

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah presents different vows and their meanings.

2) Clarifying the Mishnah

The Gemara explains that the term **שובתי שבת** refers to those who are commanded to observe Shabbos.

Accordingly, the Gemara inquires why the same definition is not used for the vow to refrain from benefiting from **עולי ירושלים**.

Abaye revises the meaning of the Mishnah to accommodate all its rulings.

3) **MISHNAH:** The Mishnah presents the halacha of one who vows against deriving benefit from a **בן נח**

4) Explaining the Mishnah

The Gemara explains why Jews are not categorized as **בני נח**.

5) **MISHNAH:** The Mishnah presents the halacha of one who vows against deriving benefit from **זרע אברהם**.

6) Explaining the Mishnah

The Gemara explains how we know that descendants of Yishmael and Esav are excluded from this vow.

7) **MISHNAH:** The Mishnah presents the halachos of one who makes a vow regarding his ability to benefit from and provide benefit to other Jews.

8) The benefit from a sale

Shmuel rules that if one takes a utensil from a craftsman for inspection and it became damaged the customer is obligated to pay. This indicates that Shmuel maintains that a sale is a benefit for the buyer.

Shmuel's position is unsuccessfully challenged.

A Baraisa is cited that supports Shmuel's position.

A related incident is recorded.

Rava unsuccessfully challenges R' Nachman's ruling in that incident.

9) **MISHNAH:** The Mishnah begins with a presentation of different halachos related to different vows and concludes different statements concerning the great mitzvah of bris milah.

10) The bris of Moshe Rabbeinu's son

A Baraisa is cited that presents a dispute whether Moshe Rabbeinu was negligent by not doing a bris milah for his son.

Distinctive INSIGHT

Inspecting an item with intent to buy it

אמר שמואל הלוקח כלי מן האומן לבקרו ונאנס בידו חייב

Shmuel rules in a case of a person who takes an object from a craftsman to inspect it, with the intent to buy it. If the prospective buyer mishandles the item and it breaks, even through an accident (**אונס**), the customer is liable to pay for the value of the item. ר"ן explains that the reason for this is that the seller had already agreed to sell it, and the price of the item had already been fixed. The sale will officially become final at the moment the buyer decides to acquire the object, so that the inspection process itself is only an advantage for the buyer. This gives the buyer the position of a borrower (**שואל**) who must pay even for **אונסין**.

The words of ר"ן indicate that we need two factors before the prospective buyer is liable. The object must be one which will readily sell (**זביןא חריפא**), and the price must have been set. This accords with the ruling of Rambam (Hilchos Mechira 4:14).

Rashi (Bava Metzia 81a, **ד"ה ונאנסו בהליכה**) explains that the customer is liable because it is considered as if it is already his, and he is therefore responsible for it just as he must take responsibility for any object he owns. The difference between the explanations of ר"ן and Rashi is whether the seller can consecrate the object while the buyer is still inspecting it (see Tosafos, Bava Basra 88a, and Kehilas Yaakov #24). According to ר"ן, the object is clearly still in the possession of the seller, and the buyer is just a **שואל**. However, according to Rashi, the buyer is already viewed as the owner (**לוקח**), and the seller would no longer be allowed to consecrate the object once it is offered for sale under these conditions.

יד רמה (Bava Basra, *ibid.*) suggests another difference between the opinion of ר"ן and that of Rashi. The halacha is that a **שומר** is exempt from liability if the owner of the object is in his employ. Therefore, if the seller is an employee of the buyer, and the object breaks, the buyer is exempt as long as he is officially considered as a **שומר**. This is indeed the case according to ר"ן, but not according to Rashi.

