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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Rabbi Yirmiyah said: Sometimes both [the renter and the borrower, when one rented a cow from his fellow and then lent it to another] are liable to a sin-offering (chatas); sometimes both are liable to a guilt-offering (asham), sometimes the renter is liable to a sin-offering and the borrower to a guilt-offering, and sometimes the renter is liable to a guilt-offering and the borrower to a sin-offering.

How so? For denying monetary liability [on oath] a guilt-offering is incurred; for a false statement - a sin-offering.

He explains: 'Sometimes both are liable to a sin-offering.' E.g., if the animal died a natural death, and they maintained that an accident had befallen it. Thus, the renter, who is free [from responsibility] in both cases, is liable to a sin-offering (for he is not attempting to gain because of his false oath), and the borrower, who is responsible in both cases, is [likewise] liable to a sin-offering.

'Sometimes both are liable to a guilt-offering.' E.g., if it was stolen, and they maintained that it had died of its work. Thus both deny monetary liability, since in fact they are responsible [for theft], while they (are attempting to) free themselves.

'The renter is liable to a sin-offering and the borrower to a guilt-offering.' E.g., if it died a natural death, and they maintained that it had died of its work. The renter, who is free [from responsibility] in both cases, is liable to a sin-offering; the borrower, who is liable if it dies a natural death but frees himself with [the claim that] it died of its work, to a guilt-offering.

'The renter is liable to a guilt-offering, and the borrower to a sin-offering.' E.g., if it was stolen, and they maintained that it had died naturally. The renter, who is liable for theft and loss but frees himself with [the claim that] it died naturally, incurs a guilt-offering; the borrower, who is responsible in both cases, a sin-offering.

The Gemora asks: Now, what does he [Rabbi Yirmiyah] thereby inform us?

The Gemora answers: [His purpose is] to oppose Rabbi Ammi's teaching, viz., for every oath which the judges impose, no liability is incurred on account of an 'oath of utterance' because it is said: *Or if a soul swears, uttering with his lips* [etc.], which implies a voluntary oath. Therefore he informs us that it is not as Rabbi Ammi. (35b – 36a)

It has been stated: If one custodian entrusted [his deposit] to another custodian, Rav said: He is not liable (if an accident occurs). Rabbi Yochanan maintained: He is liable.

Abaye said: According to Rav's ruling, not only if a gratuitous custodian entrusted [the deposit] to a paid custodian, thereby enhancing its care; but even if a paid custodian entrusted [it] to an unpaid one, thus weakening its care, he is still not responsible. Why? Because he entrusted it to an understanding being. While according to Rabbi Yochanan's view, not only if a paid custodian

L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

entrusted [it] to an unpaid one, thus weakening its care; but even if an unpaid custodian entrusted it to a paid one, thereby enhancing its care, he is still responsible. Why? Because he [the owner] can say to him, "It is not my desire that my deposit should be in the care of another person."

Rav Chisda said: This ruling of Rav was not stated explicitly, but by implication. For there were certain gardeners who used to deposit their hoes every day with a particular old woman. But one day they deposited them with one of themselves. Hearing the sounds of a wedding, he went out and entrusted them to that old woman. Between his going and returning, their hoes were stolen, and when he came before Rav, he declared him not liable. Now, those who saw this thought that it was because if a custodian entrusts [the deposit] to another custodian he is free [from liability]; but that is not so; there it was different. Seeing that every day they themselves used to deposit [their hoes] with that old woman.

Now, Rabbi Ammi was sitting and recounting this discussion, whereupon Rabbi Abba bar Mamel raised an objection (from our Mishna)before him: If a man rents a cow from his fellow, lends it to another, and it dies a natural death, the renter must swear that it died naturally, and the borrower must pay the renter. But if this [R' Yochanan's ruling] is correct, let him [the owner] say to him, "It is not my desire that my deposit should be in the hands of another person"!

He replied: The circumstances here are that the owner authorized him to lend it.

The Gemora asks: If so, he (the borrower) ought to pay the owner (as the renter is merely an agent of the owner)!?

The Gemora answers: It means that he said to him, "At your discretion."

