



## OVERVIEW of the Daf

### 1) Disqualified witness

The reason the Mishnah mentioned the disqualification of the dice-player is explained.

### 2) Both litigants are suspect

Rava asked R' Nachman how to read the Mishnah and what is the halacha and to both questions he responded that he does not know.

Many opinions are cited which hold that R' Yosi holds that the two litigants who are suspected concerning oaths split the contested amount.

R' Ami reports that there is a disagreement between the rabbis of Bavel and the rabbis of Eretz Yisroel regarding to where the oath returns according to our present understanding of R' Meir (R' Yosi's opinion in the Mishnah).

R' Pappa identifies the "rabbis of Bavel" and the "rabbis of Eretz Yisroel" and how we know their respective positions.

Rava cited proof to R' Abba's position that was identified as "rabbis of Eretz Yisroel."

The Gemara relates how Rav and Shmuel, the "rabbis of Bavel," interpret the verse cited by R' Abba.

### 3) A storekeeper's ledger

A Baraisa quotes Rebbi's ruling although his position is unclear from the quote.

R' Chiya challenged Rebbi's position from a Baraisa taught by Rebbi that the storekeeper and the employees swear and collect.

An unsuccessful attempt is made to prove that Rebbi accepted R' Chiya's challenge.

### 4) Contradictory pairs of witnesses

R' Huna and R' Chisda disagree whether contradictory pairs of witnesses may testify separately.

The Gemara presents four cases and explains how the disagreement between R' Huna and R' Chisda applies in these cases. ■

## REVIEW and Remember

1. What is the point of dispute between the "rabbis of Bavel" and the "rabbis of Eretz Yisroel"?
2. What happens when a person who is obligated to take an oath is unable to swear?
3. How does Shimon ben Tarfon interpret the word ותרגני?
4. What is the point of dispute between R' Huna and R' Chisda?

## Distinctive INSIGHT

### The storekeeper and his ledger

והחנוני על פינקסו

The final case of the Mishnah where one may take an oath and thereby collect is "the storekeeper and his ledger." The Mishnah itself pointed out that the case is not where the owner of the store confronts one of his customers and demands payment for merchandise. The halacha would not allow a storekeeper to simply take an oath and be believed to collect money based upon such an unfounded claim, even if he was willing to take an oath. Rather, the case is where the home owner sent his son to the store to buy wheat on credit, or he sent his workers to be paid cash which the store owner would advance and put the bill on the home owner's account. Afterwards, the son or worker claims he never received anything from the store owner, while the store owner insists that he did advance the merchandise or cash as requested. The halacha in the Mishnah is that both the workers and the store owner may take an oath to verify their claim, and each can collect from the home owner.

ר"י מיג"ש explains that the custom was that the store owner supplied his customer with whatever he needed, and when the account arrived at a certain amount the customer would pay his entire account as a lump sum. The Rishonim discuss whether this halacha applies only to a store owner and his customers, or whether it applies to any similar situation between friends, where one person was asked a favor to advance money for his friend, and later he claimed that he did so, but the supposed receiver claims that he never received anything from him.

Magid Mishneh (to Malveh v'Loveh 16:5) writes that this only applies to a store owner, who regularly advanced supplies and cash for his customers. It is only in this case that we allow him to collect with an oath, but not in the case where a private favor is asked from someone to advance money. Chazal had enough of a doubt whether the favor was granted so that they would not trust that a claim that he gave the money can be supported by an oath to allow collection.

Ba'al HaTerumos (29:1:3) writes that the halacha applies not only to a store owner, but also to anyone who is asked to pay a debt, where the sum is advanced on account; the payer has the right to later take an oath and be believed to then collect.

