

שעשועי הדף

קדושין

Daf Delights

Kiddushin

Rabbi Zev Reichman

לכבוד שמחת הבר מצוה של

אהרן דב רייכמן נ"י

In Honor of the Bar Mitzvah of
Ahron Dov Reichman

כ"ו אייר תשע"ו

מ"א לעומר

יסוד שביסוד

Daf Delights: Kiddushin

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Introduction

The Steipler Gaon pointed out that one of the blessings recited prior to the study of Torah is unusual.

The first blessing on Torah study is standard. It thanks the Almighty who has sanctified us with His commandments, and ordered us to be involved in the Torah. However, the language of the second blessing is surprising. *Ve-ha'arev na* is a plea that Hashem make Torah sweet in our mouths. It is a request that we enjoy learning. Why do we pray to enjoy Torah study? Why do we not pray to feel the sweetness of Shabbos or the delights of Yom Tov? Why have a blessing about the sweetness of the words of Torah?

The Steipler answered that the blessings on Torah study differ from the blessings before other *mitzvos*. We usually consider two types of blessings: *birchos ha-mitzvos* and *birchos ha-nehenin*. We recite a blessing prior to performing a commandment and we recite a blessing before experiencing a pleasure, such as eating delicious food or smelling a sweet aroma. For other commandments, the blessing merely thanks Hashem for the commandment.

Torah study is unique. The blessings on the mitzvah are also *birchos ha-nehenin*. The blessings are an expression of thanksgiving for the pleasure of Torah. To remind us that we are thanking

God for the pleasure of Torah, as one of the blessings, we appeal to experience the sweetness of Torah (Introduction to *Chashukei Chemed, Kiddushin*)



We have been blessed in our *shul* with a vibrant culture of Torah study. Our *Torat Moshe Daf Yomi* group is one of the pillars of our communal experience. The study of a daily page of Talmud each day has added to many both a mitzvah and pleasure. This publication is an attempt to spread the joy of the daily *daf* to an audience wider than those who come each morning. I have attempted to cull insights related to each *daf* from a variety of sources, and I have translated them into English to spread them around for others to enjoy.

Baruch Hashem, this publication appears as we celebrate the bar mitzvah of Ahron Dov Reichman. For Ahron, *Messeches Kiddushin* is the first tractate he has merited to complete as a member of the *daf yomi* group. Ahron also loves delightful ideas. It is therefore appropriate to link these Torah thoughts with his celebration.

Ahron shared a special bond with several dear individuals who are not here physically to join in his *simchah* but we know that in the heavenly realm they are celebrating with us. This publication is dedicated to them.

His great grandmother, Gamma, רחל בת החבר אברהם הלוי ע"ה, is sorely missed. She is especially missed now. She was the source of so much joy, love, and meaning at all times, and especially at the celebration of a family *simchah*. Gamma loved her family. For every family *simchah* she would toil for many hours to create a book to celebrate the occasion. The very day of Ahron's thirteenth birthday

is also the exact moment when the mourning period for Gamma is completed. One of her favorite songs was ושבנו בנים לגבולם, “And the children will return to their portion.” It is that message of hope and unity that we hold on to. It is our hope that this publication will serve as a merit for her *neshamah*.

Mr. Mendel Balk, *a”h*, was a dear family friend. Mendel loved Ahron. Mendel also appreciated the value of learning every day. This work, with a reading for each day of study of *Messeches Kiddushin*, is a continuation of his legacy as well. Mendel made many sacrifices for family, community, and Torah. We continue to learn daily from his example.

Ahron shared a soulful bond with a very special little angel, Evan Levy, *a”h*. Evan was born in July of 2011. In May 2014 he was diagnosed with a brain tumor. He underwent multiple surgeries, countless hospitalizations, and hundreds of treatments over the course of his illness. Earlier this year Evan left us. Ahron developed a deep and real friendship with him. Together they would play for hours. They would travel to imaginary worlds and contend with fantasy friends. They played, laughed, and genuinely cared for each other. Evan’s heroism and ability to smile through every challenge are sorely missed. His love of life and ability to make the ordinary extraordinary are lessons imprinted on our souls forever. Evan loved to smile. These Torah thoughts are delights intended to bring smiles to the faces of those who read them. May the moments spent studying these Torah insights bring added *aliyah* to the soul of Yehudah, *a”h*, ben Yosef Chaim, *sheyichyeh*.

This work was rushed to completion at the last moment. Great thanks are extended to Rabbi Alec Goldstein and Rabbi Yeshayahu

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Ginsburg, and to DynaGrafik for completing this project in such quick order.

Most of all, Chana and I feel overwhelming gratitude to Ha-Kadosh Baruch Hu for all the ברכות He has bestowed on us. We are indebted to the East Hill Synagogue community which is not only our home but truly our family.

May Hashem bless all of us with the sweetness of Torah. May He place the delights of Torah in our hearts and keep them there forever.

Mazal Tov,
Zev Reichman

Gittin and then Kiddushin?

Tractate *Kiddushin* is the last *Messechta* in the order of Mishnah that teaches about laws of the family, *Nashim*. Its placement is surprising. First, there is *Messeches Gittin*, which teaches all about divorce. Then we have *Messeches Kiddushin*, which teaches about the first stage of marriage, *Eirusin*. Why this order? Why not first learn about marriage, and then learn about divorce?

The *Ma'ayanah shel Mishnah* answered that Rabbi Yehudah Hanasi arranged the Mishnah based on the number of chapters each tractate had. He began each order with the tractate with the most chapters and then progressed to smaller tractates. Therefore, *Nashim* began with *Yevamos* which has fifteen chapters, then *Kesubos* (13), *Nedarim* (11), *Nazir* (9), *Sotah* (9), *Gittin* (9) and lastly *Kiddushin*, which has only four chapters.

The Rambam answered that the *Mishnayos* are in their order to remind us of how verses are written, and those lessons are carried forward into the order of the Mishnah. So in the Torah, the verse states, *Ve-yatzah mi-beiso ve-halachah ve-haisa le-ish acheir*, “And she will leave his home and go and become the wife of another man” (*Devarim* 24:2). Since the biblical verse mentions divorce before marriage, Rebbe sought to remind us of this verse and the other

verses that are the sources for the laws, so he taught about divorce first and then marriage. In light of the Rambam's teaching, the Rebbe of Ostrovtza, in his work *Meir Einei Chachamim*, resolved a linguistic difficulty in the first Mishnah in *Kiddushin*. The Mishnah began with the phrase *Ha-ishah nikneis*, "a wife may become engaged" The word *ishah* implies a woman who was fully married. However, *Kiddushin* is merely the first stage of marriage. Why didn't Rebbe write *Ha-arusah nikneis*, "The betrothed woman may become engaged"? According to the *Meir Einei Chachamim*, Rebbe wanted to remind us of the verses in the Torah. In the section of the Torah dealing with marriage and divorce (*Devarim* 24:1-4), the Torah talks of a woman who was married, got divorced, married a second man, got divorced again, and now may not return to her first husband. Therefore, it is *Ha-ishah nikneis*, "the married woman who may become betrothed," for she had been fully married and then got divorced and is now entering marriage again through marrying a second husband (*Daf al ha-Daf*).

Kiddushin 2

Why Marry with a Ring?

Tractate *Kiddushin* begins by teaching that marriage can be created by the husband giving his wife an item of value. Technically, all the husband must give is an item worth a *perutah*. However, the Rema rules that it is our practice to get married only with a ring (*Even ha-Ezer* 27:1). The *Sefer ha-Chinnuch* explains the reason for using a ring. When a woman is given a ring she will wear it on her finger regularly. Since the ring betrothed her, whenever she looks at it, she will be reminded that she is a married woman. Better to have a constant reminder of marriage than to get married with a different item which might not always remind the woman that she is married. The Gr"i added that a ring is a closed circle. It is not open. This is a most suitable symbol for marriage. Marriage entails exclusivity. The Gemara explains that the second chapter of *Kiddushin* begins with the words *Ha-ish mekaddesh*, "the husband can betroth," for marriage is called *Kiddushin* to indicate that through the marriage the wife becomes prohibited to all who are outside the marriage, like sacred property, *hekadesh*. The ring, closed from every direction, is a symbol that she and her husband share an exclusive bond and no one else is allowed in.

It is common practice to use a gold ring. Based on kabbalistic sources, some prefer to marry with a silver ring. The *Poskim* point out that if the husband plans to use a silver ring he must tell his wife that the ring is silver before he gives it to her. If she thought she was going to receive a gold ring, as is the norm for most couples, and she later discovers that she only received a silver ring, the marriage would be invalidated as it was a *mekach ta'us* (mistaken agreement). Many rabbis under the *chuppah* make a point of soliciting from the bride a commitment to marry as long as the ring is worth a *perutah*, thus ensuring that the marriage would be valid even if the ring was not worth as much as she might have expected it to be worth (*Me'oros Daf ha-Yomi*) (See also *Kiddushin* 48).

Kiddushin 3

Is *Dikduk* Torah?

The Gemara discussed topics of Hebrew grammar. It taught that the word *derech*, “way,” is sometimes masculine and at other times feminine. On the other hand, the word *davar*, “matter,” is always masculine. The Gemara asked, why was it that in some Tannaitic statements the word *derech* was used? Why did Tannaim not use the word *davar*? Ultimately, the Gemara teaches that the word *derech* is used when one thing resembles something else for some laws but not others. For example, an *esrog* is like a fruit in some matters, but in regard to tithing, it is like a vegetable. Only when a Tanna intended to say that a matter was completely like another matter would the word *davar* be used. This entire discussion seems to indicate that correct Hebrew grammar, *dikduk*, is important. In a dirty place, such as a bathroom, Torah may not be studied. May one study Hebrew grammar, *dikduk*, in such a place?

The Ya'avetz ruled that one may not read books of Hebrew grammar in a bathroom. He reasoned that we no longer have all the traditions and rules of *dikduk*. We derive the rules of *dikduk* from

verses in the Torah. Study of *dikduk* will therefore inevitably lead a person to recall *pesukim*. Since one may not recall or think of verses while in the bathroom, one may not study *dikduk* in the bathroom.

In the responsa of the Rema (*siman* 6), there is a fascinating personal discussion. The Maharshal wrote a letter to the Rema in which he apologized with a thousand apologies for his words, yet he pointed out that the Rema needed to review his *dikduk* for his writings were filled with grammatical errors. The Maharshal called on the Rema to study *dikduk* and correct his writings. The Rema responded that it was true that he was not an expert on *dikduk*. In fact, he pointed out that many scholars invest their considerable intellectual abilities in determining the meaning of a concept. In their excitement to express their deep insights, they often will phrase their words in grammatically incorrect forms, as they are trying to express an exciting abstract discovery. The Rema pointed out that he did not have assistants to help him in rephrasing his sentences to ensure that all be written in beautiful and correct prose. He was toiling hard to write down all that he had studied and determined, and as a result mistakes in articulation were unavoidable (*Mesivta*).

Kiddushin 4

Kichah Kichah mi-Sdei Efron

A Baraisa taught that one source for items of value creating *Kiddushin* is the scriptural connection between Avraham purchasing a field, the cave and field of Machpelah, and the verse about marriage. Both verses have a form of the word *kichah*, “to take.” Through the mechanism of *gezeirah shavah*, the fact that if the same word exists in two different paragraphs, the word links the two topics to each other; how to marry is derived from how the Machpelah purchase took place.

Is there a deeper bond between these two topics?

Rav Veitzman, Rosh Yeshiva of Yeshiva Hesder Maalot, suggested that there is a deep connection between marriage and the field of Avraham. Marriage is a chance to gain immortality. Through children and grandchildren parents bond with eternity. A field is also a symbol of a long-lasting and eternal state. Fields endure. They are transmitted to children as inheritance and therefore they represent the eternal. This is especially true about the Me’arat ha-Machpelah and its field. The Hebrew name for the area is *Chevron*. *Chevron* is from the word *chibbur*, meaning “connection.” *Chevron* represents

our connection to earlier generations and our eternal rights to the Land of Israel. *Chevron* and marriage are deeply attached, for each marriage is a chance to connect with generations past and offspring of the future. Perhaps to impress this thought upon us, Hashem chose to teach the law of marriage by funds through linking marriage to the story of how Me'arat ha-Machpelah became the property of the Jewish nation. Hashem wants us to approach marriage with reverence. It is an opportunity to reach immortality (*Portal Daf ha-Yomi*).

Kiddushin 5

The Divine Bond

Shmuel taught that if a man gave his beloved a ring, or an item of value, and declared, “You are *mekuddeshes*, or you are *meureses*, or you become a spouse, with this ring,” it is effective and she becomes married to him. However, if he said “I am your husband, or I am your *ba’al*, or I am your *arus*, with this ring,” then they are not married to each other at all. The Gemara explains the reasoning of Shmuel’s law. It is based on the verse, *ki yikach ish ishah*, “when a man will take a wife.” A husband is to take a wife; never did the verse say that a man is taken to his wife. Hence the law that the husband must use active language. For the marriage to take effect, he must explicate that he is betrothing her. The Gemara then struggled to understand a different aspect of Shmuel’s lesson.

Shmuel had said that a husband who says to his beloved while giving her a ring “You are *mekuddeshes* with this ring” succeeds in making her married to him. This is troubling. Throughout Jewish law, Shmuel was of the opinion that language which is inconclusive, *yadayim she-einan mochichos*, is not effective. If a man said, “You are betrothed,” the language was inconclusive. Perhaps the intended

meaning was, “You are betrothed to someone else.” The Gemara therefore amended the statement of Shmuel. He really said that if a husband said, “You are *mekuddeshes li* [betrothed to me],” the marriage would be effective. However, if he did not insert the word *li*, the marriage would not have been effective.

The *Megalleh Amukos* (*Balak*) pointed out that Hashem has married us, the Jewish nation. *Kiddushin* 5 teaches that for marriage to take place the husband must clearly state, *harei at mekuddeshes li*. Hence in the verse about receiving the Torah, *vi-heyisem li segullah*, “And you will be for Me a beloved nation” (*Shemos* 19:5), Hashem used the word *li* to indicate that through accepting the Torah, He was marrying us, and declaring *harei at mekuddeshes li*. At the sin of the golden calf, Hashem told Moshe *ve-attah hannichah li*, “Now leave Me,” (*Shemos* 32:10). He meant to say, leave aside the *li* relationship, annul the marriage between Me and the Jewish nation, in order to spare them the punishment due them for having acted as a disloyal spouse. Balak sent messengers to employ Bilaam to curse the Jews. He asked, *lecha na arah li es ha-am ha-zeh*, “Go curse for me this nation” (*Bemidbar* 22:6). He wanted Bilaam to break the *li* relationship between Hashem and us. When he did not succeed in cursing us, Bilaam arranged for the Jews to sin with Midianite women and thereby harm the exclusive *li* bond that we had with Hashem.

