

OVERVIEW of the Daf

1) Clarifying the differing positions (cont.)

A Baraisa is cited in which R' Meir further clarifies his position.

R' Meir's last exposition is unsuccessfully challenged.

Another Baraisa is cited that records a dispute between R' Yosi and R' Shimon about how an animal becomes מועד and how it reverts back to being a תם.

R' Nachman in the name of R' Ada bar Ahava rules like R' Yehudah's opinion regarding the definition of מועד since R' Yosi agrees with him on that point, and like R' Meir regarding the way an animal reverts back to being a תם, since R' Yosi agrees with him on that point.

R' Nachman explains why he ruled like R' Yosi.

2) מועד

The Gemara inquires whether the reference to three days in the Mishnah is to make the animal or the owner into a מועד.

The practical difference between these approaches is explained.

An attempt is made to prove that the three days is to make the animal into a מועד.

R' Kahana unsuccessfully challenges this proof and the Gemara seemingly accepts that the three days are to make the animal into a מועד.

3) Inciting someone else's dog to attack

The Gemara inquires whether a person who incites his friend's dog to attack a third person is liable.

The question comes down to whether the owner of the dog is liable since he allowed his dog that is excitable to be left alone.

Two unsuccessful attempts are made to resolve this inquiry.

Rava discusses the halacha of one who incites his friend's dog against himself and rules that the owner of the dog is exempt.

R' Pappa suggests that this ruling is similar to a ruling of Reish Lakish regarding an animal that kicks an animal that is squatting in the street.

Rava rejects the parallel between the two cases.

4) MISHNAH: The Mishnah presents a dispute between R' Tarfon and Chachamim whether one pays full or half damages for קרן on the property of the damaged party. The discussion between R' Tarfon and Chachamim regarding this matter is recorded.

Distinctive INSIGHT

They did not recognize the ox

רבינא אמר במכירין בעל השור ואין מכירין את השור

The Gemara presented an inquiry regarding the three days necessary to make an animal into a מועד. Perhaps these three days are needed to allow the animal to gore three times, once each day (לייעודי תורה). If this would be the case, if the animal gored three times, once each day for three days, and witnesses testified at one time in front of the animal's owner, the animal would be a מועד. If, however, the three days are in order to testify before the animal's owner (לייעודי גברא) over a period of three days, it would not be sufficient for the witnesses to come all at once, even if they have information regarding the animal's behavior over a three-day period.

In order to resolve this inquiry, the Gemara brought a Baraisa where three sets of witnesses come, each of whom testify about a different event of the animal having gored. The ruling is that these represent three groups regarding goring, and they combine to be one set regarding the animal becoming a מועד. However, in regard to being subject to the law of הזמה they are as one – none will be subject to being punished as זוממין unless all are found to be conspiring witnesses.

As the Gemara analyzes this case, its first impression is that the only way the three sets of witnesses could be aware of each other is if they all appear in court together—a clear indication that they are not coming on three separate days. They are all together, each testifying about a different incident of goring. This proves לייעודי תורה.

Ravina (among others) explains that the case could be where the witnesses recognize that it is the same owner to whom the other sets of witnesses are addressing, but they do not recognize the ox. Because payment of half-damage is only

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REVIEW and Remember

1. What is the point of dispute between R' Yosi and R' Shimon?
2. What is the practical difference whether it is the ox that becomes a מועד or the owner?
3. Why is one who incites someone else's dog to attack a third party exempt?
4. How is Rava's ruling different from Reish Lakish's ruling?

