

23 Nissan 5777  
April 19, 2017



Bava Basra Daf 87

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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**  
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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

***Paying Wages in Advance***

The *Gemora* asks a question from a *braisa*. The *braisa* states: If someone hires a worker to work with him in the silo for a day in exchange for a *dinar*, and the work is actually worth a *sela* (*but because he pays him in well in advance he is only paying a dinar*), it is forbidden to benefit from it (*because of the appearance of taking interest*). However, if he hires him starting today to work for a *dinar* (*i.e. one hundred dinar for one hundred days work*), and the work is actually worth a *sela*, it is permitted. [*This is because he starts work immediately. Even if he pays him for all one hundred days in advance, being that he is starting today it does not appear like interest (as the Gemora concludes later).*] If one would think (*as Rav and Shmuel do*) that if someone sells a *kor* (*thirty se’ah*) for thirty (*sela*) based on a *se’ah* per *sela* he acquires one *se’ah* at a time, the same should apply in the case of the worker! The first money he is paid for the day should be deemed to have stopped and the rest he should not be able to benefit from (*as it is considered it was paid in advance*). Why, then, should the second case be permitted? Isn’t he giving money in advance (*i.e. his salary*) with interest for the rest of the days that he will work for him?

Rava answers: Do you think this is true? Is it forbidden for a worker to lower his wages?! [*Even in the case where he is paid well in advance there is no Torah*

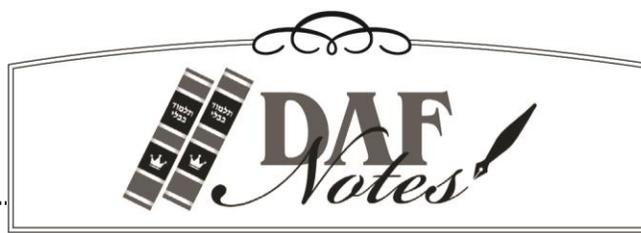
*prohibition, as a worker can take any wages he wishes. This is not similar to a loan at all!*] What, then, is the difference between the first and second case (*quoted above*)? In the first case where he is not starting to work right away there is more of an appearance of taking interest, as opposed to the second case where there is no such appearance (*and it is therefore permitted*). (86b – 87a)

The *Mishna* had stated: And if it was connected to the ground and he harvested a little bit of it, he acquires the flax.

The *Gemora* asks: Is it possible that because he harvested a small amount he acquires the rest of the flax on the property?

Rav Sheishes answers: The case is where the seller says, “Go and make part of the land beautiful (*i.e. harvest it as one is supposed to*), and acquire whatever is on it.” [*In other words, the seller is giving the buyer the right to take possession of the land in order to acquire everything on the land (i.e. the flax he is selling to him). This is despite the fact that he is not really selling him the land, but rather is only allowing him to take the land to successfully acquire all of the flax.*] (87a)

***Mishna***



If someone sold wine or oil to his friend and they went up or down in price (*after they already agreed on a price*), if the measuring cup was not yet fully measured out (*the amount that was going to be sold*), it still belongs to the seller. If it was filled, it belongs to the buyer. If there was a middleman involved (*and it was his measuring cup*), if the barrel breaks, it is the middleman's loss. One must add three drops (*from the oil or wine stuck to the inside of the vessel. when pouring into the vessel of the buyer from his measuring cup*). If he put it on its side and had the oil gather (*from the walls in one place on the bottom of the vessel after he had given three drops*), it belongs to the seller. A regular storekeeper (*who is busy*) does not have to give three drops. Rabbi Yehudah says: On Erev *Shabbos* towards nightfall he does not have to (*the Gemora will explain his opinion*). (87a)

### **Measuring Cup**

The *Gemora* asks: Whose measuring cup is being discussed in the *Mishna*? If it belongs to the buyer, even before the amount is filled up, whatever is in it belongs to the buyer! It must be referring to the measuring cup of the seller. If so, why should it belong to the buyer when it is full? It belongs to the seller!?

Rabbi Illa answers: It belongs to the middleman.

The *Gemora* asks: Being that the next case is that if it belongs to the middleman and it breaks, the middleman loses, the implication is that the first case is not talking about a measuring cup owned by the middleman!?

The *Gemora* answers: The first case is where the middleman lets them use his measuring cup, but he is not involved. The second case is where the middleman

is involved in the deal and using his measuring cup. (87a)

### **Drops**

The *Mishna* had stated: If he put it on its side and had the oil gather (*from the walls in one place on the bottom of the vessel after he had given three drops*), it belongs to the seller.

When Rabbi Elozar went (*to Eretz Yisroel*) he found Zeiri. He asked him: Is there someone who learned the *braisos* regarding measurements from Rav?

Zeiri pointed out Rav Yitzchak bar Avdimi. He asked Rabbi Elozar: What is difficult?

Rabbi Elozar asked him: The *Mishna* states that if he put it on its side and had the oil gather, it belongs to the seller. However, doesn't another *Mishna* say that if someone did this, it can be considered *terumah*? [*If a measured amount is considered terumah, even the last drops in the barrel, why aren't the last drops in the measured amount sold to a buyer considered to belong to the buyer?*]

Rav Yitzchak answered: They do not belong to the buyer because the buyer forgoes ownership on those drops (*but they are certainly considered terumah*).

The *Mishna* had stated: A storekeeper does not have to give three drips etc.

