

OVERVIEW of the Daf

1) Ma'aser rishon (cont.)

The Beraisa that presents Abba Elazar ben Gamla's opinion (i.e. the farmer may separate terumas ma'aser) is recorded.

2) **MISHNAH:** The Mishnah that a person who sets aside produce or coins for the purpose of separating terumos and ma'asros may assume that they still exist. If they go bad he must be concerned for a period of twenty-four hours. R' Yehudah maintains that one who sets aside wine for this purpose must check the wine at three times during the year.

3) "A period of twenty-four hours"

Two opinions are recorded regarding the meaning of the Mishnah's phrase "a period of twenty-four hours."

One of the two opinions is successfully challenged.

4) R' Elazar's opinion

R' Elazar notes that R' Elazar's (the Tanna of the Mishnah) friends disagreed with his position.

The necessity for making this point is explained.

5) The three times when wine must be checked

A Beraisa elaborates on the first time the wine must be checked.

6) Selling grain

A Beraisa mentions three times grain and wine may be sold.

Rava explains the significance of these rulings.

7) The east wind

A verse that mentions the east wind is recorded.

R' Yehudah suggests an explanation of the term חרישית mentioned in the verse.

Rabbah rejects this explanation and offers an alternative explanation that is supported by another verse.

Two incidents related to wind are recorded.

Rava presents three statements that describe the effects of the east wind.

R' Nachman bar Yitzchok suggests a source for the three explanations

Rava explains the first part of the verse just cited. ■

Distinctive INSIGHT

Should one Torah scholar stand in honor of another?

רב הונא ורב חסדא הוו יתבי חליף ואזיל גניבא עלייהו, אמר חד לחבריה ניקים מקמיה דבר אוריין הוא

Rav Huna and Rav Chisda were sitting and learning, as Geniva walked by them. One said to the other, "We should stand, as Geniva is a Torah scholar."

The Rishonim discuss whether there is an obligation for one Torah scholar to stand for one of his peers, another Torah scholar. Ramban (cited in Ran, to Bava Metzia 33a) rules that there is such a requirement. Ritva (Kiddushin 33a) and Ran (ibid. 14a) write that one need not show such reverence for another Torah scholar of equal stature.

The Acharonim explain that in our Gemara, we find that Rav Huna and Rav Chisda discussed whether they should stand for Geniva. We must therefore conclude that Geniva was a greater scholar than they. It is noteworthy that the Gemara (later 59b) tells us that Rav Huna was the Gadol Hador in his time. Even Rebbe Ami and Rebbe Asi, who were the most prominent kohanim in Eretz Yisroel, were subservient to him. Nevertheless, we must say that Geniva was even greater than he, as Rav Huna and Rav Chisda considered standing in his honor, had it not been that Geniva was a contentious person. This seems to be the case, as the Gemara later (62a) reports that Rav Huna and Rav Chisda consulted with Geniva and asked him for various pieces of information.

The Vilna Gaon (ביאור הגר"א י"ד רמז סקי"ג) writes that when Rav Huna and Rav Chisda said, "ניקים מקמיה" they did not mean to stand for him, as they were greater than he. Rather, they considered expressing some form of honor due to his being a noted Torah scholar. Accordingly, the Vilna Gaon identifies this story as the source for the ruling of Shulchan Aruch (Yoreh Deah 244:8) that two Torah scholars or two elders do not have to stand for one another, but they should show some sign of respect.

It seems from our Gemara that Rav Huna and Rav Chisda finally decided not to stand or show honor to Geniva. Ben Yehoyada points out that in order to avoid insulting Geniva by not standing for him, these two scholars would have left the area before Geniva arrived, but they were not able to do so. Or else, it could be that Geniva was riding an animal when they first spotted him coming. There is a discussion in the Gemara (Kiddushin 30) whether this is considered as if the person is walking by or it is as if he is standing still. This is why these two scholars did not immediately stand. ■

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 By The Chicago Center for Torah and Chessed

לע"נ
 העלמה שרה לאה בת הרב יוסף, נ"י

HALACHAH Highlight

Selling jointly owned produce prematurely

למאי הלכתא אמר רבא ואיתימא ר' פפא לשותפין

What is the relevant halacha? Rava or R' Pappa said it is relevant for partners

Rema¹ rules that if there is a set time to sell produce and a partner sold some of the produce before that time without getting approval to make that sale and the produce subsequently goes up in value, he is considered negligent (פושע) and must reimburse his partner the amount that was lost for selling the produce early. Ketzos Hachoshen² challenges the ruling that the partner must pay the higher value. If the partner had damaged the fruit rather than sold it he would only be responsible to pay the value of the produce at the time of the damage; what then is the mechanism that obligates him, in this case, to pay the higher value?

