

OVERVIEW of the Daf

1) Disqualifying relatives from testifying (cont.)

An incident related to a judge disqualifying himself from a case because he was once related to the litigants is recorded.

2) Defining a friend and an enemy

A disagreement is presented when a groomsman becomes qualified to testify for the groom.

A Baraisa presents the sources that enemies and friends are disqualified from testifying about one another.

The exposition of Rabanan who allow friends and enemies to testify for one another is presented.

3) MISHNAH: The Mishnah describes how the witnesses are examined, how the judges arrive at a verdict, how the verdict is announced and that how each judge voted must remain a secret.

4) Intimidating the witnesses

Different methods of intimidating the witnesses are presented and R' Ashi's method is the only one that was accepted.

5) A binding admission

The Mishnah implies that a debtor must instruct bystanders to serve as his witness in order for his admission to be accepted.

Another opinion that subscribes to this position is presented.

A Baraisa is also cited that maintains this position.

A reference in the Baraisa is explained.

6) Instigators

The reason we do not plead on behalf of instigators is explained.

R' Shmuel bar Nachman in the name of R' Yonason cites the incident of the serpent as proof to the principle that we do not plead on behalf of an instigator.

Three sources prove that one who adds to the Torah ultimately detracts from it.

7) A binding admission (cont.)

Abaye asserts that the debtor must claim that he was joking for his admission to not be valid but if he denies the admission altogether he has established himself as a liar.

Rava is quoted as disagreeing with the assertion that his denial establishes him as a liar.

Two incidents related to designating witnesses are presented and Rava derives a lesson from the latter incident.

Two more related incidents are recounted.

8) Recording an admission

The Gemara rules that an admission in the presence of two witnesses may be recorded only if a kinyan was made.

Rav and R' Assi disagree whether an admission in the presence of three witnesses may be recorded and when an incident arose Rav did not allow the witnesses to record the admission in accordance with R' Assi's position.

Three additional opinions are recorded as to whether a group of three witnesses may record a person's admission.

The Gemara rules that an admission regarding movable ob-

(Continued on page 2)

Distinctive INSIGHT

Assigning witnesses to hear the confession

דאמר רב יהודה אמר רב צריך לומר אתם עדי

The Mishnah taught that if the only thing the witnesses testify to is that the borrower said to them, "I owe him money," their testimony is meaningless. However, if the witnesses can testify that the borrower admitted to the lender in front of them that he owes him money, the testimony is valid.

The Gemara notes that the ruling of the Mishnah supports a statement of R' Yehuda in the name of Rav, who said that in order for the testimony of bystanders to be valid, a debtor must instruct the witnesses as they listen to his confession, and he must tell them, "You are my witnesses." Without this assignment, even if the borrower did admit in front of these observers that he owed money, he can later claim that his words were not truthful, and that they were said in jest or in order to make it appear as if he was not a wealthy man. This is evident in our Mishnah, where the witnesses cannot simply report that they were standing there as the borrower confessed, but they must be able to say that the confession was delivered in their presence, meaning that they were engaged and assigned to witness the event.

רמ"ה writes that in order not to be able to recant his admission, it is not necessary for the borrower to say the precise words, "אתם עדי—You are my witnesses." Rather, it is adequate for him to use any expression which indicates a clear awareness that the witnesses are being selected as such. This is also the ruling of Rambam (Hilchos To'ein v'Nit'tan 7:1).

רמ"ה proves his contention from the Gemara which cites the Mishnah as proof for the statement of Rav Yehuda in the name of Rav. However, in the Mishnah itself it does not say that the witnesses expressly said that the borrower appointed them as witnesses, but only that the confession was done in their presence. Another proof he brings is from the Baraisa which is brought in the next piece in the Gemara. The lender hid his witnesses behind a fence, and he confronted the borrower on the other side

(Continued on page 2)

REVIEW and Remember

1. What is the source that an enemy may not testify?

2. Which what claim could the serpent have exempted himself from punishment?

3. What is the point of dispute between Rav and R' Assi?

4. Are movable objects treated the same as land for documents of admission?

HALACHAH Highlight

Liability for bad advice

מאי הוה ליה למימר דברי הרב ודברי התלמיד דברי מי שומעין

What could he have claimed? Between a teacher's words and a student's words, whose words should one follow?

