

Today's Daf Digest is dedicated
In loving memory of **שרגא פייוול דוד בן קמואל**
The Abramowitz family

OVERVIEW of the Daf

1) Defining intent (cont.)

Abaye successfully challenges Rabbah's explanation and offers his own understanding of the dispute between Tanna Kamma and R' Yehudah.

Abaye suggests that the Mishnah is proof to his understanding of the dispute.

Abaye's understanding of the Mishnah is challenged.

R' Acha defends Abaye's explanations.

R' Acha's explanation is challenged and an alternative explanation is offered.

The use of the term intent in the context of someone who declares a hazard ownerless is explained.

R' Elazar offers an explanation of the dispute between R' Meir and Chachamim.

R' Elazar's explanation is clarified.

R' Yochanan offers an explanation of the dispute between R' Meir and Chachamim.

R' Yochanan's explanation is clarified.

2) Declaring a hazard ownerless

The Gemara reports that R' Yochanan and R' Elazar disagree whether one is liable for hazards that one declared ownerless.

It is suggested that the dispute is the same as the dispute between R' Meir and Rabanan.

The parallel between these two disputes is rejected.

It is demonstrated that R' Elazar is the one who maintains that one is liable for hazards that one declared ownerless.

This assertion is unsuccessfully challenged from another ruling of R' Elazar.

Ravina offers a parable for R' Ada bar Ahavah's answer to the challenge regarding R' Elazar's position.

This parable is rejected and R' Ashi offers another parable.

This parable is unsuccessfully challenged.

The conclusion that according to R' Yochanan one is exempt from liability if he declares hazards ownerless is unsuccessfully challenged.

The Gemara on its second attempt demonstrates that R' Yochanan subscribes to the position that one is liable for a hazard even if he declared it ownerless.

This means that according to R' Elazar one is exempt and the Gemara begins to formulate a challenge to that position. ■

Distinctive INSIGHT

It is probably R' Eliezer...

תסתיים דרבי אליעזר הוא דאמר חייב

The Gemara reports a dispute between R' Yochanan and R' Eliezer regarding the law of a person who disowns an obstacle or item of danger after having placed it in the public domain. One Amora says that a person is still liable in such a case, while the other says that a person is no longer liable after he declares the object ownerless. Although the Gemara does not know which Amora espouses each opinion, the Gemara says that "we can most probably conclude - תסתיים" that it is R' Eliezer who holds that one is חייב. The reason for this presumption is that R' Eliezer, in the name of R' Yishmael, says that a בור in the public domain is not owned by the person, but the one who dug it is nevertheless liable for any damage it causes.

Tosafos (Moed Katan 3b) states that the Gemara will not use the tentative expression of "it is probably" if the indication to arrive at a conclusion is decisive. Sefer שמועה (2:1) explains that a conclusive proof is where the Amora is directly quoted with the opinion which is being cited. However, in our Gemara where R' Eliezer clearly states that one is liable even when the source of damage is no longer owned by him, he

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REVIEW and Remember

1. According to Abaye, what are the two points of dispute between Tanna Kamma and R' Yehudah?
2. What intent makes a person liable for hazards that a person declared ownerless?
3. What is the point of dispute between R' Yochanan and R' Elazar?
4. What is the significance of the Mishnah's use of the term הפך?

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By Rabbi and Mrs. Sam Biber

In memory of their parents

ר' יהודה בן ר' שמואל איסר הכהן, ע"ה
ומרת שרה פעסל בת הרב אליהו חיים, ע"ה

HALACHAH Highlight

How deep should fingernails be buried?

