



OVERVIEW of the Daf

1) Exempt from laws of man but liable under the laws of Heaven (cont.)

The Gemara concludes explaining the case of breaching a friend's fence.

Two explanations of the case involving bending grain towards a fire are presented.

The case of hiring false witnesses is explained.

The Gemara elaborates on the fourth case of not giving relevant testimony.

Different cases that could also be included in this list are presented and the Gemara explains that the Baraisa made special mention of these four cases because one may have thought that he should not be liable even in the hands of Heaven.

2) An escaped animal

Rabbah asserts that one is exempt from damages only if his animal dug under the wall to escape.

This ruling is challenged.

The Gemara explains the case of the Mishnah and relates that Rabbah's statement was made in reference to a later part of the Mishnah.

3) Robber's liability

It is noted that the Mishnah's ruling seems obvious and the Gemara offers a circumstance where the ruling would indeed be novel.

Abaye offers another explanation of the novelty of the Mishnah.

(Continued on page 2)

REVIEW and Remember

1. What is the punishment for poisoning a friend's animal?
2. What is the novelty of the Baraisa's statement that one is liable for hiring false witnesses to testify?
3. According to Rava, who is liable when a loss occurs after one watchman gave an item to a second watchman?
4. What is the rationale behind R' Yosef's position that one who guards a lost object is treated like a paid watchman?

Distinctive INSIGHT

When is the finder of a lost object exempt from other mitzvos?

רב יוסף אמר כשומר שכר דמי וכו'

Rabba and Rav Yosef discuss the status of a person who finds a lost object and guards and protects the object until he succeeds in returning it. The opinion of R' Yosef is that while involved in caring for the object, the person is a **שומר שכר**, a paid watchman, because at the moment he is attending to the needs of the object, the watchman is exempt from the mitzvah of giving tzedaka to a poor man who asks for assistance. Due to his being directly occupied with the mitzvah of returning a lost object, this person is exempt from other mitzvos which he cannot perform simultaneously, such as that of giving tzedaka. This monetary "savings" is the pay, or reward, which he receives as he guards the lost object.

There are various explanations provided by the Rishonim to understand the view of R' Yosef and why the mitzvah of caring for a lost object exempts a person from doing other mitzvos.

Tosafos learns that a person is exempt from giving tzedaka to a poor person only at the moment he is actually attending to the needs of maintaining the found object, such as at the moment he is spreading out or airing out a found garment. However, the very fact the object is in his possession is not in and of itself a mitzvah activity to thereby exempt him from other mitzvos. In general, Tosafos explains, if a person performing any mitzvah can also do another mitzvah without the second involvement interfering with the first mitzvah, he is not exempt from doing the second mitzvah.

ר"ן (to Sukkah 11a) explains that if the item found is an animal, the one caring for it would be exempt from giving tzedaka at the time he cares for the animal. He adds that if he is simply doing a mitzvah (עושה מצוה), he must still do other mitzvos, if he can. However, if the person is busy with the animal, i.e., feeding it, he is exempt from other mitzvos even if the additional observance would not interfere with what he is doing. In other words, if he is actively involved in the fulfillment of a mitzvah (מקיים מצוה) he is exempt from other mitzvos.

Meiri (to Berachos 11a) writes that the finder is exempt from other mitzvos as long as the found object is in his house. The reason is that if he involves himself in other mitzvos, the item might get stolen in the meantime. Therefore, if it is the type of item which can be hidden and secured, the finder must hide it, and he will then be obligated in all mitzvos. ■

Today's Daf Digest is dedicated
 By Mr. and Mrs. Baruch and Dorothy Starr Aplebaum
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 In memory of their father and grandfather
 ר' אברהם אריה בן ר' שמואל ע"ה

