חֲסֵדָא. אָמַר לָךְ רַב חֲסֵדָא: כִּי אָמְרֵי – בְּתוֹרָא דְקַרְמָנַיָּא.

וְאָמַר רַב חֲסֵדָא: אוֹכְמָא – לְמִשְׁכִּיחַ, סוּמְקָא – לְבִשְׂרִיחַ, חֵיוֹרָא – לְרִדְיָא. וְהָאֵמַר רַב חֲסֵדָא: אוֹכְמָא בְּחֵיוֹרָא לְקִיָּא. כִּי אָמְרֵי בְּתוֹרָא דְקַרְמָנַיָּא.

מִתַּנּוּ מִי שֶׁנִּדְרָא בְּנֵזִיר, וְנִשְׁאַל לְחֻכְּם וְאִסְרוּ – מוֹנֵה מִשְׁעָה שְׁנֹנֵר. נִשְׁאַל לְחֻכְּם וְהִתִּירוּ, הֵיטָה לֹוּ בְּהֵמָה מוּפָרֶשֶׁת – תִּצָּא וְתִרְעָה בְּעֵדֵר.

The Gemara quotes a statement related to the case in the mishna with regard to black and white bulls. Rav Hisda said: A black bull among white ones is deficient, as white bulls are superior in quality, and a white patch on a black bull is a deficiency.⁸ Having stated these assessments, the Gemara returns to discuss the mishna. We learned in the mishna that if one said: The black bull that will emerge from my house first is consecrated, and a white one emerged. It entered our minds to assume that when one consecrates^N property to the Temple treasury he consecrates sparingly, i.e., he does not give his property that is superior in quality or value, unless he expressly says so. And yet Beit Shammai say that the white bull in this case is consecrated, which indicates that the white one is inferior in quality, which contradicts the statement of Rav Hisda.

The Gemara examines this assumption: Rather, what then? Will you say that according to the opinion of Beit Shammai one typically consecrates generously^H and donates his property that is superior? However, the continuation of the mishna states that if one said: The gold dinar that will come up in my hand first, and a silver one came up, Beit Shammai say it is consecrated. If Beit Shammai hold that one would have in mind to consecrate only the superior property, why would the inferior silver coin be consecrated?

The Gemara counters: Rather, what then? Does a person consecrate sparingly? Yet the subsequent example of the mishna states that if one said: A barrel of wine that will come up in my hand first, and one of oil came up, Beit Shammai say it is consecrated. But oil is preferable to wine, so why is the oil consecrated? The Gemara answers: If the problem is due to that, this is not difficult, as this mishna was taught in the Galilee, where wine is preferable to oil. Olive trees are plentiful in the Galilee, and therefore oil is cheaper than wine. Therefore, the entire mishna can be explained in accordance with the opinion that people consecrate sparingly.

The Gemara comments: In any case, the first clause of the mishna poses a difficulty to the opinion of Rav Hisda, as it indicates that a white bull is less valuable than a black one. The Gemara answers that Rav Hisda could have said to you: When I said that a white one is superior, I was referring only to a Karmanian⁹ bull, a type of bull in which the white animals are superior in quality to the black ones. In all other cases black bulls considered superior, and the mishna was referring to standard bulls.

The Gemara quotes another statement with regard to bulls: And Rav Hisda said with regard to bulls: A black bull is good for its hide; a red one is good for its meat; while a white bull is good for plowing.⁸ The Gemara asks: But didn't Rav Hisda say: A black bull among white ones is deficient, which indicates that a black one is inferior in all regards? The Gemara again answers that Rav Hisda could reply: When I said that, I was referring only to a Karmanian bull, but not to other bulls.

MISHNA With regard to one who took a vow of naziriteship, who then regretted his vow and stopped observing the prohibition against drinking wine, and later requested of a halakhic authority to dissolve his vow, and the authority ruled that he is bound by his vow,^H finding no reason to dissolve it, he counts the term of naziriteship from the time that he vowed, including the days when he acted as though the vow were dissolved. In a case where he requested of a halakhic authority to dissolve his vow and the authority dissolved it, if he had an animal separated^H as a nazirite offering it shall go out and graze among the flock.

