

OVERVIEW of the Daf

1) The incident of Dovid Hamelech and the Plishtim (cont.)

The Gemara concedes to the challenge against it and suggests that the first answer will also include one of the other explanations.

Another unsuccessful challenge to the first explanation is presented.

2) **MISHNAH:** The Mishnah discusses the exemption from paying for damages if the fire crosses certain boundaries.

3) Four amah wall

A contradiction is noted between the Mishnah and a Baraisa whether one is liable if a fire crosses a four amah wall.

R' Pappa resolves the contradiction.

Rava, together with an elaboration by R' Pappa, clarifies the exemption when fire crosses a wall that is four amos.

4) Clarifying the Mishnah

Rav and Shmuel disagree whether the Mishnah refers to a fire that rises straight up or whether the Mishnah refers to a bent fire.

A Baraisa is cited that follows Rav's position.

The Gemara clarifies that the ruling that a sixteen amah stretch of land is a barrier to fire follows the position of R' Eliezer.

Rav and Shmuel disagree whether the Mishnah's reference to a river is intended literally or it meant an irrigation canal.

5) שלולית

A Mishnah is cited that uses the term שלולית.

Shmuel and R' Yochanan are cited as giving differing explanations of the term שלולית.

The Gemara elaborates on the point of dispute.

6) **MISHNAH:** Tannaim disagree how far a fire could be expected to travel.

7) Clarifying R' Shimon's position

It is noted that R' Shimon's position in the Mishnah contradicts another position that he follows.

R' Nachman in the name of Rabbah bar Avuha reinterprets R' Shimon's ruling in our Mishnah.

Shmuel is cited by two different sources as ruling in accordance with R' Shimon's position.

8) **MISHNAH:** The dispute regarding liability for concealed items damaged by fire is presented. That discussion is interrupted with an analysis of when the rule of "קם ליה בדרכה מיניה"—"he stands liable to the greater one" applies with regards to fire.

9) Concealed objects

R' Kahana asserts that the dispute is limited to where the fire was lit in his own property but if someone lit a fire on another's property he is certainly liable for all the destroyed objects.

Rava challenges this understanding and asserts that R' Yehudah and Rabanan disagree on two separate points.

A related Baraisa is cited. ■

Distinctive INSIGHT

Are household items defined as "hidden" items?

ומודים חכמים לרבי יהודה במדליק את הבירה שהוא משלם כל מה שבתוכה, שכן דרך בני אדם להניח בבתים

The Mishnah presents the classic dispute between the sages and Rabbi Yehuda regarding the damage of fire vis-à-vis payment for "hidden objects—טמון". Rabbi Yehuda is of the opinion that there is no exemption for hidden things, while the sages hold that payment for damage of fire only applies to things that were exposed. The example is where a haystack was burned, but utensils were hidden within it. The sages rule that no payment is due for burning the hidden utensils which were destroyed by the fire, while Rabbi Yehuda states that payment is due for burning the haystack as well as for the utensils that were hidden within it.

The Gemara reports that the sages agree with Rabbi Yehuda that full payment must be made in a case of a house which is burned together with its contents. The reason given is that "it is normal for people to store things in their houses." Some commentators want to explain that a house is built to contain things. Because this is the intention of how a house is used, the items found inside are not considered "hidden" within its walls. Piskei Ri"ד even says that these household items are defined as being מגולים—exposed. He explains that the only time we use the term "טמון—hidden" is in reference to a haystack, where anything buried in it is unexpected and surprising. The one who lit the fire does not anticipate that anything other than hay was in the pile, and this is the case where the Torah exempts him from paying, according to the sages. Tosafos Ri"ד also mentions that according to those who say that an item inside a glass container is not "buried" within it because it is visible through the glass, we can say that items in a house are defined as being exposed because anyone looking in through the windows would be able to see them.

The Gemara continues to report that the sages only exempt the one who lit the fire if the fire was started in his own property (that of the מזיק), and it spread to his neighbor's land. If, however, the fire was initially lit in the trespassed land, and it burned the neighbor's house and its contents, the sages agree with Rabbi Yehuda that the one who lights the fire must pay even for hidden things. Chazon Ish notes that this does not mean that everything in the house is otherwise considered "hidden", because we noted above that this is not the case. Rather, the Gemara means that the one who lit the fire would pay for all the contents of the house, as they are defined as being "exposed", and also for things that are actually hidden within the house. ■

HALACHAH Highlight

Purchasing items without the owner's knowledge

אלא למאן דאמר טמון באש וכו'

But according to the opinion which maintains that Dovid Hamelech was asking about liability for concealed items damaged by fire ...

