

## OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah concludes with a case of a worker who accepted straw for his wages and then the employer wants to exchange the straw for cash.

### 2) Collapsed roof

Rav and Shmuel disagree how much of the floor/roof has to collapse for the Mishnah's first discussion to apply.

After Rav and Shmuel explain their respective opinions the Gemara explains why it was necessary for their dispute to be mentioned in two contexts.

### 3) The time given for a person to cut down his tree

R' Yochanan states that a person is given thirty days to cut down his tree.

### 4) Clearing away the stones

The Gemara questions the implication of the Mishnah that the owner of the garden acquires the stones when he moves them since his yard should acquire them on his behalf.

A qualification is given for the principle that one's yard acquires property on his behalf.

### 5) Exchanging merchandise for cash

The Gemara explains why it was necessary for the Mishnah to address the same halacha, namely the employer's inability to exchange merchandise given to his employee for his salary for cash, in two different cases.

A Baraisa is cited that rules that the employer may exchange the merchandise for cash.

R' Nachman resolves the contradiction.

Rabbah rejects this resolution so R' Nachman offers an alternative resolution.

Rava challenges this resolution and R' Nachman suggests a third resolution.

### 6) Acquiring ownerless property by staring at it

Rabbah suggests that there is a dispute between Tannaim whether it is possible to acquire ownerless property by staring at it.

Rava rejects this assertion and offers an alternative explanation of the Baraisa.

A second version of Rava's explanation is recorded.

Ravin in the name of R' Yochanan also explains the dispute in this manner.

7) **MISHNAH:** The Mishnah discusses activities that may or may not be performed in the public domain and the manner in which they may be done.

### 8) Identifying the author of the Mishnah

It is assumed that the Mishnah that teaches that one may not leave manure in the public domain is inconsistent with R' Yehuda who permits the practice.

A way of reconciling the Mishnah with R' Yehudah is sug-

(Continued on page 2)

## Distinctive INSIGHT

### Guarding Shemitta fruits

דתנן שומרי ספיחי שביעית נוטלין שכרן מתרומת הלשקה

Rav Nachman established that ownerless property (הפקר) is not acquired by a person who merely stares at it (הבטה). Rabba cites a Mishnah where it seems that this matter is disputed by Tannaim. The Mishnah (Shekalim 4:1) teaches that the Beis HaMikdash needed wheat and barley for the meal offerings (מנחות) and the Omer offering. During Shemitta year, they collected this grain from the wild growth (ספיחים), which was ownerless. A guard was appointed and paid to supervise that no one else take that grain which was designated for the Beis HaMikdash. This guard was paid from the general funds of the holy. R' Yose contends that this guard was not to be paid, and it was done by a volunteer. The Gemara suggests that the point of contention here is that Tanna Kamma holds that this guard becomes the owner of this guarded grain simply by watching it, and he willingly transfers it to the holy only when he receives a wage for his work. R' Yose holds that merely watching the grain does not result in its becoming the property of the guard, and there is no need to pay the guard in order for the holy to acquire it.

In any case, Tosafos earlier (58a) notes that Toras Kohanim (Behar 1:3) determines that Shemitta fruits are not allowed to be guarded, and if they are, they are prohibited to be eaten. We know that the Omer, which was partially eaten, can only be brought from grain that is permissible to be eaten (see Pesachim 48a). How, then, can it be brought from guarded Shemitta grain?

Tosafos answers that these guards did not stop anyone from taking the grain designated for the Omer. Rather, they simply informed anyone who came that this grain was going to be used for the Omer, and people would refrain on their own from taking it. This is therefore not called "guarded grain."

(Continued on page 2)

## REVIEW and Remember

1. Why is it necessary for Rav and Shmuel to present their dispute in two contexts?
2. Is it possible to acquire property by staring at it?
3. How long in advance of a building project is one permitted to store materials in the public domain?
4. How does Rava explain the dispute between R' Meir and R' Yehudah?

Today's Daf Digest is dedicated  
 Mr. & Mrs. S.Y. Meystel in memory of her father  
 Mr. Jules Behren - ר' יהודה בן ר' אליעזר ע"ה

Today's Daf Digest is dedicated  
 By Mr. and Mrs. Joey Stern in loving memory of their mother  
 מרת חיי' בת ר' יוסף ע"ה

# HALACHAH Highlight

## Paying an employee with cash

טול מה שעשית בשכרך אין שומעין לו  
 "Take what you did as your wage," – we do not listen to him

