



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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

(Mnemonic: Three [cases of] disciples; Three [cases of] creditors; Rags, Hearing, Explaining.)

How do we know that a disciple sitting before his teacher, who sees that the poor man is right and the wealthy man wrong, should not remain silent? Because it is said [Shmos 23:7]: Distance yourself from falsehood.

And how do we know that a disciple, who sees his teacher making a mistake in the law, should not say, “I will wait until he finishes, and then demolish his decision, and build up [another decision] according to my own judgment, so that the decision will be called by my name”? Because it is said: Distance yourself from falsehood.

And how do we know that a disciple to whom his teacher says, “You know that even if I were given one hundred manehs, I would not tell a lie; now, So-and-so owes me one maneh, and I have only one witness against him;” how do we know that the disciple should not join with him? Because it is said: Distance yourself from falsehood.

The Gemora asks: Is this, then, deduced from: Distance yourself from falsehood? Surely this is definitely lying, and the Torah said [Shmos 20:13]: You shall not testify falsely against your fellow?

The Gemora answers: Well, then, for example, if he said to him, “I have definitely one witness; and you come and stand there, and you need not say anything, so that you will not be uttering a lie from your mouth;” even so it is prohibited, because It is said: Distance yourself from falsehood.

How do we know that he who has a claim of a hundred zuzim against his fellow should not say, “I will claim two hundred, so that he will admit a hundred, and be liable for an oath, then I will be able to impose an oath upon him from another place”? Because it is said: Distance yourself from falsehood.

And how do we know that, if one has a claim of a hundred zuzim against his fellow, and sues for two hundred, the debtor should not say, “I will deny it totally in court, but admit it outside the court, so that I should not be liable for an oath, and he may not impose on me an oath from another place”? Because it is said: Distance yourself from falsehood.

And how do we know that, if three persons have a claim of a hundred zuzim against one person, one should not be the litigant, and the other two, the witnesses, in order that they may extract the hundred zuzim and divide it? Because it is said: Distance yourself from falsehood.

How do we know that, if two come to court, one clothed in rags and the other in an exquisite garment worth a hundred manehs, they should say to him, “Either dress like him, or dress him like you”? Because it is said: Distance yourself from falsehood.

When they (litigants) would come before Rava son of Rav Huna, he would say to them, “Remove your fine shoes, and come down for your case.”



How do we know that a judge should not hear the words of one litigant before the other litigant arrives? Because it is said: Distance yourself from falsehood.

And how do we know that a litigant should not explain his case to the judge before the other litigant arrives? Because it is said: Distance yourself from falsehood.

Rav Kahana learned [these deductions] from: You shall not accept [a false report]; [he read it] you shall not cause [a false report] to be accepted.

[Yechezkel 18:18] And he did that which is not good among his people: Rav said this refers to one who comes with power of attorney; and Shmuel said it refers to one who buys a field about which there are disputes.

The Mishna had stated: And it [the law of oath testimony] applies only to those fit to testify, etc.

The Gemora asks: What does this exclude?

Rav Pappa said, it excludes a king<sup>1</sup>; and Rav Acha bar Yaakov said: It excludes a dice player<sup>2</sup>.

He who says [it excludes] a dice player certainly [holds it excludes] a king; but he who says [it excludes] a king [holds it does not exclude] a dice player, for he is fit [to be a witness] according to Biblical Law, and it is the Rabbis who have disqualified him.

The Mishna had stated: Before the Beis Din or not before the Beis Din, etc.

<sup>1</sup> As he must be respected, and it is therefore not seemly that he should stand as a witness before the Judge; and since he cannot be a witness, the oath of testimony does not apply.

<sup>2</sup> A gambler, since he is willing to retain money won by him which is not really his, is disqualified by the Sages from being a witness.

<sup>3</sup> Where the Torah does not explicitly state the law concerning a certain subject, and it is necessary to deduce it by gezeirah shavah from another

subject concerning which the Torah states the law explicitly, we may either deduce one from the other entirely (i.e. liken the unexplained subject to the explained subject in every respect), or deduce only one point, and, as for the rest, leave the unexplained subject in its own place, i.e., leave it to be governed by the rules which govern other aspects of it.

In what do they disagree? The Scholars said to Rav Pappa: They disagree [as to whether we say,] 'deduce from it, and [entirely] from it'; or, 'deduce from it, and establish it in its own place'<sup>3</sup>. Rabbi Meir holds: 'deduce from it, and [entirely] from it'. 'Deduce from it': just as [in the case of] a deposit, if he swears of his own accord, he is liable, so [in the case of] testimony, if he swears of his own accord, he is liable; 'and [entirely] from it' — just as [in the case of] a deposit [he is liable] whether [he utters the oath] before the Beis Din or not before the Beis Din, so [in the case of] testimony [he is liable] whether [he utters the oath] before the Beis Din or not before the Beis Din. And the Rabbis hold: 'deduce from it, and establish it in its own place': 'Deduce from it:' just as [in the case of] a deposit, if he swears of his own accord, he is liable, so [in the case of] testimony, if he swears of his own accord, he is liable; 'and establish it in its own place': just as when adjured by others, [he is liable only if he swears] before the Beis Din, but not [if he swears] not before the Beis Din, so if he swears of his own accord, before the Beis Din he is liable, but if not before the Beis Din he is not liable.

