

OVERVIEW of the Daf

1) The definition of the term תחת. (cont)

Abaye finishes defining the term תחת.

Rava gives an example in the context of animals consecrated for the Altar where the term תחת means deconsecrating.

R' Ashi further clarifies Rava's statement.

Abaye presents a series of related inquiries that are left unresolved.

2) Deconsecrating a blemished animal

R' Yochanan and Reish Lakish dispute whether the Mishnah's ruling that the owner must add money to adjust for the difference in value is Biblical or Rabbinic.

The Gemara searches for the exact point of dispute between R' Yochanan and Reish Lakish.

The Gemara suggests an explanation of the dispute between R' Yonah and R' Yirmiyah regarding R' Yochanan's position.

This suggestion is rejected in favor of another explanation.

Another explanation of the point of dispute between R' Yochanan and Reish Lakish is suggested.

Ulla asserts that the requirement to adjust for the difference applies only when the original assessment was done by only two people.

This assertion is unsuccessfully challenged.

3) MISHNAH: The Mishnah begins with a discussion related to declaring an animal an olah and chattas. The halachos of one who declares a non-kosher or blemished animal an olah are presented.

4) Clarifying the Mishnah

It is noted that the Mishnah does not follow the view of R' Meir.

It is noted that another ruling of the Mishnah does not follow the position of R' Shimon.

הדרן עלך כיצד מערימין

REVIEW and Remember

1. What does the word תחת mean in reference to blemished animals?

2. What is the point of dispute between R' Yochanan and Reish Lakish?

3. What is Shmuel's halacha regarding deconsecrating?

4. How does the Gemara know that the Mishnah does not follow R' Meir?

Distinctive INSIGHT

The oath of Yiftach

אמר על הבהמה טמאה וכל בעלת מום הרי אלו עולה לא אמר כלום

The Midrash (Bereishis Rabba 60:3) cites a discussion regarding the statement of Yiftach (Shoftim 11:30-31), "If you will deliver Ammon into my hand, then whatever emerges from the doors of my house toward me when I return in peace...it shall belong to God and I will offer it as an olah." The posuk reports (v. 34) that his daughter came out to greet him. R' Yochanan says that Yiftach was obligated to pay the monetary value of his daughter, because his daughter was obviously not eligible to be brought as an olah. Reish Lakish holds that Yiftach's statement resulted in no obligation at all, not even for his daughter's value. Reish Lakish brought a proof to his view from our Mishnah, where a person's statement is meaningless if he said about a non-kosher or blemished animal that it should be עולה—an olah. Only in a case where he specifically declared, "This should be לעולה—for an olah," does the person then have to give the animal's value for an olah.

Rashash explains that according to R' Yochanan, Yiftach was obligated to pay his daughter's value even though he said, "I will bring it עולה—an olah," rather than "for an olah—לעולה" because we find that in regard to man, as opposed to for animals, the Torah presents the laws of valuations, Arachin. This teaches us that although an inadequate statement (עולה) will fail to cause a financial obligation when said in reference to an ineligible animal, when said in reference to a person it can have meaning. In reference to the story of Yiftach, the Midrash Tanchuma (Bechukosai 6) writes, "If you donate the value of yourselves before Me, I will consider it as if you have brought your very souls closer to Me."

Rashash also answers that the technical wording of one's designating a non-kosher animal for an olah or for the value of an olah only applies when one is speaking directly about an animal which cannot be brought as an offering. However, Yiftach issued a general and encompassing oath, regarding anything that might have come out of his house. In this context, it is reasonable that he meant that if something which cannot be brought as an offering would come out, he meant to give its value to the Mikdash.

Finally, Rashash suggests that R' Yochanan holds that in regard to something which is obviously not allowed to be

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Mr. and Mrs. Dovid Cheplowitz
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HALACHAH Highlight

Selling chometz without specifying which land was included in the sale

והלכך גבי קדשי מזבח דעבדין תמורה וכו'

Therefore, regarding items sanctified for the Altar where temurah can be done etc.

