

## OVERVIEW of the Daf

### 1) Caring for a captive's property (cont.)

Abaye challenges R' Chisda's ruling and the issue eventually made its way to R' Ami who ruled against R' Chisda.

R' Chisda refuted R' Ami's rejection and when R' Ami heard about R' Chisda's response he withdrew his objection.

2) **MISHNAH:** The Mishnah teaches that one who deposits produce by a custodian must expect a certain percentage of loss of that produce. The rates of spoilage for different types of produce are presented. Two dissenting opinions are presented.

### 3) Clarifying the Mishnah

Rabbah bar bar Chana in the name of R' Yochanan explains the rate of spoilage for millet.

R' Yochanan in the name of R' Chiya explains the circumstances of the rate of spoilage for flaxseed.

A Baraisa supports this explanation.

A Baraisa explains the intent of the phrase that establishes the rule for the rate of spoilage for other produce.

A Baraisa records Tanna Kamma's response to R' Yochanan ben Nuri.

Another Baraisa teaches that the ruling of the Mishnah applies when the custodian mixed the deposited produce with his own but if he kept it segregated he returns it as is.

The qualification of the Baraisa is further explained.

Rabbah bar bar Chana in the name of R' Yochanan suggests that the definition of a large quantity mentioned by R' Yehudah is ten kors. A Baraisa supports this definition.

Someone recited a Baraisa in the presence of R' Nachman to clarify R' Yehudah's opinion.

R' Nachman suggests an alternative explanation of the Baraisa.

This explanation is unsuccessfully challenged.

4) **MISHNAH:** The Mishnah discusses the expected percentage of loss for wine and oil. R' Yehudah applies these principles to one who commits to provide his friend with oil for an extended period of time.

### 5) Loss of wine

The Gemara teaches that Tanna Kamma and R' Yehudah do not disagree; rather each one is expressing the reality of his location.

A second circumstance that could lead to the different percentages of loss is presented. A related incident is recorded.

The Gemara unsuccessfully challenges whether R' Yehudah was permitted to turn such a significant profit.

### 6) Loss of oil

Two explanations are presented to clarify why old jugs do not absorb oil.

Abaye explains that the point of dispute between R' Yehudah and Chachamim relates to the issue of whether the seller is permitted to mix sediment back to the tip of the barrel.

Abaye further elaborates on the opinion of R' Yehudah.

This explanation is unsuccessfully challenged.

Abaye further elaborates on the opinion of Rabanan.

R' Pappa asserts that R' Yehudah and Chachamim follow the

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## Distinctive INSIGHT

### Barrels lined with tar

במזופין שנו

The Mishnah taught that a certain percentage of wine in a barrel becomes absorbed in the walls of the container. The Tanna Kamma reports that one-sixth of the wine is absorbed, while R' Yehuda holds that one fifth is absorbed. The Gemara explains that there is no disagreement between these opinions, but the discrepancy between them is based upon the material used in each one's country to line the barrels. Where the barrels are lined with wax, they absorb less (one-sixth). Where the barrels are lined with tar, more wine is absorbed (one-fifth). Clearly, tar absorbs more wine than does wax.

The Mishnah also taught that if clear oil is given as a deposit, when the owner later comes to retrieve his oil no allowance is given for any settling. The Gemara asks that although no sediment was present and no sediment settled out, there should, however, be an allowance for oil absorbed in the walls of the container. The Gemara answers that the Mishnah is dealing with a case where the barrels were tar-lined, which does not absorb. Tosafos immediately notes that the Gemara here claims that tar does not absorb oil, while we said earlier that tar absorbs more than does wax. Tosafos answers that new tar-lined barrels absorb more than do new wax-lined barrels. Regarding clear oil, we are dealing with old tar-lined barrels. Tosafos also suggests that there is a difference between wine, which is absorbed even by old tar-lined barrels, and oil, which is not absorbed by old barrels.

Maharsha questions the premise of Tosafos. The initial understanding of the Mishnah was that for oil "no absorption should be calculated for old containers," which the Gemara understood to refer to unlined barrels. When the Gemara pointed out that it is impossible that there be no absorption at all, the Gemara explained that a barrel itself does absorb, but a lined barrel does not absorb anything. This suggests that a barrel itself does absorb, even when it is old, but a tar-lined barrel does not. This contrast does not conflict with our earlier clarification that tar-lined barrels absorb more than wax-lined barrels, as here the comparison is between the barrels themselves (earthenware) and tar-lined barrels. What, therefore, asks Maharsha, is Tosafos' question from the earlier Gemara?