The *Agra de-Kallah* explained why the term לִי (*li*) was used to create the bond between us and the Almighty. The letter *lamed* (ל) is the tallest letter in the Hebrew alphabet, while *yud* (י) is the smallest letter in the Hebrew alphabet. The height of the *lamed* is a symbol of He who is higher than the high. Yet He chooses the י. Hashem chose the Jewish nation because we are the smallest, and most humble of all the nations (*Daf al ha-Daf*).

Kiddushin 6

Do We Need a Rabbi for *Siddur Kiddushin*?

Rabbi Yose taught that if a couple were talking about marriage, and the husband wordlessly handed his beloved a wedding ring while they were still talking about their marriage, they are married. The Halachah follows Rabbi Yose's ruling. The Gemara then added that Rav Yehudah had ruled in the name of Shmuel that כל שאינו יודע, "anyone who is not an expert in the details of *gittin* and *kiddushin* should have no involvement with them." The Gemara teaches that Rav Yehudah's directive applies to this ruling of Rabbi Yose. Those involved in marriage and divorce must be experts even in this law.

The Maharsha wonders why Rav Yehudah stated that one should be an expert in matters of *gittin* first and then *kiddushin*? Would not the correct chronological order be marriage and then divorce?

He answered that to permit a single girl to marry really does not require great expertise in Halachah. Most people are knowledgeable enough to preside over a woman's first marriage. The *halachos* of *gittin*

are more numerous and complex. Ruling on divorce is frightening. If one rules incorrectly about a divorce he will cause a married woman to have illicit relations.

Therefore, it is really only for divorce that only one who is an expert in these areas of law may preside. It emerges from Maharsha that a rabbi is not needed to serve as a *mesadder kiddushin*. Only divorce truly requires an expert.

The *Shulchan Aruch* rules that one who is not an expert in matters of *gittin* and *kiddushin* should not get involved in these areas to issue halachic rulings about them (להורות בהם) since one could easily make an error and issue an erroneous permissive ruling related to forbidden relations. The *Taz* infers from the wording of *Shulchan Aruch* that the restriction against involvement in *gittin* and *kiddushin* for those who are not experts is limited to issuing halachic rulings about these matters. It is permitted, however, for someone who is not an expert to preside over a wedding (מסדר קידושין) since this role does not involve issuing halachic rulings.

The *Pischei Teshuvah* cites authorities who disagree with the *Taz's* position and maintain that it is prohibited even to preside over a marriage if someone is not an expert in matters of *gittin* and *kiddushin*. They base their strict position on the wording of the Gemara that states that one who is not an expert should have no dealings (עסק) with them. This language implies any involvement, even to serve as the *mesadder kiddushin*. In conclusion, there is a dispute among the *Poskim* whether an expert rabbi is needed to officiate over a marriage (*Daf Yomi Digest*).

Kiddushin 7

Marrying Multiple Wives

Rava taught that if a husband said to his intended, *hiskadshi li lechetzyi*, “become betrothed to half of me,” she becomes married to him. However, if he said, *chetzyeich hiskadshi li*, “half of you become married to me,” the words would be meaningless. The explanation is as follows: If he said, “Become betrothed to half of me,” he merely intended to marry her while allowing himself to marry another woman as well. In the times of the Talmud a man was allowed to marry more than one wife. A woman, however, was never allowed to marry more than one husband. As a result, if the husband said, “Half of you become married to me,” the words would have no impact. He could not have meant to marry half of her, for there is no such marriage. He also could not have meant that he was marrying her and allowing her to marry someone else as well, for a woman could never be married to more than one man at once.

Rabbeinu Gershom instituted a ban, curse, and excommunication on any husband who would marry more than one wife. As a result, nowadays, a husband may not marry more than one wife. The reason for this law was that Rabbeinu Gershom was sure that if a husband would be married to more than one wife it would inevitably lead to

friction and fights between them. The *Sdei Chemed* detailed a case when the Sages permitted a man to marry more than one wife. An elderly Jew in Russia was informed by the authorities that they had caught his wife counterfeiting currency and as a result they were exiling her to Siberia. The husband knew that due to his ill health he would not be able to survive life in Siberia. He asked to give his wife a *get*, but she refused to accept it. The *Poskim* who dealt with this case allowed him to marry a second wife. They pointed out that she had been at fault in counterfeiting money and in refusing his *get*. Therefore, they allowed him to marry a second wife. To enable such a marriage they required one hundred sages from three different countries to sign the letter permitting the man to marry a second spouse (*Me'oros Daf ha-Yomi*).

Kiddushin 8

Marriage with Milk and Meat

One of the primary ways to create *kiddushin* is to give an item of value to the woman, *kinyan kesef*. The Gemara teaches that if the man provides a pleasurable moment to his wife, that too has value, and therefore can create *kiddushin*. Thus, if the man is very prominent, and people would expend money to be able to give him a gift, if a woman told him, “Here is a gift from me to you and through it you will betroth me,” if she gave him the gift, she became his wife. His accepting the gift provided her with a deeply pleasurable experience. In return for the pleasure, she became betrothed to him. The Gemara asked: what would the law be with a man who approaches a woman and while handing her a loaf told her, “Become my wife through this loaf,” and she responded, “give it to the dog who is chasing me,” and he gave it to the dog. Would we say she is his wife for he provided her with pleasure? Or perhaps she can argue, “By Torah law you had to save me from the rabid dog. Thus your gift was not really a pleasure to me, rather it was merely giving what the Torah requires you to give, and I did not receive a pleasure from you, and am not married to you.” The Gemara’s conclusion is that this question is not resolved and would result in a state of possible marriage.

The *Daf al ha-Daf* quotes *Amudei Or* who discussed a scenario dealt with by the *Mishneh la-Melech*. There are food items that are fully prohibited and we may not even derive benefit from them, such as meat cooked with milk. The *Mishneh la-Melech* (*Hilchos Ishus* 5:1) asked: what would the law be if a woman's life was in danger from illness and the only way to heal her was with meat cooked with milk? If the man gave the woman this milk and meat and told her, "You are *mekuddeshes* to me with this item," would she be married? Do we reckon the item from the perspective of the man? If we do, then we should say they are not married, for he did not give her an item of value. However, perhaps we assess the value the item from the perspective of the woman? The item provided the woman with benefit, it saved her life, therefore she should become married by receiving it.

The *Amudei Or* pointed out that our Gemara said that there is a point of view that when a woman's life is in danger and a man saved her life, she would not become betrothed to him, for she can claim, "the Torah obligated you to save my life." Certainly, according to that point of view, in the case of the milk and meat to the sick woman, she would not become married for she can claim, "You merely did that which the Torah required." The Gemara concluded that when a man saved a woman's life from a pursuing dog by giving the hound a loaf it results in a possible state of marriage. Perhaps the case of the *Mishneh la-Melech* should also result in a state of possibly being married, *safek mekudeshes*.

The *Amudei Or* argues that with milk and meat, and other items that one may not benefit from, there would certainly not be any marriage at all. He proposed that the Gemara only suggested the possibility of marriage when the woman suggested that the loaf be

given to the chasing dog for the following reason. If someone takes a loaf from someone else and gives it to a chasing dog, he must pay the owner of the loaf for the bread. Since a woman might not want to be left with a financial obligation, perhaps she intended to marry him for the sake of the bread being given to the dog. However, if she was given milk and meat, even if she would have taken the milk and meat without his permission and eaten it, she would not have owed any money to the man, for to him milk and meat is valueless. Therefore, he ruled that in the case of the *Mishneh la-Melech*, she certainly did not intend to betroth herself to him and she is not married (*Daf al ha-Daf*).

Kiddushin 9

Respect for a Gentile King

The *Daf Notes* rephrased how our Gemara taught about terms that mean marriage and language that does not imply an agreement to marry:

There once was a man who was drinking wine in a store. A woman came over and said to him, “Give me a cupful.” He said to her, “If I give you a cup, will you agree to become betrothed to me?” She said, “Just give me the drink.” Rav Chama said: Saying that is meaningless (rather, she meant, “Don’t make jokes with me; just do what I said”).

There was once a man who was taking down dates from a palm tree. A woman came over and said to him, “Give me two dates.” He asked, “If I take them down for you, will you become betrothed to me?” She said, “Just throw them down.” Rav Zevid said: Saying that is meaningless.

The Gemara inquires: What if the woman had merely said, “give,” “pour,” or “take”? Ravina says: She would be betrothed. Rav Sama bar Raksa says: By the crown of the king (a term used when swearing),

she is not betrothed. The Gemara concludes that the law is that she is not betrothed.

The *Shut Torah Lishmah* points out that Rav Sama bar Raksa lived at a time when the king was a Gentile. Yet, he swore by the king's crown to convey how strongly he felt about a particular law. This teaches that a Gentile regent deserves enormous honor. We are to pray for his welfare. Since a Gentile king deserves our high regard, an oath in his name or by his crown must be fulfilled. To swear falsely by his crown would be a disparagement of his honor; and Judaism does not allow us to display lack of respect to a ruler. The *Torah Lishmah* asks: but Yosef swore falsely by the life and crown of Pharoh? He answered that Pharoh made himself an idol. As a result it was a mitzvah to disparage him and show a lack of respect. However, a Gentile king who does not deify himself is to be treated as Rav Sama bar Raksa treated him, with great honor and reverence (*Mesivta*).

Kiddushin 10

The Need to Learn Many Areas of Halacha

The Gemara quoted a Baraisa that recorded a discussion between Yochanan ben Bag Bag and Rabbi Yehudah ben Beseira. The topic of the discussion was whether an Israelite woman betrothed to a *kohen* may eat *terumah*. The Baraisa recorded an interesting statement: Yochanan ben Bag Bag sent a message to Rabbi Yehudah ben Beseira, “I have heard about you that you are an expert in all rooms of the Torah, if so, how could you not agree to a *kal va-chomer* argument that would enable a betrothed woman to eat *terumah*?”

This question seems curious. *Kal va-chomer* arguments are matters of logic. Plain logic dictates that if a maid may eat *terumah*, even though she is not a spouse, because money was given to her, certainly a betrothed woman, who is a spouse, should be able to eat *terumah*, because money was given to her. Why did Yochanan ben Bag Bag imply that only based on his assessment that Rabbi Yehudah ben Beseira was an expert in all areas of law should he be accepting of the argument? Since Rabbi Yehudah was a logical person, he should have accepted the argument. Rav Chaim Soloveichik explained that

while a logical mind is all that is needed to think of a *kal va-chomer*, to accept such a *kal va-chomer* requires a wide breadth of knowledge. One who knows the laws of Shabbos might think of a logical argument in regards to Shabbos law, yet, once he learns the laws of impurity, he might discover a law that disproves his argument. There is a need to know all the areas of Jewish law. Without a broad base of knowledge one might discover laws that will disprove his thesis. This is why Yochanan ben Bag Bag stressed that Rabbi Yehudah had a very broad base of knowledge, for that broad base was the reason why Rabbi Yehudah could accept a *kal va-chomer*, knowing that there were no laws that disproved its contentions (*Daf al ha-Daf*).

Kiddushin 11

Objective or Subjective Standards for Marriage?

The Mishnah taught that according to Beis Shammai a woman becomes married when she receives at least a *dinar* from her husband. The Gemara tried to determine what is the reasoning of Beis Shammai. Rav Zeira taught that Beis Shammai feel that for less than a *dinar* a woman would not be willing to allow an acquisition to take effect upon her. Abaye asked: if Beis Shammai is concerned about a woman's feelings, then, the daughters of wealthy king Yanai should not be able to be betrothed unless they were given three *kav* of *dinars*? If this would be the case, then if someone handed a *dinar* to one of Yanai's daughters, and she stretched her hand to accept it, she would not be married. Is this the law?

Rav Zeira answered that if the woman stretched out her hand and accepted an amount of money for marriage, Beis Shammai would agree that she would be married. A woman who stretches out her hand is clearly communicating that she is willing to become married for that amount of money. Beis Shammai assessed a woman as requiring at least a *dinar* for marriage, in regards to a case of a

woman who made someone her representative, and the *shaliach* received the money, or in the instance when the woman was given the funds while she was sleeping at night. Rashi explains that according to the conclusion of the Gemara, then according to Beis Shammai, if the daughters of Yanai made a representative to accept marriage funds for them, the marriage would only take effect if the representative received three *kav* of *dinars* for them. And if a regular woman made a representative, she would only be married if he received a *dinar* on her behalf. It emerges from Rashi that the laws of what is needed to create a marriage are subjective. Very wealthy, demanding women might require more money to become married than poor, forgiving ladies.

However, Tosafos disagrees. Tosafos feels that all the laws of marriage are absolute standards. The Gemara meant to say in its conclusion that if a woman was asleep or appointed a representative, the law assumes that she wanted what most women want. Since, according to Beis Shammai, most women are satisfied with a *dinar*, she too would become married with a *dinar*. If she wanted to receive more than a *dinar*, she should have specified that wish.

According to Tosafos, even the daughters of King Yanai are governed by the same standards as everyone else. If the daughter of Yanai made a representative and he was given a *dinar* for her marriage, she would become a spouse (*Portal Daf ha-Yomi, Daf ha-Yom Yomi*).

Kiddushin 12

Rabbinic Lashes

The Gemara taught that Rav would sometimes lash individuals for behaviors that were promiscuous or not modest. For example, if a person would give *kiddushin* to his spouse in the public market, betroth a woman through marital relations, or marry a woman without first talking to her and working out all the arrangements, Rav would have the person hit by the court. The lashes Rav would mete out were not biblically mandated. The Torah allows for *malkus* when a scriptural prohibition that entails an act, *lav she-yeish bo ma'aseh*, is violated. There is no verse prohibiting a public act of marriage or marriage without a courtship. Rav would mete out rabbinic lashes for these behaviors. These rabbinic lashes are called *makkos mardus*. Are there differences between rabbinic lashes and biblical lashes?

The Tosefta (*Makkos* 3:10) states that Torah lashes entail thirty-nine blows; in addition, before they can be administered, the court assesses the sinner to ensure he can withstand the blows, and if he is too weak he will not be hit. However, rabbinic lashes are not so. There is no limit to how many blows can be given. Nor would the court assess the person. The court would hit him to the point when

his soul would leave him or until he resolves to stop his behavior.