Called the ninth tenth – קרא לתשיעי עשירי: If one was tithing his flock by releasing them from their pen one by one and erred in his counting, if he called the eighth in line or any lower number, or the twelfth in line or any higher number: Tenth, they are not consecrated. This is the *halakha* regardless if he did so unwittingly or intentionally. However, if he called the ninth or the eleventh: Tenth, they are consecrated. This is a *halakha* learned by tradition (Rambam *Sefer Korbanot, Hilkhot Bekhorot* 8:1).

אָמרוּ בֵּית הַלֵּל לְבֵית שַׁמַּאי: אִי אַתֶּם מוֹדִים בְּזֶה שֶׁהוּא הַקֹּדֶשׁ טְעוּת, שֶׁתִּצְאָ וְתִרְעָה בְּעֶדְרָה? אָמַר לָהֶן בֵּית שַׁמַּאי: אִי אַתֶּם מוֹדִים בְּמִי שֶׁטָּעָה, וְקָרָא לְתִשְׁעֵי "עֲשִׂירִי", וְלַעֲשִׂירִי "תִּשְׁעִי", וְלֹא אֶחָד עֶשֶׂר "עֲשִׂירִי" – שֶׁהוּא מְקוּדָשׁ?

On the basis of this *halakha*, and continuing their discussion in the previous mishna, **Beit Hillel said to Beit Shammai: Don't you concede with regard to this case that it is an erroneous act of consecration, and yet the *halakha* is that it shall go out and graze among the flock?** This shows that you too accept the principle that an erroneous act of consecration does not take effect. **Beit Shammai said to Beit Hillel: Don't you concede with regard to one who was separating the animal tithe from his herd, i.e., passing his animals before him single file and consecrating every tenth one as a tithe, that if he erred and called the ninth animal: Tenth;^h and the tenth: Ninth; and the eleventh: Tenth, that each of them is consecrated?** This proves that an erroneous act of consecration does take effect.

אָמרוּ לָהֶם בֵּית הַלֵּל: לֹא הַשֶּׁבֶט קוֹדֵשׁ. וּמָה אֵילוּ טָעָה וְהִנִּיחַ אֶת הַשֶּׁבֶט עַל שְׂמִינִי וְעַל שְׁנַיִם עֶשֶׂר, שָׁמָּא עָשָׂה כְּלוּם? אֲלָא כְּתוּב שֶׁקוֹדֵשׁ הָעֲשִׂירִי – הוּא קוֹדֵשׁ הַתִּשְׁעִי

Beit Hillel said to them: It is not the rod that consecrates it. The touch of the rod does not consecrate the animal, nor does the fact that he said: Tenth, by mistake. Not all errors cause the tithe to be consecrated, and the proof is as follows: **And what would be the *halakha* if he had erred and placed the rod on the eighth or on the twelfth, and labeled them: Tenth?** Can it be suggested that perhaps he performed anything of consequence? The *halakha* is that the eighth or twelfth animal cannot be consecrated as tithe. **Rather, why is the ninth or eleventh animal consecrated?** There is a specific reason for this *halakha*, as the same verse that consecrated the tenth also consecrated the ninth

One who took a vow and later transgressed his naziriteship – מִי שֶׁנָּדַר וְעָבַר עַל נְזִירוּתוֹ: If one took a vow of naziriteship, and for whatever reason thought the vow was not in effect, and as a result failed to observe the prohibitions of naziriteship, if he later requested of a halakhic authority to dissolve the vow and his vow was not dissolved, he counts the duration of his naziriteship from the time he took the vow. However, he must add days corresponding to the days he failed to observe naziriteship. For example, if he took a standard vow of naziriteship of thirty days, and then failed to observe the *halakhot* of a nazirite for ten of those days, he must keep an extra ten days. If he transgresses his vow of naziriteship during that ten-day period he is liable to receive lashes for rebelliousness from the Sages. This applies only to a short term of naziriteship.