Rav Pappa said to them: If the Rabbis deduce it from [the law of] deposit, no one disagrees that we 'deduce from it, and [entirely] from it'; but this is the reason of the Rabbis; they deduce it by inference thru a kal vachomer: since, if [adjured] by others, he is liable; if [he swears] of his own accord, how much more so should he be liable; and because they deduce it by inference thru a kal vachomer, [they hold] it is sufficient for that which is deduced by this inference to be similar to that from which it is deduced: just as, if adjured by others, he is liable before the Beis Din only, but not



outside the Beis Din; so, if he swears of his own accord, he is liable before the Beis Din only, but not outside the Beis Din.

The Scholars said to Rav Pappa: How can you say that they do not disagree on [the principle of] ‘deduce from it, and [entirely] from it’? Surely we learned concerning a deposit: The oath of deposit applies to men and women, to non-relatives and relatives, to those qualified [to bear witness] and those unqualified, before the Beis Din and not before the Beis Din, if [uttered] from his own mouth; but if [adjured] by the mouth of others, he is not liable unless he denies it before the Beis Din: this is the opinion of R. Meir. And the Sages say: Whether [uttered] by his own mouth or [adjured] by the mouth of others, since he denied it, he is liable. [Now,] if adjured by the mouth of others, in [the case of] a deposit, how do the Sages know that he is liable? Is it not because they deduce it from [the case of] testimony? Therefore, you must infer from this that they disagree on [the principle of] ‘deduce from it, and [entirely] from it’!

[Rav Pappa replied:] From this, yes; but from the other it is not possible to infer it.

The Mishna had stated: And they are liable for the willful transgression of the oath.

How do we know this? — For our Rabbis taught: In all of them it is said: and it be concealed [from him]; but here it is not said, and it be concealed, in order to make him liable for willful as for unwitting transgression.

The Mishna had stated: And for its unwitting transgression coupled with willful [denial of knowledge of] testimony.

How is unwitting transgression possible coupled with willful [denial of knowledge of] testimony? Rav Yehudah said in the name of Rav: If one says, “I know that this oath is prohibited, but I do not know if one is liable to bring an offering for it or not.”

The Mishna had stated: But they are not liable for its unwitting transgression only.

Shall we say that we are here taught [a confirmation of] that which Rav Kahana and Rav Assi [were told]?

No! Although we learned it [here], it was necessary, for I might have thought, here, because it is not written and it be concealed, we require unwitting to be like willful transgression; but there, since it is written and it be concealed, even unwitting transgression in a slight degree [makes him liable], therefore he teaches us [that this is not so].

MISHNAH. What kind is the oath of testimony? He said to two [persons]: ‘come and bear testimony for me’; [and they replied:] ‘we swear we know no testimony for you’; or they said to him: ‘we know no testimony for you’, [and he said:] ‘I adjure you’, and they said, ‘amen!’, they are liable. If he adjured them five times outside the Beis Din, and they came to the Beis Din, and admitted [knowledge of testimony], they are exempt; but if they denied, they are liable for each [oath]. If he adjured them five times before the Beis Din, and they denied [knowledge of testimony], they are liable only once. Rabbi Shimon said: What is the reason? Because they cannot afterwards admit [knowledge]. If both [persons] denied [knowledge] together, they are both liable; if one after another, the first is liable, and the second exempt. If one denied, and the other admitted, the one who denied is liable. If there were two sets of witnesses, and the first denied, and then the second denied, they are both liable, because the testimony could be upheld by [either of] the two.

Shmuel said: If they saw him running after them, and they said to him, “Why are you running after us? We swear we know no testimony for you,” they are exempt, [being liable only] when they hear from his mouth.

The Gemora asks: What does he teach us? We have learned it: If he sent [the adjuration] by his slave, or if the defendant said to them: "I adjure you that, if you know any testimony for him, you should come and bear testimony for him," they are exempt unless they hear [the adjuration] from the mouth of the plaintiff!

The Gemora answers: 'If he ran after them' he requires [to tell us]: I might have thought that, since he ran after them, it is as if he had said to them, therefore he teaches us [that it is not so].

The Gemora asks: But this we have also learned: What is the oath of testimony? He said to witnesses, "Come and bear testimony for me," [and they replied,] "We swear etc.," [implying only] if he said, ["Come and bear testimony,"] they are liable, but if he did not say it, they are not liable!

The Gemora answers: 'He said' is not necessarily stressed [by the Mishnah], for if you will not say thus, then, with reference to deposit, where we learned: What is the oath of deposit? He said to him, "Give me the deposit that you have of mine," will you also say that if he said, ["Give me the deposit,"] he is liable, and if he did not say it, he is not liable? [That cannot be,] for [the verse] and deal falsely with his fellow [implies] in however slight a degree. Hence, 'He said' is not stressed [in that Mishnah], and here also it is not stressed.

The Gemora asks: What is this? Granted, if you say that 'He said' here [in our Mishnah] is stressed, he states it there because of here; but if you say, neither 'He said' there is stressed nor 'He said' here is stressed, why does the Mishnah say 'He said' in both places?

The Gemora answers: Perhaps because it is the usual thing, therefore he teaches us [that it is to be taken literally].

It was taught in agreement with Shmuel: If they saw him coming after them, and said to him: "Why are you coming

after us? We swear we know no testimony for you," they are exempt; but in the case of a deposit, they are liable.