The Ritva points out a contradiction. He quotes the Ramah that we assess the person to see if he is strong enough to withstand the punishment, regardless of whether the lashes are biblical or rabbinic in nature. This seems to contradict the Tosefta quoted above. The Ritva explains that there are two types of rabbinic lashes. If someone violated a rabbinic mandate and the Sages sought to punish him, they would give him fewer than thirty-nine blows and they would assess him to ensure he could withstand the punishment before inflicting it upon him. The second type of rabbinic lashes was not punitive; it was a preventative. If they suspected that he would continue the behavior that they prohibited, to ensure that he stop, they might hit him even more than thirty-nine times, and they would not assess his strength. Rather they would hit and hit to ensure that the behavior never happen again (*Mesivta*).

Kiddushin 13

The Wife of an Angel

The Mishnah taught that a woman can get married in three ways and can exit a marriage in two ways, receiving a bill of divorce, *get kerisus*, or the death of the husband. The Gemara asks, “What is the source that a married woman becomes permitted by the death of her husband?” The Gemara initially rejected the question. It proposed that the death of the husband permits her based on logic. It was the husband marrying her that created the prohibition so the husband dying should cause the prohibition to dissolve. The Gemara rejects this claim. It points out that there are prohibited relations that do not dissolve even with the passing of the one who created the prohibition. For instance, if a man marries a woman, his marriage to that woman causes her to become prohibited to his father. Even if the husband were to die, the woman would remain prohibited to the father of her deceased husband. Apparently, the death of the source of the prohibition does not always result in the removal of a prohibition. Ultimately, the Gemara teaches that since the verse in *Devarim* (24:3) linked divorce with a man dying, the two are compared to each other; just as giving a *get* permits a woman, the death of the husband permits a woman.

Elijah the prophet left this earthly realm but did not die. He transitioned from being a human being to becoming an angel. What was the halachic status of his wife once he ascended to heaven? Did she become permitted? Or perhaps she remained prohibited?

The *Terumas ha-Deshen* argued that the wife of Elijah was permitted. The Torah prohibited *eishes rei'eihu*, “the wife of his friend.” Once Elijah ascended to heaven, he was no longer a human friend. He had become an angel, and his wife was therefore permitted. Rav Elchanan Wasserman disagreed. *Kiddushin* 13 taught that there was a need for a special verse to permit a woman upon the death of her spouse. Logic alone would not have permitted her. When the husband married her, his marriage created a lasting prohibition upon her, like the prohibition upon her to marry his father. The prohibition is removed by giving a *get* or by the death of the husband. Elijah however, never died; he transitioned from being a human to being an angel. As a result, the prohibition on his wife was never removed (*Portal Daf ha-Yomi, Daf ha-Yom Yomi*).

Kiddushin 14

Jewish Servitude

The Mishnah taught laws about an *eved ivri*. A poor Jew is allowed to sell himself to a master in order to have funds. In addition, if a Jew stole money and did not have the funds to repay the theft, the court would sell him. This person is called an *eved ivri*. An *eved ivri* can be acquired through money or a document. He works for his master for six years. At the end of six years he goes free. If *Yovel* were to occur within the six years, *Yovel* would set him free. He can also purchase his freedom by paying his owner what the man had spent to acquire him minus the value of the years he already worked for the master. If at the end of his six-year term he refuses to leave his master and wishes to stay, the master is to take him to the door frame and puncture his right ear lobe. He would then remain working for the master until *Yovel* or until the master would die.

Why did the Torah set the term of servitude for the Jew at six years? The *Shem mi-Shmuel* explained that only from an external perspective can one imagine a Jew enslaved. The inner reality of the Jew is filled with freedom. Six is a number representing the externals. A three-dimensional object has six sides. The seventh represents the

inner point. When the inner point of the Jew is reached, his innate freedom emerges, and he goes free. This is perhaps the reason why the law of *eved ivri* only applied as long as there was *Yovel*. The observance of the year of *Yovel* filled the Jewish nation with an appreciation of our innate freedom. Without *Yovel* the innate freedom would not be felt. As a result, the law of *eved ivri* would not apply.

Commentators ask: if at the end of the six years, the *eved ivri* would like to stay, but the master would not want him to remain in his home, could the master refuse to extend his servitude? Could the master refuse to puncture the ear lobe and force the *eved* to return to his earlier family and status?

The *Chazon Ish* was of the opinion that the master could not be coerced to perform *retziah*. If he did not want to extend the term of the *eved ivri*, he was entitled to insist that the *eved* leave and return to his family. However, the *Chasam Sofer* believed that the master was obligated to perform *retziah*.

The slave who requests to stay as an *eved ivri* is committing a sin. As a Jewish indentured servant he had been allowed to cohabitate with a Gentile *shifchah*. His request to continue as an *eved* indicates a lowly desire to maintain the link with the Gentile. As a result, his ear is punctured. He also is rejecting the Divine mandate to be exclusively a slave to the Almighty. The master shares in all that guilt. The master gave him the relationship with the *shifchah*. Therefore, according to the *Chasam Sofer*, even if the master did not want to extend the servitude, he would be forced to as a punishment for his actions (*Daf al ha-Daf*).

Kiddushin 15

Right or Left?

An *eved ivri*, Jewish indentured servant, is a Jewish man who must work for six years for his master due to the fact that he sold himself or that the court sold him after he stole money and was unable to repay the theft. The Torah teaches that if at the end of his six-year term he tells the master that he refuses to leave and would like to remain as a servant, then the master stands him next to the door frame and punctures his ear lobe and he then remains as a servant until the *Yovel* year. Which ear lobe is to be punctured? Rabbi Eliezer taught in a Baraisa that the right ear lobe is the one which is to be punctured. This is derived from a *gezeirah shavah*, the existence of the same word in two separate contexts. In discussing the *eved* the Torah used the word *azno*, “his ear,” and in regards to the purification of a poor leper, *metzora ani*, the Torah used a word with the same root, *ozen*. Just as the *metzora* becomes pure with blood placed on his right ear lobe, the *eved* continues as a servant if his right ear lobe is punctured.

What would the law be with a lefty, whose main hand and side are his left? Would his left ear or right ear get punctured?

The Meiri (*Yevamos* 102a) teaches that in regards to the puncturing of the ear lobe there is no difference between a right-handed or left-handed individual. Both would have their right ear punctured to continue as an *eved*. It was only in regards to *tefillin* that Jewish law distinguished between a righty and a lefty. When the Torah commands us to wear *tefillin* on the arm, it uses the word *yadcha*, which is interpreted to mean *yad keihah*, the weaker arm. Therefore, if one was left-handed, his weaker arm would be his right arm, and he is to lay *tefillin* on his right arm. However, the law of right ear lobe is not based on that ear being the primary ear; it is a scriptural mandate that the right ear lobe get punctured. As a result, even a lefty would have his right ear lobe punctured.

Someone who was right-handed, but whose heart was on his right side of the body and not his left, asked the *Shut Eretz Tzvi* if he should put *tefillin* on his left arm. On the one hand, the left arm was his weaker arm. On the other hand, the Talmud derived from the words *al levavecha*, “on your heart,” that the *tefillin* are to be placed opposite the heart, and for him it was his right arm that was opposite his heart. The *Shut Eretz Tzvi* answered that he should put his *tefillin* on his left arm. The lesson of *yad keihah* is the primary source for where to set the *tefillin*. The mandate of wearing the *tefillin* opposite the heart merely teaches where on the arm to place the *tefillin*. They should be placed opposite the heart, and not near the palm of the hand. However, which arm to place them on, is determined from the words *yad keihah*. Since this man’s weaker arm was his left arm, that was the arm on which to place the *tefillin* (*Mesivta*).

Kiddushin 16

Naming A Child with a Letter

A Baraisa taught that when an *eved ivri*, Jewish indentured servant, goes free, the gifts he receives, *ha'anakah*, are to be given to and kept by him, and when a female Jewish indentured maid, *amah ivriyah*, goes free, her gifts are to be given to and kept by her. The Gemara pointed out that it is understandable why the Baraisa taught that an *amah* keeps her gifts after she goes free, because one might have thought that her brothers who inherit her father receive the gifts. Hence, the need to teach us that she gets the gifts and her relatives who inherit her father's rights are not entitled to anything from her. However, why was it necessary to teach that when the *eved ivri* goes free he gets to keep his gifts? Who else would we think should get those gifts? Rav Yosef answered, "*yud keret*." Rashi explains that Rav Yosef meant to say, the letter *yud*, which is the smallest letter, was being made into a city. The primary lesson of the Baraisa was that an *amah* keeps the gifts given to her. It mentioned *eved* as part of the discussion to merely increase the size of the lesson, like one who would turn a small letter into a city would add many matters that were not particularly novel or needed. The Ritva, however, interpreted the

words of Rav Yosef differently. He explained that *yud keret* was the name of a sage who was a tough person. Rav Yosef meant to say that the Gemara had asked a tough question on the Baraisa.

The *Shut Torah Lishmah* was asked by a person who wished to name his son with a letter of the *alef beis*. Instead of a proper name such as Shimon or Reuvein, he wished to call his son by the name *Shin* or *Gimmel*. He asked Rav Yosef Chaim if he was allowed to do so. The *Torah Lishmah* answered that if he wished to give his son such a name he was allowed to do so. He proved it from our Gemara which according to Ritva mentioned a sage whose name was Yud. He pointed out that in *Pirkei Avos* as well there is a sage by the name of Ben Hei Hei. Apparently, there was a sage whose name was the letters Hei Hei. A parent is blessed with Divine Inspiration when naming a child and that Divine Spirit might move him to give the child a letter as a name (*Mesivta*).

Kiddushin 17

Severance Pay in Jewish Law

When an *eved ivri* leaves his master, the master is to give him gifts, *ha'anakah*. The *Sefer ha-Chinnuch* explained that the reason Hashem gave us this mitzvah was to train us to have mercy and affection for anyone who performed a service for us.

When an employee leaves a job, must his employer give him a severance payment? In those countries where it is common practice, or the law, to provide severance compensation, the employer is certainly required by Jewish law as well to provide his employee with a severance payment. Jewish business law is governed by common practice, *minhag ha-sochrim*. If a person is hired in a city where the common practice is to provide a severance payment, then the employee implicitly took the job assuming to receive such a payment upon termination, and likewise the employer gave unspoken assurance that the severance payment would be given.

As a result, he would have to give a payment. Even in those countries where it is not the common practice to provide a severance payment, a righteous employer should provide such a payment. He

should learn from the law of *ha'anakah*. Hashem wants us to show love and consideration to those who worked for us, and therefore an employer should give a package to a former employee.

However, the severance payment need not be excessive. Rav Moshe Shternbuch was asked about a person who had been hired to work for a year at a certain salary. After two weeks of working, the employer decided to terminate the employee. The employee demanded that as severance she receive a year's salary as had been promised to her. Rav Shternbuch ruled that the employer did not have to give her so much money. He should show mercy and give something, but it is irrational to expect someone to receive a year's salary for several weeks worth of work (*Me'oros Daf ha-Yomi*).

Kiddushin 18

Did the Avos Have the Legal Status of Jews?

The *Mishneh la-Melech*, Rabbi Yehudah Ben Rabi Shmuel Roseness, was one of the great Rabbis of Turkey during the early eighteenth century. He wrote a work on *Chumash* that dealt with fascinating halachic questions. For example, when the Jews left the slavery of Egypt, were they taking wealth as a fulfillment of the mitzvah of *ha'anakah*, gifts to be given to a Jewish indentured servant when he exits servitude? Did King David have the legal status of *melech* while King Saul was alive? If he did, could he forgive his honor? He deals with these and other such questions. His first essay deals with a topic our Gemara sheds light upon. Did our forefathers, Avraham, Yitzchak, and Yaakov have the status of Yisrael or the status of Gentiles? One might argue that the Jewish nation became Jews at Sinai. Alternatively, starting with our father Avraham, each of the patriarchs was a Jew.

Kiddushin 18 is a key source for this discussion. The Gemara was seeking a source for the fact that a Gentile can inherit his father. Rav Chiya Bar Avin proposed that the source for the fact that a Gentile

inherits his father is the verse *ki yerushah le-Eisav nasatti es har se'ir*, “for I have given to Esav the mountain of Seir as an inheritance” (*Devarim* 2:5). The Gemara rejects this suggested source for perhaps Esav was not a Gentile, he was a *yisrael mumar*—a Jew who was not observing Jewish law. If Esav had the status of a Jewish *mumar* it is clear that the status of being a Jew started with Avraham and that the patriarchs did not have the legal status of Gentiles (*Daf Yom Yomi*).

Kiddushin 19

A Minor's Marriage

The Gemara taught that based on the verse, *eishes ish*, the wife of a man, we learn that a minor cannot create *kiddushin*. The *Noda Bi-Yehudah* asked a question based on the *Tur*. The *Tur* and Rambam rule that a twelve-year-old has sufficient *da'as*—responsible intelligence—to effectuate acquisitions. If so, a twelve-year-old who gives a ring to a woman and declares, “You are *mekuddeshes* to me,” should be able to effectuate the *kinyan* of *kiddushin*? The *Noda bi-Yehudah* answered that while the acquisition could take effect, the marriage is blocked from taking effect based on the verse that defines a married woman as a wife of a man and not a minor. The *Noda bi-Yehudah* argued that a twelve-year-old could give a woman a ring and say, “you will be married to me with this ring once I reach the age of thirteen,” and such a marriage would work.

As a twelve-year-old he is old enough to effect acquisitions and while the marriage was blocked while he was a minor, once he matures the marriage can take effect on its own. In fact, he said that his brother got married in this way. Others disagree and feel that a twelve-year-old cannot start a marriage to take effect once he will

be an adult, for it would be considered an attempt to create a status which is to take effect on that which has yet to come into the world (*lo ba le-olam*), and therefore has no halachic significance (*Me'oros Daf ha-Yomi*).

Kiddushin 20

A Jew Must Always Be Free

The Gemara taught that the Torah is lenient with an *eved ivri*. If he was sold at one price and the value depreciated he can redeem himself at the lower price, while if he was sold at a low price and his value appreciated he can also redeem himself at the lower price. In explaining why this is so, the Gemara proposed that it is due to the fact that the Torah obligates the master to treat the *eved* well. The master must feed the *eved* with food as good as his own, wine as delicious as his own, and provide bedding as good as his own. For these reasons it was said one who purchases an *eved ivri* has purchased a master for himself.