Rashi<sup>1</sup> explains that although the general rule is that objects that have cash value are considered the same as cash (שוה כסף) (כסף, nevertheless, the Torah says<sup>2</sup> בל תלין שכרו which indicates that the employer is obligated to pay according to their original agreement, cash. Rashba<sup>3</sup> disagrees and asserts that the language of the verse does not indicate that the employer is obligated to pay specifically cash. Therefore, he suggests that the rationale behind this mitzvah is the assumption that the worker agreed to work only because he needed money to pay for food that evening. Hence, giving an employee merchandise that he would have to sell to generate cash is considered an unreasonable burden on the employee. Piskei Riaz<sup>4</sup> adopts a middle position. He writes that the Mishnah refers to a case where the employer has money to give to his employee and would prefer to give merchandise instead. If, however, the employer does not have cash available he is permitted to give his employee merchandise instead of cash and the employee cannot demand that the employer should sell the merchandise to be able to provide him with cash.

According to Rashba it emerges that there are three different categories of payments; loans, damages and wages and each category has different parameters. Concerning loans, the primary obligation of the borrower is to pay back the loan with cash. In the event that he does not have cash he can give the lender land or movable objects

# STORIES Off the Daf

## The porters' wages

"השוכר את חבירו... והראוהו בשל חבירו"  
 Today's daf discusses the halachos of paying a hired worker.

One of the students of Rav Yehoshua Leib Diskin, zt"l, was once walking down a street in Yerushalayim on a hot summer day when he noticed an elderly man collapse to the ground in a dead faint. Nearby was a hiring post for porters. The student immediately called over a few porters and requested that they carry the elderly man to the local hospital. This move probably saved the old man's life.

A few hours later, the porters came to the student's house and demanded payment for their services. "After all, everyone knows that we only carry objects—or people, for that matter—for money."

But the student, who was destitute like

most of the residents of Yerushalayim in those years, summarily dismissed the workers with a dose of rebuke. "You cannot possibly be serious. How could you think that I am obligated to save a fellow Jew's life, but you are somehow not required without being paid your regular wages? You were fortunate to merit to fulfill a very great mitzvah: it is as if you saved the entire world, and all you can think about it making money off of it?"

When news of the altercation traveled quickly to the ears of Rav Yehoshua Leib Diskin, he summoned the student to his house on that very day and ruled that he was obligated to find money and pay the workers for their services immediately so as not to violate the prohibition of לא תלין.

The Rav concluded, "Because I know that you honestly do not have the money and have no way to borrow it, I am giving you their entire price of their hire."

By that time, the workers had gone home but the student made extreme efforts to locate each of their homes so as not to

(Overview...continued from page 1)

gested.

On the second attempt the Gemara succeeds at refuting this suggestion and concludes that it is logical to assume that the Mishnah does not follow R' Yehudah.

Abaye presents a list of Tannaim who maintain that once Chazal gave a person permission to perform a certain task he is not responsible if damage results from that act.

### 9) Liability on a building site

A Baraisa discusses the guidelines for determining when a person is liable for damage that resulted from a building project.

A contradictory Baraisa is cited.

The Gemara resolves the contradiction.

10) **MISHNAH:** The Mishnah presents three views regarding ownership of a vegetable that grew out of the vertical surface between two adjacent gardens.

### 11) Clarifying the dispute

Rava qualifies the dispute and cites another Baraisa in which R' Meir and R' Yehudah present the same rationale. ■

as payment. Damages may be paid with land or movable objects even if the damager has more than enough cash to cover the cost of the damages. Wages are to be paid in cash, since as mentioned earlier that is the understood stipulation of the employee, and if the employer does not have cash readily available he is obligated to sell merchandise in order to be able to give his employee cash. ■

1. רש"י ד"ה אין שומעין.
2. לשון זה אינה פסוק ועי' ר"ן ד"ה אבל סיפא.
3. דעת הרשב"א מובא בשיטה מקובצת ד"ה מה ששינונו.
4. פסקי ריא"ז ה"ה.
5. עי' מתיבתא ילקוט ביאורים לסוגיין העי' י"א. ■

violate the prohibition. After much searching he finally tracked them down and paid their wages just a few minutes before the very late summer sunset."<sup>1</sup> ■

1. עמוד אש, פ"ט ■

(Insight...continued from page 1)

Tosafos in Rosh Hashana (9a) explains that the guards protected this grain from being eaten by animals. The guards did not stop people from taking it, but people would stay away on their own when they realized that it was to be used for the holy.

Rashash (to Tosafos 58a, לשמור) explains that it is only prohibited to guard Shemitta fruits for one's own self. However, if the guard is protecting it for someone else, or for the holy, it is not prohibited, and the grain is allowed to be eaten.

Sfas Emes explains that it is only prohibited to guard an entire field. To protect just a small amount before taking it to one's home is allowed if there is more in the field for animals. ■