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 לע"נ מוריני הרב שמשון בן ר' רפאל זצוק"ל

# HALACHAH Highlight

## The reliability of a ledger

והחנוני על פנקסו וכו'

And the storekeeper, concerning that which is recorded in his ledger

The Gemara discusses the case of a storekeeper who claims, based on his ledger, that he paid his employees but the employees claim they never received payment from the storekeeper. Tanna Kamma rules that the storekeeper and the employees both swear regarding their claim and then collect from the employer. A point that requires elaboration is why the Mishnah mentions that the storekeeper's claim is based on his ledger. The Mishnah could have simply stated that the storekeeper claims that he paid the employees. Rosh<sup>1</sup> explains that the Mishnah refers to a case in which the storekeeper does not remember clearly whether he paid the employees or not. The Mishnah is teaching that despite the fact that his claim is based on his ledger it is still considered a definitive claim to such a degree that he could even swear that he paid the employees.

Rosh adds that the same halacha would apply in a case of Reuven who regularly gave money to Shimon as an investment in his business and Shimon meticulously recorded each time Reuven gave him money. Shimon passed away and when his sons examined his ledger they found that the father

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Chidushei HaRim (C.M. 91:#1) writes that this halacha only applies to a store owner, because he normally conducts business in this manner, adding to his customer's account until a certain sum is accumulated. It is understood that he need not arrange witnesses for every transaction, so in case of dispute, he is trusted to take an oath and to collect. Anyone else who advances money for his friend would be expected to arrange witnesses or some other proof for his acts, and he would not be believed with an oath. ■

owed Reuven a significant sum of money. Rosh ruled that the sons must pay their father's debt since the fact that it is known that Reuven regularly invested with Shimon provides strong circumstantial evidence in support of the ledger. This ruling is also recorded in Shulchan Aruch<sup>2</sup>. Be'er Heitev<sup>3</sup> clarifies that the halacha that a ledger is reliable is limited to one obligating himself as a result of what is recorded in his ledger. One's ledger is not reliable to obligate another person to pay money. For this reason Shimon's record that he owed Reuven money can obligate his orphans to pay his debt from his estate but if the only record was Reuven's ledger indicating that he invested money with Shimon he would not be able to collect from Shimon or Shimon's children without a more definitive proof. ■

1. שו"ת הרא"ש כלל פ"ו אות א' וב'.
2. שו"ת חו"מ סי' צ"א סעי' ד' וה'.
3. באר היטב שם ס"ק י"ט. ■

# STORIES Off the Daf

## A Questionable Service

"לא תנאף..."

A certain poor man was unable to find a job. Once, however, he heard about an idea that he knew could completely turn around his mazal. Apparently there was a great demand for shadchanim for non-Jews. The business was very lucrative, and, since this poor man knew many non-Jews, he felt certain that he would succeed. Yet he wondered if this was halachically permitted.

When this question was brought to the Chelkas Yaakov, zt"l, he was unsure if this was halachically permissible. "I see no clear halachic reason to prohibit. Although in Shevuos 47 we find that one may not be an agent to bring others to act

immorally, that has no bearing on this case, since here we are discussing introducing the non-Jews for marriage. Such a relationship is perfectly binding for them as we find in the Yerushalmi in the beginning of Kedushin and the Rambam in hilchos Melachim.

"The Mahari Asad, zt"l, writes: 'Although for money this is halachically permitted, it is a bad idea. We can learn that this is permitted from the fact that the Rambam himself helped a seemingly barren idolatrous couple have children. Why is shidduchim different? But I have received the tradition that whoever is involved in this will not escape unscathed. He will likely find that his children will not go on the right path as a result of this.'"

The Chelkas Yakov questions this conclusion, and holds that the practice might be forbidden, and not merely inad-

visible. "I do not understand this at all. Firstly, what does helping non-Jews bear children have to do with making shidduchim? It is permitted to heal an idolater because refusing to do so makes him hate Jews. The Ramban held that healing their inability to have children is in the rubric of this leniency. How does that relate to taking on a new vocation of making shidduchim for non-Jews? In addition, although it is true that the Ramban advised a non-Jewish couple medically and helped them have children, Rabbeinu Yonah, zt"l, absolutely repudiated this action and clearly holds even advising a barren couple is halachically prohibited. He even went so far as to write Ramban in an obviously sarcastic letter: 'You will surely be blessed for this, since due to your efforts the seed of Amalek has increased!'"<sup>1</sup> ■

1. שו"ת חלקת יעקב, ח"א, אבה"ע, סי' ע"ח. ■