

OVERVIEW of the Daf

1) Obvious blemishes (cont.)

The Gemara concludes its elaboration of the statements issued by R' Chiya bar Avin in the name of R' Amram.

R' Yehudah's position regarding the panel that can nullify vows is explained.

2) R' Yosi's position

R' Chananel in the name of Rav rules that halacha does not follow R' Yosi's position in the Mishnah.

The necessity for this clarification is explained.

This clarification indicates that an earlier statement that was subject to doubt whether it was made in the name of Rav or Shmuel must have been made in the name of Shmuel.

3) **MISHNAH:** The Mishnah discusses the halachos of one who sells bechor meat that was slaughtered without being examined by an expert or one who sells non-kosher meat as kosher.

4) Clarifying the Mishnah

A Beraisa is cited that elaborates on the rulings of the Mishnah.

The Gemara clarifies a number of cases discussed in the Beraisa.

הדרן עלך כל פסולי המוקדשין

5) **MISHNAH:** The Mishnah enumerates four ear blemishes that allow the slaughter of a bechor.

6) Blemishes

The Gemara searches for the source that other blemishes besides "lame" and "blind" permit the slaughter of a bechor.

7) Clarifying the Mishnah

A Beraisa discusses splits and notches in the ear of a bechor.

A point in the Beraisa is clarified.

A Beraisa elaborates on the blemish of a punctured and dried up ear.

Another Beraisa declares that the views of two Tannaim are close to one another and the Gemara clarifies which opinions are close to one another.

A contradiction is noted between two rulings of R' Yosi the son of R' Yehudah.

R' Chana bar Ketina reconciles the contradiction.

8) Vetch

The Gemara clarifies the identity of "vetch."

R' Hoshaya inquires about the precise intent of the Mishnah's ruling that a hole that allows vetch to go through the hole renders an animal blemished.

R' Huna begins a response to this inquiry. ■

Distinctive INSIGHT

The penalty for selling meat that is a tereifah

וכן השוחט את הפרה ומכרה ונודע שהיא טרפה מה שאכלו ומה שלא אכלו הם יחזירו לו את הבשר והוא יחזיר להם את הדמים

The Mishnah taught that if someone shechted his animal and sold it to others, and we then discover that the animal was a tereifah, the buyers can return whatever is left of the tereifah meat to the seller, and the entire purchase price must then be refunded to the buyers.

Bac"ch (C.M. 243:1) writes that the buyer has no responsibility to try to sell the tereifah meat to a non-Jew in order to salvage some of its value. Rather, the buyer may simply return the tereifah meat to the seller, and the seller must return pay back the mistaken purchase. Sm"א notes that although the Mishnah reported earlier that meat of a bechor that was mistakenly sold is not returned to the seller, and it is buried, in the case of a tereifah the meat is returned. The reason for this distinction is that the bechor was shechted without being shown to an expert for inspection, and the rule is that the owner is penalized in this case not to benefit from the bechor. If we were to return the bechor meat to the seller, he cannot be trusted and we fear that he will sell it to a non-Jew. The tereifah meat, however, is not prohibited from benefit, and the seller is allowed to sell it to a non-Jew. We do not suspect that the seller will take the tereifah meat and either eat it himself or sell it to another, unsuspecting Jew, because although he has shown disdain for the sin of misleading others and trying to sell them tereifah meat (לפני עור), he is not suspect of doing a more severe sin of eating tereifah meat himself. Also, once he has sold tereifah meat to a Jew we publicize his bad reputation, and no other Jew will buy from him.

Tosafos Yom Tov explains that this penalty is assessed only when we know that the seller knew that the meat he was selling was tereifah. However, if he did not realize it was a tereifah the buyer does not return the meat for a refund. All animals have a possibility of being a tereifah, and the requirement to inspect its lungs is only rabbinic. A bechor, however, must be inspected by an expert even if it has a blemish, and selling it without its being cleared renders the animal prohibited from benefit, following the view of R' Meir (28a).

