

## OVERVIEW of the Daf

### 1) Oaths of exaggeration (cont.)

R' Ashi, in response to Ravina's inquiry, asserts that when people take oaths they use the plain meaning of the words.

This assertion is unsuccessfully challenged.

A second challenge to R' Ashi's assertion is recorded.

In the course of the Gemara's exchange about this issue the Gemara discusses at length the oath that Moshe Rabbeinu imposed on the Jewish People.

### 2) Clarifying the Mishnah

The Gemara clarifies the Mishnah's example of a neder of exaggeration.

In the course of this clarification it is noted that the Mishnah teaches that the back of an olive press is ridged.

**3) MISHNAH:** The Mishnah presents four examples of נדרי שגגות—mistaken nedarim which is the third case of nedarim that are permitted.

### 4) Mistaken oaths

A Baraisa teaches that just as mistaken nedarim are permitted so, too, mistaken oaths are permitted.

An example of a mistaken oath is presented.

### 5) Clarifying the dispute between Beis Shammai and Beis Hillel

A Mishnah is cited that discusses the issue of nullifying a vow on Shabbos or Yom Tov and R' Akiva rules that once part of the vow is nullified the entire vow is nullified.

Rabbah suggests one understanding of the dispute between Beis Shammai and Beis Hillel. ■

## REVIEW and Remember

1. Explain the case known as "the cane of Rava"?
2. Denying idolatry is equivalent to what?
3. What are נדרי שגגות?
4. What was R' Akiva's novel ruling concerning vows that are annulled for Shabbos?

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 In memory of  
 ר' משולם פייש בן ר' יהוסף, ע"ה

## Distinctive INSIGHT

### Misinformation about a wife's improper behavior

קונם אשתי נהנית לי שגנבה את כיסי ושהכתה את בני ונודע שלא  
 הכתו ונודע שלא גנבה

The Mishnah lists a third category of oaths that can be dismissed without needing to be released. This is the category of נדרי שגגות, where the speaker was under false impressions when he made his statement. The example given is where a man was told that his wife stole his money or that she struck his son. The husband then declared that he prohibits her from benefiting from him due to this information. When the information is shown to be false, the oath immediately becomes null and void on its own, as we determine that it was only spoken based upon the misinformation told to the husband.

Ritva explains that the case is where the husband explicitly said that he was taking the oath due to his wife's stealing the money or hitting the child. If, however, the man took the oath without explaining his reason, and he later comes and provides an excuse that he did so only due to what he assumed was his wife's improper behavior, we would not heed his plea. His words now reflect mere דבריים שבלב, thoughts that were (at best) in his mind, and these have no legal weight to stop the oath.

Rashba, however, explains that even if the husband did not articulate his concern about his wife's stealing or striking the child at the moment of the oath, he can still come later and claim that the oath should be released due to its having been predicated upon his mistaken information. This is based on Tosafos (28a, ד"ה במוכס) who writes that the sages discount the validity of all four categories of oaths listed in the Mishnah (20b), even without there being extreme circumstances, because we can be assured (אנן סהדי) that the person did not intend for his words to constitute a neder. This is the case even without the person himself having to provide any excuses.

מחנה אפרים (to Nedarim 6a) explains that although the words of the Mishnah suggest that the husband has to provide the condition at the time he utters the oath, nevertheless, this is only necessary when he does not later come and claim that his oath was based upon misinformation about his wife's conduct. If, however, the man comes and tells us that he would have never made the neder had he known that his wife did not act improperly, the oath is automatically released, even if he had not made the stipulation ahead of time. ■

# HALACHAH Highlight

## Prioritizing Talis or Tefillin

דאמר מר שקולה מצות ציצית כנגד כל מצות שבתורה

As the Master taught: The mitzvah of tzitzis is equal to all the mitzvos of the Torah.