Teshuvos Be'er Esek¹ ruled that when Reuven gives bad advice to Shimon causing Shimon a financial loss Reuven is categorized as someone who caused indirect damage (גרמא בניזקין) and is exempt from liability in Beis Din but is liable in Heaven (חייב בדיני שמים). It would seem, however that our Gemara refutes this position. The Gemara proves that we do not plead on behalf of an instigator from the incident of the serpent. This is based on the statement of R' Simlai that Hashem did not plead on behalf of the serpent since the serpent did not plead for himself. What could the serpent have pleaded, the Gemara asks. He could have claimed that Chava should have listened to Hashem rather than himself. Shach² proves from this that someone who convinces witnesses to testify falsely is not liable even in the hands of Heaven. This is evident from the fact that the Gemara relates that had the snake made this claim he would have indeed been exempt from punishment even in the hands of Heaven.

Imrei Baruch³ suggests that there is a distinction between one who sends someone to commit a transgression which will benefit himself (משלח) and persuading someone to commit a transgression that will benefit the transgressor (יועץ). In the incident of the

jects may be recorded only if a kinyan was made and there is a dispute whether an admission regarding land that is not accompanied by a kinyan may be recorded.

The Gemara rules that an admission about land may be recorded.

Ravina and R' Ashi disagree about recording an admission about movable objects that are in one's possession.

Abaye and Rava rule that a document of admission is valid even if the statement of instruction is absent.

This ruling is unsuccessfully challenged. ■

(Overview...continued from page 1)

STORIES Off the Daf

Telling tales

"הולך רכיל..."

On today's daf we find an example of rechilus.

A certain student of Rav Shach, ז"ל, was asked about a bochur by the father of a prospective shidduch. The two davened in the same minyan Tel Aviv, and the father wished for an honest evaluation of the young man. As customary, the student gave a report full of praise for the bochur and the father, duly impressed, agreed that the young man meet his daughter. The two felt that they were right for each other and they were engaged to be married.

It was when the prospective chassan went to his father-in-law's house for Shabbos that the trouble began. During davening a certain member of the minyan approached the father-in-law to be and said with obvious disappointment, "You mean he is going to be your son-in-law? Whatever possessed you

to take him? Don't you see that he lacks even the least bit of yiras shamayaim?"

Of course these words made an awful impression on the father-in-law. The moment Shabbos was out, he called the young man to take him to task for "hiding" the boy's defective nature. Shockingly, the man wished to break off the shidduch due to the slander he had heard.

The student immediately went to Rav Shach to ask how to rectify the situation. When Rav Shach heard this he sprang out of his chair and suggested that they take a bus to the mechutan's house and work to repair the breach immediately.

When the father-in-law heard a knock at his door and went to see who it was, he was astounded to see that it was none other than HaRav Shach. "We were passing by the neighborhood and this young man told me that you are the lucky man who will soon have such an exceptional choson, it would not be right to pass your house without wishing you mazel tov!

"You should know that your son-in-law is a big ba'al midos and is a gadol ba'Torah.

His every action is carefully thought out and he prays with profound yiras shamayim. Mazel tov! Hashem should give you much nachas and they should merit to build a

בנין "עדי עד" ■

1. תורתך שעשועי, ע' ער"ב-רע"ג ■

(Insight...continued from page 1)

of the fence within earshot of the witnesses. He asked the borrower to admit that he owed him money, and he confessed. The lender then asked, "Would you be willing to admit this in front of witnesses?" The borrower denied this, saying that he was afraid of being brought to court. The next day when the lender produced the hidden witnesses, the borrower claimed that his admission was said in jest, and he was exempt. We see, notes רמ"ה, that the hidden witnesses are not valid because the borrower said he did not wish to admit in front of them. However, had he simply agreed, this confession would have been adequate, even without articulating the formal statement of "you are my witnesses." ■