

## OVERVIEW of the Daf

### 1) אנפוריא utensils (cont.)

The practical outcome of Shmuel's statement regarding circumstances when a person would lie is explained.

A related incident is recorded.

Another Beraisa is cited which further elaborates on R' Shimon ben Elazar's position.

Tangentially, the Gemara defines a term that appears in the Beraisa.

Five inquiries related to R' Shimon ben Elazar's position are presented.

Three unsuccessful attempts are made to resolve these inquiries.

An incident is recorded that may possibly resolve one of the inquiries.

The proof is rejected.

### 2) Finding lost objects

Shmuel gave two contradictory rulings related to finding a wallet.

After R' Yehudah notes that the rulings are contradictory Shmuel explains that his second ruling goes beyond the letter of the law.

An incident involving Rava and R' Nachman related to finding a lost object is presented.

### 3) אנפוריא utensils (cont.)

Two incidents are recorded in unsuccessful attempts to answer one of the inquiries regarding R' Shimon ben Elazar's position.

Two more incidents related to finding lost objects are presented.

4) **MISHNAH:** The Mishnah begins to enumerate items that one must announce and return to the owner when they are found. ■

## REVIEW and Remember

1. How did Mar Zutra catch the student who stole a silver cup?  
 \_\_\_\_\_

2. What is the rationale for the ruling that one who finds money in a Beis Knesses is permitted to keep the money?  
 \_\_\_\_\_

3. What are the Gemara's two examples of going beyond the letter of the law to return a lost object?  
 \_\_\_\_\_

4. What is *בשר שנתעלם מן העין*?  
 \_\_\_\_\_

## Distinctive INSIGHT

*To extend one's self לפניים משורת הדין*

אמר ליה לפניים משורת הדין

Two different verses are cited in the Gemara as the source to act beyond the call of duty, or, literally, "within the line of the law." One is Shemos 18:20, where Yisro told Moshe to instruct the judges to teach "the actions the people must do." The Gemara (here, and Bava Kamma 100) learns that the phrase *את המעשה אשר יעשון* refers to the letter of the law, while the term *אשר יעשון* teaches that we must do beyond the law itself. The Gemara later in Bava Metzia (83a) cites the verse from Mishle (2:20) which states, "In order that they follow the way of the upright." There are still other places in the Gemara where the expectation to conduct one's self in this manner is mentioned as a matter of fact, and no verse is cited at all.

Tosafos deciphers the various presentations of this concept and explains under which circumstances each verse is appropriate, and also when no verse need be mentioned. When there is a general obligation to act in a certain situation, but a particular person is exempt for a personal reason, the verse *אשר יעשון* is invoked to describe this person's admirable willingness to perform. The example of this is the story of R' Yishmael b"r Yose, who was an elderly man. Although there was an obligation for most people to assist in loading or unloading an animal, he was exempt due to his age. Yet, he availed himself to return the object.

There are other situations where everyone is basically exempt and no one in particular has an obligation to act, for example where the father of Shmuel returned a donkey to its owner after twelve months. This is not something that is expected, and it is not included in the standard rule of acting *לפניים משורת הדין*, but it is commendable behavior, as there is no cost for the finder to do the mitzvah. Therefore, in this case, no verse is cited.

Finally, we find the story of Rabba bar Bar Channa, whose workers were negligent and broke barrels. The halacha does not expect a person to suffer a loss to pay such workers, so the Gemara cites the verse of *למען תלך* *בדרך טובים*, which is different than the verses which require a person to extend himself when possible. ■