HALACHAH Highlight

Causing water to overflow and extinguish the flame on the stovetop

הכופף קמתו של חבירו בפני הדליקה

One who bends his friend's stalk in front of a fire

Teshuvos Even Yisroel¹ discusses the permissibility of putting a pot full of water on the stove on Yom Tov so that when it comes to a boil it should overflow and extinguish the fire. He asserts that it is permitted since it is nothing more than an act of indirectly causing the fire to be extinguished (גרם כיבוי) which is permitted on Yom Tov. Part of the basis of his position comes from our Tosafos². Tosafos writes that there is no difference, as far as liability for damages from fire is concerned, whether one brought the fire to the object or brought the object to the fire. It is clear, however, that liability for fire is because it is one's property (ממונו) and it is not considered as if one shot an arrow (חציו). Therefore, since a burning fire is not considered the action of the one who lit the fire, rather it is the indirect action of his property, the boiling over of the water to extinguish the flame is not considered a melacha on Yom Tov.

Teshuvos Ohr L'Tzion³ adds some additional factors necessary for a person to implement this ruling in practice. It is permitted only if one wants hot water and does not have any other water available. One has to be careful when putting the pot onto the fire in the first place that water should not overflow and extinguish the fire at that time. He also warns that one should not shake the pot as it begins to boil and cause some of the water to overflow. Once the fire was extinguished he per-

4) Shepherd's liability

The Gemara demonstrates that the Mishnah refers to a case where one shepherd gave the animals to another shepherd and it is teaching that the second shepherd takes full responsibility for that animal.

This seemingly refutes Rava's position that a shepherd who gives an animal to another shepherd retains responsibility.

Rava defends his position.

A second version of this discussion is presented.

5) Watching a lost object

Rabbah asserts that one who watches a lost object is treated like an unpaid watchman whereas R' Yosef maintains that he is treated like a paid watchman,

Rabbah presents the rationale behind his position and two explanations are given for R' Yosef's position. ■

mits turning the knob to stop the flow of gas.

Although Teshuvos Ohr L'Tzion permits this practice he writes that it would be preferred if someone was to open a window, when the wind is not blowing, near the stove so that the wind will extinguish the fire. Other Poskim⁴ are more hesitant to permit this practice and write that it should not be employed unless there was some possible danger or recognizable loss that would be incurred by leaving the fire burning. ■

1. שו"ת אבן ישראל ח"ט סי' ס"ב

2. תוס' ד"ה אילימא דמטיא

3. שו"ת אור לציון פ"ג סי' כ'

4. ע' פסקי תשובות ח"ה סי' תקי"ד אות י' הע' 55 ■

STORIES Off the Daf

Scared to death

המבעית את חבירו... חייב בידי שמים

Once there were two merchants who absolutely hated one another. The two were rivals for a very long time and wished nothing better than to do whatever they could to harm each other. Each one worked assiduously to inconvenience his counterpart in any manner possible.

One time the two met on the road. As they glared at one another, one of the merchants decided to scare his oppo-

nent. He took out his gun, pointed it menacingly at his friend and said, "You see, **רשע!** Hashem has trapped you under my hand so I may finally avenge myself upon you!"

He slowly aimed at the helpless terrified man and fired. Although the weapon was not loaded, it did contain gunpowder and made a terrific noise. The second merchant had a weak heart. Instead of merely being petrified as his nemesis had planned, he keeled over and died.

The man who had threatened him was horrified. All thoughts of revenge fled his mind to be replaced with a crushing feeling of guilt. But he was an

intrepid sort of person and wondered if he was responsible to repent for this. After all, he had not really touched his rival. Although he regretted the vile deed with his whole heart he wondered if he was obligated to repent as a murderer.

He decided to consult with the Chavos Ya'ir, zt"l, regarding this matter. "This is a clear Gemara in Bava Kamma 56. There we find that one who frightens his friend is responsible for the damage only in the heavenly courts. You need to repent and do a big teshuvah; you are completely responsible for the damage before He who knows all..."¹ ■

1. שו"ת חוות יאיר סי' ק"ע

