

OVERVIEW of the Daf

1) Discussions between R' Abba and R' Yosef bar Chama (cont.)

The novelty of R' Abba's teaching is explained.

R' Abba sent the following ruling to R' Yosef bar Chama: One can collect a debt from the slaves of the estate of a deceased borrower.

R' Nachman disagrees and rules that one may not collect from the slaves of the deceased.

R' Abba issued a ruling related to relatives testifying.

Rava permitted one to testify for a great-uncle.

Mar Bar R' Ashi permitted testifying for a grandfather but halacha does not follow this opinion.

R' Abba begins a discussion about what a person may testify about after he became blind.

Three of the opinions are unsuccessfully challenged.

R' Abba issued a statement pertaining to a father's reliability concerning a child amongst his sons.

R' Yochanan rules that the father is not believed.

Abaye offers an explanation for R' Abba's ruling.

Rava rejects this explanation and offers his own explanation.

R' Abba rules that a husband's declaration that his wife should inherit with his sons is binding.

Rava qualifies this ruling.

R' Abba issues a ruling related to a case of partial admission.

Mar bar R' Ashi challenges this ruling.

Mar Zutra in the name of R' Shimi bar Ashi states that halacha follows all of the aforementioned rulings of R' Abba.

Ravina questions how halacha follows R' Abba when he disagrees with R' Nachman.

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REVIEW and Remember

1. What is the point of dispute between R' Abba and R' Nachman?

2. Regarding what matters may a person testify even after he became blind?

3. How does a man arrange that his wife should inherit his estate together with his sons?

4. When is a מודה במקצת considered to be a משיב אבידה?

Distinctive INSIGHT

A witness who becomes blind before testifying

כל שתחילתו או סופו בפסלות

R' Abba sent a message to R' Yosef bar Chama that if a person knew testimony regarding a field, and the witness then became blind, this witness may not submit his testimony while blind. The Gemara cited the opinions of Shmuel, Rav Sheishes and Rav Pappa who each suggest cases where a witness who has become blind may nevertheless testify. The Gemara then brings a Baraisa which teaches a rule that a witness is only allowed to testify if he was eligible for testimony at the moment he witnesses the event, as well as at the moment he actually testifies. If he is in a state of disqualification at either of these points, he may not testify. Here, too, if the witness has become blind, he may not testify, even though he may be able to provide specific and accurate information (Rashbam).

Sefer **ראש הברזל** (4:8) discusses a situation where a married man was present when his wife's sister received kiddushin from a certain person. The man's own wife died, thus severing the legal relationship between him and his (former) sister-in-law. According to the rule above, although this man is now no longer related to this woman, because he was disqualified from testimony at the moment the kiddushin was given to his wife's sister, he would not be allowed to testify that she is a married woman. Nevertheless, the rule that one must be eligible to testify at the beginning as well as at the end of the case is only true in cases where the event witnessed had occurred and is now over, such as where one wishes to testify about a transaction. In this case, the kiddushin is continuing, so this former brother-in-law may testify that his former wife's sister is currently a married woman. He is not testifying about something which occurred when he was ineligible to testify, but rather about something which is presently in effect.

Similarly, we could consider a case of someone who signed on a document, and he then became a son-in-law of one of the parties of the transaction in the document. In this case, Rabbi Akiva Eiger explains that the rule is that as soon as witnesses affix their signatures on a document, the document is legal and binding; the signatures are **כמי שנחקרה עדותן בבית דין**. Any analysis of the document and the transaction recorded in it reflect an evaluation of the situation as of the moment it was signed, and not of the current status of the witnesses. If one of the signatories subsequently became related to one of the parties, this is not a case of **סופו בפסול**. ■

HALACHAH Highlight

Characterizing one as insane

Someone who was sane and became insane

Rishonim disagree about the qualifications for categorizing a person as insane. Rambam¹ writes that anyone who has lost his mind and behaves erratically in any area is considered insane even if in many areas the person seems coherent. Rashba² amongst others disagrees and writes that only someone who demonstrates the three traits mentioned in the Gemara Chagiga (3b) qualifies as insane. The three traits are going out alone at night, sleeping in a cemetery and tearing one's clothing. By implication, someone who displays other traits of insanity is not categorized as insane. Teshuvos Divrei Chaim³ explains that Chazal determined that someone who displays these traits is considered completely insane whereas people who demonstrate other insane characteristics retain their overall sanity.