It happened once that the person who was responsible for selling the *chometz* of the citizens of his town did not specify in the contract of sale which land he was selling to the gentile; whether it was the land where the *chometz* was located or some other land. Maharsham¹ begins with an analysis of a dispute that relates to whether a depositor acquires the location where his object will be stored in the custodian's property. The conclusion of this analysis is that the depositor does not acquire the space where the object is kept. Seemingly this would mean that the *chometz* was not properly sold since the method of *kinyan* that is employed is *agav* and if the gentile did not acquire any land he cannot acquire the *chometz* without taking physical possession of it which he did not do.

Maharsham then proceeds to suggest that the sale was in fact valid and bases his assertion on the fact that we can interpret his unspecified reference to land in a manner that

(Insight...continued from page 1)

brought as an offering, such as one's daughter, the speaker intends to give its value to the Mikdash no matter what expression he uses. The only time the precise wording of one's statement is critical in this regard is when speaking about a non-kosher or a blemished animal, which are items which one might mistakenly think are allowed to be brought as offerings, when they in fact may not be brought. ■

will validate the sale. Proof to this approach is found in our Gemara. The Gemara teaches that the word *תחת* can have two different meanings. One meaning is that an object will receive the halachic status of another object (*תמורה*) and the second meaning is that an object will stand in the place of another object so that the first object transfers its status to the second object and the first object loses that status altogether. In each situation we apply the meaning that fits that situation so that his statement will be fulfilled. In a similar manner since the one who performed the sale did not specify which land he was including in the sale we will interpret his words in a manner that will validate the sale since that was his intent. Accordingly, we assume that he intended to sell the land that contains the *chometz*, thus the *kinyan agav* was valid and the *chometz* was halachically sold. ■

1. שו"ת מהרש"ם ח"ב סי' קצ"ב.

STORIES Off the Daf

Getting an Estimate

תלתא ותלתא

Calculating the value of skilled labor can be complex. How are laymen supposed to determine the precise worth of such work? Generally, they agree to have a third party who is an expert evaluate what is done and determine its value.

In one community the *aron hakoresh* required a new *paroches*. A craftsman was approached and hired to make a *paroches*. The two parties agreed that a sample of the material to be used would be sent to a non-Jewish expert in Vienna and he would calibrate the price for the work.

After receiving the estimate, the *gabbaim* in the *shul* felt that the price was a

bit too expensive. They waited until the entire job of the *paroches* was completed, and then sent the entire piece to another non-Jewish appraiser in Vienna. To their satisfaction, he appraised the price for the entire job as being significantly less valuable.

When they confronted the craftsman who had made the *paroches* they appealed to him to accept the lower appraised fee. The craftsman was incensed, "We agreed the price would be determined based on an appraisal of a sample."

Eventually this case reached the Maharsham, ז"ל, who ruled decisively in favor of the *gabbaim*. "Firstly, relying absolutely on a non-Jewish appraiser is not a simple matter. Rabbeinu Tam in *Sefer HaYashar* writes that we should not rely on them, and states that Rashi held the same. Although the Gemara tells us that we rely on an expert to taste

food and determine whether it has a taste of a prohibited substance in it, this is not the same as our case. When it comes to food, a liar will certainly be found out, since the Jew will eat of the food and taste the forbidden substance himself.¹ The *Nesivos HaMishpat* also rules that a non-Jewish appraisal is not binding.²

He concluded, "Although one could claim that the second appraisal is no more reliable than the first, this does not help in our case. Firstly, in *Temurah* we find that when there are two appraisals, *hekadesh* uses the appraisal which is more advantageous for it. In addition, since the second appraisal evaluated the actual *paroches*, it is most likely more reliable than the first which merely saw only a sample of the material used with a description."³ ■

1. ספר הישר, סי' תרי"ג

2. נתיבות המשפט, סי' ק"ג

3. שו"ת מהרש"ם, ח"ג, סי' רצ"ט, אות ד' ■