

OVERVIEW of the Daf

1) Declaring a hazard ownerless (cont.)

The Gemara resolves the challenge to the assumption that according to R' Elazar one is exempt from liability if he declares a hazard ownerless.

2) **MISHNAH:** The Mishnah continues to discuss liability for putting hazards into the public domain.

3) Pouring water into the public domain

Rav asserts that liability for pouring water into the public domain is limited to damage to the person's clothing but not for damage to the person himself.

R' Huna unsuccessfully challenges this ruling.

The Gemara explains why two Mishnayos (our Mishnah and the Mishnah on 28a) are needed to teach the same point.

A Baraisa is cited that echoes this same point.

4) A fence of thorns

R' Yochanan asserts that liability for a fence of thorns is limited to a case where the thorns protrude into the public domain. There is no liability if the thorns extend only to the property line since people do not rub up against walls.

A related Baraisa is cited.

R' Yochanan qualifies a ruling in this Baraisa.

Ravina infers a ruling regarding the liability of the **בור** owner when he uses another person's lid to cover his **בור**.

The novelty of this ruling is explained.

A related Baraisa is cited.

The Gemara relates how different Amoraim would dispose of dangerous materials.

R' Yehudah and Rava discuss what it takes to be righteous.

5) **MISHNAH:** The Mishnah discusses further examples of the liability for putting hazards into the public domain.

6) The author of the Mishnah

It is noted that the Mishnah is inconsistent with the opinion of R' Yehudah as cited in the Baraisa.

The Gemara explains how the Mishnah could be consistent with R' Yehudah.

The Gemara unsuccessfully challenges the assertion that R' Yehudah maintains the position that one could be liable for an act that is permitted.

Proof to this understanding of R' Yehudah is cited from a Baraisa.

Another reason the Mishnah is inconsistent with R' Yehudah is noted.

R' Nachman and R' Ashi resolve this challenge.

7) Taking the straw left in the public domain

Rav and Zeiri disagree whether one has the right to keep straw left in the public domain without reimbursing the owner, or is he required to reimburse the original owner for the cost of the straw before it increased in value after being in the street.

Each Amora explains the rationale behind his position.

Rav's position is unsuccessfully challenged.

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Distinctive INSIGHT

Placing thorns in a weak wall

לא שנו אלא בכותל רעוע

In its discussion regarding storing dangerous items in walls, the Gemara cites a Baraisa. A person placed his thorns or glass in someone else's wall. When the owner of the wall subsequently came and knocked the wall down, the wall fell into the public domain, and the thorns and glass were able to cause damage. The Baraisa rules that the one who placed these items in the wall is liable for any damage. Rabbi Yochanan explains that the Baraisa only rules this way in a case where the wall was weak and about to fall. Rashi explains that in this case, the person who placed the thorns in the wall should have anticipated that the wall was about to be demolished in the first place. However, if the wall was solid, the one who placed the dangerous items in it is exempt, and the owner of the wall is liable for not having covered the thorns or glass after causing them to be exposed in the street.

Tosafos (**ד"ה וחיוב**) points out that in the case of a weak wall, the owner of the wall should consider the possibility that the one who placed the thorns inside the wall did so when the wall was still strong. After all, the wall was not always weak. Therefore, the owner of the wall should be responsible to cover the thorns or glass no matter what. Why is he exempt if he demolishes a weak wall? Tosafos answers that it is still reasonable to require the owner of the thorns to pay, as it was he who placed the dangerous items in a weak wall. Chazon Ish explains that because this case features two negligent parties, where one (the owner of the thorns) was clearly negligent and the other (the owner who knocked down his wall) was only passively involved, the one who is actively negligent is the one who damaged, and the other is no more than a **רוח מצויה**.

Tosafos Ri'd explains that although the owner of the wall

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REVIEW and Remember

1. Why is it necessary for two Mishnayos to teach that one is liable for pouring water into the public domain?
2. What was one of the conditions upon which Yehoshua gave the land to the Jewish People?
3. What is the point of dispute between Rav and Zeiri?
4. What is the point of dispute between R' Meir and Chachamim?