Nesivos Hamishpat³ suggests that the ruling of Rema is based on another ruling in Shulchan Aruch that relates to a contractor (קבלן) or a day worker (פועל). Shulchan Aruch⁴ rules that when an employer relies on his contractor or day worker to complete a job and he is negligent and does not complete his task, he is responsible to reimburse his employer for what he could have earned had the job been completed. This same principle can be applied to partners, asserts Nesivos, and thus when one partner is negligent or irresponsible he must reimburse his partner even for the money that could have been earned had he not been negligent.

Maharsham⁵ rejects the explanation of Nesivos because a majority of Poskim maintain that one is not obligated to pay for money that would have been earned and thus the partner also should not be responsible to pay for what could have been earned. The

REVIEW and Remember

1. Does terumas ma'aser have to be physically separated?
2. What is the meaning of the Mishnah's phrase מעת לעת?
3. How far back in time do we have to be concerned if a mikveh is discovered to be lacking the correct amount of water?
4. What are some of the negative consequences of an eastern wind?

reason the partner is obligated to pay is that the nature of a partnership is that the partners merge their assets and obligate themselves in the event that they cause damage to the partnership's interest, even for money that could have been earned. This approach answers another difficulty with Rema's ruling. There is a general principle that one is not responsible for indirect damage to another's property. How then could the partner who sold the produce be responsible to pay for damage he caused his partner that was indirect? Teshuvos Divrei Moshe⁶ answers that when two people agree to form a partnership they agree to pay for the indirect damages they may cause to the partnership. ■

1. רמ"א חו"מ סי' קע"ו סעי' י"ד.
2. קצה"ח שם סק"ז.
3. נתה"מ שם ס"ק ל"א.
4. שו"ע חו"מ סי' ש"ד סעי' ה'.
5. משפט שלום סי' קע"ו סעי' י"ד.
6. שו"ת דברי משה סי' ס"ח. ■

STORIES Off the Daf

The lost object

"אם אבדו חושש להן מעת לעת..."

People often send objects that are inexpensive to places where these same items are more valuable. Once, a certain man did just that. He sent a messenger with an object that cost one dinar where he lived, but was actually worth two dinarim where the messenger was going. Unfortunately, the messenger was very busy and had a hard enough time keeping track of his own things, let alone the object of another. He later regretted agreeing to be a messenger since several days after arriving at his destination he noticed that he had lost several valuable objects, including his trust. Unfor-

tunately, he was so overworked that he had absolutely no recollection when or even where he had lost the item.

When the hapless messenger informed the man who had sent him he duly apologized, acknowledged his responsibility, and agreed to pay the purchase price of the object. When the sender got word of this, he was quite upset. "If you may have lost it after arriving at your destination, you should pay the price of the object at your end. Isn't it a chazakah that you arrived there with it since we have no indication that you did not?"

"המוציא מחבירו עליו הראיה—the burden of proof is on the plaintiff. I will pay you double only when you can prove that I had it in my possession until I arrived at my destination," the messenger replied.

This question reached the Maharam M'Rottenberg, ז"ל, who disagreed with the claims of both the owner and the messenger. "In Gittin 31 we find that one may designate produce or money in order to dedicate it as terumah or to redeem ma'aser sheni. If it was found to have been lost, all uses of the designated produce or money within the previous twenty-four hours are invalid and must be re-asserted. Anything done before that is valid, since the produce or money is assumed to have been intact at that time. The same holds true in your case. Halachically, we assume the object was lost for only twenty-four hours. Since the messenger was at the destination for several days, he must pay two dinarim: the full value at the destination!"¹ ■

¹ שו"ת מהר"ם מרוטנבורג, ס' תתקל"ה

