

## OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah finishes presenting the first of Chanan's two rulings.

### 2) Clarifying the Mishnah

A Baraisa is cited that uses different language than the Mishnah.

The two differences between the Mishnah and Baraisa are resolved.

Another Baraisa is cited that cites a different list of the three judges of decrees in Yerushalayim.

R' Pappa resolves the discrepancy by distinguishing between the opinion of Chachamim and that of R' Nosson.

Another Baraisa states, in contrast with the previous Baraisa, that there were many judges in Yerushalayim.

The Gemara distinguishes between the many judges and the few that issued decrees.

### 3) Paying judges

R' Yehudah in the name of R' Assi explains how the judges were paid.

An alternative method, associated with Karna, of paying judges was to take an equal amount from each party.

This practice is challenged on the basis that it constitutes a prohibited bribe.

After failed attempts to explain Karna's practice the Gemara comes up with an acceptable explanation.

Another example of receiving money for lost employment is recorded.

### 4) Taking bribes

R' Avahu how demonstrates how blinding taking a bribe could be.

A Baraisa is cited that further expounds the verse cited in R' Avahu's teaching.

Additional teachings related to accepting bribes are presented.

Numerous examples of incidents involving non-financial bribes are recorded. ■

## Distinctive INSIGHT

*The danger of all forms of interest*

תנו רבנן כי השחד יעור עיני חכמים

Rabbi Shimon HaLevi Epstein of Warsaw was the grandfather of Rabbi Yechiel Michel Epstein of Novordok (the author of the *ערוך השולחן*), and the great-grandfather of Rabbi Baruch HaLevi Epstein of Pinsk (the author of the *תורה תמימה*). He was a wealthy merchant, and he had a business partner by the name of Kuppel Halperin. Once, when the two partners happened to be in Bialystok, a misunderstanding arose between them. They went for a ruling to the local Beis Din, to the author of the *Mar'os HaTzovos*. Upon their arrival at the Rabbi's chamber, they requested of the attendant to have the Rabbi deal with their claims. The Rabbi had the attendant call them in to present their case.

As the two men entered, they were shocked to see that the Rabbi had lowered his tallis over his eyes. He did not offer his hand to greet them, and he did not ask them to be seated. He simply called out, in what seemed to be a harsh and unfriendly manner, "Zimmel and Koppel! Whichever one of you is the claimant, let him begin now and state his case!"

The two men shuddered, as they felt insulted by such a cold reception. These men, who were significant donors and supporters of Torah, were used to being treated with a bit more honor. Nevertheless, they tried to ignore the ignoble reaction, and they presented their claims. The Rabbi heard the case, and pronounced his verdict. He then asked, "Zimmel and Kuppel, do you both accept the ruling?" They each declared their willingness to accept the ruling.

Immediately, the Rabbi removed his tallis from his face and offered each of them a warm and friendly handshake. He then had his attendant serve refreshments in honor of the respected visitors. The two men were now shocked and puzzled more than before, as they could not understand the great reversal of mood which had come over the Rabbi. Sensing their dismay, the Rabbi explained. "Gentlemen, the Mishna in Avos (1:8) teaches us proper protocol in a Jewish court: 'As the litigants stand before you, consider them both to be guilty. When they are dismissed from you, after having accepted the judgment, they shall be considered as innocent.' You see, if a judge were to treat the litigants with utmost dignity and honor as they enter his chamber, each of them would see himself as being totally righteous in his eyes, and they would tend to exaggerate their claims, even bending the truth. Justice would not be served in this instance. Therefore, when it was a question of trying to determine the truth and to arrive at a correct conclusion, I had no choice other than to initially receive you both in a plain and simple manner. I apologize for any misunderstanding, but when it comes to the honor of Torah, both of you had to take a back seat." ■