HALACHAH Highlight

A proportionate response to abnormal behavior

כי אית לך רשותא לסגויי עלי לבעוטי בי לית לך רשותא

You have permission to walk over me but to kick me you have no permission

Rif¹ rules in accordance with Rava who maintains that even when the first animal behaves abnormally the owner of the second animal that responds abnormally and hurts the first animal, is responsible to pay for the damages his animal caused. Rosh² notes that this ruling is seemingly contradicted by another ruling of Rif. The Gemara (20a) discusses a case of a person who puts his clothing in the street and his friend's animal eats the clothing. Rif ruled like R' Yochanan that the animal owner is liable and the reason is that it is normal for people to put down clothing onto the street while they rest. The implication is that if it was abnormal for a person to put his clothing onto the street the animal owner would be exempt based on the principle of "כל המשנה כול המשנה"—When one deviates and another comes and responds with unusual behavior he is exempt." Seemingly, the animal's owner would be exempt even if his animal damaged the clothing by kicking it. What then is the rationale to hold the animal's owner liable if it kicks an animal lying in the street but to exempt him if it kicks the clothing that is lying in the street? Rosh suggests that there is a difference between clothing and animals. It is not considered abnormal behavior for an animal to trample clothing and thus the animal's owner would be exempt since his animal did not behave abnormally. Walking on another animal is considered to be abnormal behavior and thus following

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made from the ox itself, and the ox is not identified, the only purpose of their testimony must be to accuse the owner of being the owner of a מועד. This is the proof to ליעודי תורה.

Tosafos (ד"ה במכירין) asks that if the witnesses only recognize the owner but not the ox, how do they know that it is, in fact, the same ox which has gored all three times in order for it to now become a מועד? Tosafos answers that after each testified, they saw the ox and were able to conclude that, in fact, this was the same ox that caused all the damage. ■

the ruling of Rava the second animal's owner is liable for the damages his animal caused.

Yam Shel Shlomo³ suggests a different approach. He writes that the reason our Gemara distinguishes between kicking the lying animal and walking on it is that when the second animal kicks, it is indicative of its intent to hurt the first animal. Although the first animal behaved abnormally, nevertheless, the second animal's abnormal behavior is not proportionate to the abnormal behavior of the first animal and thus the owner is liable. Walking over the first animal is proportionate to the abnormal behavior of the first animal and thus the animal's owner is exempt. Accordingly, an animal that eats clothing that was left on the street is not considered to be responding in a disproportionate manner and furthermore, there is no indication of intent to damage the garment and thus the animal's owner is exempt from liability. ■

1. רי"ף לסוגיין

2. רא"ש פ"ב סי' י"ד

3. ים של שלמה ב"ק פ"ב סי' כ"ט ■

STORIES Off the Daf

Small acts of kindness

לייעודי תורה או ליעודי גברא

It is wonderful how much good a few words of encouragement can achieve. Conversely, the havoc that a couple of angry words said in haste can wreak is shocking. Rav Simcha Bunim of Peshischa, zt"l, recounted the following personal experience:

Like most Jewish children in the city of Vadislov, the young Simcha Bunim had a private tutor to teach him Gemara. When he was around ten, his melamed was very unsatisfied with his progress and completely lost patience with his young charge. "Get out of my sight!" he thundered. "You will never be a lamdan!" With that, he pushed the boy out.

These words broke the child's heart. He fled to the river and cried his eyes out. When he finally calmed down, he returned to the town. A certain baal habayis had a daily learning schedule in the local beis midrash and the boy approached him and requested that he give him a leinin, that he give him some time to prepare a Gemara for a supervised reading to gauge his level of understanding.

The baal habayis acquiesced and pointed to the sugya on Bava Kama 24 which discusses the three days it takes for an ox to become a מועד. Is this to establish that the ox gores, or is it intended to warn the owner?

He worked as hard as he could on this but by the end of the time period it was abundantly clear to him that he did not understand. He approached the baal habayis in tears and the man decided to

virtually teach the lad the sugya while listening to his reading. His patient explanations bore fruit when the boy not only understood but also began asking very strong questions which showed clearly that he had a very sharp intelligence. The baal habayis decided to learn with him every day.

When Simcha Bunim grew older he attended the famous Hungarian yeshivos and learned with Rav Mordechai Benet of Nikolsberg, zt"l. From the time he began his more formal yeshiva study, his heart burned with love for Hashem. He would wake up early singing praises of thanksgiving to Hashem and longing for the time when he would finally merit to don his tefilin.¹ ■

1. רמתים צפתים סימן א'

