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

Uncontrollable Circumstance

A man said to his wife, "If I do not return within thirty days the *get* should be valid." He arrived at the end of the thirty days, but the river prevented him from arriving back (*on time, as the ferry was not present at the time*). He was saying "You see that I am coming! You see that I am coming!" Shmuel said that this is not called that he reached the city (*and therefore the get takes effect*).

A man said to his wife, "If I do not pacify you within thirty days the *get* should be valid." He attempted to appease her, but to no avail. Rav Yosef said: Did he give her three *kavs* of gold *dinars* and she was still not pacified? [*He most certainly didn't! But if he would have, she would have been appeased. This proves that he did not make a gallant effort and therefore the get is valid.*]

A different version of Rav Yosef is cited: Is he required to give her three *kavs* of gold *dinars* to pacify her? He tried, but she was not appeased. [*The get, therefore, is not valid.*]

The argument between the two versions is if we say that it is a valid excuse for an uncontrollable circumstance with regards to *gittin* or not. (30a1)

Mishnah

If one lends money to *Kohen*, or to a *Levi*, or to a poor man, so that he might separate for it from their portion (*and he keeps them as a repayment of the loan*), he separates for them on the assumption that they are alive, and does not fear that the *Kohen* or the *Levi* died, or that the poor man became rich. [*The terumah he cannot eat unless he is a Kohen; the ma'aser rishon he can eat, provided that he removes a tenth to be given to a Kohen as terumas ma'aser; the ma'aser ani, he may eat himself.*] If they died, he must obtain authorization from their inheritors. If he lent it in the presence of the Court, he does not need to obtain authorization from the inheritors. (30a1 – 30a2)

Portions for Repayment

The *Gemora* asks: Is the *Mishnah's halachah* true even if the portions have not come into the hands of those who are entitled to them? [*Firstly, how does the lender have a right to these portions if they weren't actually given to the Kohen, Levi, or poor person? Secondly, doesn't the lender have a mitzvah to give these portions to Kohen, Levi, or poor person?*]

Rav answered: The *Mishnah* is discussing a case where he is familiar with that particular *Kohen* and *Levi* (*and poor person*). [*He always gives them the portions. Therefore, it is as if it was given to them and returned back to the lender.*]

Shmuel answered: He confers possession to them through a third party.

Ulla answered: This ruling is based on the opinion of Rabbi Yosi, who said that in many places, possession is reckoned

to have been acquired though strictly speaking it has not been acquired. [*The Rabbis did this in order to make it easier to collect debts from the Kohanim, Levites and poor people. This way, people would be more willing to lend them money*.]

[The reason why] both [Shmuel and Ulla] do not concur with Rav is because the Mishnah does not mention [the man's] acquaintance. [The reason why] they do not concur with Shmuel is because the Mishnah does not mention transferring possession. [The reason why] they do not concur with Ulla is because we do not base a ruling on the opinion of an individual [opinion]. (30a2 – 30a3)

The *Gemora* cites a *Baraisa*: If one lends money to *Kohen*, or to a *Levi*, or to a poor man, so that he might separate for it from their portion (*and keep them as a repayment of the loan*), he separates for them on the assumption that they are alive. He may stipulate with them to get the benefit of a cheaper market price, and this is not reckoned as taking interest (*even though he is fixing the price for the produce before the market has established a price*). The *shemitah* does not cancel the loan. If he desires to retract, he is not permitted to do so. If the owner gave up all hope of recovering, he does not separate for it from their portion because dues are not set aside from that which has been given up as lost.

The *Gemora* explains each clause of the *Baraisa*. The *Baraisa* had stated: He may stipulate with them to get the benefit of a cheaper market price.

The *Gemora* asks: Isn't this obvious?

The *Gemora* answers: He may collect at the cheaper price even though they did not actually fix the price beforehand.

The *Baraisa* had stated: And this is not reckoned as taking interest.

The *Gemora* asks: Why not? [*Generally, the Rabbis prohibited lending money and stipulating that the borrower will repay with produce that will be valued at a certain price. The reason for this is as follows: If, at the time of repayment, the fixed price is lower than the market price, it will emerge that the lender is receiving the produce at a cheaper price because he lent money. This would constitute taking interest. The Rabbis decreed that this is only permitted if the market price has already been established*.]

