

OVERVIEW of the Daf

1) Recording an admission (cont.)

Ravina thought that a document of admission that does not state that the three judges sat regarding this matter is valid.

Ravina's approach is rejected with one possible exceptional case.

2) Admissions

A Baraisa presents guidelines for determining whether an admission is accepted or not.

3) Pronouncing a verdict

Three Amoraim suggest how a verdict should be worded when there was a dissenting opinion.

Two explanations for the dispute are suggested and rejected and the third explanation is accepted.

The Gemara entertains the possibility that it was the witnesses who were removed during the deliberations and then returned for the verdict but this is rejected.

It is decided that the Mishnah refers to the litigants who were removed during the deliberations.

This explanation is unsuccessfully challenged.

4) Combining witnesses

A Baraisa presents a dispute whether witnesses must see the event at the same time.

Two explanations of the dispute are presented.

The Baraisa presents a dispute whether the two witnesses must testify together.

Two explanations of the dispute are presented.

An incident is recounted that relates to whether halacha follows R' Yehoshua ben Korcha's position that witnesses

(Continued on page 2)

Distinctive INSIGHT

Dreams without significance, and dreams that are authentic

דברי חלומות לא מעלין ולא מורידין

The Gemara cites a Baraisa which brings several examples of where an admission regarding owing a loan is made, but in each case the circumstances lead us to dismiss the admission.

In one case, a person knew that his father had left him money when he died, but the person did not know where the money was located. The person was clearly distraught about this. One night, he had a dream where "the officer of dreams" came to him and told him where the money was, but he also informed him that the money was that of ma'aser sheni. When the person awoke, he searched and found the money exactly where he was told it was. When he consulted with the sages to know how to deal with the situation, they told him that he could keep the money, and that he did not have to treat it as that of ma'aser.

Toras Chaim explains that even if the informer in the dream would have described the exact amount of money and its precise location, we would still say that "there is no dream without details which are nonsense." Therefore, we say that the description of the money being that of ma'aser was meaningless.

Torah Chaim notes that even one witness has no credibility regarding the status of money found in a house, so it might seem obvious that the dream cannot be relied upon in this regard. Nevertheless, ר"ן explains that we are told that dreams are one-sixtieth of prophecy, so we might think that this information would be a bit more reliable. The novelty of this ruling is that dreams have no credibility at all in this regard.

ש"ת תשב"ץ (2:128) points out that throughout Shas, in several places dreams are taken quite seriously, while in other places they are dismissed outright. For example, if one is informed in a dream that he is banned (נידוי), he should see to it that this banishment is released (Nedarim 8a). In our Gemara, we say that dreams bear no significance. He notes, however, that this observation is made in the Gemara itself (Berachos 55b), where two verses are cited, one which validates dreams, and the other which nullifies their meaning.

The Gemara answers that if the dream is transmitted by an angel, it is a form of prophecy and has meaning. This is typified by a dream which has clear imagery, and where the dreamer did not eat any foods which cause strong physical reactions and which affect one's mind. If the dream is conveyed by an external factor (referred to as a "שד"), it can be ignored. This is where the dream is caused by known factors such as certain foods, or where the dream unfocused and compounded with confusing matters. Regarding money matters, we say that the dream is probably meaningless, and we do not rule that money should be paid due to a dream. Regarding a doubt of an oath, the dreamer should have the dream negated. ■

REVIEW and Remember

1. When is a witness believed to tell a son that his father's money was ma'aser sheni?

2. What is the point of dispute between Tana Kamma and R' Yehoshua ben Korcha?

3. If orination was obtained under false pretenses, is it withdrawn?

4. What are בדיקות?

HALACHAH Highlight

Is a מגו stronger than a חזקה?

אני ראיתי אביכם שהטמין מעות וכו' של מעשר שני הן

I saw your father hide money ... [and it is] ma'aser sheni money etc.

