



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Kesubos Daf Kuf Ches

#### MISHNA

- If a husband travelled overseas, and a person went and supported the wife that was left behind, **Chanan** says this person has lost his money (the husband need not pay back). The **Bnei Kohanim Gedolim** argue and say that the person swears how much he spent and then collects that amount. **R' Dosa ben Harkinas** agreed with them. **R' Yochanan ben Zakai** agreed with **Chanan** and said it is as if the person put money on the horns of a deer (he knew it was a good chance it would be lost).

#### GEMARA

- **Q:** A Mishna says, if one made a neder to prohibit another from benefitting from him, the prohibiting person may still pay the machtzis hashekel, pay off a loan, and return the lost object of the other person. If it is customary to get paid when returning a lost item and the prohibited party is the one who returned it, that payment should go to hekdesch. Now, it is understandable why he may pay his machtzis hashekel and return his lost item, because those are considered to be mitzvos. However, repaying his loan is simply benefitting him, and that should be assur!? **A:** **R' Oshaya** said, this Mishna must follow **Chanan**, who says that payment of another's obligation does not create a benefit that must then be repaid. **Rava** said it may even follow the **Rabanan**. The case of this Mishna may be that the debt had no due date and as such repayment could have been delayed for a long time. Therefore, repayment for him is of no real benefit, since he had no current obligation to pay.
  - **Q:** **Rava** didn't say like **R' Oshaya**, because he wanted to make the Mishna follow the **Rabanan**. Why didn't **R' Oshaya** say like **Rava**? **A:** **R' Oshaya** feels, that even if there was no due date on the loan, the fact that it is repaid saves him embarrassment from the creditor. That in itself is considered to be a benefit.

#### MISHNA

- **Admon** gave 7 rulings in which he argued on the **Rabanan**. The first is regarding the following case. If a person died, leaving over sons and daughters, if he leaves a large estate, the sons inherit it and the daughters are supported from it. If it is a small estate, the daughters are supported from it, and the sons must go around begging. **Admon** said, just because I am a male I should lose out!? **R' Gamliel** said, I agree with the words of **Admon**.

#### GEMARA

- **Q:** **Admon** seems to suggest that a male should be in a stronger position, not a weaker one. Why should a male be in a stronger position? **A:** **Abaye** said, because a male learns Torah.
  - **Q:** **Rava** asked, does that mean that only a male who learns Torah inherits? **A:** Rather, **Rava** said, **Admon** meant that a male is stronger in that he inherits a larger estate. Why should that make him lose when there is a smaller estate?

#### MISHNA

- If one claims that another owes him jugs of oil, and the other person admits to owing empty jugs, but not ones full of oil, **Admon** says he must swear since he has admitted to part of the claim. The **Chachomim** say, the admission is not on the same type as the claim, and therefore no swearing is required. **R' Gamliel** said, I agree with the words of **Admon**.

## GEMARA

- **Q:** The **Chachomim** in the Mishna would seem to hold that if a plaintiff makes a claim for wheat and barley and the defendant admits to only one of them, that there would not be an oath needed. This refutes **R' Nachman in the name of Shmuel**, who says that the defendant would need to swear!? **A: R' Yehuda in the name of Rav** said, our Mishna is talking about where the claim was only for a certain amount of oil, not for the jugs itself. As such it is not the same as the case of **Shmuel**.
  - **Q:** If so, why does **Admon** say he must swear? **A: Rava** said, the case of the Mishna is where he claimed "10 barrels of oil". **Admon** says that claim is on the barrels as well, and the **Chachomim** say that it is only on the oil.
    - **Q:** This would seem to say that if the claim was clearly on the barrels as well, all would require that the defendant swear. If so, this refutes **R' Chiya bar Abba** who says that when the claim is for wheat and barley and the defendant admits to one of them he does *not* have to swear!? **A: R' Simi bar Ashi** said, claiming a barrel with oil is like claiming a pomegranate in its peel (i.e. it is considered one claim, not 2 claims like the claim for wheat and barley). Therefore, it cannot be used to refute the view of **R' Chiya bar Abba**.
    - **Q: Ravina** asked, a fruit without its shell is not protected, but oil without the barrel is. These cases therefore cannot be compared!? **A: Ravina** therefore said that our Mishna is a case where the plaintiff made a claim for "10 jugs of oil", and the defendant says, first of all, I don't owe you any oil, and second of all, I only owe you 5 empty barrels, not 10. **Admon** feels that the original claim includes a claim for the empty barrels as well, and since he admits to part of the claim he must swear on the other barrels. Also, once he is made to swear on the barrels, we also make him swear on the oil via a "gilgul shevuah". The **Chachomim** say that the original claim did not include a claim on the barrels, and therefore an admission on the barrels is not an admission on the claim, and therefore, no swearing is necessary.