The *Gemora* answers: It is because the lender expressly stipulated that if he will not have (*if there is no terumah or ma'aser available because the crops are damaged*), they are not required to repay him, therefore, even if he does have available produce, it is not regarded as taking interest (*for it is viewed as a sale, not as a loan*).

The *Baraisa* had stated: The *shemitah* does not cancel the loan.

The *Gemora* explains: This is because the verse, *He may not press his fellow* (*which is the verse that we derive that a loan is cancelled due to shemitah*) does not apply here (*for he cannot claim from the debtor*).

The *Baraisa* had stated: If he desires to retract, he is not permitted to do so.

Rav Pappa said: This rule applies only to the lender with the *Kohen* (*for the Kohen has already acquired the money*), but if the *Kohen* wishes to retract, he may, as we have learned in a Mishnah: If a purchaser has given the seller money, but has not yet pulled into his possession the produce (*he did not perform the kinyan of meshichah*), he may retract.

The *Baraisa* had stated: If the owner gave up all hope of recovering, he does not separate for it from their portion

because dues are not set aside from that which has been given up as lost.

The *Gemora* asks: Isn't this obvious?

The *Gemora* answers: It is required to be stated for the case where the stalks grew (*before it was damaged*). You might have thought that in that case, the stalks are counted as something of value (*and we should not reckon with his mistaken despair*), the *Baraisa* teaches us that this is not so.

The *Gemora* cites a *Baraisa*: Rabbi Eliezer ben Yaakov said: If one lends money to *Kohen*, or to a *Levi* before *Beis Din*, and they died, he separates for them on behalf of the tribe (*the Kohanim and the Levites; and he keeps them as a repayment of the loan*). If he lent money to a poor person before *Beis Din*, and the poor man died, he separates for them on behalf of all Jewish poor people (*and he keeps them as a repayment of the loan*). Rabbi Achi says: He separates for them on behalf of all poor people in the world.

What is the practical difference between them? The practical difference between them is regarding a city which is inhabited only by the Cuthean poor. [*The argument between them is dependent on the legal status of the Cutheans. Rabbi Eliezer ben Yaakov maintained that they were not regarded as Jews, and Rabbi Achi held that they are.*]

The *Baraisa* continues: If the poor person became rich, he may not separate the *ma'aser ani* on their behalf, and the borrower acquires that which he has (*he is not required to repay the loan*).

The *Gemora* asks: Why did the Rabbis protect the lender in the case of the poor man dying, and not in the case of his becoming rich?

The *Gemora* answers: Death is common, whereas his becoming rich is not.

Rav Pappa said: This is borne out by the common saying: If you hear that your friend has died, believe it. But if you hear that he has become rich, do not believe it. (30a3 – 30b1)

The Mishnah had stated: If he dies, he must obtain permission from the heirs.

It has been taught in a baraisa: Rebbe says: Heirs that have inherited. - Are there any heirs that do not inherit? — Rather, Rabbi Yochanan explained it to mean heirs that inherit land but not money.

Rabbi Yonasan said: If he left land the size of a needle, the other can recoup himself only to the extent of a needle, and if he left land the size of an axe, the other can recoup himself to the extent of an axe. Rabbi Yochanan said: Even if he only left land the size of a needle he can recoup himself to the extent of an axe, as in the incident of the small field of Abaye.[1] (30b1 – 30b2)

Terumas Ma'aser

The *Gemora* cites a *Baraisa*: If an Israelite says to a Levite, "I have set aside *ma'aser rishon* (*a tenth to the Levi*) for you," he need not be concerned about the *terumas ma'aser* (*a tenth from the ma'aser rishon, which goes to the Kohen and it has the sanctity of terumah that it may only be eaten by the Kohen*) in the *ma'aser*. If, however, he said, "I have set aside a *kor* of *ma'aser rishon* for you,"

[1] A man who owed a hundred zuz left a field worth fifty. The creditor seized it and the heirs induced him to quit it by paying fifty. He again seized it and they again paid. So here, he recovers again and again.

he has to concern himself about the *terumas ma'aser* in the *ma'aser*.

What does the *Baraisa* mean to say? Abaye said: This is what it is saying: If an Israelite said to a Levite, I have set aside *ma'aser rishon* for you, and here is money for it (*he desires to buy it from the Levi*)," he has no need to be concerned lest the Levite should have made that produce *terumas ma'aser* on produce received by him from elsewhere (*for the Levi did not know how much he was receiving*). If, however, he said, "I have set aside a *kor* of *ma'aser rishon* for you and here is the money for it," he has to be concerned lest the Levite should have already made that produce *terumas ma'aser* on produce received by him from elsewhere.