Tosafos¹ explains that in the case in question there were piles of lentils available and the question was whether it was permitted to take barley and replace it with lentils. Rosh² disagrees and asserts that if the lentils were available it would certainly be permitted to exchange the barley for the lentils by transferring ownership of the lentils to the owner by a third party, even if the barley owner is not present. The rationale is that it can be assumed that the barley owner would prefer lentils to barley since it is more valuable. Yam Shel Shlomo³ argues with the rationale of Rosh based on the simple question, who is to say that the barley owner would not, for some reason, prefer barley to lentils? Since there is the possibility that the owner may prefer his barley, no one has the right to exchange his barley for lentils.

The Gemara Moed Katan (17a) recounts an incident in which Reish Lakish was guarding someone's field and when someone ate some figs from that field Reish Lakish banned him (נידה) but the other members of the Beis Hamidrash ruled that the action did not warrant banning. Nemukey Yosef⁴ questions why the members of the Beis Hamidrash did not think banishment was warranted; if people are banning for violating Rabbinic precepts certainly someone who violates the biblical prohibition against stealing should be banned. Ra'avad⁵ answers that Reish Lakish should have issued a warning to the fellow since it is possible that the person thought that the figs were available for purchase and he intended to pay for them after eating them. Ma-

REVIEW and Remember

1. Under what conditions could it be assumed that a fire will not cross a four amah wall?
2. What is the point of dispute between Rav and Shmuel concerning a river?
3. Under what conditions is it permitted to put an oven in a house?
4. According to Rava, what are the two points of dispute between R' Yehudah and Rabanan?

chaneh Ephraim⁶ writes that one can deduce from the comment of Ra'avad that one is permitted to take something that is available for purchase with the intention to pay for it even without consulting with the seller ahead of time. Moreover, continues Machaneh Ephraim, it is likely that Rosh agrees with this principle as well. Although Rosh required transferring the lentils to the barley owner before taking the barley, it is possible that such a requirement applies only when someone wishes to exchange one item for another but if the intention is to pay for the item with cash the money does not have to be transferred to the owner via a third party. ■

1. תוס' ד"ה ה"ג רא"ש פ"ו סי' י"ב
2. ים של שלמה פ"ו סי' כ"ז
3. נמוקי יוסף למועד קטן י"ז
4. נמוקי יוסף למועד קטן י"ז
5. דברי הראב"ד מובא בנמוקי יוסף הנ"ל
6. מחנה אפרים הל' גזילה סי' ה' ■

STORIES Off the Daf

Spiritual protection

"כל המוסר עצמו ממות על דברי תורה..."

On today's daf we find that Dovid Hamelech received from Shmuel that we do not say laws in the name of one who endangered his life to learn Torah.

Someone once asked the Chidushei HaRim, zt"l, the obvious question: "Why not?"

He answered, "The Gemara's statement is not derisive at all. On the contrary; we do not say laws in the person's name because if he endangered his life to receive the Torah, he is one with the Torah. He is

himself completely subsumed in the halachah and need not be mentioned at all."¹

A certain man had an opportunity to teach a shiur in a certain yeshiva. This was an unexpected opportunity, since one often needs a big mazal to find a good job. There are so many other qualified educators that it is easy to be one of those who are not noticed and who never receive a position. Despite knowing that the opportunity may not come again, he felt hesitant about taking the job. A certain very great person held that he had a better candidate for the job. The person in the quandary decided to consult with Rav Shach, zt"l who answered, "You need not worry. You are definitely the best qualified person for this job and you should take it. You need

not worry about what this great scholar said at all."

The man responded, "But I am worried about this scholar possibly resenting my taking this job. It is not a light matter to provoke the ire of the truly great, as we learn from countless anecdotes in the writings of Chazal."

"On that account you are correct," replied Rav Shach. "A great person like him can definitely cause real damage if he feels that you acted wrongly. So before each shiur you should say, 'I am prepared to sacrifice my life for the sake of the holy Torah...' That will be your protection!"² ■

1. מובא בשפתי צדיק פרשת במדבר
2. לולי תורתך במדבר י"ט: ד"ד