



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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**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

### **Mishna**

What is a *shevuas shav* (an oath in vain)? If someone takes an oath that something is different than what is known to be, this is a *shevuas shav*. For example, if someone takes an oath that a pillar of stone is gold, or that a certain man is in fact a woman, or that a certain woman is in fact a man, this is a *shevuas shav*.

Similarly, if someone took an oath regarding something that is impossible, this is a *shevuas shav*. For example, if someone said, “If I didn’t see a camel flying in the air,” or, “a snake that was as thick (and square) as the beam of a press,” this is a *shevuas shav*.

Similarly, if someone told witnesses to testify for him, and they took an oath that they would not testify, this is a *shevuas shav* (as they are required to testify according to Torah law).

If someone took an oath not to do a *mitzvah*; for example – he took an oath not to build a *sukkah*, not to take a *lulav*, and not to put on *tefillin* - these are examples of a *shevuas shav*.

One is liable to incur lashes for such a *shevuah* if he takes an oath willfully, and he is exempt if he does so unwittingly.

If someone takes an oath that he will eat a loaf, and then takes an oath that he will not eat a loaf, the first oath is a binding *shevuas bituy* (an oath of utterance), and the second is a *shevuas shav*. If he eats it, he transgresses a *shevuas shav*. If he does not, he transgresses a *shevuas bituy*. (29a)

### **Based on his Understanding**

Ulla says: This (swearing that something is different than what it is known to be) is only if it is already known to three different people.

The *Mishna* had stated: Similarly, if someone took an oath regarding something that is impossible, this is a *shevuas shav*. For example, if someone took an oath, “If I didn’t see a camel flying in the air” etc.

The *Gemora* asks: The *Mishna* doesn’t say, “I saw,” but rather, “If I didn’t see.” Why does it use this phraseology?

Abaye says: The *Mishna* should say, “I swear that I saw etc.”

Rava says: The case is where he says, “All of the fruit in the world should be prohibited to me if I did not see a camel fly.”

Ravina asked Rav Ashi: Perhaps this man saw a big bird flying in the air and he called it a camel. When he swore, he is thinking about this bird! If you will say that we judge the oath by what he says, not by what he is thinking (which is true); doesn’t the *braisa* say that when the judges make a litigant swear, they tell him, “You should know that the oath is not based on your mindset, but rather by our mindset and that of *Beis Din*”? Why do they tell him this? It is because he might have given him wood chips and he calls these *zuzim* (coins), and therefore he can take this oath!

The *Gemora* (Rav Ashi) answers: No. The reason we say this is because of the incident of the cane and Rava. [A creditor came before Rava demanding money from his debtor. The debtor countered that he already paid. The debtor had the claimant hold his cane which he (the debtor) had filled with money. The man held it, and the debtor swore that he had given him the money. The creditor became enraged and smashed the cane, causing the coins to spill out. It was clear to all the manner in which the debtor wished to deceive them all.]



The *Gemora* asks a question from a *braisa*. The *braisa* states: Similarly, when Moshe had *Bnei Yisroel* swear, he told them that the oath is not based on their mindset, but rather the mindset of Hashem and him. Why was this necessary? Why didn't he simply say that they should do what their God says? It must be that they could think that they are doing whatever an idol wants them to do! [This supports the question of *Ravina* and is unlike *Rav Ashi*.]

The *Gemora* answers: No. The problem was that an idol is also called a "God." This is as the verse says: *Gods of silver and gods of gold*.

The *Gemora* asks: Why didn't he just tell them, "Keep the Torah"?

The *Gemora* answers: They would think they only have to keep either the Written Torah or the Oral Torah.

The *Gemora* asks: Why didn't he say they should keep two Torahs?

The *Gemora* answers: They would think this refers to both the Torah of the *chatas* and the Torah of the *asham*. [The verse describes the laws of *chatas* and *asham* sacrifices by saying: *this is the Torah of the chatas*.]

The *Gemora* asks: Why didn't he say, "Keep the entire Torah"?

The *Gemora* answers: One might say that this means idolatry. This is as the master stated: Idolatry is very stringent, as whoever renounces idolatry is as if he admits to the truth of the entire Torah.

The *Gemora* asks: Why didn't he say, "Keep the *mitzvah*"?

The *Gemora* answers: They would think this refers to one of the *mitzvos*.

The *Gemora* asks: Why didn't he say, "Keep the *mitzvos*"?

