

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h

Tzvi Gershon ben Yoel (Harvey Felsen) o”h

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

Mishna

[This Mishna deals with the halachos concerning one who comes to take a security from his borrower for his debt. The Torah says about this: When you lend your fellow any manner of loan, you shall not go into his house to fetch his security. You shall stand outside, and the man to whom you lend shall bring forth the security outside to you. And if he is a poor man, you shall not sleep with his security; you shall surely restore to him the security when the sun goes down, that he may sleep in his garment, and bless you; and it shall be righteousness to you before Hashem your God. This Mishna teaches the detailed laws learned from these verses.]

If one lent to his fellow, he may not take a security from him, unless by the court. He may not enter his house to take a security, as it is written: *You shall stand outside.*

If he had two articles (*which together equals the amount of the loan*), he takes one and leaves one. For example: He must return the pillow during the night and the plow during the day. If the borrower died, he is not obligated to restore it to his heirs. Rabban Shimon ben Gamliel says: Even to the borrower himself, he returns the security only during the first thirty days (*after the debt was due*). From then on, he may sell them in court. (113a)

Seizing the Security

Shmuel said: An agent of the court may forcibly seize a security, but he may not enter the borrower’s house in order to take it.

The *Gemora* asks: But did we not learn in our *Mishna*: If one lent to his fellow, he may not take a security from him, unless by the court, which implies that a security may be taken by the court (*even from his house*)?

The *Gemora* answers: Shmuel can answer you that the *Mishna* means that he may forcibly seize a security outside the house only through the court.

The *Gemora* notes: This interpretation is logical, for the second clause in the *Mishna* states: He may not enter his house to take a security. To whom does this refer? It cannot be referring to the creditor, for that is already known from the first clause! Hence it must surely refer to the agent of the court.

The *Gemora* rejects the proof: As for that, it is not a proof, for this is the meaning of the *Mishna*: If one lent to his fellow, he may not take a security from him, unless by the court, from which it follows that a security may be taken through the court (*even by an agent in his house*). But the creditor himself may not forcibly seize a security outside of his house, so that he might not enter the debtor’s house to take a security.

Rav Yosef asks: It is written: *He shall not take a lower millstone or an upper millstone as security.* We may infer from here that the creditor may take other things as a security, even from the borrower’s house. It is also written: *You shall not take as security the garment of a widow.* We may infer from here that other people’s



garments may be taken, even from the borrower's house. This must be referring to an agent of the court, for we already know that the lender is forbidden from entering the borrowers' house (*to take a security; this contradicts Shmuel, who says that an agent of the court is also forbidden from entering the borrower's house!*)?

The *Gemora* answers that the verses are referring to the lender, and it teaches us that he would be transgressing two prohibitions (*if he takes a millstone, or if he takes from a widow*).

The *Gemora* asks from another *braisa* which derives from a verse that the agent of the court is included the *halachah* of taking a security. The *Gemora* thinks that he is like the borrower (*which means that he could enter the house*), but concludes that he is like the lender (*and he cannot enter the house*).

The *Gemora* cites a *braisa* that teaches us that an agent of the court may enter the house of the borrower to take a security. This contradicts Shmuel!?

The *Gemora* notes that Shmuel's ruling is actually a matter of a *Tannaic* dispute. For it was taught in a *braisa*: When the agent of the court comes to take a security from the borrower, he must not enter the house, but stand outside, while the borrower takes the security out to him, for it is written: *You shall stand outside along with the man*. Whereas another *braisa* taught: When the creditor comes to take a security from the borrower, he must not enter the house, but stand outside, while the borrower takes the security out to him. But when the agent of the court comes to take a security from the borrower, he may enter the house and take it. He must not, however, take as security articles used in the preparation of food. (113a - 113b)

Assessing for the Borrower

The *braisa* continues: And the following items should be left by the borrower: A bed, and a bed with a spread in the case of a wealthy man, a bed, and a bed with a matting for a poor man. These are left only for himself, but not for his wife, sons and daughters.

The *braisa* concludes: Just as an assessment is made for *arachin* (*if a person vows to give the value of another person towards the Temple*), so also is it made in the case of a debtor.