The *Gemora* asks: Are we then discussing wicked people who take money and make the produce *terumas ma'aser* on produce received by him from elsewhere?

Rather, Rav Mesharshiya the son of Rav Idi explains the *Baraisa* as follows: If an Israelite said to a Levite, "I have set aside *ma'aser rishon* for your late father, and here is money for it (*he desires to buy it from the Levi*)," he has no need to be concerned lest the father should have made that produce *terumas ma'aser* on produce received by him from elsewhere (*for the father did not know how much he was receiving*). If, however, he said, "I have set aside a *kor* of *ma'aser rishon* for your late father and here is the money for it," he has to be concerned lest the father should have already made that produce *terumas ma'aser* on produce received by him from elsewhere.

The *Gemora* asks: Can we than suspect Torah scholars of setting aside the *terumas* ma'aser from produce that is not close by? [*The Rabbis decreed that all terumah should only be separated from produce that is in close proximity to the terumah!*]

Rather, Rav Ashi explains the *Baraisa* as follows: If a an Israelite says to a Levite, "My father (*before his death*) told me that he had set aside *ma'aser rishon* for you or for your father, he (*the Levi*) has to worry about the *terumas ma'aser* in it (*he must separate it himself*), since as the quantity is indefinite, the owner's father may not have made it available for ordinary use by setting aside the *terumas ma'aser*. If, however, he says, "My father (*before his death*) told me that he had set aside a *kor* of *ma'aser rishon* for you or for your father, he (*the Levi*) does not need to worry about the *terumas ma'aser* in it (*we may assume that it has already been separated*), since as the quantity is definite, he may be sure that the owner made it usable before his death.

The *Gemora* asks: But does the owner have the right to set aside the *terumas ma'aser* from the Levite's *ma'aser*?

The *Gemora* answers: Yes! Such is the ruling of Abba Elozar ben Gamla, as it has been taught in the following *Baraisa*: Abba Elozar ben Gamla said: It is written: *And your terumah shall be reckoned to you*. This verse refers to two types of *terumah*, one which is *terumah gedolah* (*that which is separated from the produce*) and one which is *terumas ma'aser* (*that which is separated from the ma'aser*). Just like one can separate *terumah gedolah* by estimating and with his thought (*i.e. he does not need to physically or verbally separate the terumah*), so too, one can estimate in separating *terumas ma'aser* and he can separate it by thought. And just as the owner has the right to separate the *terumah gedolah*, so too, he has the right to separate the *terumas ma'aser*. (30b2 – 31a1)

DAILY MASHAL

Holy Thoughts

The *Gemora* states that one can separate both *terumah gedolah* and *terumas ma'aser* with a thought and one

does not need to physically or orally designate the terumah.

There are certain *mitzvos* which require one to contemplate the *mitzvah*, such as loving HaShem, fearing HaShem and other such *mitzvos*. There is even a situation where if one sought to perform a *mitzvah* and he could not complete it because of extenuating circumstances, it is considered as if he performed the *mitzvah*. Thus, thoughts play an important part in serving HaShem.

Rav Chaim Volozhiner writes in Nefesh HaChaim that one who entertains immoral thoughts is worse than the Roman general Titus, who defiled the Holy of Holies, because a gentile does not have the capability of reaching high spiritual levels, whereas a Jew has the ability to reach very high spiritual levels, and improper thoughts defile the spiritual Holy of Holies. This idea should teach us that not only do we have to be pure in our actions but we must also keep our thoughts pure and holy.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF
to refresh your memory

Q: If someone says to two people that they should give a *Get* to his wife, they are required to write it and give it. Why can't they appoint a *sh'liach*?

A: Abaye says that it will be an embarrassment to the husband (*that he does not know how to write it*), and Rava holds that it is because words cannot be passed on to another messenger.

Q: What is the *halachah* if the husband tells the *sh'liach*, "Do not divorce her anywhere besides in the bottom floor of the house," and he does so in an attic.

A: It is not a *get*.

Q: Are we concerned that the husband appeased his wife in the case where he said to the *sh'liach*, "Don't give it to her until thirty days (*have passed*)."

A: Only by a *nesuah*; not by an *arusah*.