HALACHAH Highlight

Fulfilling matters related to berachos

האי מאן דבעי למהוי חסידא לקיים ... מילי דברכות

One who wants to be pious should fulfill matters related to berachos

Elyya Rabba¹ notes that the implication of the Gemara is that one who is not careful regarding matters related to berachos may not be a chassid, but he is also not wicked. This, however, is difficult since the Gemara Berachos (35b) teaches that one who does not make berachos before eating is considered “a friend to a destructive man (Mishlei 28:24).” How then could the Gemara simply state that he is not a chassid? Elyya Rabba answers that our Gemara means that a person who desires to be a chassid will carefully study the halachos related to making the correct beracha and will not rely upon the rule that making a **שהכל** is sufficient. He goes on to cite Arizal who asserts that one who makes a **שהכל** to fulfill his obligation to make a beracha is categorized as one who is ignorant (**בורר**), whom Chazal cursed.

Aruch Hashulchan² suggests that a chassid is someone who goes beyond the letter of the law when it comes to berachos. In other words, the rule regarding an uncertainty in hilchos berachos is to be lenient (**ספק ברכות להקל**) and not make an additional beracha. A chassid is a person who will take steps to remove any doubt about making another beracha. For example, if a person is uncertain whether he made a **בורא נפשות** the principle **ספק ברכות להקל** tells him to be lenient and not repeat

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The Gemara makes an unsuccessful attempt to clarify a point related to Rav's position.

An unsuccessful attempt is made to prove that the dispute between Rav and Zeiri is a dispute between Tannaim.

When the Gemara makes a second attempt to demonstrate that the dispute between Rav and Zeiri is a dispute between Tannaim, the Gemara notes that Zeiri will have to say that there is a dispute amongst Tannaim about the matter, but Rav could explain that all opinions follow his opinion.

Support for this interpretation is presented from a ruling R' Huna cited in the name of Rav.

The Gemara challenges whether this is R' Huna's position. ■

the beracha out of doubt. The chassid will eat or drink something to generate an obligation to recite a **בורא נפשות** so that he will not remain in a state of doubt. Similarly, if a person is going to eat a food and he is uncertain whether he should make a **העץ** or a **האדמה** the chassid will eat two different foods, one that certainly requires a **העץ** and another that requires a **האדמה** before partaking of the doubtful food. One more example is a person who is uncertain whether he ate a kezayis and is obligated to recite a beracha acharonah or not. A pious person will make sure to avoid this circumstance of doubt and will eat an amount that certainly requires one to make a beracha acharonah. ■

1. אליה רבה סי' ר"ב

2. ערוה"ש או"ח סי' ר"ב סע' ב' ■

STORIES Off the Daf

Matters of damages

לקיים מילי דנזיקין

During the month of Av 5695, the Satmar Rav was staying at the baths in the city of **לאהשעוויץ** near Nitra. The famous Rav Shmuel Dovid Ungar, the Rav of Nitra and one of the biggest marbitzei Torah in that district of Hungary, came to spend Shabbos Nachamu with the Satmar Rav.

Friday night the Rav of Nitra joined the Satmar Rav's tisch. Although on Shabbos morning the Nitra Rav davened shachris elsewhere, he came to join the Satmar Rav's minyan for mussaf. After davening, the Satmar Rav invited the Rav of Nitra to join in a kiddush with his chassidim.

The Satmar Rav ate a little and the chassidim began to reach for his shiyarim.

Everyone was mortified when some of the food spilled on the Shabbos garments of the Nitra Rav.

The Satmar Rav immediately rebuked his followers. “It says in Bava Kama 30, ‘He who wishes to be a chassid will fulfill **מילי דנזיקין**. Unfortunately, this can be understood to mean, ‘One who wishes to become a chassid often becomes a **מזיק**—a menace!’ This is like these chassidim who pushed so much for shiyarim that they actually dirtied the garments of the Rav of Nitra...”

Rav Uri the Saraf of Strelisk, זת”ל, learned this Gemara differently, however. “The word for ‘fulfills – **לקיים**,’ means to uphold something. Understood this way, ‘**קיים מילי דנזיקין**’ means that one who wishes to become a chassid must uphold and keep damaging milin, words, to himself. It matters not whether these words damage another or lower one's own spiritual level, or both. One who refrains from

slander, insults, falsehood, cursing, swearing, and the like, is truly on the true path of chassidus.”¹ ■

1. מושיען של ישראל חלק ו' עמוד שי"ד

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was also negligent in not checking to see if anything dangerous was in the wall and in not covering up the thorns or glass after they became exposed, nevertheless, the one who placed these objects in the wall caused the problem in the first place, and without him there would have been nothing for the owner of the wall to guard against.

נחלת דוד adds that if the thorns were placed in the wall when the structure was strong, he is absolved from any later unanticipated damage. Even if the dangerous items remained there a long time until the wall weakened, the one who demolished the wall would be responsible for any subsequent damage. ■