The *Gemora* answers: They would think this refers to two of the *mitzvos*.

The *Gemora* asks: Why didn't he say, "Keep all of the *mitzvos*"?

The *Gemora* answers: They would think this refers to the *mitzvah* of *tzitzis*. This is as the master stated: The *mitzvah* of *tzitzis* is equal to all of the *mitzvos*.

The *Gemora* asks: Why didn't he say, "Keep all six hundred and thirteen *mitzvos*"?

The *Gemora* counters: According to this, why did he bother saying, "by the mindset of Hashem"? His mindset should have been enough! [Similarly, he could have only said, "the mindset of Hashem" and that would be enough.]

The *Gemora* answers: Rather, he did this in order that their *shevuah* should not be able to be annulled (as it was based on the mindset of more than one person/entity). (29a – 29b)

### **Snakes and Loafs**

The *Mishna* says: "If I didn't see a snake like the beam of a press."

The *Gemora* asks: Was there never such a snake? Wasn't there a snake in the time of King Shapur that swallowed thirteen burning stacks of hay (and died, see *Rashi*)?

Shmuel says: This refers to a snake with indentations and spots.

The *Gemora* asks: Many snakes have spots!?

The *Gemora* answers: Most have them only by their throat, while he says he saw one that has spots on its back. [This is *Rashi's* explanation. See *Tosfos* for another explanation.]



The *Mishna* discusses someone who swears that he will eat a loaf, and then swears that he will not eat it. It says that if he does not eat it, he transgresses only a *shevuas bituy*.

The *Gemora* asks: Does he transgress a *shevuas bituy* and not a *shevuas shav*?! His oath was for naught! [*He took an oath against something he was commanded to do after he made the first oath, which by definition is a shevuas shav!*]

Rabbi Yirmiyah answers: The *Mishna* should read that he is even liable for a *shevuas bituy* (besides a *shevuas shav*). (29b)

### **Mishna**

A *shevuas bituy* applies to men and women, whether they are relatives or people who are not relatives, whether or not they are valid to testify, and whether or not they are in front of *Beis Din*. A *shevuas bituy* is taken by the person himself (see *Rashi* that in fact it can also be through an administered oath, as long as he says *amen*). If one does so willfully he is liable to incur lashes, and if he does so unwittingly, he must offer a *korban olah v'yored*.

A *shevuas shav* applies to men and women, whether it is regarding relatives or people who are not relatives, whether or not they are valid to testify, and whether or not they are in front of *Beis Din*. A *shevuas shav* is taken by the person himself. If one does so willfully, he is liable to incur lashes, and if he does so unwittingly, he is exempt.

One can be liable for both oaths (*bituy and shav*) that are administered by others. If a person says that he did not eat today or put on *tefillin*, and someone says, "I make you swear that is true," and he answers *amen*, he is liable. (29b)

### **Amen**

Shmuel says: Whoever says *amen* to an oath is as if he said the oath himself. This is as the verse says (regarding a *sotah* who has an oath administered to her by the *Kohen*): and the woman will say *amen amen*.

Rav Pappa says in the name of Rava: The *Mishna* and *braisa* also imply this law. This is as the *Mishna* states: *Shevuas*

*ha'eidus* applies to men but not women, to people who are not relatives but not to relatives, to people who are valid (witnesses) and not to those who are invalid, to people who can testify (as opposed to a king), and whether or not the oath is administered in *Beis Din*. This is if they take the oath themselves. If the oath is administered to them, they are only liable if they deny knowing testimony (under oath) in *Beis Din*. These are the words of Rabbi Meir. The *braisa* states: What is an example of *shevuas ha'eidus*? A person tells witnesses, "Come and testify on my behalf!" The witnesses say, "We swear that we do not know any testimony for you," or, "We do not know any testimony for you." If he tells them, "Swear that you do not know any testimony for me," and they say *amen*, this is a *shevuas ha'eidus*. This is whether or not they are in front of *Beis Din*, and whether or not they say this themselves, or have the oath administered to them. Once they deny knowing any testimony (under oath), they are liable. These are the words of Rabbi Meir.