נתיבות המשפט writes still another difference that evolves from this dispute, if the prospective buyer states explicitly that he does not intend to become the owner of the object, even as he inspects it, until he decides that the object meets his standards. In this case he would not yet be a **לוקח**, and he would not be liable according to Rashi, but he would be liable according to ר"ן, as he is immediately a **שואל**. ■

HALACHAH Highlight

Using the names Adam and Noach

קונם שאיני נהנה לבני נח

One who declares, "Konam that I should not benefit from the descendants of Noach"

Teshuvos Mabit¹ writes that one should not give his son the name of someone who lived before Avrohom Avinu, such as Adam or Noach. He bases this position on our Gemara that rules that one who takes a vow prohibiting benefit from the descendants of Noach (מבני נח) is permitted to derive benefit from Jews. This indicates that those who lived before Avrohom Avinu had the status of non-Jews. Even the use of the names Shem and Eiver should not be used because one should use the names of people who kept the entire Torah. Teshuvos Teshuva Ma'Ahavah² disagrees with the conclusion of Mabit and cites a number of instances where we find people with names that were given to people who lived before the time of Avrohom Avinu. Thus we find a Tanna named ר' בנימין בן יפת and another named עקיבא בן מהלאל. Additionally, Reuven named his son Chanoch even though that was a name from before the time of Avrohom Avinu.

Gaon Chida³ was also asked to comment about the practice to give a child a name from those names that are found before Avrohom Avinu. Chida cites Mabit as the source for this halacha and takes note that Mabit seems to have formulated this position on his own, as evidenced by the fact that he did not cite any earlier sources that indicate that this is a concern. That being the case, Chida writes that it is difficult to accept this concern with-

REVIEW and Remember

1. Name one common Jewish practice that the כותים do not observe?

2. Is one permitted to do business with someone from whom one may not derive benefit?

3. Who is included in a vow against ערלים?

4. What mitzvah was the cause for creation?

out relying on some reference to the concept in Chazal or the writings of earlier Poskim. Furthermore, common custom is the opposite of Mabit's ruling since we find people with the names Adam, Noach, Yefes, etc. In Sefer Shem Gedolim⁴ Chida repeats that he finds it difficult to accept a ruling that Mabit seems to have formulated on his own. He then adds that if Mabit would have simply presented the idea as good advice, without claiming that it is some sort of decree, there would be no need to comment in protest, but since he wrote so critically of those people who have those names it is necessary to respond that halacha does not follow his opinion. ■

1. שו"ת המבי"ט ח"א סי' רע"ו ומובא דבריו בפת"ש יו"ד סי' רס"ה סק"ו
2. שו"ת תשובה מאהבה ח"א סי' ל"ה
3. שו"ת יוסף אומץ סי' י"א
4. שם הגדולים חלק הגדולים מערכת א' אות צ"ד ■

STORIES Off the Daf

"Talmud Torah outweighs them all"

גדולה מילה

On today's daf we learn of the great significance of the mitzvah of milah. Of course, it isn't always appropriate to participate in the seudas mitzvah at the expense of the fulfillment of other, more pressing, obligations.

Once, some yeshiva bochurim asked the Chazon Ish, ז"ל, if they should attend a bris if invited by the baal simchah. The Gadol responded, "A yeshiva bochur has only two mitzvos to focus on. The first is learning Torah. The second is taking care never to speak lashon hara!"

When Rav Bergman, shlit"a, was a young man, he was very close to the Cha-

zon Ish, ז"ל. He even often slept in the gadol's home. The young Rav Bergman was also very close to Rav Yerucham Karlenstein, ז"ל. The latter took care of his laundry and nursed him when he was sick.

After a time, Rav Bergman moved to the yeshiva in Petach Tikvah. Not surprisingly, when the Karlensteins had a boy, he received a special message informing him of the time and place of the bris. Rav Bergman felt a great deal of gratitude to the Karlensteins. To demonstrate his feelings, he got up early the day of the bris, davened, and got on a bus to Pardes Katz. From there he walked to the place of the bris and arrived on time.

The Chazon Ish was also wont to be on time for semachos. When the young bochur noticed the gadol, he went to greet him. The Chazon Ish returned his greeting and said pointedly, "What are you doing

here?"

The bochur didn't understand. He replied, "I came for the bris."

The gadol again asked, "What are you doing here?"

The bochur explained that he was very close to the family and since they sent someone to notify him of the bris, he felt an obligation to be there.

The Chazon Ish once again repeated his question and the young man felt flummoxed.

They brought the baby in and said "Boruch Habah." The Chazon Ish repeated, "What are you doing here?" Only then did the bochur understand.

He stammered, "Should I go back to yeshiva?"

The Chazon Ish affirmed this and shook hands with him to send him on his way. He didn't even stay for the bris! ■

