

## OVERVIEW of the Daf

### 1) The obligation of ma'aser

R' Yannai rules that tevel does not become obligated in ma'aser until the grain sees the front of the house. R' Yochanan adds that even the courtyard should trigger an obligation.

Each Amora presents the exposition he makes from the other's verse.

R' Chanina Choza'ah cites a Baraisa that indicates that the ma'aser obligation begins even in the field.

R' Pappa resolves this challenge.

The Gemara challenges the premise that someone who buys grain in the field is Biblically obligated to tithe that grain.

The Gemara is forced to admit that the obligation is only Rabbinic and another exposition of the word **כנפסך** is presented.

Mar Zutra unsuccessfully challenges the earlier assertion that grain does not become obligated in ma'aser until it is brought into the courtyard or sees the house.

Mar Zutra the son of R' Nachman also unsuccessfully challenges the assertion that grain does not become obligated in ma'aser until it is brought into the courtyard or sees the house.

### 2) An employee's right to eat (cont.)

The Gemara seeks the source that a human employee has the right to eat his employer's detached produce.

A kal v'chomer is suggested to prove this point but it is rejected.

Two expositions are presented to prove that human employees may eat from detached produce.

The Gemara seeks the source that animals may eat attached produce while they are working in a field.

A kal v'chomer is suggested to prove this point but it is rejected.

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## Distinctive INSIGHT

### Ma'aser from the fruit of the fig tree

הכא בתאנה העומדת בגינה ונופה נוטה לחצר עסקינן

Earlier, (87b), Rebbe Yanai and Rebbe Yochanan agreed that the verses in the Torah indicate that agricultural products only become obligated in tithes at a certain point of their being processed. Rebbe Yanai says that the point of obligation is when the produce is brought into the house. Rebbe Yochanan says that the moment of obligation is when the produce is brought into one's courtyard. The Baraisa in our Gemara teaches the details of what a farm worker may or may not eat while working, and it rules that a farm worker need not take of tithes from the food he is given. The Gemara's conclusion is that this Baraisa is dealing with a fig tree whose trunk is situated outside one's courtyard, but the branches and fruit of the tree hangs over into the courtyard or into the house itself. Nevertheless, the verse of "**כנפסך**" teaches that in this case, just as the owner need not take tithes from the produce at this point of its being processed, so too the worker need not take tithes from the fruit he takes to eat while collecting figs.

In any case, our Gemara clearly discusses the halacha of tithes being taken from figs. Most Rishonim hold that the only commodities obligated to have tithes removed from them are those mentioned in the Torah explicitly in the verse (Devarim 18:4). These are **דגן**—grain, **תירוש**—wine (and grapes), and **יצהר**—oil from olives. All other fruits are only obligated rabbinically. Rambam (Hilchos Terumos 2:1,6; Ma'aser 1:9) holds that there is a Torah obligation to take tithes from all fruits from all trees, and not just grain, wine and oil. Our Gemara, which associates the lesson from the verse to teach a rule regarding tithes from figs suggests that there is a Torah requirement of tithes regarding fruit from trees. How does the opinion of the majority of the Rishonim explain this?

Tosafos and Ramban explain that the example of the Gemara which illustrates a fig tree is really inaccurate. The Gemara actually means an olive tree or grapevine, which do have an obligation for tithing from the Torah. The Gemara uses the example of figs only because this type of tree was very common in Eretz Yisroel.

Ritva also says that the example of a fig tree is not precise, and the Gemara actually is referring to a vine which produces grapes. The example of figs is used to teach that even grapes are only obligated in tithes when they are collected in order to be eaten as is, similar to figs, which are eaten as fruit. If grapes are picked to be used to make wine, they are not tithed as fruit, until they are processed into wine. ■

## REVIEW and Remember

1. According to R' Yochanan, when is one obligated to separate ma'aser from his grain?

2. Why were the shops of Beis Hino destroyed before the rest of the city?

3. At what point are cucumbers subject to tithing?

4. Is an employer punished for muzzling an employee?

# HALACHAH Highlight

*Does a guest become the owner of the food that he takes?*

”תבואת זרעך” ולא לוקח

”The produce of your seed” and not a buyer

The Gemara teaches that the obligation to tithe rests upon the owner of the field. This is derived from the pasuk that states, עשר תעשר תבואת זרעך – You should tithe your grain. Therefore, Biblically one who purchases produce from a land owner is not obligated to tithe the purchased produce and it was Chazal who instituted the obligation to tithe purchased produce. Rashba<sup>1</sup> further explains that the Biblical exemption is limited to the case of a customer but does not include a guest and before a guest may eat the produce of his host he must be certain that the produce was properly tithed.