## REVIEW and Remember

1. What is the difference between a judge and an issuer of decrees?

2. How is it possible to pay a judge for his judgment?

3. Is one permitted to be the judge for an enemy?

4. Is it possible nowadays for a person to bring "Bikkurim"?

# HALACHAH Highlight

## Giving gifts

תנו רבנן "כי השוחד יעור עיני חכמים" ק"ו לטפשים "ויסלף דברי צדיקים" ק"ו לרשעים

*The Rabbis taught, "For the bribe blinds the eye of the wise," all the more so to the stupid. "And it perverts the words of the righteous," all the more so to the wicked.*

There was once a businessman who was convinced by his partners to engage in what turned out to be illegal. He was caught and charged with very serious crimes that carried severe penalties including prison time. His lawyer told him that since the judges in that country do not differentiate between intentional and unintentional violations of the law the only way he will avoid the consequences of his crime is to send a gift (שוחד) to the judge. This defendant was concerned about the halachic permissibility of giving this gift and the question was presented to Rav Mordechai Yaakov Breisch<sup>1</sup>, the Chelkas Yaakov for a ruling.

Chelkas Yaakov cited Shoel U'Meishiv's explanation of Ramban<sup>2</sup> concerning the prohibition against giving gifts to non-Jewish judges. That prohibition applies only when the gift will lead the judge to issue an incorrect ruling.

This is in contrast with the prohibition against giving a gift to a Jewish judge where the prohibition is violated under all circumstances. This generally will occur when there are two litigants and whatever one party gains, the other party loses. In this case, however, it is a trial between the government and this defendant and the final judgment will only affect this defendant. Furthermore, judges in cases like these are given a large degree of discretion when it comes to sentencing. Therefore, he allowed the defendant in this case to give a gift to the judge since it was in an effort to be treated fairly, i.e. so that the judge would be lenient for one who unintentionally violated the law and it wasn't to obtain a false verdict but rather to obtain a lighter sentence.

Rav Menashe Klein<sup>3</sup>, the Mishnah Halachos, also writes that in this type of case it is permitted to give a gift to the judge and adds an additional reason. When there is reason to believe that the judge is looking to deal harshly with a Jewish defendant the purpose of the gift is to level the playing field rather than to cause a miscarriage of justice and is therefore permitted. ■

1. שו"ת חלקת יעקב חו"מ סי' ב'.
2. שו"ת שואל ומשיב מהדו"ק ח"א סי' ת"ל בשם הרמבן פרשת וישלח.
3. שו"ת משנה הלכות ח"י"ב סי' שע"ו. ■

# STORIES Off the Daf

## Gifts to the Torah Scholar

"כל המביא דורון לתלמיד חכם כאלו הקריב בכורים..."

Rav Tzadok HaKohein of Lublin, zt"l, was a Torah scholar par excellence. From a very young age he vowed never to partake of food that was not served as part of a seudas mitzvah. Practically speaking, this meant that he would complete two tractates a day in order to allow himself to claim his meager fare.

When Rav Tzadok was already older, a certain chossid presented him with a very expensive gift. Rav Tzadok politely but firmly refused to accept it.

The chossid protested vehemently, "But Rebbe, the Gemara in Kesuvos 105b states that one who gives a gift to a talmid chacham is considered as if he had brought bikurim?"

Rav Tzadok remained silent.

That Friday night at the tisch, the Rebbe told the story of his refusal to accept the man's gift and commented, "Am I really a talmid chochom? I can't say I haven't learned Torah since that would not be true. I have learned. But what right to honor do I really have? About learning such as mine the verse says in Mishlei, "Why is there a price in the hand of a fool to buy wisdom, seeing as he has no heart?" (Mishlei 17:16) Chazal explains this one who has no heart is

one who learns Torah and doesn't fulfill what he has learned. Since I am just such a person with no heart, since my yiras shomayim is so far from complete, how could anyone consider me a talmid chochom of such stature?"

After the tisch, those closest to the Rav asked him what had made him say such sharp words of self criticism.

Rav Tzaddok answered, "What do you mean? He tried to give the gift and tell me that I am a talmid chochom. I had to explain."

His students persisted, "But why explain in public?"

Rav Tzadok replied simply, "What should I do, tell each person privately?" ■

