



OVERVIEW of the Daf

1) Exceptions to the zomemim punishment (cont.)

The Gemara clarifies that R' Nachman is not presenting a different position from Rabbah.

2) Zomeim witness pays his share

R' Yehudah in the name of Rav rules that a zomeim witness pays his share.

The Gemara suggests and rejects different clarifications of this ruling until it identifies one that is acceptable.

3) MISHNAH: The Mishnah discusses how to calculate the amount zomemim witnesses must pay if they falsely tried to make a husband have to pay his kesubah.

4) Clarifying the Mishnah

The Gemara records three explanations of how to calculate the value of a kesubah.

5) MISHNAH: The Mishnah discusses how much zomemim witnesses must pay if they falsely testified that a loan was due earlier than it is actually due.

6) Ten year loan

R' Yehudah in the name of Shmuel asserts that a loan for ten years is cancelled by shemittah.

R' Kahana unsuccessfully challenges this ruling.

According to a second version R' Yehudah in the name of Shmuel ruled that a ten-year loan is not cancelled by shemittah.

R' Kahana suggests support for this ruling but it is rejected by Rava.

7) Stipulating that shemittah should not cancel a loan

R' Yehudah in the name of Shmuel rules that even if one stipulates that shemittah will not cancel his loan shemittah will cancel the loan.

This seemingly indicates that a stipulation against the Torah is invalid.

A second ruling of Shmuel indicates that a stipulation against the Torah is binding.

Shmuel's position in both rulings is clarified.

8) A loan for an unspecified amount of time

(Continued on page 2)

Distinctive INSIGHT

A ten-year loan and Shemitta

איכא דאמרי אמר רבי יהודה אמר שמואל המלוה את חברו לעשר שנים אין שביעית משמטתו

The Mishnah taught about two witnesses who conspire to say that a particular loan is due in thirty days, while the borrower insists that payment is not due for ten years. If the witnesses become **זוממין**, their punishment is that they must compensate the borrower the difference in value of a loan to be paid in thirty days as opposed to needing to be paid in ten years. The Mishnah recognizes that during any ten-year span, the Shemitta will occur, during which all personal loans are cancelled. Accordingly, a loan to be paid in thirty days is payable, which is what the witnesses are claiming, while a loan due in ten years is not payable, which is what the borrower himself claims. Whereas the difference between the witnesses and the defendant seems to be whether the loan will be paid or not, nevertheless, the witnesses are only liable for paying the difference in time-value of the loan from thirty days until ten years, and not for its full loss. Why is this?

According to the first approach (**לישנא קמא**) in the Gemara, the loan in our Mishnah is not cancelled by Shemitta because we are speaking about a case where collateral was taken, or where the lender submitted his loan to the court to enforce. Under these circumstances, a loan is not cancelled by Shemitta. According to the second expression in the Gemara (**איכא דאמרי**), loans are only cancelled by Shemitta if they are otherwise enforceable during Shemitta. A ten-year loan is not collectable until its term, so when Shemitta comes the lender may not enforce its collection. Therefore, the loan in our Mishnah is not cancelled by Shemitta.

Tosafos and Rambam (Hilchos Eidus 21:2) rule according to the second approach of the Gemara. After quoting the Mishnah, Ri"ף does not cite the discussion of our Gemara at all. Ritva asks why Ri"ף does not cite the Gemara and then rule according to the **איכא דאמרי**. It is also noteworthy that when Rambam rules according to the second approach (ibid.), he quotes the law of the Mishnah with a slight variance, as he writes that the case is where the loan was for "five years," rather than ten.

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REVIEW and Remember

1. What makes witnesses into zomemim?

2. How does the Gemara explain the sequence from Sanhedrin to Makkos?

3. What is the hint in the Torah that zomemim witnesses receive lashes when they cannot receive their reciprocal punishment?

4. What are the four exceptions to the reciprocal punishment penalty for zomemim witnesses?

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HALACHAH Highlight

Stipulating that a loan could be collected after shemittah

על מנת שלא תשמטני בשביעית אין שביעית משמטתו

On condition that you do not cancel the loan during shemittah, shemittah will not cancel the loan

Shulchan Aruch¹ rules that if one lent money and stipulated that Shemittah will not cancel the loan, Shemittah cancels the loan. If the borrower stipulated that he will not cancel this loan even though Shemittah will transpire, his condition is valid. The reason is that the borrower obligated himself something that the Torah does not obligate him to do and it is not considered as though he made a stipulation against the Torah. Pischei Teshuvah² in the name of Sefer Tevu'os Shor raises an interesting point. Hillel the Elder enacted a prozbol in order to allow lenders to collect their loans even though Shemittah passed during the time span of the loan. Why was such an enactment necessary when the same outcome could have been achieved without a prozbol? If a stipulation would be made as outlined by Shulchan Aruch there is no reason to institute a prozbol.

