



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

### Bava Metzia Daf Pey Gimmel

- The Gemara had asked that **R' Meir's** view in the Mishna contradicts his view in a Braisa. **R' Chiya bar Abba in the name of R' Yochanan** answers that although **R' Meir** holds that tripping is negligence, a shomer who trips when moving barrels can swear and be patur based on a Rabbinic enactment, which was put in place so that people don't avoid being hired to move barrels of wine.
  - **Q:** What is the oath that is made? **A: Rava** said, he swears that he did not intentionally break the barrel.
  - **R' Yehuda** comes along in the Braisa to teach that a shomer chinam is treated according to his laws and a shomer sachar according to his laws. **R' Elazar** then comes to teach that it is true that we have a tradition that teaches like **R' Meir**, but it seems not to make sense! A shomer chinam can swear that he was not negligent and be patur, but a shomer sachar is chayuv even if he was not negligent!? Moreover, even a shomer chinam can be considered not negligent only if he tripped on an incline. However, if he tripped on even ground, he should be considered negligent!? Moreover, even if there was an incline, he would only swear if there were no witnesses. However, if people saw it happen, he would not have to swear, as **Issi ben Yehuda** says in a Braisa!?
  - There was a person moving a barrel of wine in the square of Mechuza, and the barrel broke on a beam protruding from a wall. **Rava** said, there are always people there, so bring witnesses as to what happened and you will be patur. **R' Yosef** asked his father **Rava**, was that said according to **Issi**? **Rava** said, it was, because we hold like him.
  - There was a person who asked someone to buy 400 barrels of wine for him. He went and bought it, and then told the person they all spoiled into vinegar. **Rava** said, for that volume to have spoiled, it must be known by people. Therefore, bring proof that it was not spoiled when you bought it, and you will be patur. **R' Yosef** asked his father **Rava**, was that said according to **Issi**? **Rava** said, it was, because we hold like him.
  - In Sichra, **R' Chiya bar Yosef** instituted that if a porter carries something by himself, that is too large to be carried by one person, but too small for two people, and it breaks, he must pay for half, because it is somewhat an oneis and somewhat negligent. If he carries something by himself that should have been carried by two people, he must pay for the whole thing.
  - **Rabbah bar bar Channa** hired workers to carry barrels of wine, and they broke them. He seized their cloaks. **Rav** told him to return the cloaks, so as to go beyond the letter of the law. He then heard that these porters were poor, and instructed **Rabbah bar bar Channa** to even pay them their wages. Again, he said this is not the letter of the law, but should be done to go beyond the letter of the law.

**HADRAN ALACH PEREK HASOCHER ES HA'UMNIN**

**PEREK HASOCHER ES HAPO'ALIM - PEREK SHEVI'I**

MISHNA

- If a person hired day laborers and then told them to come early and not leave until dark, if it is in a place where it is not the custom to come early and not leave until dark, then he cannot make them do so. If it is in a place where it is the custom for the employer to feed the workers, he must do so. If it is the custom to give a spread for the bread as well, he must do so. Everything follows the local custom.

- It once happened by **R' Yochanan ben Masya**, whose son hired workers with the commitment that he would feed them. **R' Yochanan ben Masya** told him, such an open ended commitment may make you chayuv to provide them with a royal banquet! Rather, before they begin working, tell them that you will provide them with bread and beans. **R' Shimon ben Gamliel** said he did not have to tell them that, because all commitments follow the local custom.

#### GEMARA

- **Q:** It seems obvious that if an employer did not make up hours that we would follow the local custom! **A:** The case is that the employer paid a higher rate of wages. We would think he can say that I paid that higher rate so that I can have you come early and stay late. The Mishna therefore teaches that they can say to him, we accepted the higher wages with the understanding that we would be required to do a high quality job, not to stay late and come early.
- **Reish Lakish** darshened a pasuk to teach, with regard to a day laborer, the travel time back home must be on his own time (after dark), but the travel to the job is done on the time of the employer (after sunrise).
  - **Q:** Why do we not see what the local custom is and follow that? **A:** The ruling is needed for a new city that doesn't yet have a custom.
  - **Q:** Why don't we look to see where most of the residents are from, and follow their previous custom? **A:** The people are from various places. **A2:** The ruling is needed where someone hired a worker on "the basis of the Torah".
  - The Gemara darshens a pasuk to teach that in this world the resha'im act as they wish and will eventually be gathered in Gehenom for doing so. Whereas the tzaddikim, for whom the Next World is light, will receive their reward for having served Hashem until the end of their lives.
  - **R' Elazar the son of R' Shimon** met an officer who was instructed by the king to capture thieves. **R' Elazar** asked, how do you know that you are not taking innocent people as thieves? The officer said, I have no choice but to arrest people, because I am instructed to do so by the king. **R' Elazar** told him, if you want to make sure you are only arresting thieves, go to the eatery at breakfast time. If you see someone drinking wine and falling asleep, ask about him. If he is a talmid chochom, he is tired because he awoke early to learn. If he is a day laborer, he is tired because he awoke early to go work. If he is a night worker, even if his house was quiet the night before, he may have been doing a quiet form of work. If he is none of these, you can be sure he is a thief. The king heard about this plan and said that **R' Elazar** should act on the plan and catch the thieves, and he did so. **R' Yehoshua ben Karcha** sent a message to **R' Elazar**, "until when will you hand over Yidden to be killed!?" He sent back "I am taking the thorns out of the vineyard". **R' Yehoshua** said, "Let the Owner of the 'vineyard' (Hashem) come and get rid of His thorns Himself". It once happened that a certain laundryman spoke to **R' Elazar** with chutzpah. He had him arrested, saying that it must be that he is a rasha. When he calmed down, he went to try and free him, but found that he was already put to death by hanging. He went and cried at the gallows. His talmidim told him, "Rebbi, don't cry. This person and his son were mezaneh with a naarah me'orasah on Yom Kippur!" Upon hearing this, **R' Elazar** said, "if my doubtful judgments are correct, how much more are the ones I am certain about! I am confident that my insides will not be subject to worms". Still, he could not calm down about what happened. They gave him an anesthetic, took out baskets of fat from him and left it out in the summer sun, and it did not begin to rot. This calmed him down somewhat.
    - **R' Yishmael the son of R' Yose** was once also appointed to arrest people. Eliyahu came to him and asked "until when will you hand over Yidden to be killed!?" He said, this is the order of the king, what should I do? Eliyahu told him, your father ran away from the king, you must do so as well.
      - When **R' Yishmael the son of R' Yose** met **R' Elazar the son of R' Shimon**, a pair of oxen were able to pass under them without touching them (they had very large stomachs). A certain noblewoman told them, you could never have had children, so your "children" must be from another man! They said to her, our wives are even larger than we are.

She said, then for sure they are not your children! They said, a person's organs are proportionate, therefore, we could have children notwithstanding our large size. Some say that they said, our love for our wives pushes away the fat, and therefore we were able to have children.

- The only reason they even bothered answering her is so that there not be rumors about the legitimacy of their children.