A borrower claims that he does not have the funds needed to pay back his loan. We see that he has cash but he claims that the money in his possession belongs to others. Shulchan Aruch¹ presents two opinions whether we believe the borrower's claim. One opinion maintains that he is believed with a מגו that he could have given the money away to others. The second opinion rejects this מגו since it runs counter to the presumption that what is in a person's possession is his own (חזקה שכל מה שתחת יד אדם הוא שלו). Tumim² cites our Gemara as proof that a מגו is acceptable even when it runs counter to a חזקה. The Gemara relates that if a witness saw a man bury money in a location where the witness could have taken it for himself he is believed when he asserts that money is ma'aser sheni money. The מגו that the witness could have taken the funds for himself runs counter to the חזקה that what is in a person's possession is his own and nevertheless the Gemara believes the witness with a מגו.

Teshuvos Harosh³, however, also discusses this Gemara and proposes that the מגו in this case is a unique type of מגו that derives its strength from the fact that the witness is considered like a custodian (אפיטרופוס). If someone who is deceased had deposited something by a custodian and told him that it belonged to someone else the custodian would be obligated to return the object to that person rather than the heirs of the deceased. Even if he did not return the object to the other person he would still be believed to testify that the object be-

(Overview...continued from page 1)

need not testify together.

The Gemara continues to examine the extent of R' Yehoshua ben Korcha's position.

A ruling in the cited Baraisa is explained.

R' Yosef follows R' Yehoshua ben Korcha's ruling for land and movable property whereas Rav follows his ruling only for land.

The Gemara explains Rav's position.

R' Nachman bar Yitzchok and R' Huna the son of R' Yehoshua discuss Rav's ruling.

Nehardea issues rulings that follow the opinion of R' Yehoshua ben Korcha.

5) Contradictory testimony

R' Yehudah rules that witnesses who contradict one another in the bedikos questioning (the supplementary questions) are still acceptable for monetary cases.

Rava adds a qualification to R' Yehudah's ruling.

The implication of this qualification is unsuccessfully challenged. ■

longs to that other person. The custodian's credibility in these matters is not a result of a מגו; rather it is the result of the fact that he was chosen as a custodian. Accordingly, in our case where a witness watches the father bury money in a location where the witness could take it for himself he is considered a custodian and that is why he is believed even against a חזקה. As a result one can not generalize from our Gemara that a מגו is stronger than a חזקה since the מגו is strengthened by the witness's status as a custodian. ■

1. שו"ע חו"מ סי' צ"ט סעי' א' וברמ"א שם.

2. תומים שם סק"ד.

3. שו"ת הרא"ש כלל ס"ח אות ב'. ■

STORIES Off the Daf

A dispute among Dayanim

"מדבריהם נזכה פלוני..."

A certain man summoned another Jew to a din Torah. After hearing both sides of the story, the dayanim convened privately to discuss the case and determine the halachah. Unfortunately, one of the judges did not see the case in the same light as his fellow dayanim. He was so certain that he was correct that he could only account for their obstinacy by presuming that they had received some

kind of benefit from the plaintiff which made them predisposed to his side. For their part, the other two dayanim claimed that they disagreed with his reasoning. Yet the third dayan was so certain that they were wrong that he refused to sign on the psak din. The other two dayanim insisted that their comrade was obligated to sign the decision regardless of his personal opinion, but he disagreed and sent an inquiry to the Chavas Da'as, zt"l, regarding their dispute.

The Chavas Da'as ruled that he was certainly obligated to sign the psak. "We find in Sanhedrin 30 that if the dayanim disagree, they write, 'From their words it

emerged that the plaintiff is obligated...' You must not think that the Gemara is merely saying that they may write this nusach but signing is not obligatory. This is clearly a fallacy since there is no problem of appearing false. You voiced your dissent, so there is no problem of heavenly punishment. Why, then, shouldn't you sign?

"If you do not sign, surely you will violate the prohibition of 'לא תלך רכיל,' especially since you feel that they violated a prohibition. It is surely forbidden to refuse to sign since you will be required to explain why."¹ ■

1. שו"ת חות יאיר, סי' קמ"ז ■

