

OVERVIEW of the Daf

1) Rejecting a witness (cont.)

The explanation of the dispute between R' Meir and Rabanan in the Mishnah by Ravin in the name of R' Yochanan is unsuccessfully challenged.

2) Scholars respecting one another

The Gemara observes that Reish Lakish spoke deferentially about R' Meir when he himself was so brilliant.

Ravina notes that R' Meir was an even greater scholar and offers a different way to understand his original statement.

Another incident in which scholars showed respect for one another is cited.

R' Oshaya contrasts the way scholars in Eretz Yisroel treated one another with the way scholars in Bavel treated one another.

Another contrast between the scholars in Eretz Yisroel and Bavel is presented.

The Gemara discusses whether arrogance fell into the world primarily in Bavel.

The discussion ends with a comment about the style of learning employed in Bavel.

3) MISHNAH: The Mishnah presents two disputes between R' Meir and Chachamim, one related to retracting an acceptance of unqualified judges and the second to rescind an agreement to accept a self-imposed oath.

4) Accepting an unqualified judge

R' Dimi the son of R' Nachman the son of R' Yosef explains that the Mishnah refers to where one accepted his father as one of the three judges.

R' Yehudah in the name of Shmuel maintains that the dispute relates to where the plaintiff agreed to accept the unqualified judge.

R' Yochanan asserts that the dispute applies when the defendant accepts the unqualified witness.

The Gemara questions whether R' Yochanan disagrees on two points or one.

An unsuccessful attempt to resolve this question from a statement of Rava is presented and the issue remains unresolved.

(Continued on page 2)

REVIEW and Remember

1. How do we know that R' Meir was greater than Reish Lakish in learning?

2. What does poverty in Torah knowledge indicate?

3. At what point does one have the right to retract his acceptance of disqualified judges?

4. Why are dice-players disqualified from testifying in Beis Din?

Distinctive INSIGHT

The categories of those who are disqualified from testimony

ואלה הן הפסולים המשחק בקוביא וכו'

Toras Chaim explains that the theme of this Mishnah is a listing of those who are disqualified from being a judge or a witness. This Mishnah follows the reference made earlier (23a) that each of the litigants in a case may bar the judge or witness brought by his contender, but only as long as the objection is that the judge or witness is either a relative or is unfit due to his being disqualified. Our Mishnah now defines what causes a person to not be eligible to be a judge or witness in a Jewish court. The next Mishnah (27b) defines those who are relatives.

The first category in the list is **משחק בקוביא**, which is translated as "one who plays with dice." Rashi explains that this is a form of theft, thus warranting the ban against his testifying or judging. Rambam (Hilchos G'zeilos 6:10) writes that this category is where the players wager using pieces of wood, stone or bones, and they make a deal between themselves that whoever wins the game will collect a certain sum of money from the other.

Tosafos (ד"ה ואלו הן) explains that the particular list of disqualifications in this Mishnah are those who are not disqualified from the Torah, but only rabbinically. He then notes the issue involved in each case. Regarding those who play with dice, this Mishnah follows the opinion which holds **אסמכתא קניא**—when a person promises his payment of money contingent upon a condition he expects will not occur. This opinion holds that if he ends up having to pay, he does so willingly. The only reason this person is not allowed to testify is rabbinic, and it is that he is not involved in a constructive pursuit of contributing toward the betterment of society (אינו עוסק) (בישבו של עולם). According to the opinion which holds **אסמכתא לא קניא**—money promised based upon a condition that is unexpected is not freely given—the reason this case is only a rabbinic issue is that either the person does not consider his actions to be criminal, or that the owner is paying his money "willingly" and not by force.

The case of **מפריחי יונים** is either wagering upon bird races, which is the same issue as betting with dice, or it is where someone attracts privately-owned birds to fly to his yard. The issue of theft regarding these flying birds is only prohibited due to **דרכי שלום**, as a manner of mutual cooperation among community members, so this person's violation of this code is only a rabbinic issue.

Lending with interest involves a case where the interest is only rabbinic, or that taking interest is done with the consent of the giver, which is not a Torah-level case of theft.

Those who deal with the fruits of the Shemitta year can be referring to those who buy and sell products of the Shemitta when its observance is only rabbinic. ■

HALACHAH Highlight

Determining who is one's primary teacher

מאי בבל א"ר יוחנן בלולה במקרא בלולה במשנה בלולה בתלמוד

What is the meaning of the term Bavel? R' Yochanan explained it is mixed with Scripture, it is mixed with Mishnah and it is mixed with Talmud

Tosafos¹ writes, based on R' Yochanan's comment, that a person fulfills his obligation to study Scripture and Mishnah by studying Talmud Bavli. This principle is codified in Rema² but Aruch Hashulchan³ adds that one is nevertheless obligated to know Scripture and Mishnah. Kaf Hachaim⁴ writes that Rema's ruling applied in times when people studied large quantities of Talmud on a daily basis. When that was the case it was inevitable that a person would study some Scripture and Mishnah in the course of his daily studies. Nowadays, when we do not study such large quantities of Talmud on a daily basis it is necessary for a person to study Scripture and Mishnah in addition to his regular study of Talmud.