Sefer Shores Yishai points out that Tosafos Yom Tov does not mean to say that the case of bechor must only be where the bechor had a blemish. Rather, because we know that there is a penalty in a case where there was a blemish and the owner shechted the bechor before having it inspected by a competent authority, therefore we penalize the seller for selling a bechor's meat even in a case where we are not even aware if there was a blemish. This is in contrast to a tereifah, where the animal is completely permitted if we knew there was no tereifah before the shechita. Therefore, we do not penalize the seller in a case of doubt. ■

*Today's Daf Digest is dedicated by Dr. & Mrs. Shlomo Whitehouse
in memory of his mother*

מרת דבוריש בת ר' בנימין ע"ה

HALACHA Highlight

Selling meat that is tereifah

ומכרה ונודע שהיא טריפה

And it was sold and it was discovered that it is tereifah

The Mishnah teaches that if one sells meat to a friend and after the customer eats the meat he discovered that it was tereifah the seller must refund the money to the customer. This ruling is codified in Shulchan Aruch¹ and Poskim debate why the seller is required to refund the money to the customer and why we do not deduct the value of the meat that was consumed that gave benefit to the customer from the amount that is refunded. Rashi² writes that it is a penalty that Chazal imposed on the seller that requires him to refund the money. Sema³ explains that when the customer discovers that he ate tereifah meat it is not considered a benefit that he had from the meat, in fact, when he realizes that he ate tereifah meat it is a cause of great distress that he ate non-kosher meat even though it was inadvertent. Vilna Gaon⁴ suggests that when it is discovered that the meat was tereifah we realize that the meat had no value since it is prohibited to do commerce with prohibited foods. Therefore, the seller must refund the money that it turns out was given for nothing.

Poskim note that there are a number of important practical differences between these explanations. Shach⁵ explains that according to Rashi who explains that the rationale behind this ruling is that it is a penalty it would seem that the penalty is appropriate only if the seller intentionally sold tereifah meat. If

REVIEW and Remember

1. What would lead one to think that the halacha should follow R' Yosi even against the majority ?

2. What blemishes on a bechor's ear allow it to be slaughtered ?

3. How large of a notch on an animal's ear permits its slaughter ?

4. How dry must an ear be to qualify as dry ?

he himself did not realize that he was selling tereifah meat there is no reason to penalize him. According to Sema, on the other hand, the issue is that upon discovery the buyer did not benefit at all from the meat that he ate. From that perspective it does not matter whether the seller realized he was selling tereifah meat or not since that point is irrelevant to the fact that the buyer did not benefit from the meat when he realized that it was tereifah. According to Vilna Gaon as well since it turns out the meat had no value the seller must refund the money regardless of whether he was aware that it was tereifah meat. ■

¹ שו"ע חו"מ סי' רל"ד סעי' ב'.
² רש"י ד"ה ויחזיר.
³ שמי"ע שם סק"ד.
⁴ ביאור הגר"א יו"ד סי' קי"ט ס"ק כ"ז.
⁵ ע"י ש"ך יו"ד סי' קי"ט ס"ק כ"ה. ■

STORIES off the Daf

A Mistaken Vow

"שלשה מפירין את הנדר..."

It is mitzvah—according to some, it is even a Torah obligation—to take in Shabbos at least a little bit before the actual beginning of the new day. Some hold that one only fulfills this mitzvah if he takes in Shabbos at least eight minutes before sunset. Others hold five minutes, while others hold that two minutes is enough. Nearly everyone takes in Shabbos even earlier than this.

But of course one must make sure to daven minchah before taking in Shabbos. According to the Mishnah Berurah,

even בדיעבד one may not daven minchah after taking on the holiness of Shabbos. One easy way to accommodate taking in Shabbos as early as possible is to daven minchah gedolah.

One man who was careful to take in Shabbos at least an hour before sunset was particular to always daven minchah gedolah. One week he was unable to make minchah gedolah, but hoped to make an early minchah in order to accept Shabbos an hour early. Unfortunately, he completely forgot about minchah, only remembering when he was in shul and he noticed a minyan for minchah. He wondered what to do. He was sure that he could not daven but wondered if there was a halachic way around this problem.

When this question reached Rav

Yosef Shalom Eliyashiv, shlit"א, the great posek provided a halachic way around this problem. "You are certainly correct that it is forbidden to daven minchah once you have taken in Shabbos. Nevertheless there is a simple way around this. Taking in Shabbos is binding since it counts like neder. However, one who accepted Shabbos before minchah can definitely go to three people to annul that neder, just as he would with another type of vow. There is definitely a good way to annul the vow: if he had remembered that he hadn't yet davened he would surely not have accepted Shabbos upon himself!"¹ ■

¹ שבות יצחק, פסח, ע"ק נ"ח ■