If his naziriteship was lengthy, he is required to add only thirty days, as the *halakha* is in accordance with the opinion of Rabbi Yosei. The Rambam holds in accordance with Rabbi Yosei, as does the *Shulhan Arukh* with regard to all other vows, with the exception of cases where this stringency might cause one to sin. By contrast, most early commentaries maintain that the *halakha* is in accordance with the opinion of Rabbi Yehuda, the *tanna* who disagrees with Rabbi Yosei (*Shakh*; *Ra'avad*; *Rosh*; *Rabbeinu Yeruham*). Consequently, this nazirite must make up the entire period he failed to observe, even if it amounts to more than thirty days. If he transgressed his vow and did not add to his term the number of days during which he violated his naziriteship, even if his naziriteship was lengthy the Sages penalize him by refusing to dissolve his vow until he completes the number of days of his initial vow (Rambam *Sefer Hafla'a, Hilkhot Arakhin VaHaramim* 4:13–15; *Shulhan Arukh, Yoreh De'a* 208:2–3).

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and the eleventh. It is a Torah edict that the consecration takes effect with regard to those two animals. Therefore, one cannot infer from this case that an erroneous act of consecration takes effect.

גַּמְ' מִנֵּי מִתְנַתִּין? לָא רַבִּי יוֹסִי וְלֹא רַבְנֵי.

GEMARA The Gemara asks: **Whose opinion is expressed in the mishna, when it rules that one whose request to dissolve his vow was rejected by a halakhic authority counts the duration of his naziriteship from the moment he took the vow, including the days on which he did not observe the *halakhot* of naziriteship in practice?** The Gemara responds: **It is neither the opinion of Rabbi Yosei, nor that of the Rabbis.**

דְּתַנְיָא: מִי שֶׁנָּדַר וְעָבַר עַל נְזִירוּתוֹ – אֵין נִזְקָקִין לוֹ אֲלָא אִם בֵּן מוֹנֵה בְּהֵן אִיסוּר כְּיָמִים שֶׁנֶּהֱגַ בְּהֵם הֵיטֵר. רַבִּי יוֹסִי אוֹמֵר: דִּי שְׁלֹשִׁים יוֹם.

As it is taught in a *baraita* (*Tosefta Nedarim* 1:6): With regard to one who took a vow of naziriteship and later transgressed his vow of naziriteship^h by drinking wine, the halakhic authorities do not attend to his request to dissolve his vow, nor do they let him complete his term as a nazirite by sacrificing offerings, unless he counted, i.e., observed, days of the prohibitions of naziriteship for the same number of days in which he behaved with permissiveness concerning the restrictions of a nazirite. Only after he observes the prohibitions of naziriteship for the number of days that his observance lapsed will a halakhic authority hear his request for dissolution, or allow him to bring his offerings. **Rabbi Yosei says: Thirty days is enough for him.**ⁿ He is required to observe additional days of naziriteship only if he transgressed his vow of naziriteship for thirty days or more.

NOTES

Thirty days is enough for him – דִּי שְׁלֹשִׁים יוֹם: According to Rabbeinu Tam, cited by Rabbeinu Peretz, the decisive factor is whether he transgressed his vow for at least thirty days. If he transgressed his vow for less than this period, the Sages do not obligate him to observe the missing days; rather, it is enough for him to complete his term of naziriteship. This explanation fits in well with the discussion in the Gemara that follows Rabbi Yosei's statement.

By contrast, most commentaries explain that Rabbi Yosei is referring to the number of days the individual must add to

his naziriteship. According to some commentaries, Rabbi Yosei maintains that he is always required to observe extra days of naziriteship to compensate for the period he failed to observe, but this amounts to no more than thirty days (*Tosafot*). Others contend that Rabbi Yosei merely requires him to observe thirty days of naziriteship in accordance with *halakha*. For example, if he vowed to be a nazirite for a period of eighty days and for fifty days acted as though the vow were dissolved, he does not have to add anything, as he still has thirty days of naziriteship remaining (Rabbeinu Azriel, cited in *Shita Mekubbetzet*).