

OVERVIEW of the Daf

1) R' Chisda's inferences from our Mishnah (cont.)

R' Chisda demonstrates from the Mishnah that a seller who overcharged his customer may not retract the sale if the item increases in value.

R' Chisda presents another halacha that emerges from the Mishnah.

The novelty of R' Chisda's rulings is explained.

2) The color of the sun

R' Pappa infers from the Mishnah that the sun is red.

The assertion that the sun is red is unsuccessfully challenged.

The Gemara explains, according to the thought that the sun is white, why the sun appears red in the morning and evening.

3) Wine and vinegar

The Gemara assumes that the Mishnah which categorizes wine and vinegar as separate items follows Rabbi rather than Rabanan who dispute this matter.

It is demonstrated how the Mishnah is consistent even with the opinion of Rabanan.

4) MISHNAH: The Mishnah discusses the kinyan needed to acquire produce or flax.

5) Acquiring produce

R' Assi in the name of R' Yochanan presents a method of acquiring produce without using משיכה.

R' Zeira unsuccessfully challenged the authenticity of R' Assi's report of R' Yochanan's ruling.

The Gemara questions whether R' Zeira accepted R' Assi's understanding.

An unsuccessful attempt to answer this inquiry is presented.

An unsuccessful attempt to refute R' Assi is recorded. ■

REVIEW and Remember

1. What is the novelty of R' Chisda's rulings that was not known from the Mishnah?

2. What was the inference from the Mishnah that led R' Pappa to conclude that the sun is red?

3. Why does the dispute between Rabbi and Rabanan not apply to cases of buying and selling?

4. What was the point of dispute between R' Assi and R' Zeira?

Distinctive INSIGHT

Wine and vinegar—one item or two?

יין וחומץ מין אחד, רבי אומר שני מינים

The Mishnah (83b) ruled that when a seller promises to sell wine, but he offers vinegar instead, the deal is void, and either the seller or the buyer can reverse the sale. This clearly indicates that wine and vinegar are two different commodities, as opposed to being two varying qualities of the same commodity.

A Baraisa regarding teruma is cited. "Wine and vinegar are one type. Rebbe says that they are two types." The Gemara analyzes whether the opinion presented in our Mishnah can only be understood according to Rebbe in the Baraisa, or whether it can be understood according to Rabbanan as well.

The Gemara concludes that, in fact, the disagreement between Rebbe and Rabbanan is only in regard to teruma. In fact, wine and vinegar are considered to be two different commodities, and if a person negotiates to buy wine, he does not want to receive vinegar. However, the guidelines regarding taking tithes off of one's agricultural products are different. Here, R' Ila'a taught that taking teruma from one form of a product for a different form of that product is valid as long as the two commodities are within the same category. In other words, vinegar is wine that has gone sour, and it is an inferior form of wine, but it is, after all, a form of wine product. Therefore, although the verse (BeMidbar 18:32) says it is a sin to offer teruma from an inferior product on the behalf of a better one, it is, nevertheless, valid.

Rashbam explains that the halacha recognizes wine and vinegar as being within the same category (מין אחד) in regards to teruma, as we have explained, and also in regard to oaths. If Reuven claims that Shimon owes him wine and vinegar, and Shimon agrees only that he owes one of them, this is considered a partial confession (מודה במקצת), and he must take an oath. If these would be two distinct categories of commodities, Shimon's response would be viewed as a total confession for the one item and a complete denial for the other. However, because wine and vinegar are the same, we have מודה במקצת.

Rabbi Akiva Eiger asks that the conclusion of the Gemara in Shevu'os (40b) is that when Reuven demands two items, and Shimon admits that he owes only one, this is considered מודה במקצת even if the items are not of the same type. Rabbi Akiva Eiger points out that Rashbam should have used an example where Reuven asks only for wine, and Shimon admits only to vinegar, that this is מודה במקצת, and

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HALACHAH Highlight

Are different varieties of produce considered two species or not?

לימא מתניתין רבי היא ולא רבנן וכו'

Let us say that the Mishnah follows the position of Rabbi rather than the position of Rabanan.