Tosafos notes that the expression “It is as if the master has acquired a master for himself,” which the Gemara uses, suggests that a master must treat a Jewish slave even better than he treats himself. Tosafos asks, however, why it is not sufficient for the master to treat the slave the same as he does himself? Why does the Jewish slave have to be treated better?

Tosafos illustrates that, in fact, it is necessary to sometimes give preference to the slave. For example, as the Yerushalmi points out, it

may be that there is only one pillow available. If the master takes it for himself, he is not fulfilling the dictum “it shall be good for him with you.” If the master decides not to use the one pillow and not to give it to the slave, this would be a selfish expression of Sdom-like behavior, which is prohibited. Therefore, the master would have no choice other than to forfeit it and give it to the slave, thus resulting in the slave’s being treated better than the master.

The Achronim question this ruling of Tosafos and ask why the master would have to surrender the one pillow to the slave. There is a famous opinion of Rabbi Akiva about two people who are stranded in a desert, and only one has water with which to survive. The Halacha is that he must keep it for himself, as the verse states, “וְחִי אִתְּךָ עַמֶּךָ—Your brother should live with you,” which we understand to mean your life takes precedence over the life of others, *chayecha kodmin*. Similarly, we should understand the verse here which uses that same terminology—“כִּי טוֹב לּוֹ עַמֶּךָ”—to indicate that although one must support his slave, the comfort of the master should still take precedence. A number of answers are offered to deal with this question.

The Maharit explains that in the case of the one container of water, if the owner would offer it to his friend, the friend would immediately find himself confronted with a situation where the original owner is now at risk of dying. He would have to fulfill the mitzvah of forfeiting the water to save him, and the flask of water would have to be returned. The scenario would then repeat itself endlessly. This is why we therefore say that the first owner should just keep it for himself. In our case, the master has to provide for the slave and give him the pillow. However, the slave has no obligation to

provide for the master. It is therefore reasonable that he receive the pillow, and not have to return it to the master.

The *Cheishek Shlomo* explains that when being bought, the slave is in violation of the Torah's rule עבדי הם, "They are My slaves," which the Gemara rules: My slaves, and not the slaves of slaves. We at least afford him the one "pillow" advantage in order that in one area the slave be the "master" to his master. Tosafos is teaching that no Jew is ever to be fully subordinate to another Jew (*Daf Digest*).

Kiddushin 21

Enabling a Jew to Lose His House in Israel

If a Jew sells his ancestral field he may not redeem it for the first two years. After those first two years he may redeem it from the buyer. If he did not purchase his field back from the one who bought it, when *Yovel* would arrive, the Jubilee year would return the field to him. If a person sold a home that was within a walled city, he could redeem it right away. However, after that first year, if he had not yet redeemed his home, he would not be able to get it back. *Yovel* would not return the home to him. The Gemara pointed out that one Baraisa taught that one who sells a home in a walled city may not redeem it in installments, nor may he borrow and redeem. However, another Baraisa taught that one who sells a home in a walled city may redeem it in installments and he may borrow in order to have the funds to repurchase it. The Gemara resolved the contradiction between the two Baraisos with the understanding that one Baraisa followed the opinion of Rabbi Shimon while the other followed the view of the Sages.

The *Sefer ha-Chinnuch* (Mitzvah 341) provided a possible rationale for the special law of the home in a walled city. Hashem wants us, as Jews, to have a fierce love for the land of Israel. If one has to sell his home in a holy city, Hashem wants the seller to strongly seek its speedy return, and as result, He gave the seller only a year to buy it back, thus motivating the seller to repurchase it as soon as possible. Secondly, since we are to feel a deep love for the land, Hashem's law fines the person who sells a home in a walled city, to lose the home forever after the first year, so as to penalize the person who did not love the land sufficiently and sold his holding in a holy city. A walled city has special sanctity. A *metzora* is only sent out of a walled city, while he does not have to leave an unwalled city. The *Chasam Sofer* explains that a walled city displays the special love Hashem has for us. When the Jews first entered the land of Israel during the days of Yehoshua ben Nun, the Canaanites feared them. As a result, they fortified their cities and surrounded them with walls. Even though the cities became fortresses, Hashem saved us and granted us victory over our enemies. Thus, the walled cities display the love Hashem has for us. As a result of their symbolic import, walled cities have a special sanctity, and that is why a *metzora* is to be sent out of a walled city. Since a walled city is so holy, selling a home therein is a display of disregard for holiness and is penalized under Torah law.

These laws teach us to treasure owning a home in the Land of Israel generally, and to especially savor a home in a walled city.

A person once came to Rav Zilberstein with the following question. A neighbor of his had put his apartment in Israel up for sale for a very reduced price. He asked the agent, "Why such a low cost?" He was told, "Your neighbor found a real estate investment in Poland. He needs cash to buy that land. Since he needs to sell quickly,

he is willing to accept a very low price.” The questioner asked Rav Zilberstein, “May I purchase the apartment? While it will help me to get the apartment at this low price, perhaps I may not assist a Jew commit the sin of betraying the holy land by selling a holding he has in Israel for the sake of purchasing land in Poland?”

Rav Zilberstein answered that he was not allowed to buy the apartment. In fact, were he to buy the apartment it would violate the mandate of *lifnei iver lo titein michshol*, “Do not place a stumbling block before a blind man.” Since the man would not be able to commit the sin of disinvesting from Israel without his help, his purchase would be an act that would render him an accomplice to the misdeed. In fact, when people ask Rav Chaim Kanievsky, *shlit”a*, about moving from one home to another within Israel, he regularly advises that they should first enter into a contract to buy the second home in Israel and only afterwards put the first home up for sale. His reasoning is based on the ideas of the *Sefer ha-Chinnuch*, we are to love the land of Israel, avoid selling a home in it, and only sell a home in it once one already has another home in the Beloved Land (*Chashukei Chemed*).

Kiddushin 22

The Status of an Adopted Child

The Gemara teaches about the captured Gentile bride. The Torah permits a soldier to marry a captured Gentile bride. Hashem knew how war degrades the moral strength of the combatants. He therefore allowed a soldier who is attracted to a Gentile woman he sees in battle to marry her under certain conditions. Rashi was of the opinion that the soldier would have to first fulfill the conditions and then marry her. He would have to bring the captured bride to his home, cut her hair and grow her nails, have her mourn her parents for a month, and only after all those actions could he marry her. The Gemara teaches that the marriage with the captured bride would be a full relationship and that she would have the status of a regular Jewish woman. Tosafos challenges the position of Rashi based on a famous story in the book of *Shmuel*.

King David's son Amnon had a powerful lust for his half-sister Tamar. He manipulated matters to get Tamar into a room with him. When he attempted to force himself upon her, she said, "Why are you doing this to me? You could ask King David and he would not

withhold us from each other.” The Gemara in *Sanhedrin* asks: how could Tamar have suggested this to Amnon? A sister would never be permitted to cohabit with a brother? The Gemara answered that Tamar was the daughter of a Gentile woman. Her mother Ma’achah was a captured bride, *eishes yefas to’ar*. So Tosafos ask: if the captured bride is only permitted to the soldier after she performs mournful actions for a month, she is a Jewish woman at the time of marriage, conception of the child, and the birth of the child. Tamar then was a sister from the same father to Amnon and prohibited to him? Therefore, Tosafos is of the opinion that the captured bride is permitted to the soldier immediately. When he first cohabitates with her she is not Jewish. King David cohabitated with Ma’achah when she was not Jewish. As a result, Tamar, who emerged from those relations, was not legally King David’s daughter since she was the child of a Jewish man and a Gentile woman and when a Jew has relations with a Gentile the child is a Gentile.

After the initial relations, a month passed, Ma’achah mourned, and through her actions she became a Jewess and a full spouse. Avshalom was born after she became a Jewess and therefore he was Jewish. Since Tamar was initially not Jewish, she converted, and while some thought of her as King David’s child, legally she was not his child, and Amnon was permitted to her.

Tosafos suggested an answer for the view of Rashi. Ma’achah was permitted to David only after the month. David did not have relations with Ma’achah initially. Nevertheless, Tamar was permitted to Amnon. Tamar was not the child of King David. When King David caught sight of Ma’achah during the battle, Ma’achah was already pregnant with Tamar who was someone else’s child. The verse referred to Tamar

as the daughter of the King because she was being raised by the king. In light of these words of Tosafos, Rav Zilberstein felt that it would be fair to characterize Tamar as the adopted daughter of King David.

A Chasidic Rebbe once passed away. He had biological children as well as an adopted child. It was the practice in the Chasidic courts that the children of the Rebbe would wear silk garments even during the week, so as to remind them of their lineage and the importance of behaving like royalty. The following question was raised by the executors of the Rebbe's will: did they have to clothe his adopted son in silks?

Rav Zilberstein replied that just as Tamar would wear royal garments (2 *Shmuel* 13), and she was an adopted child according to Tosafos, so too the Chasidim must clothe the adopted child of the Rebbe in silk garments (*Chashukei Chemed*).

Kiddushin 23

Tefillin on a Paralyzed Man

The Gemara mentioned the law of Rav Huna about *kohanim*. Rav Huna taught that *kohanim* who perform the service in the holy Temple are serving as agents sent by the Almighty to bring His offerings. They do not serve as agents of those who are donating the sacrifices. The person bringing the sacrifice might be a non-*kohen* who cannot perform the service of the Temple himself. One who could not perform the service himself cannot appoint an agent to perform the service as his representative. This principle—that what one cannot do himself he cannot create an agent to do on his behalf—led to a painful question. *Daf Digest* records that Rav Vozner was asked by a paralyzed man if he could have others put his *tefillin* on his arm for him. Perhaps, since there is a rule that what one cannot do himself he cannot appoint others to do for him, as the paralyzed man cannot personally fulfill the mitzvah of *u-keshartem le'ot al yadecha*, “and you shall bind [the *tefillin*] on your arm,” due to his paralysis, he cannot appoint others to do it for him either?

Rav Vozner responded that the Maharam Shik dealt with this very issue. He taught that a paralyzed man differs from a non-*kohen*.

A Yisrael is not obligated at all to offer *korbanot* in the Temple. As a result, he cannot appoint a representative to offer *korbanot* for him. Every Jewish man is obligated to wrap *tefillin* on his arm. The paralyzed man is obligated to put on *tefillin*. His paralysis is an external force preventing him from discharging his task. As a result, he may appoint someone to act on his behalf who will tie the *tefillin* on his arm and he will thereby fulfill his obligation (*Daf Digest*).

Kiddushin 24

A Ring into a Gloved Hand

The Gemara mentioned that an *eved kena'ani* goes free if his *adon* permanently disabled one of his primary visible limbs. If the master were to cut off a finger or blind an eye, the *eved* goes free. Rav Yitzchok Zilberstein pointed out that this discussion can remind us of a law in regards to marriage.

The *Otzar ha-Poskim* (27:4) records that many authorities ruled that if a bride was wearing gloves when the ring was to be placed on her finger, she should remove the gloves and let the ring get placed directly on her finger. One reason is kabbalistic. The Hebrew word for “ring,” *taba'at*, combined with the word for “finger,” *etzba*, represents the union of names of Hashem. If she would wear gloves and the ring would be placed in a glove, then the kabbalistic unification would not occur. Furthermore, a ring on the hand is a sign of blessing. A ring on the hand makes the mitzvah of marriage more aesthetically appealing and thus fulfills the mandate of *hiddur mitzvah*. The Ben Ish Chai writes that in his city of Baghdad there was a custom for the bride to wear gloves and receive the valuable *kiddushin* item in the palm of her gloved hand. The reason for this was twofold. Just

as there is a custom to put a tablecloth on the Shabbos table to show honor to the Shabbat meal, a gloved hand makes the wedding more honorable. Secondly, through wearing a glove it is clear that the woman is not receiving charity.

Were she to merely put out her hand and receive an item of gold and silver in her palm and thereby become married, some onlookers might mistakenly think that the husband was giving charity into her palm. However, a pauper would not be wearing dress gloves. Once she wears gloves it is apparent that she is not merely receiving charity. Rav Zilberstein offered a riddle: when would all legal authorities encourage a woman to adopt the custom of Baghdad Jewry and to get married while wearing gloves?

Answer: If the bride was missing her fingers then we too would adopt the custom of the Ben Ish Chai. In such a case, the bride would not have the ring placed on her finger, so the kabbalistic symbolism would be unattainable. The fear that an item placed into her palm would appear to be charity would also be relevant. As a result, Halacha would dictate that she wear a glove to make her hand like a Shabbos table and the husband should drop the ring into her gloved hand to demonstrate that he is marrying her and not merely giving alms (*Chashukei Chemed*).

Kiddushin 25

Show Respect for a Great Sage

A great scholar once came to visit Bnei Brak. Posters went up throughout the city announcing a special lecture that the *Gadol ha-dor* was going to deliver. There was a scholar in Bnei Brak who did not want to invest the time to attend the *shiur*. He asked Rav Zilberstein, “May I continue with my regular studies instead of attending the special class given by the great giant of Torah who will be visiting our city?”

Rav Zilberstein answered that *Kiddushin 25* teaches that he had to stop his usual studies and attend the guest’s lecture. The Gemara related that the sages of Nezunya did not attend the *derashah* given by Rav Chisda. Rav Chisda noticed their absence. He told Rav Hamnuna, “Go and place those sages in excommunication due to their insolence in not attending the class.” From this story we can learn a lesson: if a great Torah luminary arrives in a town, all should attend his class to give honor to his Torah knowledge. Scholars who choose not to attend his class are wrong and deserving of excommunication. Ben Yehoyada added that when the scholars of Nezunya did not attend the *shiur*, the laymen followed their example and also skipped it, thus causing communal *bittul Torah*.

Rav Zilberstein related that when yeshiva students would ask Rav Moshe Feinstein what they should do during *bein ha-zmanim* (holiday breaks), he would tell them to attend the Mishnah classes given by the local rabbi. They might be able to learn at a more intense level, yet their attendance would honor Torah and encourage others to study with the rabbi (*Chashukei Chemed*).

Kiddushin 26

Why Rabbi Eliezer Spent the Seder in Bnei Brak

The Gemara related a story about acquisitions. Rabban Gamliel was once on a boat with Rabbi Yehoshua and Rabbi Akiva. He realized that in his home there was a pile of wheat from which the tithes had not yet been separated. He declared, “Ten percent of the wheat is *ma’aser rishon*, and I will define which kernels are part of the tithe when I return home. The tithe is given to Rabbi Yehoshua and to transmit the grain to him, he is to rent the land underneath the grain from me and in that way, by dint of acquiring land, the grain kernels will become his as well.” Rabbi Yehoshua gave Rabban Gamliel a coin to rent the land and the kernels became his. Rabban Gamliel then followed the same procedure to create a second tithe which he transmitted to Rabbi Akiva as *ma’aser ani*, the tithe for the poor.