## HALACHAH Highlight

### Using a friend's property without permission

דמשי ידיה ונגיב בגלימא דחבריה

*He washed his hands and dried them on his friend's garment*

Rav Menashe Klein, author of Teshuvos Mishnah Halachos<sup>1</sup> wonders what the student did wrong in the passage that is quoted above. The Gemara in Pesachim (4b) teaches לאיניש דליעבד מצוה בממוניה—A person is happy for others to fulfill a mitzvah with his property. Since we are taught<sup>2</sup> that it is necessary for a person to dry his face after washing it he should be permitted to use his friend's towel since he has the right to assume that his friend would be happy for him to use his towel for that purpose. He answers by citing one of the limitations to the principle of ניחא ליה which is that the principle applies only when the item that is borrowed does not become damaged from use, e.g. borrowing someone's talis. If the borrowed item were to become damaged the principle does not apply. An example of this is found later in this perek (29b) where the Gemara rules that one who borrows a Sefer Torah from his friend may not lend it to others. The reason is that there is a concern the Sefer Torah may

become damaged from use and whenever there is a concern for damage to the borrowed item the principle of ניחא ליה does not apply. Consequently, it was prohibited for the student to use his friend's garment to dry his hands since garments become ruined when used to dry wet hands.

Concerning the question of whether it is permitted to use a friend's sefer without permission ת Shulchan Aruch<sup>3</sup> rules that it is prohibited and Mishnah Berurah<sup>4</sup> offers the reason mentioned earlier, namely, that there is concern that the borrower may wear out the pages of the sefer from use. Aruch Hashulchan<sup>5</sup> writes that one is permitted to use a friend's siddur or machzor without asking permission because most people do not mind if others use their siddur or machzor. Rav Chaim Kanievsky<sup>6</sup> is cited as ruling that nowadays that sefarim are very common and easy to obtain people are not particular if others use their sefarim. ■

1. שו"ת משנה הלכות חי"ג סי' נ"ב
2. שו"ע או"ח סי' ד' סע' כ'
3. רמ"א או"ח סי' י"ד סע' ד'
4. מ"ב שם ס"ק ט"ז
5. ערוה"ש שם סע'
6. מובא דבריו בספר משנה ברורה עם ביאור מאיר עוז סי' י"ד סעיף ד' אות ה' עמ' 320 ■

## STORIES Off the Daf

### Scholarly falseness

דלא משני אלה בהני תלת

It is well known that derech erez must precede Torah and that a commitment to act with integrity is the foundation of genuine derech erez. A certain talmid chacham was surprised to find, however, that the Piskei Tosafos in Maseches Ta'anis seems to imply differently: "Talmidei chachamim agree with their friends whether regarding truth or regarding falsehood."<sup>1</sup>

But he wondered what could this possibly mean?

When the Chasam Sofer, zt"l, was asked this question he replied that this doesn't mean that a talmid chacham

may admit to lies. "The Piskei Tosafos is teaching us the reasoning power of a talmid chacham. Every true scholar should be sharp enough to permit the forbidden or forbid the permitted ... but this is only permitted when holding discussions with other talmidei chachamim who will know what to take seriously and what to reject."<sup>2</sup>

But the Maharsham, zt"l, explained this differently. "It is not talking about objectively false or true statements. It means that the way of a talmid chacham is to respect his friend to such a degree that he may praise his friend's reasoning even if he disagrees with the substance of it. Although he may tell another scholar that his reasoning is sound, this does not mean he is truly convinced or that he admits to his friend in practice."<sup>3</sup>

Rav Akiva Yosef Schlesinger, zt"l, explained this in a different manner. "It means that even if his friend makes an error, he does not point this out unless he absolutely has to. Talmidei chachamim are so careful not to embarrass one another that they are even willing to agree to a mistake! However, this is clearly only in a situation where there is no possibility of error coming out of his colleague's words, and where the mitzvah of rebuke does not apply."

Rav Schlesinger concluded, "Just as we find in Bava Metzia 24 that a talmid chacham may lie regarding three things, it is his way to do so to avoid embarrassing another."<sup>4</sup> ■

1. פסקי תוס' בתענית דף ה'
2. שו"ת חת"ס ח"ו ס' ס"ו
3. דעת תורה הל' שחיטה ס' ד' ס"ק כ"ז
4. שו"ת רבי עקיבה יוסף יו"ד ס' קפ"ה