Steipler Gaon<sup>2</sup> proves from this an important principle with regards to guests. Poskim discuss whether food that a host gives to his guests becomes their property or is he merely granting them permission to eat the food but it remains the property of the host. Steipler Gaon cites the Rashba and asserts that this is proof that the guest does not become the owner of the food. Our Gemara teaches that when produce changes ownership the Biblical obligation to tithe that produce falls away. Since a guest has to assure that the produce offered by his host was properly tithed it is evident that he does not own the food that is offered to him.

(Overview...continued from page 1)

An exposition is presented that proves that animals may eat from attached produce while they are working.

Ravina begins to demonstrate that expositions are not needed to teach that humans may eat from detached produce or that animals may eat attached produce. ■

One area in which this issue has practical importance is kiddushin. Rema<sup>3</sup> rules that a guest who takes food that was given to him to eat and gives it to a woman for kiddushin has performed a valid kiddushin. This indicates that Rema is of the opinion that a guest does become the owner of the food because otherwise the kiddushin would not be valid. Although Taz<sup>4</sup> challenges this ruling from a Gemara in Chullin (94a), Vilna Gaon<sup>5</sup> answers the challenge and supports Rema's ruling. A second practical application of this halacha relates to the requirement for one to own the matzah that is used for the mitzvah. If a guest does not own the food that he is served how could he fulfill the mitzvah of eating matzah? Some Poskim<sup>6</sup>, in fact mention that the host should give ownership of the matzah to his guests but other Poskim<sup>7</sup> justify the more common practice of not going through this formality. ■

1. רשב"א ד"ה ולוקח.
2. קבלת יעקב סי' מ"ח.
3. רמ"א אה"ע סי' כ"ח סעי' י"ז.
4. ט"ז שם סק"ד.
5. גר"א שם סק"ו.
6. ע"י שפת אמת למס' סוכה ל"ה. ד"ה אתיא.
7. ע"י שו"ת בצל החכמה ח"ד סי' קע"ב. ■

# STORIES Off the Daf

*Healing the whole*

”מפני שהעמידו דבריהם על דברי תורה...”

On today's daf we see that the stores of Beis Hino were destroyed three years before the destruction of Yerushalayim because they violated rabbinic law. Why are such violations so serious?

Rav Chaim of Tzanz, zt"l, explained this in depth. “Although one may not add to the Torah, the rabbis have permission to add a halachic ‘fence’ to protect people from failing to fulfill the Torah. In addition, they can make a new decree to protect people from falling prey to the assimilationist tides of the time, as we find in Shabbos 23 and Yevamos 21.<sup>1</sup>

“Yet in Makkos 23 we see that Torah mitzvos are compared to our limbs, so

how can we possibly add a rabbinic mitzvah to an organic whole that has its original structural integrity? We can understand this with a parable. Sometimes a person who was well contracts a sickness in one of his limbs. Generally speaking, medicine must be administered which effects the weakened limb. Yet at times people get ill in their entire body. Sometimes this type of illness is the result of being in a noxious environment. At other times, a person just feels weak and cannot follow his routine for no apparent reason. At such times, a good doctor does not try to heal any one limb. Instead, he concentrates on strengthening the entire body and bringing it back to its original health, through whatever medication or therapy possible.

“The same is true in spiritual terms. The 248 positive mitzvos and the 365 negative prohibitions rectify and bring com-

pletion to each of one's physical limbs and sinews to enable him to be a vehicle for holiness. As our sages say, ‘A person should always view himself as if he had holiness in his innards, מעיו, from the verse in Hoshea, ‘מקרבך קדוש’—you are holy in your inward parts.’<sup>2</sup> During the times when we had a Beis HaMikdash, especially the first Beis HaMikdash, we were mostly healthy and did not require many rabbinic decrees. But after we fell to serious sins at the end of the period of the first Beis HaMikdash, and then even when we returned from exile to the second Beis HaMikdash, we failed to completely heal ourselves. Due to the destruction and our exiles we have become so ill in all of our spiritual limbs that we required special rabbinic measures to heal us.”<sup>3</sup> ■

1. וע"י רמב"ם, הלכות ממרים, פ"א, ה"ב.
2. פסוק בהושע, י"א: ט', נדרש בגמ' תענית י"א.
3. דברי חיים, חנוכה. ■