The *braisa* had stated: And the following items should be left by the borrower: A bed, and a bed with a spread in the case of a wealthy man, a bed, and a bed with a matting for a poor man.

The *Gemora* asks: Why do we leave him a second bed? It cannot be for his wife or children, for the *braisa* states: These are left only for himself, but not for his wife, sons and daughters!?

The *Gemora* answers: He uses one bed for eating and one for sleeping.

This follows Shmuel, for he said: For all things I know the cure, except the following three:

1. Eating bitter dates on an empty stomach;
2. Girding one's hips with a damp flax cord;
3. Eating bread and not walking four cubits after it before going to sleep (*this was the purpose of the second bed*).

A *Tanna* said before Rav Nachman: Just as an assessment is made for *arachin*, so also is it made in the case of a debtor.

Rav Nachman asked him: If we even sell his property (*the security after thirty days, even items which are essential*),



shall we make an assessment for him (*and leave those items when we are collecting the loan*)?

The *Gemora* interjects: But do we really sell all of his property? We learned in our *Mishna*: He must return the pillow during the night and the plow during the day!?

The *Gemora* answers: The *Tanna* was saying over the view of Rabban Shimon ben Gamliel before him, whereupon Rav Nachman objected: Seeing that according to Rabban Shimon ben Gamliel we even sell his property (*the security after thirty days, even items which are essential*), shall we make an assessment for him? For we learned in our *Mishna*: Rabban Shimon ben Gamliel says: Even to the borrower himself, he returns the security only during the first thirty days (*after the debt was due*). From then on, he may sell them in court!?

The *Gemora* asks: But how do you know that Rabban Shimon ben Gamliel means that he can sell it entirely? Perhaps he means as follows: Until thirty days he must return it as it is. After that, whatever is fitting for the borrower is returned (*if he has an expensive silk garment, he can exchange it for a wool one, and he can keep the difference in price as payment for the debt*), while whatever is not fitting for him is sold!?

The *Gemora* answers: If you would think that Rabban Shimon ben Gamliel accepts this view, there would be nothing that is unfitting for him. For Abaye said: Rabban Shimon ben Gamliel, Rabbi Shimon, Rabbi Yishmael and Rabbi Akiva, all maintain that all Jews are regarded as princes (*and therefore the debtor isn't allowed to sell his expensive garment*).

The *Gemora* demonstrates how we know that each of these *Tannaim* hold that Jews are considered like royalty.

1. Rabban Shimon ben Gamliel - for we learned in a *Mishna*: *Luf* is a bean that is inedible when it is

raw and cannot even be fed to animals. Mustard seed is also not edible. Since one cannot cook or grind them on *Shabbos*, it is *muktzeh*, and cannot be cleared away. Rabban Shimon ben Gamliel maintains that *luf* can be cleared out, because *luf* is considered food for ravens, and wealthy people raise ravens as pets as a symbol of their wealthy status.

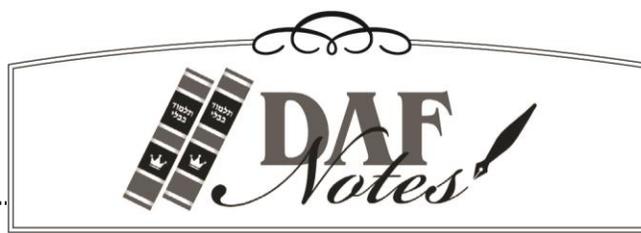
2. Rabbi Shimon - for we learned in a *Mishna*: One may not smear his loins that ache with rose oil on *Shabbos*. Given the rarity and expensiveness of rose oil, one who is smearing himself with rose oil must be doing so for medicinal purposes. Princes, however, would be permitted to smear their wounds on *Shabbos* with rose oil, as a prince would smear himself even during the weekday with rose oil even if he did not have a wound or an ache. Rabbi Shimon maintains that all Jews are like princes, and any Jew can smear his wounds with rose oil on *Shabbos*.
3. Rabbi Yishmael and Rabbi Akiva - for we learned in a *braisa*: If one was a debtor for a thousand *zuz*, and he wore a robe a hundred *manehs* in value, he is stripped from it and is dressed with a garment that is fitting for him. But a *Tanna* taught in the name of Rabbi Yishmael and Rabbi Akiva: All Jews are worthy of such a robe.