Rami bar Chama objected [from the following Mishna]: If one deposited money with his fellow, who bound it up and slung it over his shoulder, [or] entrusted it to his minor son or daughter and locked [the door] before them, but not properly, he is responsible, because he did not guard [it] in the manner of custodians. Hence, it is only because they were minors; but if they were adults, he would be free [from liability]. Yet why so? Let him say to him, "It is not my desire that my deposit should be in the hands of another person"!

Rava said: He who makes a deposit does so with the understanding that his [the custodian's] wife and children [may be put in charge of the deposit].

The Nehardeans said: This may be deduced too [from the Mishna quoted], for it states: or entrusted it to his minor son or daughter . . . he is responsible; hence, [if] to his adult son or daughter, he is not responsible. From there it follows that if [he entrusts it] to strangers, whether adults or minors, he is liable. For if otherwise, he [the Tanna] should have simply taught 'minors.' This indeed proves it. (36a – 36b)

Rava said: The law is, If one custodian entrusts [the deposit] to another, he is responsible. Not only if a paid custodian entrusts [it] to an unpaid one, so weakening its care; but even if an unpaid custodian entrusts to a paid one, he is [still] responsible. Why? Because he [the owner] can say to him, "You I believe on oath: the other I do not."

It has been stated: If he [the custodian] was negligent with an animal (entrusted to him) and it went out into a marsh (where it might have been stolen or killed by wild animals) and died naturally: Abaye in Rabbah's name ruled that he is liable; Rava in Rabbah's name ruled that he is not liable.

The Gemora elaborates: 'Abaye in Rabbah's name ruled that he is liable.' Any judge who does not give such a

verdict is not a judge. Not only is he liable according to the opinion that maintains that if the beginning is through negligence (as he was not careful in his watching of the item), and the end (where it broke or died) through an accident, one is liable; but even according to the opinion that maintains that one is not liable, in this case he is. Why? Because we say: The air (heat) of the marsh land killed it (and therefore, its death is directly the result of his negligence).

'Rava in Rabbah's name ruled that he is not liable.' Any judge who does not give such a verdict is not a judge. Not only is he not liable according to the opinion that maintains that if the beginning is through negligence, and the end through an accident, one is not liable; but even according to the opinion that maintains that he is liable, in this case he is not. Why? Because we say: What difference does one place or another make to the Angel of Death?

Now, Abaye admits that if it was returned to its owner [sc. the custodian] and then died, he is free. Why? Because it had returned, and it could not be said that the air of the marsh killed it. While Rava admits that if it was stolen from the marsh and died naturally in the thief's house, he [the custodian] is responsible. Why? Had the Angel of Death left it alone, it still would have been in the thief's house.

Abaye said to Rava: According to you, who maintain, what difference does this place or that make to the Angel of Death: when Rabbi Abba bar Mamel raised an objection before Rabbi Ammi, and he answered him that it means that the owner authorized the renter to lend it, he should rather have answered him as follows: What difference does this place or another make to the Angel of Death?

He replied: According to you, who teach [the reason of R' Yochanan's ruling as being that the owner can say,] "I do not wish my deposit to be in the hands of another" - that objection [of R' Abba bar Mamel] can be raised. But according to myself, who [maintain that it is because he can say,] "You I believe on oath, while the other I do not believe on oath," the objection cannot be raised at all (for, in the Mishna, the renter himself swears).

Rami bar Chama objected: If he [the custodian] took it up to the top of steep rocks and it fell and died, it is no accident. Therefore, if it died naturally, it is regarded as an accident and he is not liable. Yet why so? Let him [the owner] say to him, "The [cold] mountain air killed it, or the exhaustion of [climbing] the mountain killed it!?

The Gemora answers: The meaning there is that he took it up to a fertile and goodly pasture ground (which is a completely natural thing for shepherds to do; therefore he is not liable on the account of cold air or exhaustion).

The Gemora asks: If so, it is the same even if it fell?

The Gemora answers: He should have supported it [to prevent it from falling], but did not.

The Gemora asks: If so, consider the first clause: If it ascended to the top of steep rocks and then fell down, it is an accident. Yet there too he should have supported it!?

The Gemora answers: That holds good only if he supported it in its ascent, and supported it when it fell. (36b)

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