The question of the Gemara presumes that there is a parallel between the halachos of buying and selling produce and the halachos of terumah. This premise, however, is difficult, notes Shitah M'kubetzes,¹ since this would present us with contradictory rulings. Our Mishnah (83b) teaches that if one orders red wheat and the seller delivers white wheat or vice versa either party may cancel the transaction. This indicates that the different colors render them different varieties of produce rather than different qualities of one type of produce. The Mishnah in Terumah (2:4) teaches that all varieties of wheat are grouped together in one category and thus it is acceptable to separate terumah from one variety or color of wheat for a second variety or color. This allowance assumes that all wheat is one category because if they were considered separate species it would not be acceptable to separate from one type of produce for another.

Teshuvos Doveiv Meisharim² also takes note of this point and it leads him to the following practical conclusion. He writes that the manner in which produce is categorized for teruma halachos is different than the way it is categorized for other matters. Thus, although different varieties of figs are

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this would illustrate that wine and vinegar are in the same category.

Pnei Shlomo explains that Rashbam holds as does Rabeinu Chananel in Shevu'os who rules according to the Amora that holds that if Reuven demands wheat and barley, and Shimon admits that he owes one of them, Shimon is exempt from an oath of מודה במקצת. Shimon would only have to take the oath in our case of wine and vinegar because they are both the same commodity. ■

grouped together for the halacha of teruma, as taught in the Mishnah in Terumah, they are considered separate varieties concerning the beracha of shehecheyanu. As such, if one made the beracha of shehecheyanu on black figs and some time later he acquired white figs he would be required to make a new beracha of shehecheyanu. This position is mentioned in Mishnah Berurah³ where he emphasizes that even when the two fruits are called the same name, e.g. figs, nevertheless, since the two varieties taste different from one another a separate shehecheyanu is required. He then mentions that Vilna Gaon and Chacham Tzvi disagree and maintain that as long as the two varieties share the same name only one shehecheyanu is required. He concludes by citing Rav Yaakov Emden who agrees with Shulchan Aruch's ruling that a separate shehecheyanu is appropriate since the beracha is made for the joy associated with the new fruit and that will be present since the two varieties have a different taste. ■

1. שיטה מקובצת בשם הרא"ש.

2. שו"ת דובב מישרים ח"ג סי' ס"ז.

3. משנה ברורה סי' רכ"ה ס"ק י"ד. ■

STORIES Off the Daf

Movable property

"הלוקח פשתן מחבירו..."

A certain renowned rebbe built a sukkah with his own money on community property. After many years this rebbe died, and when his heir expressed an interest in moving the sukkah elsewhere for his private use the kahal protested. After all, there were many years of Torah and tefillah embedded in the walls of that sukkah. Why should they let them slip out of their grasp?

At first they tried to convince the heir to allow them to pay for the sukkah, but although he agreed at first, eventually

he changed his mind.

When he insisted on removing the sukkah to his property for his personal use, the community decided to consult with the Avnei Nezer, zt"l, on this question since they felt that the sukkah was really theirs. After all, the heir had originally agreed to allow them to take the sukkah and pay him its value. Presumably, the moment he agreed their courtyard had acquired the sukkah and it only remained for them to pay him their debt just like every sale.

The Avnei Nezer, zt"l, disagreed with their reasoning. "Even if the heir said that he was selling the sukkah to the community there is still no kinyan, since the sukkah was built as a permanent structure which is attached to the ground. Alt-

hough it can be removed with difficulty, until it is removed it has the halachah of land which is only acquired with a chazakah, which the community did not make."

But when the Chelkas Yoav, zt"l, heard this psak he respectfully disagreed. "In Bava Basra 84 we find that one who purchased flax that was still attached to the ground acquires it if he plucks even a little of the flax. When on daf 86 the gemara questions how this works, both the Rashbam and Tosafos explain that the answer is predicated on kinyan chatzer. From here we see clearly that kinyan chatzer is relevant even to that which is literally attached to the ground!"¹ ■

1. שו"ת אבני נזר, חו"מ, סי' ח"ט. ע"ש שדוחה דברי החלקת יואב ■