They (*people of the yeshiva*) asked: Is Rabbi Yehudah's statement referring to the previous part of the *Mishna* and is a leniency, or is it referring to the last part of the *Mishna* and his opinion is a stringency? [*Is he saying that even regular people don't have to drip on Erev*

*Shabbos, or is he saying that storekeeper's generally do have to drip, but not close to Shabbos?]*

The *Gemora* resolves this question by quoting a *braisa*. The *braisa* states: Rabbi Yehudah says that on Eev *Shabbos* close to nightfall a storekeeper is exempt from dripping, because he is busy. [*He is being stringent and saying that they generally do have to drip.*] (87a – 87b)

### **Mishna**

If someone sends his son to a storekeeper (*with a pundyon which equals two issar coins*), and the storekeeper measured out an *issar* worth of oil for the boy and gave him back an *issar* change, the law is that if the boy ended up breaking the container and losing the *issar* of change, the storekeeper owes this to the father. Rabbi Yehudah says: He is exempt from responsibility, as the father sent him on this condition (*that he is taking responsibility*). The *Chachamim* admit to Rabbi Yehudah that if the child had the container and the storekeeper just poured the oil into it, he is exempt from being responsible for the oil. (87b)

### **Sending the Child**

The *Gemora* asks: It is understandable that they argue regarding the *issar* and oil in the following fashion. The *Chachamim* understand that the son was just meant to notify the storekeeper to send the oil (*and change*) with his trusty messenger (*not with the son*). Rabbi Yehudah understands that the father sent the son to complete the errand. However, why should the storekeeper be liable for the container? When the father sent it with the son, he clearly gave it the status of an *aveidah mida'as* (*an object one intends on losing, as he gave it to a minor*)!

Rav Hoshaya answers: We are referring to a customer who also sells containers. The case is where the storekeeper took the container from the child because he wanted to see if he wanted to buy it. This is according to a statement of Shmuel. Shmuel states: If someone takes a vessel from a craftsman because he wants to see if he wants to buy it and it accidentally breaks, he is liable to pay for it.

The *Gemora* asks: This would mean that Shmuel's statement is the crux of the argument between Rabbi Yehudah and the *Chachamim*!?

Rather, Rabbah and Rav Yosef explain: The case here is where the storekeeper sells containers. Rabbi Yehudah and the *Chachamim* each understand that the law regarding the container is based on their reasoning regarding the money and oil. [*According to Rabbi Yehudah the storekeeper is exempt as the father wanted it sent, and according to the Chachamim he did not want it sent with his child.*]

The *Gemora* asks: If so, why does the end of the *Mishna* say that the *Chachamim* agree to Rabbi Yehudah that if the container was in the hands of the child and the storekeeper poured the oil into the container, the storekeeper is exempt? The father just sent the child to tell the storekeeper to send the oil with a messenger, not with his child!

Rather, Abaye bar Avin and Rabbi Chanina bar Avin both say that the *Mishna* is referring to a case where (*the father sent with his son a container designed for measuring*) the storekeeper took the container to measure with it, (*and although it is an aveidah mida'as, by this action, the storekeeper becomes responsible*). This is in accordance with Rabbah's ruling, for Rabbah said: If he (*an elderly person, who is usually exempt*

from returning a lost article) hit a lost animal, he becomes obligated to return it to its owner (and that is why the Chachamim maintain that the storekeeper becomes liable).

The Gemora asks: Perhaps Rabbah said that only in the case of living beings, because when he hits them, he assists it in their running away (further away from the owner, and that is why he is obligated to return it). Would he hold the same in a case as this (where the picking up of the container does not cause it to break)?

Rather, said Rava, I and the lion of the Academy, who is Rabbi Zeira, have interpreted the Mishna to be referring to a case where (the father sent with his son a container designed for measuring) the storekeeper took the container to use it as a measure for others (without specific permission from the owner) and the dispute (between the Chachamim and Rabbi Yehudah) is dependent on their respective opinions as to the legal status of one who borrows without the knowledge of the owner. Rabbi Yehudah is of the opinion that such a person is regarded as a borrower (and since he returned it to the child, he is exempt from liability when it breaks afterwards), and the Chachamim hold that he is regarded as a thief (and therefore he is liable until it is returned to the owner himself). (87b – 88a)

## HALACHOS OF THE DAF

### ***A Minor as a Shliach***

A non-Jew cannot be made a *shliach* (agent), for any type of *shlichus*. Nor can a Jew be made a *shliach* for a non-Jew for any type of *shlichus*.

All Jewish men and women, and non-Jewish slaves and maidservants, may be used as a *shliach*. A deaf-mute, a deranged person and a minor (boy younger than 13, girl younger than 12), may not be made a *shliach*. Therefore if the father sent a minor to a store with a dollar and a flask in order to buy oil which costs 50 cents, and then the storekeeper measured for the child 50 cents worth of oil, and gave him 50 cents change, and on the way home, the child lost the flask of oil and the change, the storekeeper is liable to pay the father for the flask, oil and the 50 cents change.

The reason being, since the father only sent the child to the store to let the storekeeper know that he needs 50 cents worth of oil, and the father expected the storekeeper to send it with someone else. According to the Rema the storekeeper is liable to pay for the flask only if the storekeeper took the flask from the child and measured the oil. However if the storekeeper merely poured the oil into the flask which never left the child's hands, then he does not have to pay for the flask.

The S"ma and others disagree. They maintain that the storekeeper is never liable for the flask, since by giving the flask to the child, the father essentially was *mafkir* it, and the storekeeper is not required to guard it. Rather the storekeeper is liable for the dollar (50 cents change, and 50 cents worth of oil), since he should have either sent back the dollars worth (the oil and change) with someone else, or waited until he met the father and then given him back the money. If the storekeeper gave back the dollar to the child, then he is not liable at all.