Maharam Shif explains that the Gemara knew that all barrels were lined, either with tar or with wax. Earlier, we established that tar absorbs more than wax, yet here we see that tar does not absorb, as opposed to the other type of barrel (wax-lined), which does absorb. This, then, is the inconsistency which Tosafos notes. ■

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# HALACHAH Highlight

## The significance of the purchase price

הדמים מודיעין

The purchase price informs [us of what was included in the sale]

**R**' Yehudah establishes an important principle that provides the foundation for answering a number of questions. R' Yehudah teaches that when there is a difference of opinion between a customer and a store owner we can look at the purchase price to resolve their disagreement.

Teshuvos Keren L'Dovid<sup>1</sup> addressed an interesting question related to a town that would sell the aliyos for the upcoming year at the beginning of the year. One person purchased maftir for the entire year and a second person purchased the fourth aliyah for Rosh Chodesh for the entire year. When Rosh Chodesh coincides with Shabbos we read the fourth Rosh Chodesh aliyah as maftir and a disagreement arose who should receive that aliyah. The one who purchased maftir for the year claimed the aliyah is his since this is also a maftir aliyah. The other person argued that he should receive the aliyah since they are reading the contents of the fourth aliyah for Rosh Chodesh and he acquired the rights to that aliyah. Keren L'Dovid ruled in favor of the one who purchased maftir for the entire year. His rationale was that this aliyah is called maftir and is not called the fourth aliyah of Rosh Chodesh. Additionally, since the cost of maftir far exceeds the cost of the fourth Rosh Chodesh aliyah it is logical that when there is a doubt the uncertainty should be re-

# REVIEW and Remember

1. What is the dispute related to the custodian keeping some of the produce?

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2. What is the rate of deduction for wine?

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3. According to Abaye, what is the point of dispute between R' Yehudah and Chachamim?

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4. Explain: זבון וזבין תגרא איקר.

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solved based on an analysis of the purchase price.

Another question that is resolved based on this principle is the question of using soap that colors water on Shabbos. Rav Shlomo Zalman Auerbach<sup>2</sup> ruled against the use of this water on Shabbos and based his ruling on R' Yehudah's principle. Soap that colors the water is more expensive than soap that does not color water. The fact that people are willing to spend more money on soap that colors the water indicates that this is considered an important feature of the soap rather than something inconsequential. As such, it is prohibited to use this soap on Shabbos. ■

1. שו"ת קרן לדוד או"ח סי' כ"ח.
2. שו"ת מנחת שלמה ח"ב סי' י"ד. ■

# STORIES Off the Daf

## Damaged goods

"המפקיד פיורת אצל חבירו..."

**A** certain man made a large purchase from a fairly large grocery store. The policy of this store was to deliver within twenty-four hours of purchase. The staff of the grocery put the merchandise away to be delivered the next morning, but unfortunately, some mice devoured a portion of this man's purchase. When the delivery boys saw this they decided to send it anyway. "I am very sorry for the man who bought this merchandise, but that is a risk he takes when he leaves his things to be delivered from the store."

When the purchaser found that some of his property had been damaged he was furious and he immediately protested to the owner of the store. The owner was a good-natured fellow and readily agreed to replace all the damaged items, especially since it wasn't very much. But he wondered if he was

really obligated to pay for this out of his own pocket. Could he be held responsible if a mouse entered his store and ate a customer's property?

When Rav Yitzchak Zilberstein, shlit"א, was consulted regarding this question he explained that there were actually several major factors involved in determining the halachic obligation of the grocer. "First of all, if the custom of the land is to replace damaged articles even when the damage was not the grocer's fault, the proprietor must surely follow the local custom. Another important factor is if the proprietor knows he has a problem with mice but didn't bother to make any effort to eliminate this problem. In such a case the grocer is surely responsible.

The grocer pressed, "But what if he did what he could against the mice, or he had never had a problem before?"

"We find in Bava Metzia 40 that if one gave fruit to his friend for safekeeping and the friend mixed this fruit with his own fruit, the custodian may subtract what it is usual for mice to eat. We see clearly that any

kind of custodian is not responsible for what is eaten by mice. So if the proprietor was not negligent regarding the mice and there is no minhag medinah, he need not pay for what the mice ate."<sup>1</sup> ■

1. עלינו לשבח, ח"א, ע' תקפ"ט

(Overview...continued from page 1)

opposite positions.

A Baraisa teaches that a buyer and a depositor share the same halacha regarding residue that comes from olive seeds.

This is interpreted to mean that just as a depositor accepts the residue that comes from olive seeds, so too a purchaser accepts the olive seed residue.

This explanation is unsuccessfully challenged.

7) **MISHNAH:** The Mishnah discusses the liability of a custodian for breaking a barrel deposited by him in different scenarios.

8) **Identifying the author of the Mishnah**

The Gemara initially assumes that the Mishnah reflects the opinion of R' Yishmael who maintains that knowledge of the owner is not necessary for an item to be properly returned.

A Baraisa that records R' Yishmael's opinion is presented. ■