**N**imukei Yosef<sup>1</sup> rules that in the morning one should don his talis before his tefillin since the mitzvah of tzitzis is equated with all the mitzvos of the Torah and the mitzvah of tzitzis is performed more frequently than the mitzvah of tefillin. Sefer Toras Yaakov<sup>2</sup> challenges the first rationale since there are sources that indicate that tefillin is also equated with all the mitzvos. Teshuvos Halachos Ketanos<sup>3</sup> writes that he saw quoted in the name of the Knesses Hagedolah that one who cannot afford to purchase talis and tefillin should prioritize the purchase of a talis since the talis is equated with all the mitzvos. Halachos Ketanos challenged this assertion since tefillin is also equated with the entire Torah. He suggested that perhaps the mitzvah of tzitzis should be given preference since it is not only equal to the other mitzvos but it also serves to remind a person of all the other mitzvos. He is not fully comfortable with this explanation since tefillin, rather than tzitzis, is more associated with davening and the Gemara in Rosh Hashanah (17a) teaches that tefillin is a mitzvah that is associated with

the body as opposed to the mitzvah of tzitzis. In conclusion he writes that although his proofs can be refuted, nonetheless, Tur seems to indicate that tefillin is a higher priority than tzitzis.

Mishnah Berurah<sup>4</sup> writes, based on Later Authorities, that one who does not have the necessary funds to purchase talis and tefillin should purchase tefillin based on the following two considerations. Firstly, the mitzvah of tefillin is obligatory whereas the mitzvah of tzitzis, technically, applies only when one wears a four-cornered garment. If, however, a person does not wear a four-cornered garment there is no Biblical obligation to obtain one in order to perform the mitzvah of tzitzis. Secondly, Chazal<sup>5</sup> refer to men who do not wear tefillin as פושעי ישראל בגופן—Jews who sin with their bodies, thus indicating a unique severity for not fulfilling the mitzvah of tefillin. Certainly, concludes Mishnah Berurah that if one has the option to spend additional funds to purchase more beautiful (מהודר) talis or tefillin one should purchase the more beautiful tefillin and people are unaware of this fact and consequently err. ■

1. נמולי יוסף על הרי"ף הל' ציצית די"ב ע"א

2. ספר תורת יעקב פרשת במדבר

3. שו"ת הלכות קטנות ח"א סע' נ"ד ומובא דבריו בבאר היטב סי' כ"ה סק"א

4. משנה ברורה סי' כ"ה סק"ב

5. גמ' ר"ה יז ■

# STORIES Off the Daf

## The reed cane

מקניא דרבא

**O**ne time, a certain man admitted owing another a large sum of money in front of witnesses. Not long after this, the man claimed to have paid the money. Naturally, the creditor denied his having returned the funds. "Are you willing to swear?" asked the angry creditor. The man responded in the affirmative and, in a very cool and defiant manner, swore that he had paid.

Some time later, the man was observed sneaking a purse with the amount owed off of his creditor's property and the entire story was made public. People were outraged at his nerve,

but this man felt he had an adequate defense. After paying his debt and showing some contrition, he said, "I didn't act properly, but I certainly didn't swear falsely. When I swore that I had paid him in full, the man did have the money in his reshus, on his own premises!"

A similar question was placed before the Rashbah, zt"l. He answered, "Swearing to have paid a creditor when the creditor didn't know the money was put on his premises is a serious problem. One cannot justify the action with the story regarding the reed of Rava. A certain man borrowed money from another and then claimed to have repaid his debt. His creditor denied this. When they came before Rava he told the man to swear. Before swearing the borrower handed his hollow cane

to the lender. He then took a sefer Torah and swore. The creditor got so angry that he broke the reed staff in his anger. Suddenly, the entire sum which had been hidden in the hollow staff fell onto the floor and it was seen that the man had not sworn falsely. This is no proof for our case. In Rava's case, the oath was not false because the debtor swore that he had given his creditor the money, not that he had paid him. It is inconceivable that swearing to have paid someone who is not aware that he has been paid is attesting to the truth, since one who doesn't even know money was placed in his possession is not considered to have received it according to all opinions. The man swore to have paid his debt. This is definitely a false oath!" ■