Teshuvos Haradvaz⁵ deduced another halacha from R' Yochanan's comment. Reuven was a student of Rabbi A as a child and then Rabbi B when he grew older. Rabbi A taught Reuven Scripture and Rabbi B taught him Talmud. When Reuven was about to receive semicha to serve as a dayan, Rabbi A protested and issued a decree that Reuven could not be appointed as a dayan. Reuven turned to Radvaz to determine whether he is obligated to follow the decree of his teacher. Radvaz wrote that it is illogical to assume that a person would have more than one primary teacher (רבו מובהק). Consequently, the only question is which of these two teachers is considered to be his primary teacher. His answer to this was that we follow R' Yehudah's opinion in Bava Metzia (33a) that one's primary teacher is the one who taught him most of his wisdom. Therefore, if one has a teacher who taught him Talmud he would qualify as his primary teacher since our Gemara relates that

(Overview...continued from page 1)

R' Acha bar Tachlifa unsuccessfully challenges Rava's explanation of the Mishnah.

Reish Lakish asserts that the dispute concerns a retraction before the final verdict whereas R' Yochanan states that the dispute is after the verdict.

The Gemara inquires whether R' Yochanan disagrees on one point or two.

It is proven that R' Yochanan meant to say that the dispute is limited to whether the litigant can retract after the verdict was given.

R' Nachman bar Yaakov, in response to an inquiry of R' Nachman bar R' Chisda, ruled in accordance with the position of Chachamim.

A second version of this conversation is presented.

5) **MISHNAH:** The Mishnah enumerates different people who are unqualified to serve as judges or witnesses.

6) **Dice-players**

Rami bar Chama and R' Sheishes give different reasons why dice-players are disqualified to serve as judges or witnesses.

The practical difference between their explanations is explained.

A challenge to Rami bar Chama's position is presented.

The Gemara begins an attempt to defend Rami bar Chama's position. ■

Talmud Bavli contains Scripture, Mishnah and Talmud. As such, Rabbi A did not have the authority to issue a decree that Reuven could not be appointed a dayan and Reuven is under no obligation to honor that decree. ■

1. תוסי עיני י"ט: ד"ה ישלש.

2. רמ"א נ"ד סי' רמ"ו סעי' ד'.

3. ערוה"ש שם סעי' י"ד.

4. כף החיים או"ח סי' ג' סק"ד.

5. שו"ת הרדב"ז ח"ו סי' שני אלפים ק"נ. ■

STORIES Off the Daf

Pleasantness and striking

"שמנעימים זה בזה בהלכה..."

Very often we find that the greater the sage, the more humility he has. Rav Yitzchak Chiyus, ז"ל, the author of the responsa Sdei Yitzchak, exemplified such humility. Although he was a luminary of his time, when Rav Levi Yitzchak of Ozierna, the grandson of Rav Yisrael of Ruzhin, came to visit Brody, Rav Chiyus immediately paid him a visit.

While he was there, Rav Chiyus asked Rav Levi Yitzchak to give a derashah concerning aggadata. Rav Levi Yitzchak wished to show his gratification that Rav Chiyus, a renowned sage, had come to visit him alt-

hough Rav Chiyus was himself a scholar of far greater renown. He chose an aggadata that expressed his feelings. "On Sanhedrin 24 Rav Oshaya highlights the difference between sages from Eretz Yisrael and Bavel through the lens of a verse in Zechariyah. 'And I took to Me two staves: one called pleasantness and the other called striking.' Pleasantness refers to the sages of Eretz Yisrael, who pleasantly help each other in halachah.¹ Striking refers to the sages of Bavel who try to refute each other in halachah.

"Interestingly, the word halachah also means to go. In this context, the statement means that the sages who represent this aspect of Eretz Yisrael visit one another without calculating if it is fitting for their honor to visit a sage who is of smaller stature. But the sages who are an aspect of Bavel, the

lowest of lands, are unwilling to go to other sages unless they feel it truly befits their honor, are sometimes forced to visit each other due to a 'striking'—because they are suffering.

"This is what we see regarding Yeshayah HaNavi and Chizkiyahu HaMelech. The Gemara in Berachos 10 tells us that each had a reason why he felt it was below him to visit the other. Nevertheless, Hashem made Chizkiyahu ill and Yeshayah was forced to visit him. However, scholars who are an aspect of Eretz Yisrael visit each other without requiring suffering to force them together."

Rav Chiyus was very taken with this explanation and praised it highly.² ■

1. זכריה 11:7

2. נר ישראל, ח"ג, סי' קל"ח ■