



OVERVIEW of the Daf

- 1) **MISHNAH (cont.):** The Mishnah finishes its presentation of the calculation of the Biblical issaron and then presents the calculation according to Yerushalmi measurements.
- 2) **Eiphah**
 R' Chisda cites a source that an eiphah is equal to three se'ahs.
 The size of a bas is identified.
- 3) **Adjusting measurements**
 Shmuel presents guidelines for adding to measurements and the weight of coins as well as how much profit one is allowed to earn.
 The Gemara searched for the reason we cannot increase a measurement by more than a sixth.
 R' Chisda gives a rationale for this ruling.
 Ravina cites a Mishnah in support of this ruling.
- 4) **MISHNAH:** The Mishnah explains what is done with the Todah loaves.
- 5) **The Todah loaves**
 A Baraisa elaborates at length on the exposition presented in the Mishnah.
 The Gemara unsuccessfully challenges the Baraisa's exposition of the word ממנו.
 The Gemara unsuccessfully challenges the Baraisa's gezeirah shavah using the word תרומה.
- 6) **Terumah of Todah loaves**
 Rava inquires whether a non-kohen who eats terumah of todah loaves is liable to death and the 1/5 surcharge for eating it and the question is left unresolved.
- 7) **The Todah loaves (cont.)**
 The Gemara challenges the Baraisa's exposition of the word תהיינה. ■

REVIEW and Remember

1. What is the source that an איפה is three סאה?

2. What is the reason that we do not increase measurements by more than a sixth?

3. How many loaves that are part of the Todah are eaten by the owner?

4. What is the punishment for a non-Kohen who eats the terumah loaves of the Todah?

Distinctive INSIGHT

When the terms of a sale are very specific

כל דבר שבמדה ושבמשקל ושבמנין אפילו פחות מכדי אונאה חוזר

Shmuel ruled that when the standard sizes of well-known weights and measures are changed, the change should not be more than a one-sixth increase at a time. As it searches to understand why Shmuel made his rule, the Gemara suggests that perhaps it is to avoid a situation where a buyer might not realize that the weights or measures have been changed, and the seller might weigh out the commodity to be sold in the new, decreased measure, and sell it for the old price. The rule is that if the price charged is greater than one-sixth more than it should be, the sale is nullified. Therefore, by keeping the change in measure to no more than one-sixth, even if there is a misunderstanding, the sale will not have to be reversed.

The Gemara rejects this explanation of Shmuel's rule, because Rava taught that one-sixth is the cut off to legitimize a sale only when the misunderstanding is regarding the purchase price or the quality of the product. However, when a mistake or misunderstanding is made in terms of a measure, then even if the purchase is less than one-sixth off the price, the sale is cancelled.

The Gemara finally shows that Shmuel's rule was not based upon a logical argument, but it was rather based upon a verse.

The Rishonim offer various approaches to understand the rule of Rava that even a small misunderstanding of the price cancels a sale for anything which is measured, weighed, or counted.

Rashbam (to Bava Basra 90a) says that when the buyer clarifies his intentions by specifying a measurement, even a small deviation from his express intent causes the sale to be nullified. There is no reason to assume that the buyer will accept up to a one-sixth range of price. Ritva (to Kidushin 42b) points out that Rava's ruling states that when the buyer is specific, any element of deviation results in a חזרה—a retraction. This suggests, as Rashbam comments, that the sale is completely invalidated.

Rashba, however, asks that if this were so, Rava should

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 In memory of
 ר' חיים שמואל בן ר' מאיר הלוי, ע"ה

HALACHAH Highlight

Setting market prices

והמשתכר לא ישתכר יותר משתות

One who profits may not profit more than a sixth

Shmuel teaches that a merchant may not profit more than 1/6 the value of the merchandise that he sells. Poskim¹ explain that this refers to foods that are essential for a person's existence, e.g. wine, oil and flour and certainly bread and meat. This halacha requires Beis Din to appoint representatives who will oversee the market to assure that merchants do not charge whatever they want for these staples. Rather, after taking into account the merchant's expenses including the cost of the food and his overhead he may not charge more than 1/6 beyond that cost. This halacha applies only when Beis Din has the jurisdiction to maintain control over the market but in times when Beis Din does not have this authority we do not require a merchant who is willing to be compliant with this halacha to follow this halacha when others are not.

Pischei Choshen² notes that one does not find the Poskim teaching that all the merchants must sell a product at a single uniform price. Instead, the restriction is that a merchant may not take a profit that is more than 1/6 of his total cost. It could happen, however, that merchants will sell the same product at different amounts because their expenses differ. This leads to an interesting question in regards to the prohibition of אונאה – exploiting someone's ignorance in

(Insight...continued from page 1)

have said that the sale is בטל—it is cancelled, and not that the buyer may retract. Furthermore, Rashba cites a Gemara in Bava Basra (103b) when a seller specifies that he is selling a parcel of land with exact measurements. If the actual size of the land is off a bit the price is to be adjusted, and we do not say that the sale is null.

Rashbam explains that the rule of Rava was said only in terms of movable items (מטלטלין), but with land the sale would be valid even if the measure is somewhat off of what was discussed between the seller and buyer. We assume that the buyer is satisfied with his purchase of land and its location even if the precise size of land is slightly larger or smaller than expected. ■

commerce. If a merchant's expenses are high is he allowed to charge more than the market price for this item as long as he does not charge more than the cost of the merchandise plus 1/6? The same question could be asked in the opposite direction. If one merchant has little overhead is he obligated to sell his merchandise for no more than the cost of the merchandise plus profit even if he will then sell the merchandise for significantly less than the market price for this item? He writes that in his opinion one may not profit more than 1/6 even if he will sell the merchandise for less than the market price and if his expenses are high he may not charge more than 1/6 the market price in order to not violate the prohibition of ona'ah. ■

1. עי ערוה"ש חו"מ סי' רל"א סעי' כ'.

2. פתחי חושן גניבה ואונאה פי"ד העי' כ"ו. ■

STORIES Off the Daf

A Rabbinic Boycott

"אין מוסיפין יותר משתות..."

When Rav Yechezkel Feivel, ז"ל, was the Maggid of Vilna, the people were hit with an unpleasant surprise. The fishermen of the city—who were Jewish—decided to drastically raise the price of fish which is an important food and which everyone needed for Shabbos at the very least. As we find on today's daf, it is forbidden to put the profits up more than a sixth of the total value of the item but, sadly, these fishermen were not worried about hala-

chah.

Rav Yechezkel Feivel summoned them and warned that if they didn't lower the price he would forbid the Jews of the town from buying fish. The fishermen knew that fish was popular in the city and figured that the townsfolk would ignore any such ban. When Rav Yechezkel Feivel saw this he immediately ordered that all the shuls of Vilna announce that it is forbidden to purchase fish for consumption during the week...and even for Shabbos.

After two weeks the fishermen started to feel that they had made a mistake. Apparently, people obeyed rabbinic bans after all. But when they came to appeal to Rav Yechezkel Feivel

it was clear that they were not really repentant and might try to hike the prices up again.

Rav Yechezkel Feivel decided to give them more time to realize the errors of their ways and to ensure that they never attempt such a thing again. As they were leaving he called them back and said, "You should know that you are also Jews. Just as the Jews of the rest of the city must obey the ban on your fish the same is true for you. Until the ban is lifted, it is forbidden for you yourselves to eat these fish exactly as it is prohibited for everyone else!"¹ ■

1. הזהירו בממון חבירכם, עי רפ"ו. ■