The *Gemora* asks: This *Mishna* and *braisa* contradict each other!? [*The Mishna says that one is liable only for an oath that is administered in Beis Din, while the braisa says they can even be liable for an administered oath outside of Beis Din!*]

The *Gemora* answers: It must be that the difference is whether or not they answered *amen*. [*In the Mishna they did not answer amen, and are therefore exempt if they are not in Beis Din.*]

Ravina says in the name of Rava: This is also implied by our *Mishna*. The *Mishna* says: A *shevuas bituy* applies to men and women, whether they are relatives or people who are not relatives, whether or not they are valid to testify, and whether or not they are in front of *Beis Din*. A *shevuas bituy* is taken by the person himself. This implies it cannot be taken by being administered by others! However, the second part of the *Mishna* says it is valid either way! How can we reconcile this contradiction? It must be that in the first case he did not say *amen*, and in the second case he did. (29b)

WE SHALL RETURN TO YOU, SHEVUOS SH'TAYIM



## INSIGHTS TO THE DAF

### **Six Hundred and Thirteen Mitzvos**

It is evident from the *Gemora* that accepting an oath to fulfill the six hundred and thirteen *mitzvos* is exactly the same as accepting an oath to keep the entire Torah. Reb Avi Lebowitz wonders if this is really true. Firstly, the Ramban at the beginning of *sefer hamitzvos* discusses the possibility that the six hundred and thirteen *mitzvos* is not an actual count and it is not necessarily accepted by all sources. Even if we are to assume that our *Gemora* holds of the six hundred and thirteen *mitzvos* idea (as the *Gemora* in *Makkos* seems to indicate) as do all the Rishonim who list the *mitzvos*, aren't there still other "mitzvos" in the Torah that are not counted in the six hundred and thirteen *mitzvos*? There are many *mitzvah* concepts that would qualify as "*ratzon ha'torah*", even if not an absolute obligation, and by only accepting the six hundred and thirteen *mitzvos*, we would seemingly not be accepting all the thousands of other points that the Torah wants us to accept! How can the six hundred and thirteen *mitzvos* be the same as an oath on the entire Torah?

Reb Yossie Schonkopf suggests that the six hundred and thirteen *mitzvos* is the root for all *mitzvos* and as such encompass all of Torah.

### **Holding a Sacred Object**

There was a person who was owed money by his friend, and the two of them came before Rava. The lender said: Pay me! The borrower said: I already did! Rava said: Swear that you paid him. The borrower then filled his cane with the amount of money he borrowed and leaned on it while walking to *Beis Din*. Before he took the oath, the borrower asked the lender to hold his cane for him while he took the oath. The borrower then took a Sefer Torah and took an oath that he had given the lender whatever he had owed him. When the lender heard this he got upset and broke the cane, causing the money to fall out. It was apparent that he had "paid" him all of the money.

Rabbeinu Tam understands this *Gemora* to mean that the borrower denied the entire claim and was liable only for a

Rabbinic oath (called a *shevuas hesseis*). Nevertheless, he took the Sefer Torah in his hand prior to taking the oath. This would prove that one needs to hold a sacred object even by a Rabbinical oath.

He also presents proof to this from the *Gemora* in *Shavuos* (41a) which inquires as to the differences between a Biblical oath and a Rabbinical one. The *Gemora* does not offer this difference; namely, that a Biblical oath would necessitate the holding of a sacred object and a Rabbinical one would not. This proves that a Rabbinical oath also required the holding of a sacred object.

The Gaonim disagree and maintain that one is not required to hold a sacred object when taking a Rabbinical oath. The Meiri writes that our *Gemora* cannot serve as a proof against this, for we are discussing a case where the borrower decided himself to hold the Sefer Torah. He did this as a ruse in order to get the lender to hold his cane.

According to the Ran's explanation of the *Gemora*, there would be no proof at all. For the *Gemora* is discussing a case where the borrower admitted to part of the claim made against him. Since he wishes to avoid paying the rest of the claim, he is Biblically obligated to take an oath that he does not owe the remainder of the claim. This oath obviously requires him to hold a sacred object.

## DAILY MASHAL

### **Elections for a Dayan**

A number of dayanim contended for the position of dayan in Brody. One of them wanted to pay for the post and the leaders of the community tended to favor him, emphasizing that the money would be used for holy purposes, such as building a synagogue or mikveh. The rabbi of the town, Rabbi Shlomo Kluger zt"l, told them: "About the likes of you the verse says 'You will not make with Me gods of silver and gods of gold' (Shemos 20:19). Do not appoint someone who is unfit, for profit of silver and gold, even though the act may be done for Me, so to speak – 'with Me' – that I should gain a synagogue or a mikveh..." (Pardes Yosef).