Sefer Tevu'os Shor answers that if all parties agreed to this stipulation there would indeed be no reason for Hillel the elder to enact a prozbol. It is necessary, however, in the following case. Reuven asks to borrow money and Shimon stipulates that he will not lend Reuven the money unless Reuven agrees to stipulate that he will pay the loan even though Shemittah will pass. If Reuven rejects this stipulation and as a result Shimon refuses to lend the money out of concern that he will not be able to collect his money, he would be in violation of the prohibition against refusing to lend money out of concern that the loan will be cancelled by Shemittah. The enactment of the prozbol takes the decision out of the hands of the borrower and the lender is in control without having to worry that he will not collect his money. Pischei Teshuvah also cites Chasam Sofer who offers his own resolution and then questions why both authorities did not bother to cite the comment of Ritva mentioned in Bedek Habayis. Bedek Habayis suggests a number of resolutions, one is that without a universal enactment there is concern that the parties involved will forget to make the necessary stipulation and find themselves stuck when it is

(Overview...continued from page 1)

A Beraisa teaches that the minimum duration of a loan with an unspecified due date is thirty days.

It is suggested that this ruling is limited to documented loans.

This suggestion is rejected and a Beraisa is cited that states explicitly that it applies for all types of loans.

R' Masna identified for Shmuel the source of the ruling that the minimum duration of an unspecified loan is thirty days.

9) Making a neck opening

R' Yehudah in the name of Rav rules that one who makes a neck opening in a garment is liable to bring a Korban Chatas.

R' Kahana unsuccessfully challenges this ruling.

10) Mikveh waters

R' Yehudah in the name of Rav taught that three lug of water that has some wine fall in and the mixture appears like wine does not disqualify the mikveh.

Two challenges to this ruling are recorded. ■

(Insight...continued from page 1)

Aruch LaNer explains that the problem with the first expression of the Gemara is that it requires that we explain that the Mishnah is only dealing with a case where collateral was taken, or where the lender submitted his documents to the court. This is not indicated in the Mishnah itself. It is therefore better to read the Mishnah and explain that it is simply discussing all loans, and that Shemitta does not affect ten-year loans. This is why Ri"ף cited the Mishnah, and did not feel it necessary to explain the Mishnah any further than its simple reading. In Hilchos Shemitta (9:9), Rambam already ruled that Shemitta does not cancel a ten-year loan, so he did not wish to illustrate our Mishnah to highlight this halacha once again. ■

time to repay the loan. A second resolution is that Chazal were looking for a way to remind people of shemittah even when the laws of shemittah are not practiced. By enacting a prozbol people are reminded that it is a shemittah year. ■

1. שריע חר"מ סי' ס"ז סעי' ט'. ■

2. פתי"ש שם סק"ב. ■

STORIES Off the Daf

Mutual responsibility

"המלוה את חברו סתם..."

Today's daf discusses the halachos of collecting a loan.

The Alter of Novardhok, zt"l, would say, "How pleasant things would be if lenders would never pressure those who owe them money to pay, and if borrowers would be careful to pay on time! Everyone would live in harmony and peace since each would do his part. The problem is that borrowers scream, לא תהיה לו כנושה — you shall not

be to him as a creditor!' while the lenders cry out, פריעת בעל חוב מצוה — repaying one's creditor is a mitzvah!' Everyone knows Torah but can focus only on what others owe him, never on what is incumbent upon him. If people were careful to do their part the world would be a very pleasant place to live."¹

One harsh winter night, Rav Elchonon Wasserman, zt"l, returned from the yeshiva and declared to his wife that he finally had the money to pay their debt to the local butcher and that he planned to go over there immediately to pay it in full. Since it was very far to the butcher's residence and it was pouring freezing rain, his wife tried to con-

vince him to wait until the next morning. It was not as though there was any chance that she would forget about the debt, and she herself would be happy to take the money over the next morning to prevent him from going out into the harsh weather.

When she saw that the rav would not be deterred from his stated purpose she insisted that she go instead of him. Accompanied by one of their daughters, she ventured out into the rain and paid the debt. When she returned home, Rav Elchonon rejoiced that he had not delayed repaying money owed to another for even one extra night!² ■

1. שימוש חכמים, עי רנ"ז

2. אור אלחנן ■