In the Haggadah of Pesach there is a famous passage in which Rabbi Akiva, Rabbi Eliezer, Rabbi Elazar ben Azarya, Rabbi Tarfon, and Rabbi Yehoshua were all spending a Seder together in Bnei Brak. The Maharatz Chiyus asked on this story: Rabbi Eliezer is the one who taught in *Sukkah* that a husband should not spend a holiday

away from home. In *Sanhedrin* it was taught that Rabbi Eliezer lived in Lod. If his home was in Lod, how did he violate his own standard and spend the Seder in Bnei Brak?

The *Margaliyos ha-Yam* answered this question with our story. The Gemara related that Rabban Gamliel was traveling on a boat and separated tithes, one of which he transferred to Rabbi Yehoshua. In the Jerusalem Talmud there is an added detail. This episode occurred on the eve of Pesach in a year in which the process of *biur ma'asaros* must be fulfilled. On Passover eve in years four and seven of the *shemittah* cycle, the homeowner must practice *biur ma'asaros*, which requires the owner to declare that he has faithfully discharged all his tithing obligations. Since it was the time to ensure all tithes had been appropriately distributed, Rabban Gamliel gave away tithe produce to Rabbi Yehoshua and Rabbi Akiva. Perhaps Rabbi Eliezer, Rabbi Elazar, and Rabbi Tarfon were also part of the trip. They all disembarked in Jaffa port on that Passover eve. They did not have enough time to get home. That is why they all stayed in Bnei Brak at the home of Rabbi Akiva for the Seder for Bnei Brak is near the port in Jaffa.

One might ask, but in the Haggadah we do not hear that Rabban Gamliel spent the Seder with the five sages. If they spent Passover in Bnei Brak because they were with Rabban Gamliel, why was he not part of their meal? The *Margaliyos ha-Yam* answered that Rabban Gamliel was the President of the court, the Nasi. Since he was the Nasi he did not wish to spend the Seder with them, for had he eaten with them, they would not have been allowed to recline during the Seder, for one may not recline in the presence of the Nasi (*Daf al ha-Daf*).

Kiddushin 27

Passion for Learning

The Gemara discussed a mode of transferring items called *kinyan agav*. *Agav* means that by dint of acquiring land, movable objects can be acquired as well. Thus, one who acquired a field with payment of cash, receipt of a bill of sale, or an act that demonstrated ownership would acquire movable objects with the field as well. The Gemara has a lengthy discussion about the question of *tzvurin*, moveable property that is in a pile. Does *agav* only work to acquire movables that are bundled onto the land or does it even work for movable objects that are disconnected from the land that is being acquired?

Rav Elyashiv pointed out that on this Gemara the Maharit wrote, *u-vehach shma'atata ditzvurin huyu li devarim u-shechachtim*, "In this subject about the movables being bundled on the land, I had novel thoughts yet I forgot them." Why did the Maharit see a need to tell us that he forgot his insights? If he forgot them, we obviously will not know them. Why make us feel bad about his loss?

Rav Elyashiv explained that the Talmud in *Shabbos* teaches that if one has a tree that drops its fruits one should paint it red. The reason for this is so that passersby will see it, they will notice its unusual

color, ask about it, find out about the need and they will pray that it get healed. Apparently, if one has an illness or another need, it is correct to inform others so that they will pray for the person. For the Maharit, forgetting novel Torah ideas was a tragedy. He felt the pain of losing a child in losing his novel Torah thoughts. This is why he sought to inform others. He hoped that the reader would pray for him and perhaps in the merit of the prayers the Almighty would restore to him those Torah delights. From the Maharit we are to learn how precious a Torah thought is. Each novel insight should be recorded, internalized, and savored (*Chashukei Chemed*).

Kiddushin 28

Calling Someone a Gentile

The Gemara discussed the principle of the Mishnah about oaths. Generally one can only impose an oath about a movable object. However, if one makes a claim on a piece of land, and the one against whom the claim is lodged denies the claim in part, an oath obligation would not be triggered. The Mishnah taught that it is possible to roll an oath onto a person. Once he must swear about movables, he can be made to swear about land. The Gemara tries to figure out what such a case would be like. It proposed a scenario where someone had to swear that he did not owe money and the one advancing the claim against him said, “And you are my *eved kena’ani*,” perhaps the Mishnah meant that since he must swear about the money, he would also have to swear that he was not an *eved kena’ani*? The Gemara rejected this understanding for it pointed out that if someone accuses his fellow man of being an *eved kena’ani* he is excommunicated and we would not make the victim of his accusation take an oath. A claim about someone’s personal status impacts who he can marry. As a result, it has the status of *davar she-be-ervah*, a matter about prohibited marriages. Only two witnesses are believed about a *davar*

she-be-ervah. If a single person makes such a claim he is merely smearing someone and he deserves to be excommunicated.

The *Teshuvos Geonim* record that this is a matter of law. If someone accuses someone of being a Gentile or a slave, since he is attempting to harm the ability of the accused to marry, he has no credibility as a single witness and deserves to be punished. The *Teshuvos Geonim* writes that one who smears a fellow Jew by accusing them of not being Jewish should be beaten by the court and its officers (*Chashukei Chemed*).

Kiddushin 29

Are Women Obligated to Listen to *Kerias ha-Torah*?

The Gemara taught that men are obligated to study Torah but women are not obligated to study Torah. What about listening to the Torah reading in *shul*? Is a woman obligated to listen to the Torah reading? The Gemara in *Megillah* teaches that initially women could be called up for *aliyos* to the Torah. However, the Sages instituted that women cannot be called up for *aliyos* to the Torah. The Torah reading was instituted by Moshe Rabbeinu so that Jews would not go three days without learning Torah. If women are not obligated to learn Torah, they should have been exempt from the concept of hearing Torah at least every third day. Since the Gemara in *Megillah* said that initially women could receive *aliyos* to the Torah, does that prove that hearing the reading of the Torah is not dependent on the obligation to study Torah and that women are obligated to hear the reading of the Torah even though they are not obligated to study Torah?

The *Magen Avraham* suggested initially that *kerias ha-Torah* is independent of Talmud Torah. Women are not obligated to study Torah. Yet, he posited that they are obligated to hear the reading of

the Torah. Reading of the Torah is similar to the mitzvah of *Hakhel*. During *Hakhel*, men, women, and even children are obligated to come and hear the reading of the Torah. Perhaps, in a similar way, women are obligated to hear *kerias ha-Torah* and that was why from the letter of the law a woman could receive an *aliyah*, and it was a rabbinic legislation that prohibited a woman from receiving an *aliyah*. However, the *Magen Avraham* ultimately rejected this logic. He taught that a woman's relationship to hearing the reading of the Torah is the same as her relationship to studying Torah or to any time bound obligation. She is exempt from the obligation. Even though she is exempt, she is allowed to voluntarily fulfill the mitzvah, and when she does so, it is considered a full mitzvah achievement. Since her mitzvah-act counts, she initially could have an *aliyah*. The *Poskim* accept the conclusion of the *Magen Avraham*, and it is widely accepted that women are not obligated to hear the reading of the Torah (*Me'oros Daf ha-Yomi*).

Kiddushin 30

The Greatness of *Daf Yomi*

Rav Yitzchok Blazer taught that from our Gemara it emerges that there are two obligations in regards to studying Torah. Onme' the one hand, we are obligated to constantly study Torah: *ve-hagisa bo yomam va-lailah*, "And you are to meditate in it day and night." In addition to the obligation of constantly learning, there is a second obligation to know Torah. This is derived from the word *ve-shinantam*, which teaches that the words of Torah should be sharp in our mouths, and that when one asks a question, we should give the precise answer right away. Rav Blazer emphasized that this second obligation is incumbent upon all. It is not only scholars who must be proficient and able to answer precisely. Each Jew is obligated to master all of Jewish law. For the obligation of *ve-hagisa*, one could memorize a single tractate and review it again and again, all day, each day. However, to fulfill the mitzvah of *ve-shinantam* one must learn all of the *Shas*. When one learns all of the Gemara one becomes sensitized to Jewish law and eventually one masters the corpus of Jewish law and is able to respond precisely to each question. Rav Moshe Feinstein wrote that those who study *daf yomi* merit to fulfill both of these mandates.

Through the regular study of Torah they merit to fulfill the mitzvah of *ve-hagisa*. Through the fact that over time the one who studies *daf yomi* merits to study many topics and tractates, he becomes an expert in all areas of law, and fulfills the mandate of *ve-shinantam* (*Me'oros Daf ha-Yomi*).

Should One Ever Fear Prayer?

The Gemara quoted a Baraisa that a father must marry off his children. The Gemara points out that while it is understandable that a father find a wife for his son, how can the father ensure that his daughter get married? The Gemara answers that the father is obligated to do things that will help make it possible for his daughter to marry. He must purchase for her nice clothing and jewelry so that a husband will seek her out and marry her.

A Torah scholar once asked the following question to Rav Dov Kook. He was neighbors with a widow. His daughter was a kind-hearted woman who helped the elderly widow a great deal. Unfortunately years were passing and his daughter had yet to find a husband. He discovered that the widow was praying that his daughter remain single so that she would continue to have the time to help her out. He suspected that the prayers of the widow were preventing his daughter from finding a *shidduch*. He asked, "Since I am obligated to take action to encourage the marriage of my daughter, must I move from the building so that the widow would stop praying about my daughter?"

Rav Kook answered that he did not need to move. He had nothing to fear from the prayer. Since the prayer to prevent his daughter from

marrying was an unfair request he could be sure that it was having no impact on heaven.

A proof to this ruling could be adduced from a lesson in *Makkos*. The Gemara there (*Makkos* 11) teaches about what would happen in an *ir miklat* (city of refuge). If someone kills by mistake, the victim's relatives may kill him. To save his life the inadvertent killer is to flee to an *ir miklat*. He is to stay in the city of refuge until the High Priest passes from the world. The mother of the Kohen Gadol would bake treats for the residents of the city of refuge so that they not pray for the passing of the High Priest. The Gemara asks: the verse stated, *kilelat chinam lo tavo*, "a baseless curse will not come to fruition" (*Mishlei* 26:2), so why was the mother of the Kohen Gadol concerned about the prayers of the residents of the *ir miklat*? Their wishes for the passing of the High Priest were *kilelat chinam*?

An elderly sage volunteered that he had heard an answer to this question in the public lecture of Rava. The Kohen Gadol should have begged God for mercy for his generation. Had he prayed more vociferously for his nation, no one would have died from the negligence of another. Explains Rashi, therefore, the wishes of the confined in the city of refuge are not baseless curses. It emerges from the conclusion of the Gemara that a baseless wish of misfortune is not to be feared, *kilelat chinam lo tavo*. Therefore, since the widow's prayers were baseless, for the daughter of the *talmid chacham* deserved to marry, the scholar had nothing to fear and could remain in his apartment (*Chashukei Chemed*).

Kiddushin 31

The Importance of Reciting Kaddish for a Father

In a Baraisa it was taught: a child is to honor his father during his lifetime and after his passing. During his lifetime he honors his father by invoking his father's name. If he is in a place where his father is known and he wishes to depart, he should not say, "Let me leave." Rather he should say, "For the sake of my father, allow me to leave." After his father's death he honors father through asking to serve as his father's atonement. If he is quoting a Torah thought from father he should not merely say, "This is what father said." Rather, during the first twelve months after the death of father, he should say, "My father and teacher, for whom I am the atonement of his passing, said." After the first year, whenever he quotes a Torah thought from his father he should say, "My father and teacher, may his memory be blessed for life in the World-to-Come said." It is based on this Baraisa that children lead the community in saying Kaddish. When a son merits to lead the community in sanctifying the name of Hashem through the recital of Kaddish he is adding merit to his father and bringing his soul atonement.

Rav Zilberstein related a story about the importance of a son reciting Kaddish.

Some towns in Israel are populated overwhelmingly with observant Jews. Others are filled with secular residents. Some are mixed with both observant and secular residents. In a mixed town there was a *shul* where a young Torah scholar would come each day to teach between Minchah and Maariv. There was an attendee to the services who was very secular. He would not participate in any of the prayers. He would only recite the Kaddish at the end of the prayers. When the rabbi would teach between prayers he would walk out and play on his phone. However, he asked the rabbi, repeatedly, to come fetch him from the hall when Maariv would begin for he wished to recite the Kaddish at the end of the service. The rabbi wondered about him. Why would a secular man who clearly did not wish to pray insist on saying Kaddish?

The story was fascinating. The man's father had died. He had left an estate worth twelve million shekel. In his will he stipulated that if his son would recite Kaddish for him at every prayer, without missing even a single prayer, for eleven months, his son was to receive ten million shekel and his daughter two million. However, if the son would miss even one Kaddish then the daughter would receive six million shekel and the son six million shekel. The son was not observant yet he was diligently attending each *tefillah* to say the Kaddish and receive his inheritance. The daughter wished to catch him missing a Kaddish. She hired an investigator. He was following the man with a camera trying to record the man missing a Kaddish so that the daughter could get another four million shekel.

This continued for months.

The man did not miss a Kaddish.

One day the rabbi received a phone call. It was the daughter. She told the scholar her story. She knew from the investigation that the rabbi would fetch her brother for Maariv. She made a request: "Please, one day, 'forget' to call my brother for Maariv. He will then miss a Kaddish and I will receive four million shekel. I will then donate four hundred thousand shekel to you to distribute to poor individuals." The scholar found this offer very tempting.

He went to Rav Aharon Leib Shteinman with the question: "The man who comes to say Kaddish is not observant. He will use the money for unfortunate purposes." He asked the Rosh Yeshiva: "May I one day neglect to summon him to Maariv and in that way poor scholars will receive four hundred thousand shekel?"

Rav Shteinman was firm: "It is not your concern how he will use the money he inherits from his father. You have a responsibility to enable a son to honor his father by saying Kaddish. When a son leads a community in Kaddish it provides a merit to the father. You have no right to take away that merit." The scholar continued to call the secularist to return for Maariv. One day the secularist asked, "Does it bother you that I leave for your class?" The rabbi answered, "It does not bother me, but I feel bad that you are missing out on diamonds. For every word of Torah is a diamond. If you come and join in the class you will surely agree." The man began to attend the class. Today he is *Shomer Shabbos*. The guidance of Rav Shteinman to ensure that a son say Kaddish for his father eventually brought him to observance and to providing his father with even more merits (*Chashukei Chemed*).