Shulchan Aruch⁴ rules like Rambam that anyone who has lost his mind is categorized as insane. Teshuvos Zichron Yosef⁵, however, notes that there is a contradiction between two rulings in Shulchan Aruch on this matter. In the previously-mentioned ruling found in the laws of witnesses he rules in accordance with Rambam and yet in the halachos of

שפוי ונשתטה

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The Gemara changes R' Abba's statement so that it matches R' Nachman's position.

The Gemara questions what opinions Mar Zutra intended to exclude by ruling like R' Abba. ■

slaughtering⁶ he only enumerates that traits recorded in the Gemara Chagiga that qualify a person as insane. He suggests that Shulchan Aruch's primary position is the position he adopts in the laws of slaughtering and his ruling in the laws of witnesses is an exception to the rule. The exception is a function of the concern that a person who demonstrates even some insane characteristics is incapable of witnessing an incident and relating it to others in a completely truthful manner.

Or Sameach⁷ adds that the previous discussion relates to someone who, although demonstrating insane characteristics, is also able to behave as a sane person does. Someone who is clearly insane is categorized as insane even if he does not demonstrate any of the traits enumerated in the Gemara Chagiga. ■

1. רמב"ם פ"ט מהלי עדות ה"ט.
2. שו"ת הרשב"א ח"א סי' תשס"ה.
3. שו"ת דברי חיים אה"ע ח"ב סי' ע"ד.
4. שו"ת חו"מ סי' ל"ה סעי' ח'.
5. שו"ת זכרון יוסף אה"ע סי' י'.
6. שו"ת יו"ד סי' א' סעי' ה'.
7. שו"ת אור שמח סי' י"ג. ■

STORIES Off the Daf

The lost object

"כמשיב אבידה..."

Today's daf mentions returning a lost object.

Rav Avraham Vaknin, zt"l, of Yerushalayim recounted the reaction of a simple poor Yerushalmi when the mitzvah of hashavas aveidah came his way.

This poor man was once walking through the streets bowed down with a heavy heart due to his many debts. The time for payment had arrived and he lacked the wherewithal to repay. As he shambled along, he suddenly noticed an expensive gold necklace on the ground. He immediately rejoiced at his good fortune. Although he lacked for money, he was overjoyed because Hashem had sent

him such a precious mitzvah. He immediately set up several signs in the vicinity where the chain had been found and bided his time.

He waited one week, then a second, and even a month or two with no response. When six months had elapsed most people ignored the now tattered signs, but the finder ensured that they remained up, just in case.

Fully a year later, the owner of the necklace—who lived outside of Yerushalayim—found himself in the neighborhood again and ran into the signs. He immediately recalled his lost necklace and went to the address listed on the signs. The finder asked for identification, which the owner immediately gave. The finder excused himself and had a look to verify that the necklace had all the correct signs, and was thrilled when he saw that it did. After verifying

that the owner was not in a rush, he begged him to wait a very short time and immediately ran out of the house.

After a minute or two passed people began to enter the house. When the eighth person entered the house, the baal habayis returned to join them and the owner of the necklace and begged the impromptu minyan to wash for a seudas mitzvah. He quickly set up a bare meal of bread and something to go with it and they all washed.

After everyone had eaten the baal habayis explained, "This is a seudas mitzvah, since I have the great opportunity to fulfill the Torah commandment of hashavas aveidah!"

After a long and heartfelt l'shem yichud, the finder returned the lost object with joy so profound it left a deep impression on all those present.¹ ■

1. מעין השבוע, פרשת כי תצא. ■