המצניע את הקוץ ואת הזכוכית

One who hides a thorn or piece of glass

Teshuvos Mareh Yechezkel¹ was asked for his opinion about the following interesting question. A person cut his fingernails on Erev Shabbos and put them into his pocket so that he could burn them before Shabbos. He forgot to burn them and on Shabbos while taking a stroll in a garden he realized that they were still in his pocket. At that moment he was uncertain whether he should turn his pocket inside out to get the fingernails out of his pocket to prevent any further carrying of the fingernails or perhaps he should not throw them onto the ground since the Gemara Moed Katan (18a) states that one who throws his fingernails where others will walk is categorized as someone who is wicked. After discussing how deep fingernails should be buried to prevent any harm, he wrote that the question is inconsequential since one is not permitted to dig a hole in the ground on Shabbos. He therefore advised that the person should walk back to his house with the fingernails still in his pocket and dispose of them there. The rationale is that transporting items on our streets is only a Rabbinic transgression and it is done in a passive form (since the fingernails are already at rest in his pocket). If he was to dispose of the fingernails in the garden he would actively violate a Rabbinic prohibition and thus it is better to violate the Rabbinic prohibition passively rather than actively.

Teshuvos Daas Moshe² disagrees with the assertion that fingernails should be buried at a particular depth. Rashi (Niddah 17a) explains that one who burns his fingernails is called righteous because fingernails that are buried rather than burned can

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is quoting R' Yishmael. Here, it is only probable that R' Eliezer agrees with the statement which he quotes in the name of R' Yishmael. Yet, because he is quoting someone else, there is a remote possibility that he does not agree with R' Yishmael.

Rashi in Pesachim (6b, ד"ה בור) explains that if someone digs a pit in the middle of the street, he is liable for any damages it may cause, although the pit certainly does not belong to him. Even though he dug the pit, it does not become his property. The Torah does refer to the one who dug it as "בעל הבור—the owner of the pit," but this is only in reference to his being responsible for the consequences of his act, and not in terms of his actual ownership.

The Gemara mentions that the pit is not in his property, but the Torah holds him responsible as if it were his property. Chasam Sofer (ibid.) notes that in fact, if the pit would be in his property, the digger would be exempt, as he could tell the victim, "What are you doing in my property?"

Toras Chaim explains that a pit in the public domain becomes the responsibility of the one who dug it. Similarly, חמץ on Pesach (after six hours erev Pesach) is completely ownerless, but the Torah associates it with its previous owner just for liability. ■

become exposed. This concern indicates that they are not buried at any particular depth. Therefore, he rules that if it is possible for him to shake the fingernails out of his pocket to a place where people do not walk (מקום מוצנע) so that no one will be harmed, that is preferable. If there is no such place it is permitted to carry them home to dispose of them there so as not to dump them in the street where others could be harmed by them. ■

1. שו"ת מראה יחזקאל סי' כ"ה-ו

2. שו"ת דעת משה סי' ח' ■

STORIES Off the Daf

A stubborn question

פליגי בשעז נפילה בנתקל פטור

During World War I, Yeshivas Radin was forced to wander from Radin until they finally settled in the city of Smilovitz in Russia.

Once, when Rav Naftali was learning the sugya of נתקל פושע on Bava Kama 29, he asked a very strong question on Tosafos. Like all great roshei yeshiva, learning for him was not merely an intellectual exercise; it was the main path to connect to Hashem. It follows that a question in learning is a tremendous opportunity for

spiritual growth. Since such questions often disturbed Rav Naftali's sleep and peace of mind, he immediately went to the home of Rav Betzalel Zeitchik, zt"l, the Rav of the city. He figured that perhaps between the two of them some kind of satisfactory answer would come to light.

But after a long stroll throughout the city together it was clear that the question seemed ironclad and that they were no closer to solving it. Quite suddenly, they realized that their aimless wandering had brought them to the house where the Chofetz Chaim zt"l, was staying. Understandably, they decided to ask him.

As they prepared to enter the Chofetz Chaim's room they were surprised to hear him learning Bava Kama 29 with his son-

in-law. The two waited with bated breath as the gadol explained the sugya, and he then turned to the exact Tosafos that was troubling them. The two were astounded when the Chofetz Chaim not only mentioned Rav Naftali's question in the relevant place, but immediately revealed that he had long ago answered this question based on a basic principle expounded in Tosafos in Keraios.

The moment he heard this, Rav Naftali could not contain himself. He immediately entered the room and cried, "Ah! Such lofty genius! Such holiness! Only an angel on high can come to such an exalted level!"¹ ■

1. חידושי הגרנ"ט השלם 23-24