Who Pays for Honoring Parents?

The Gemara discussed who must pay to honor parents: does the son pay from his wealth, or must the father cover the costs of his own honor? The Halacha is that the costs are borne by the father, and the son need not lose his own money to honor his father and mother. In light of this ruling, a question was presented to the Maharshag. A man had his daughter helping him in the home. His father asked him to send this daughter, his granddaughter, to his home, to help him. Was he obligated to listen and send her? Maharshag ruled that the Halacha that the costs of honoring parents are to be borne by the father and mother teaches a lesson. When facing a conflict between needs of son and needs of father, the son may allow his needs to take precedence. This is why he does not need to spend money and can insist that the father cover the expenses. Therefore, if he needs the help of his daughter in his home, he does not need to send her over to help his parents. However, the spirit of the law does mandate that he send his daughter to help his parents (*Me'oros Daf ha-Yomi*).

Kiddushin 32

Torah is Forever

There was a dispute as to whether a Torah scholar can forgive the honor due him. Our Gemara concludes by saying that the law is that if a Torah scholar wishes to waive the honor which is due to him, he may do so.

The Gemara (*Kesubos* 17a) teaches that if a king chooses to forgo his honor, he may not do so. The verse states, “You must set the king upon yourself” (*Devarim* 17:15). From this we learn that he must remain as an authority figure, and his position must not be compromised.

What is the reason for the discrepancy between the position of a king, which cannot be compromised, and that of a Torah scholar, whose honor may be waived?

Rabbi Chaim of Volozhin explains that if a king allows himself to forgo his honor, he is no longer a king over his subjects at that moment. The position of king is one which anyone may fill, and it is only through a consensus of peers that a particular person should be promoted and given the privileges of royalty which then result in this one person being the king. When he allows his position to

be cheapened, he is, in effect, resigning from the monarchy, and this is not allowed. After all, the Torah demands that we continually appoint him above us. A Torah scholar, however, earns the respect of the nation due to his amassed knowledge. If he allows others to deal with him simply, his prominence and distinction are still valid, and, consequently, his honor is still intact. His consenting to be treated plainly does not affect his position, and nothing is lost (*Daf Digest*).

Kiddushin 33

Giving Your Seat to an Elderly Passenger

The Gemara discussed the law of standing to honor a sage or an elderly person. If you are sitting on a bus and an elderly person boards, are you obligated to get up and give him your seat?

The verse states, *Mipnei seivah takum vehadarta pnei zakein*, “Before old age rise and give honor to the face of the wise” (*Vayikra* 19:32). The Gemara taught that this is a requirement for *kimah she-yeish bah hiddur*, a standing up that has dignity to it. The *Shevet ha-Levi* argued that if a younger man stands for the elderly passenger but then sits down in his seat, his standing was not a display of dignity. It is humiliating to an elderly person that he is forced to stand while a young person sits comfortably. Therefore, he argued that a younger person is obligated to give up his seat and insist that the elderly passenger sit in his place. Even if he paid more for the right to sit than the elderly man who merely paid in order to stand, he must offer his seat to the elderly man. Giving up your seat and losing money to give him honor adds to the respect that you are showing the sage. Thus, the younger person who is obligated to honor the older person must give up his seat and enable the older person to sit. The Chida in

Nachal Kedumim wrote a unique thought in the name of Rabbeinu Efraim. The verse seemed to repeat itself. It declared, “before old age rise,” and “give honor to the face of the wise.” Why repeat the mandate? He answered that the verse actually sets two standards. When you are faced with a very elderly person the verse declares, rise and give up your seat to him, *mipnei seivah takum*. This means you must insist that the elderly man take your sit, while you stand. However, if the sage is not very old, then, *vehadarta pnei zakein*, give honor to the face of the wise. Honor the sage by asking him to take your seat. However, you are not obligated to insist that he take it (*Heichalei Torah*).

Kiddushin 34

A Mother Buying Tefillin

The Mishnah taught that women are exempt from time bound positive commandments, *mitzvos aseih she-ha-zman gerama*. The Gemara explains that the source of this law is *tefillin*, which is a time-bound positive commandment, since it is worn in the day but not at night, and it not incumbent on women. Just as women are exempt from *tefillin*, they are exempt from *mitzvos* that are like *tefillin*, time bound commandments.

Rav Zilberstein was asked the following question: There was a family in Israel that struggled to make ends meet. The father had many debts. The mother in the family worked very hard as well. They had a bar mitzvah coming up. The father considered the costs of the celebration and decided that he would not be able to afford to buy his son a beautiful pair of *tefillin*. He decided that he would buy for the boy a simple pair. The set would be kosher but not *mehuddar*. His wife felt badly for her son. She knew how he was looking forward to the celebration of his coming of age. She decided to take on a second job to earn the funds to buy a beautiful pair of *tefillin*. She accepted several house cleaning jobs. Even though she worked very

long hours, and was physically drained when she returned home at night, she tolerated the humiliation and strain to purchase for her son a beautiful mitzvah object. At the end of the month she received a thousand shekel from her second employer. She came home and told her husband that she earned extra money so they could buy a beautiful set of *tefillin* for their son. Her husband told her that he had just been called by the bank. They were running low again on cash. The bank told them that they would stop honoring their checks. Their account was overdrawn past its overdraft protections. He told his wife that he felt the money needed to go to the bank to replenish the account. He would buy for his son a simple pair of *tefillin*. She told him, "I trust that you will figure something out with the bank. You have successfully kept us going until this point. I worked to earn the money for the *tefillin*. It is our son's bar mitzvah now. I insist that these funds buy for him a beautiful *mehuddar* set of *tefillin*."

Who was right? Rav Zilberstein answered that while a woman is not obligated to wear *tefillin* or to purchase *tefillin* for her child, if the money belongs to her, she is entitled to use it as she sees fit. The *Poskim* discuss what is the status of funds that a wife procures by pushing herself to work an extra job. The *Bach* ruled that funds a woman received from pushing herself to work a second job are to be kept by the wife and need not be given to the family account. As a result, the money was hers. She did not need to listen to her husband's wishes. She could use the funds to purchase a pair of *tefillin mehuddarin*. However, Rav Zilberstein added that maintaining peace in the home is even more important than wearing a beautiful, new pair of *tefillin*. Therefore, if the wife is concerned that by her buying the nicer pair instead of contributing the funds to the family, her husband will collapse and there will be friction in the home, then she

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should give the money to the bank, borrow a beautiful pair of *tefillin* for her son to wear, keep the second job for another month, and then buy for her son the beautiful pair of *tefillin* (*Chashukei Chemed*).

Kiddushin 35

Cutting *Peyos* to Avoid *Chillul Hashem*

The Gemara taught that while men may not cut off the sidelocks of their hair, a woman is allowed to cut off the *peyos* that are on her head. The following question was brought to Rav Zilberstein: A Jew who was a member of the observant community allowed his evil urge to overcome his inner angel. He committed horrible crimes. He was caught and arrested. He approached the Rav with a request. Could he cut off his *peyos* and beard? He looked like a very observant man. He had a long beard and long *peyos*. His picture in the press would be a great *chillul Hashem*. Perhaps to avoid giving the Jewish faith a bad reputation he should remove his beard and *peyos*?

Rav Zilberstein pointed out that King David attempted a similar act. King David suffered terribly when his son Avshalom tried to kill him. The Gemara in *Sanhedrin* (107a) teaches that King David sought to worship idols then. He argued that were he to maintain his holy behaviors there would be a great desecration of the Holy Name. People might say that observant behavior is not rewarded, even a *tzaddik* like King David could have tragedy come upon him. Therefore, he sought to publicly pretend to be an idolator so that

God's faith would not get a bad reputation. The *Chazon Ish* pointed out that this teaches us that *chillul Hashem* is worse than idolatry. One should give his life to avoid idolatry. Yet to avoid *chillul Hashem* it would be better to violate the laws about idolatry. The Gemara in *Yoma* teaches that for the sin of *chillul Hashem* there are no means of atonement while in this world. If so, it might seem that the criminal should be encouraged to shave his beard and *peyos* and thus reduce the degree of *chillul Hashem*.

However, Rav Zilberstein's conclusion was that he should not shave off his beard and *peyos*. When someone has a beard and *peyos*, he is reminded each time he looks in the mirror of Judaism and the need to be carefully observant. Were he to cut off his beard and *peyos* he might deteriorate to a much lower level. Therefore, he should cover his beard and *peyos* with a scarf as if he had cuts on his face to reduce the desecration of Hashem's name from his picture in the paper and after the trial remove the scarf so that his beard and *peyos* will help him avoid a further fall and encourage him to repent and change his ways (*Chashukei Chemed*).

Kiddushin 36

Must a Woman Recite the Blessing for a New Moon?

At the beginning of each month, there is a rabbinic mitzvah to bless the new moon. After the fifteenth of the month, when the moon begins to wane, one cannot recite this blessing. Are women obligated to recite this blessing? Is this blessing considered a *mitzvas aseih she-ha-zman gerama*? The mitzvah is bound to a particular time. However, it is not the time that creates this limitation. The reality of an increasing moon does not exist after the fifteenth of the month. Perhaps when it is an external cause that limits the performance of a mitzvah to a particular time it is not considered a time bound obligation?

Rav Moshe Feinstein ruled that it is a time-bound mitzvah. He ruled that females are not obligated to recite *kiddush levanah*. Some sought to bring support to his position from the question of Tosafos on *Kiddushin 36*. The Gemara taught that women are exempt from leaning on a sacrifice because the verse states, *dabbeir el bnei yisrael ve-samach*, “speak to the sons of Israel and he is to lean,” from which the Gemara learns that the sons lean and the women are not obligated to lean. Tosafos asked, why do we need a special source to

exempt women from leaning? Leaning on a sacrifice is a time-bound obligation. One can only lean right after slaughtering the sacrifice, and one may only slaughter by day. There is no verse demanding that leaning on a sacrifice only occur during the day. Nevertheless *Tosafos* (*Menachos* 93b) defined it as time-bound based on an external factor, that it had to be linked to *shechitah*, and *shechitah* can only be performed by day. This supports the view of Rav Moshe Feinstein that *kiddush levanah* is a time-bound mitzvah. In light of this thought, the mitzvah to bless the flowering fruit trees during the month of Nisan is also a time-bound obligation and women are exempt (*Yosef Da'as*).

Kiddushin 37

Holy Books Produced by Gentiles

Daf Yomi Digest pointed out that a lesson in *Kiddushin 37* elicited a discussion amongst the *Poskim* about holy works printed by Gentiles. Our Gemara mentioned the law of אבד תאבדון, “you shall surely destroy.” We have a mitzvah to destroy idols, and we have a prohibition not to damage or destroy Jewish holy books or objects.

Rambam writes that any sacred writings (כתבי הקודש), as well as their commentaries and explanations, may not be burned or destroyed in any other fashion. This restriction, however, is limited to where the sacred writings were written by a Jew with sanctity (בקדושה), but a *Sefer Torah* written by a heretic, *apikoros*, should be burned. The reason is that we do not wish that the work of a heretic should remain in existence. It is permitted to burn these writings since it is assumed that as a heretic he did not write the name of Hashem with the correct intent. Sacred writings written by a non-Jew should be buried rather than burned. Based on this Rambam, the *Teshuvos Zekan Aharon*, ruled that *chumashim* and *siddurim* printed by Christians should not be used. He recommended that they be buried.

Other authorities comment that notwithstanding the ruling of *Teshuvos Zekan Aharon* their communities have a long standing custom, from the time printed books became available, to use books printed by Christians. The rationale for this lenient approach is that the prohibition is limited to works that are written by hand. However, *chumashim* and *siddurim* that are printed were never included in the prohibition and are thus permitted for use. Maharam Shik suggested another rationale to allow the use of sacred books printed by Christians. When a book is printed, it is not the owner of the printing press, who may in fact be Christian, who does the actual work. Employees do the physical printing. Since the workers are engaged and focused on performing their job efficiently it is assumed that they do not have any idolatrous thoughts while they are printing the books. As a result, the books are not considered to contain names of the Almighty that were produced without the correct intentions. Rav Shlomo Kluger also adopted a lenient approach to these matters. He was asked about possessing a Bible printed by a Christian that contained both our Tanach and their “New Testament.” He suggested that by the letter of the law one may possess and use such a book. One of the reasons he suggested was that Christian non-Jews (נכרים) are not assumed to be idolators, like the pagans of the ancient world. He did feel that a person of great spirituality should avoid such books as much as possible (*Daf Yomi Digest*).

Kiddushin 38

Shlissel Challah

There is a custom that for the Shabbos right after Pesach, a *challah* is used that is either shaped like a key; has been punctured by a key; or has a key hidden inside of it. This *challah* is called *shlissel challah*. The *Oheiv Yisrael* suggested that *Kiddushin 38* is the source for this practice. The Gemara taught that the Jewish people, under the leadership of Yehoshua bin Nun, first entered the land of Israel on the tenth of Nisan. The nation only first began to eat from the produce of the land on the sixteenth of Nissan, the second day of Pesach. The Gemara asked: why did they not begin to eat right away when they first entered the land? The Gemara answered that according to the opinion that they became obligated in the law of *chadash* right when they entered the land, they waited for the *minchas ha-omer* to be offered and then began to eat the new grain. However, according to the view that they were only obligated in the laws of *chadash* after settling the land, which occurred fourteen years later, the reason they did not initially eat the new grain was that they did not need the new produce. Initially, they were still eating manna. Only when the manna was finished did they eat grain, and that occurred on

the sixteenth of Nisan. It thus emerges that until Pesach the Jewish people were eating manna. Only on the second day of Pesach did our nation begin to eat produce for food. When manna falls from heaven everyone knows that food is coming. Each morning the manna would arrive. Once the nation finished their manna and had to eat off the land, the nation was dependent on *shefa*—flows of blessing from Heaven. If they were not deserving then they would not have the flow of blessing and would not have produce to eat. Each flow of blessing needs a key to enable it to flow down to this world. Since when we first entered Israel, Passover was the time when we transitioned from Divine food to earthly food, each year, the Almighty renews His *shefa*, flows of blessing for earthly food, on Pesach. To remind us that once we are dependent on earthly food, we need to maintain merits so that the gates of blessing for food not close, it is a Jewish custom to have a *challah* linked to a key right after Pesach (*Mesivta*).