Rav Chaga asks: Why can't the lender say, "It is not me responsibility to sustain you"?

Abaye answers: It is! For it is written: *And for you (the lender) it shall be deemed a charitable act.* (113b - 114a)

INSIGHTS TO THE DAF

A Pawned Sefer Torah Donated to a Synagogue



Our *Mishna* treats the topic of a *mashkon* ("pledge" or "pawn") taken from a debtor who fails to pay and rules that the lender must return it when needed. A pillow, for instance, taken as a *mashkon* must be returned at night. However, a pillow taken as a *mashkon* at the time of the loan does not have to be returned each night as the borrower gave it willingly (114b).

Our *sugya* cites other *halachos* applying to a *mashkon* taken after payment is due as opposed to that given at the time of a loan. One *halachah* pertinent to all *mashkonos* is that the lender must not sell a *mashkon* by himself and take the proceeds in payment for the loan but rather must bring it to a *beis din* for valuation. If a lender sold a *mashkon* without such valuation, the sale is invalid even if the price was correct (*Teshuvos HaRosh*; *Shulchan 'Aruch, C.M.* 73:15).

A lender who thought he was clever ignored this *halachah* and almost suffered a great loss as a result of his actions. When his debt was not paid he took an antique *Sefer Torah* as a *mashkon*. The debtor was later convicted of a crime and sentenced to prison for several years. The lender thought he could do what he pleased with the *Sefer* and donated it with much song and ceremony to a synagogue. Eight years later the debtor was freed and came to the lender to pay what he owed and redeem the *Sefer Torah*. Discovering what had occurred, he refused to accept the situation and appealed to Rav Yehudah Asad, who ruled in the debtor's favor (*Responsa Yehudah Ya'aleh, Y.D.* 283). First of all, the donation was invalid as the lender was forbidden to change the proprietorship of the *mashkon* without valuation by a *beis din* and the synagogue administration was ordered to return the *Sefer Torah* to the borrower. Moreover, according to many *poskim*, the borrower was exempt from paying the debt as soon as the lender gave away the *mashkon*. His action showed he despaired of ever collecting the debt and even the borrower's wish to pay does not renew it! Still, Rav Asad adopted the opinion of the *Chacham Tzvi* (*Responsa*, 144),

that *yeiush* (*despair*) does not cancel a loan, and ordered the debtor to pay. (See *Shulchan 'Aruch* 163:3 and *Ketzos HaChoshen*, *ibid*, S.K1.)

DAILY MASHAL

Our Royal Lineage

[Bil'am raised his voice and proclaimed,] "Hashem did not behold any iniquity in Yaakov nor see any wrongdoing in Israel. Their God Hashem is with them, and the shofar-blast of the king is among them."

Hashem your God refused to listen to Bil'am's curse. Instead, He reversed the curse into a blessing, because He loved you.

Bil'am wanted to say, "Kallem" [= "eradicate them"] . However, Hashem reversed this into the word "Melech" [= "king"], as it says "The shofar-blast of the king is among them." (*Tosfos to Avodah Zarah* 4b s.v. Regga)

Tosfos interprets Hashem's "reversal" of Bil'am's curse into a blessing, in a very literal manner. Bil'am wanted to pray for Israel's eradication using the word "Kallem," which is spelled with the letters Kaf, Lamed, Mem. However, Hashem reversed these letters in Bil'am's mouth into Mem, Lamed, Kaf, which spells Melech ("king"). Hashem thus forced Bil'am to utter the blessing, "The shofar-blast of the *king* is among them."

To which king was Bil'am referring? What is the meaning of this blessing, and how was it fulfilled? Perhaps the simplest explanation can be offered by referring to our Gemora: "Rebbi Shimon says: All of the Children of Israel are considered to be like the sons of kings." What Bil'am meant, then, is that *every Jew* is to be considered of royal lineage, and is therefore expected to conduct himself with the self-respect of a "king."