Kiddushin 39

Thoughts That Help but Can't Hurt

Daf Digest records an interesting thought based on our Gemara:

Rav Shlomo Kluger was asked whether a person is obligated to recite Birkas Hatorah before he listens to words of Torah. He suggested that the matter is subject to a dispute between Rashi and Tosafos in Sukkah (38b). Rashi maintains that a person who is in the middle of shemoneh esrei and hears kaddish or kedushah recited by the tzibbur should be silent and listen intently to the words and it is considered as if he answered together with the tzibbur. Tosafos, on the other hand, asserts that if the person is silent and intends to fulfill his obligation by listening to the response of the tzibbur he has, effectively, interrupted his own shemoneh esrei. Therefore, he should continue with his prayers. If we apply their positions to our case the conclusion would be as follows: since Rashi maintains that listening is not an interruption it is an indication that the principle “listening is like responding” — שומע כעונה — is not taken literally. Therefore, it would be unnecessary for a person to make Birkas Hatorah if he is merely listening to words of Torah. Tosafos, who maintains that

listening to kaddish during shemoneh esrei would constitute an interruption, takes the principle literally and would thus require a person to recite Birkas Hatorah before listening to words of Torah. The *Shulchan Aruch* rules in accordance with Rashi's position and, consequently, Rav Kluger ruled that it is unnecessary to recite *birkas ha-Torah* before listening to words of Torah.

Rav Ovadiah Yosef disagreed with Rav Shlomo Kluger's assumption that Rashi and Shulchan Aruch maintain that the principle of שומע כעונה is not meant literally. The truth is that all opinions hold that the principle of שומע כעונה is taken literally and there is another reason why listening to Kaddish or *kedushah* during one's recitation of shemoneh esrei is not an interruption. Our Gemara relates that, generally, Hashem regards a good thought as though the mitzvah was performed but Hashem does not regard a bad thought as though a transgression was committed. Thus, it could be said that when a person reciting shemoneh esrei is silent and listens to Kaddish or kedusha he gets credited for the mitzvah of responding but he is not regarded as though he interrupted his own shemoneh esrei (*Daf Digest*).

Kiddushin 40

Divided Matzah and Balanced World

In the ritual of *yachatz*, during the Seder, the middle matzah is divided into two. A larger piece is left for *afikoman* and the smaller piece remains on the table in the Seder plate. The *Yismach Yisrael* explained that this ritual is a reminder to the themes of our Gemara. In a Baraisa in our Gemara it was taught that one should always view himself as half guilty and half meritorious and therefore if he would do one more mitzvah he would tilt himself to the realm of merit. If he would do one more sin he would convict himself. He should also view the whole world as being in the balance. He should feel that the world has fifty percent merits and fifty percent sins. His act can determine his fate and the fate of the world. This is symbolized by the breaking of the matzah into two parts. The person and the world are in the balance. Holy acts are monumentally important. They literally can save and elevate the world. This is why the larger piece is left for later. For the *afikoman*, we should be spiritual, and as the more spiritual we are the more we will merit to save the entire world (*Mesivta*).

Kiddushin 41

Why Honor Someone Else to Serve as the *Sandak*?

The Mishnah taught that the husband can marry his wife either himself or with a representative. The Gemara asked: if the husband can create marriage by means of an emissary, certainly he can create marriage with his own actions! Why then did the Mishnah state that the husband can marry with an emissary or with himself, it should have simply stated the husband can marry with a representative and then we could have figured out with elementary logic that he can marry with his own actions as well?

The Gemara answered that the Mishnah was teaching an important lesson. It was teaching that מצוה בו יותר מבשלוהו, there is a greater mitzvah for him to do it, than to have a representative fulfill the mitzvah for him. This is a principle in all *mitzvos*. Great rabbis would clean fish and roast meat on Fridays even though there were attendants happy to do the kitchen work for them, because these rabbis wished to fulfill the mitzvah of honoring Shabbos themselves and not have others fulfill it for them.

Why is it so important to do a mitzvah oneself, with one's own body?

Rashi explains that when one fulfills the mitzvah with his own actions, he invests more effort, and therefore deserves more reward. The *Megillas Sefer* gave another reason. If I can fulfill the mitzvah myself and I give it away to someone else, I am demonstrating a lack of respect and a disparagement of the mitzvah. To show that I treasure the mitzvah I should always do it myself if I can.

The Ben Ish Chai was asked by a father who was a *mohel*: “May I give up the mitzvah of giving a circumcision to my son myself in order to have the privilege of serving as the *sandak*, and hold the baby on my knees during the *milah*?” A father who is a *mohel* should usually perform the mitzvah of *milah* himself, since מצוה בו יותר, מבשלוהו, however, perhaps serving as a *sandak* is also a mitzvah?

Poskim point out that the *sandak* at a *bris* does fulfill a mitzvah. The verse stated, כל עצמותי תאמרנה ה' מי כמוך, “All my limbs will declare Hashem who is like You?” Midrashim explain that this verse teaches that each limb has a mitzvah it can perform. The knees can fulfill the mitzvah of holding a baby on them while serving as a *sandak*. The Maharil wrote that serving as a *sandak* is greater than being a *mohel*. The *sandak* is a partner with the *mohel* since he helps the *mohel* perform the *bris*. In addition, his knees assume the status of the golden altar. Just as *ketores* was offered on the מזבח הזהב (golden altar), the knees of the Sandak have the privilege of holding the baby whose circumcision is an offering as holy as the *ketores*. Since serving as a *sandak* is greater than being the *mohel*, the Ben Ish Chai permitted the father to serve as a *sandak*. He was not disparaging *milah* through choosing a more holy act, and he would receive reward for doing the mitzvah of *sandakus* with his own body.

If this is the case, one might ask: why would a father ever honor someone else to serve as *sandak*? It is his mitzvah. Shouldn't he practice the rule of *מצוה בו יותר מבשלווחו*? The answer is that while it would be better for himself to serve as *sandak*, honoring a prominent rabbi by serving as *sandak* adds to the honor of the *milah* experience. To honor the mitzvah it has become widely accepted for the father to gift the privilege of serving as *sandak* to honored rabbis (*Me'oros Daf ha-Yomi*).

Kiddushin 42

One Cannot Appoint an Emissary to Sin

The Gemara taught that Halacha allows for the appointment of an agent, *shelucho shel adam kemoso*. Thus, just as a man can give his intended a gift of funds and marry her, alternatively, he may appoint a *shaliach*, an emissary, who will marry her to him. The actions of the *shaliach* get ascribed to and credited to the one who appointed him, the *meshalei'ach*. However, *ein shaliach li-d'var aveirah*, one cannot appoint an emissary to sin on one's behalf. The Gemara explains that if one were to task his friend with performing a sin for him, we say, *divrei harav ve-divrei ha-talmid divrei mi shom'in*, "the words of the master or the words of the student, to whom do you listen?" Meaning, Hashem is the Master, the human who appointed an emissary is merely a student, to whom should one listen? The emissary had no reason to listen to the one who sent him and as a result he is responsible for his actions and his action is not ascribed to the one who sent him.

There is a famous dispute how to understand this law:

The *Noda Bi-Yehudah* related the story. A man decided to divorce his wife. He appointed a *shaliach* and sent a get in his hand. The

woman refused to accept the *get*. The *shaliach* dropped the *get* in her hand and ran off. The woman insisted that she never agreed to the divorce. Was she divorced?

The *Noda bi-Yehudah* pointed out that Rabbeinu Gershom placed a ban and curse on forcible divorce. The woman did not want the divorce. Even though Torah law initially allowed a husband to divorce a wife against her will, since Rabbeinu Gershom instituted his ban, it is an *aveirah*. As a result, he ruled that the *shelichus* was null and void. The emissary could not represent the husband to do a sin on his behalf. Therefore, there was no *shaliach* of the husband. Divorce can be effected by the husband or his *shaliach*. Since there was no *shaliach*, the woman was not divorced. He demanded that the husband return her to his home, reconcile with her and support her since she was not legally divorced from him.

Rav Yitzchok, the father-in-law of the *Noda bi-Yehudah* disagreed with him. He felt that *ein shaliach li-d'var aveirah* means that the one who sent the emissary does not get punished for the crime his representative performed. The guilt is borne by the *shaliach*. However, the act can take effect for the one who sent the emissary. Therefore, if a *kohen* were to send a *shaliach* to betroth a divorced woman, she would become married to the *kohen*, although the emissary would be the one whom the Almighty would punish for the act of forbidden betrothal. Therefore, when the emissary was sent to perform a sin and forcibly divorce a woman, he was an emissary and the woman got divorced. The emissary would be the one who got punished for the act and not the one who sent him, but the act would take effect.

Rav Yitzchok tried to prove that his understanding was correct. The Mishnah in *Gittin* teaches that if a master gave a writ of freedom to an emissary and told him, “Deliver it to my *eved*,” since *zachin*

le-adam shelo befanav, one can become an automatic emissary for the benefit of someone else without his explicit appointment, the master cannot change his mind, and the *eved* is free. If an emissary to perform a misdeed is an automatically voided appointment, since there is a mandate of *le-olam bahem ta'avodu*, “forever you shall work them,” which makes it illegal to write a writ of *shichrur*, the appointment should have been voided and the *eved* never freed.

This Mishnah seems to confirm the view of Rav Yitzchok. Even when the act is a sin, the *shaliach* to do it gets appointed, the responsibility rests on the *shaliach*. The *Noda bi-Yehudah* rejected this proof. He pointed out that the *eved* is not mandated to avoid being freed. The man who got the *shtar shichrur* was the automatic emissary of the *eved* and that was not a sin, that was why the appointment took effect (*Oneg Shabbos*).

Kiddushin 43

What Happens if the Emissary to Sin Did Not Know It Was a Sin?

Our Gemara taught that *ein shaliach li-d'var aveirah*, there is no possibility of agency when one was sent to perform a sin. The one who performed the sin carries the guilt, not the person who sent him. What would the law be if the *shaliach* did not realize that the act he was to perform was a sin? Perhaps we would then say that since he did not know the act was forbidden he is a simple *shaliach* and the one who sent him would be responsible? Alternatively, since the act was a sin, even though he was unaware, perhaps he alone is responsible and no one else would be held responsible for it.

The *Noda bi-Yehudah* argued that the rule of *ein shaliach li-d'var aveirah* holds true even when the emissary did not know that the act was a sin.

He felt that *Kiddushin 43* proved his point of view. The Gemara quoted a Baraisa which taught the view of the Sages that if someone told his friend, “Go kill so and so,” and the friend killed him, the one who sent him is exempt and the one who did the killing is guilty. However, Shammai ha-Zaken ruled that the one who sent

him is guilty. Rava said: if one posits that Shammai's opinion is *yesh shaliach li-d'var aveirah*, he would concede to exceptions. Shammai would still agree that if someone sent an agent to eat forbidden foods or have prohibited marital relations, the agent, and not the sender, would be guilty, because it is inconceivable that one person enjoy sin and another carry the guilt: *lo matzinu bechol ha-Torah kullah zeh neheneh va-zeh mischayeiv*.

The *Noda bi-Yehudah* points out that Halacha does not follow Shammai ha-Zaken. So then why would Rava try to tell us that there is a scenario where even according to Shammai *ein shaliach li-d'var aveirah*? Why not suggest that according to the Sages when someone was sent to perform marital relations and he did not know the act was forbidden, we would say *ein shaliach li-d'var aveirah* because the emissary was enjoying the act? Apparently, that would not be necessary. According to Halacha, anyone sent to perform a sin for another has the rule of *ein shaliach li-d'var aveirah*. Even if the emissary did not know the act he was sent to do was a sin, if he performed the sin, he bears the guilt and the one who sent him is innocent. This was why when Rava wanted to impart the lesson that *lo matzinu bechol ha-Torah kullah zeh neheneh va-zeh mischayeiv*, he had to teach it within the context of Shammai's view (*Daf al ha-Daf*).

Kiddushin 44

When Has a Customer Paid?

A question: A customer entered a falafel store and ordered a portion. The store owner replied, “it will cost ten shekel.” The customer said, “fine, please prepare the portion, I will pay now.” The store owner turned to the kitchen and started to prepare the food. The customer took out a one hundred shekel bill and placed it on the counter. The store owner did not see that the customer had put the note down on his counter. The customer went to the sink to wash his hands for *netilas yadayim*. When he returned to pick up his completed order the money was no longer on the counter. The store owner requested payment. The customer pointed out that he had already paid by putting the hundred shekel bill on the counter. They looked at the surveillance video. They saw that in fact the customer had placed the money on the counter. However, when he had turned his back and gone to wash his hands, a wind had blown the bill out of the store and into the street. When they went out to look in the street for the money, they could not locate it. Apparently the bill had been lost. Did the customer have to pay the ten shekel price again?

Alternatively, did the store owner owe the customer ninety shekel in change for he had received payment with the placement of the money on his store counter?

Rav Yitzchok Zilberstein pointed out that this question was similar to a topic discussed on *Kiddushin* 44. Rava taught that if a husband placed a *get* into the hands of the *eved* of his wife it could create divorce. If the *eved* was sleeping when the *get* was placed into his hand and he was being watched by the wife, the Halacha would consider the *get* placed in a watched courtyard with her knowledge controlling all, *chatzer hamishtameres le-da'atah*, and she would be divorced. However, if the *eved* was awake when the *get* was placed in his hand, she would not be divorced. If he was awake, then he has control and decision making ability over what he might choose to do, therefore, he would have the status of a watched courtyard, *chatzer mishtameres*, not under the control of her knowledge, *shelo le-da'atah*. Here the customer placed the money on the counter, he placed it in the courtyard of the store owner, but the store owner did not know about it, thus it was not being controlled by his knowledge. It should be considered a *chatzer mishtameres shelo le-da'ato*.

Rav Zilberstein argued that the customer had the status of a borrower. A portion of falafel was being prepared for him and in return he owed ten shekel to the seller. The *Shulchan Aruch* (*Choshen Mishpat* 120:1-2) rules that if a borrower received money from a lender, he is responsible to ensure they are returned to the lender. He is exempt from this responsibility if he delivered the money to the hand of the lender, or if he placed the money in the house or courtyard of the lender and the lender saw that the money was in his home. It seems clear that while one can be considered to have returned the money by putting it in the domain of the lender, there is

a condition that it is only considered returned to the lender if he saw the funds. In our case, the seller did not see the one-hundred shekel bill on his store counter. Therefore, the customer is not considered to have discharged his debt to the falafel maker. He must pay the ten shekel now for his falafel (*Chashukei Chemed*).

Kiddushin 45

“If You Want, Divorce My Wife”

A Jew in Pittsburgh once deserted his family. He simply left and no one knew where he went. A few weeks later his father received a letter from him. In the letter he wrote to his father, “Dad, I have decided to leave. I am taking a boat and traveling to Europe. I will never come back. If you want, divorce my wife.” The question was presented to great rabbis. Was the woman now stuck? Was she an *agunah*? Or perhaps the father could divorce her on behalf of his son?

Kiddushin 45 taught that *lo chatzif inish leshavyei avuha shliach*, “a man is not so brazen as to appoint his father as his *shaliach*.” This seems to mean that a child will not make his father his representative to act on his behalf. If this is the case, the son never appointed the father as a *shaliach*. Since all had lost contact with the man, his wife would be stuck as an *agunah*.

The Maharsham was asked this question. He ruled that the father could execute the *get* as the *shaliach* of his son, and the woman would be considered properly divorced. He issued this ruling based on a lesson of the Maharit. The Maharit taught that it would be disrespectful for a child to directly appoint his father and state, “You

are appointed to be my *shaliach* and divorce for me.” However, if the child uses soft language, such as, “If you wish father, you may serve as my *shaliach*,” the appointment would take effect. Therefore, Maharsham ruled that the son did intend to appoint his father as his *shaliach*. He phrased it in a gentle manner, “If you want, divorce my wife,” to avoid sounding disrespectful. For a son to appoint his father, softer language is called for. Therefore, the Maharsham permitted the father to commission the *get*, and he ruled that the woman was duly and fully divorced by it (*Me’oros Daf ha-Yomi*).

Kiddushin 46

He Said Twice, “Become Married to Me with This Ring,” What Is the Status of the Rings?

It once happened where a man went to a store to buy a wedding ring which he planned to use to marry his wife. The store owner showed him two rings. He could not decide which he liked better. He bought both. However, he had an agreement with the store owner that he would eventually decide on one ring. He would then bring the other ring back. The store owner agreed that if he brought one ring back he would give him back the money he had paid for that ring. Days went by and he was unable to decide which ring he wished to use. Under the *chuppah* he still had both rings in his pocket. He said to her, “Become married to me with this ring,” and he gave her the first ring. Then he said again, “Become married to me with this ring,” and he gave her the second ring. His wife told him after the wedding that she liked both rings. She wanted to keep both. He wanted to take one of them, without her approval, and return it to the store owner to get his money back. He asked Rav Zilberstein: was he allowed to take one ring against her wishes and return it?

Rav Zilberstein pointed out that the Mishnah taught, “If someone said, ‘Become married to me with this date,’ and handed her a date, and then said again, ‘Become married to me with this date,’ and handed her a second date, if one of the dates was worth a *shaveh perutah*, she would be married.”

The Meiri taught on this Mishnah that only one of the dates would be considered the *kiddushin* item. The other date would be viewed either as a gift that he had given to her or a deposit that he had given to her to watch. This statement seems to have been made even if each date was worth a *perutah* or more. According to Meiri, only one item created *kiddushin*. The other item did not create *kiddushin* and therefore has the status of a failed attempt at *kiddushin*. The Sages disputed whether failed attempts at *kiddushin* become gifts to the woman or are considered a deposit in her hands. According to Meiri, it seems that in our case, the woman can claim that the second ring was a gift. However, if the husband took it, he could claim that the second ring was a deposit and he was reclaiming it.

Rav Shimon Shkop however, pointed out that the Gemara never mentioned that any of the dates need to be returned to the husband. He therefore argued that since each date was a full attempt at an act of *kiddushin*, she acquired all of them as *kiddushin* and she does not need to return any of them. Thus, according to the logic of Reb Shimon, the woman acquired both rings. They are both hers and the husband may not take her property without informing her and give it back to the store. Since there is basis for the idea that she acquired both rings (either as a gift or as acts of *kiddushin*), Rav Zilberstein ruled that the husband could not take one of the rings and return it (*Chashukei Chemed*).

Kiddushin 47

Can One Fulfill *Mishloach* *Manos* Through Forgiving a Debt?

The Gemara taught that if a husband attempted to create *kiddushin* with a loan he had extended to his wife and then forgiven, the *kiddushin* would not take effect. The reason for this law is based on how Halacha views a loan. When someone lends money to his friend, those funds belong completely to the friend. *Kiddushin* can take effect through a gift of funds based on the lesson of *kichah kichah*, which linked marriage to the purchase of the field of Machpelah. In purchasing the field of Machpelah, Avraham gave silver coins to Efron and then the sale took effect. It would never have worked based on coins that already belonged to Efron. When someone tells his wife, “You are married to me with the coins I lent you,” he has accomplished nothing. Those coins already were the property of the woman. Marriage happens when the husband gives some of his money to his wife.

The *Shut Musrei Yehoshua* asked the following question: could one fulfill the mitzvah of *mishloach manos* (giving gifts to his friend on Purim) through a loan he had made before? If someone borrowed

food from me, and promised to return those food items to me, if I then said on Purim, “those food items are now yours, and your debt is forgiven as *mishloach manos*,” would I fulfill the mitzvah?

He concluded that I certainly would not have fulfilled my obligation.

Just as marriage requires giving an item of value, so too, *mishloach manos* requires that each of us gift on Purim day food items to our friend. When someone lent items to his friend, they already belonged to the friend. When he declares on Purim day that they are *mishloach manos*, he is not giving anything to the friend that was not already the property of the friend. Even if he were to say, “With the pleasure of my forgiving the debt, let it serve as *mishloach manos*,” he would not fulfill his obligation. Pleasure about a debt being forgiven is cash. *Mishloach manos* requires a gift of food. Even the authorities that felt a gift of cash could fulfill the obligation of *mishloach manos* only felt that way because cash could be turned into food. The pleasure of a loan being forgiven will not become food. Therefore, it could not serve as *mishloach manos* (*Heichalei Torah*).

Kiddushin 48

Why Do We Marry With a Gold Ring?

The Mishnah taught that if a prospective husband told his beloved, “Marry me with this ring which is gold,” yet the ring turned out to be made of silver, the marriage never took effect. Many have the practice to only marry with a gold ring (*Mordechai, Kiddushin 488*). What is the reason for this practice? Why not use a silver ring?

Some explain that gold is a symbol to the secrets of Torah. Secrets are hidden. So too, Jewish modesty demands that much be hidden. Others say that gold does not rot, and therefore marriage with a gold ring is a symbolic statement that the bond between the couple will not weaken in any way over time.

Rav Yitzchok Zilberstein offered another explanation. The *Pirkei de-Rabbi Eliezer* (Chapter 49) states that Avchashveirosh used golden vessels at his party. The author of *Shevet Musar* explained that gold items have a special ability to heal and create feelings of joy. The *Minhagei Maharil* relates that when Rabbeinu Tam wished to figure out a difficult Halacha he would put in front of himself a pile of gold coins. When seeing the gold he would feel happy. Because of his joy, his mind would expand and he would successfully delve into the

depths of our legal tradition with much energy and effort. Perhaps for these reasons the groom gives his wife a ring of gold to give her joy and to perform a symbolic act with the prayer that they would merit to have a life of joy and no worry together (*Chashukei Chemed*).

Kiddushin 49

A *Shidduch* was Agreed Upon; Then She Discovered He Was a Rabbi

Rav Zilberstein relates, a young scholar was once suggested to a young lady as a *shidduch*. She met him. He was respectful, kind, and wise. She and he got engaged. Then she discovered that he already was serving as the rabbi of a community. She claimed that the engagement was fraudulent. “I had been told he was studying in yeshiva. I would never have agreed to marry him had I known he was a *rav*. I am not ready for a life of serving a community as the wife of the town rabbi.” What is the law?

The Mishnah taught that if a man told a woman, “Marry me on condition that I am a *leivi*,” and it turned out that he was a *kohen*, the marriage would not take effect. It was all based on a misrepresentation. Ulla pointed out an important point. The Mishnah taught that if a man said, “Marry me on condition that I am poor,” and in fact he was wealthy, or if he said, “Marry me on condition that I am wealthy,” and he was poor, the Sages say the marriage did not take effect. However, Rabbi Shimon was of the opinion that if he had said he was poor and in fact he was rich, since he left out a benefit, the marriage would take

effect. Ulla taught that Rabbi Shimon only taught his law in regards to finances. However, if a spouse had represented himself as being a certain level of lineage and in fact was of a higher level of lineage, even Rabbi Shimon would agree that the marriage did not take effect, for the woman never wanted to wear a shoe that was too big for her foot. In light of Ulla, perhaps the bride can also claim that she never would have agreed to marry a man who was a rabbi, for it would be a shoe too large for her foot.

Rav Zilberstein ruled that the marriage did take effect. The Mishnah and Ulla discussed a case where the spouse stated explicitly that the marriage was contingent on a false fact. In our case, no one ever told her that her groom was not a rabbi. No one said that the engagement was based on the condition that he was not a rabbi. Therefore, while she has grounds for a complaint that information should have been volunteered, nevertheless, since there was no active misrepresentation the engagement should be left to stand (*Chashukei Chemed*).

Kiddushin 50

What Are Reasonable Living Conditions?

A couple married on the condition that they would move to a home near the yeshiva. The husband was very studious. He tried to study every possible moment. Were he to live far from the yeshiva he would inevitably lose many moments of Torah study while commuting to his place of learning. Therefore, he had insisted on marrying on condition that they move to a home in the neighborhood of the yeshiva. They found it very hard to find an apartment near the yeshiva. Eventually, they found a place. It was very small and tight. The wife insisted that while she had agreed to live near the yeshiva, she had never agreed to live in such cramped quarters. Such a life would not be reasonable. She felt that to live in a tiny apartment would not be considered living. The husband felt the apartment was reasonable. He reminded the wife that they had married with the explicit stipulation that they would live near the yeshiva and this was the only place available. Was the husband right?

Rav Yitzchok Zilberstein pointed out that the Gemara on *Kiddushin 50* might shed light on the issue.

The Gemara related a dispute. There was a man who sold his land in Bavel with the express stipulation that he was selling it so he could move to Israel. He went to Israel but did not succeed in finding a way to live there. He returned to Bavel and now wanted his land back and the sale annulled. Rava was of the opinion that anyone who intends to go to a place, intends to reside in the place to which he is moving. Since this seller was unable to live in Israel, the sale was null and void. However, there were those who disagreed with Rava. They said the seller only conditioned his actions on the fact that he was going to go to Israel. He did in fact go to Israel. The sale therefore would stand even though he eventually returned to Bavel.

The *Tur* (Choshen Mishpat 207) rules, “If a man explicitly stipulated at the time of his selling his land, that he was selling only because he was going to move to a particular place, but when he then went to that place he found that the living conditions there were too tight for him to stay, and he returned, the sale would be valid for he did go to that place.” The *Derishah* explains that according to the *Tur*, according to both opinions in the Gemara, when one says that he is selling in order to go elsewhere, he meant to say that he was selling for he would live elsewhere. If in that other place there were no living possibilities at all, the sale would be null and void. Rava and the others dissented in the case where he could live in the place to which he is going to, however, it is very tight and uncomfortable. Rava felt that uncomfortable living is not considered living. Others felt that even uncomfortable living would be considered living. The *Tur* ruled like the opinion that disagreed with Rava. Even uncomfortable living is living. His ruling meant that if one sold land to go move elsewhere, if he went elsewhere and was able to live there briefly in tight quarters,

if he then returned, it was his choice to return, the conditions of the sale had been met and the sale would not be reversed.

In light of the *Derishah* and the *Tur*, Rav Zilberstein ruled that the husband was correct. Uncomfortable living is also living. The wife should consider it a great chance to perform a difficult mitzvah. By living in a less comfortable apartment she would elevate the religiosity of her family and certainly be blessed by the Almighty for her good deeds (*Chashukei Chemed*).

Kiddushin 51

Self-Interest

The Gemara discusses a dispute between Abaye and Rava. What is the law if a person entered into *kiddushin* but the nature of the marriage would never allow for intimacy between the couple? Abaye felt that the *kiddushin* would still take effect while Rava felt that the *kiddushin* would not take effect. The Gemara attempted to prove Rava wrong from a Mishnah that appears later in the tractate. The Mishnah taught that if a father had several daughters and he accepted *kiddushin* on behalf of one of them, without specifying which one, the adult daughters were certainly not married. This implies that all the younger daughters would be possibly married. How could that be? If a man had several young daughters and one was married but we did not know which one was married, then it would be a *kiddushin she-ein mesurin le-biah*. Intimacy would be enjoined, for the husband might be interacting with the sister of his true spouse. The Mishnah implied that all the younger daughters are in a state of *safek kiddushin*. The Mishnah seems to prove Rava wrong.

Rava answered that the Mishnah was dealing with a scenario where the father had one adult daughter and one young daughter.

It was teaching merely that the younger daughter was married and not the adult one. Asked the Gemara: but this would seemingly be an obvious law? Why was it necessary to say that if a father marries off his daughter he meant the young child and not the adult daughter? The Gemara answered that the case of the Mishnah dealt with a father who had been appointed by his adult daughter to accept *kiddushin* on her behalf. The Mishnah is teaching that since the father can keep *kiddushin* gifts given to marry his young daughter, we are sure that he chose to marry off his younger daughter and not the older one. No one would give up a chance to line his own pocket in favor of doing someone else a favor.

In light of the Gemara, Rav Zilberstein issued a ruling in the following story: A man in Israel decided to travel for a trip to the United States. He told his neighbor about it. He mentioned to the neighbor that in America he planned to buy an expensive electronic appliance. Such appliances were available in Israel. However, they cost double what they cost in the United States. The neighbor gave him money and asked him to buy a second appliance, for he too wanted one. The man agreed. He went to the U.S. While in the U.S. he discovered that he was only entitled to bring back to Israel one appliance. Were he to bring two appliances he would be charged a high tax. He bought one appliance. He returned to Israel. On his way back home from the airport his cab was in a terrible car accident. He died. His luggage was ruined. All that he had brought from the U.S. was lost.

After the *shiva*, the neighbor approached the children of the man. He told them the story. He then asked that they return to him the money he had given their father. The children argued that the lone appliance their father had purchased had been for the neighbor and he had kept his own money. Since the appliance was lost in an

unusual event, *oness*, there was no obligation to pay the neighbor for the loss. The neighbor argued that the appliance the father had purchased had been for himself and that his cash was in the hands of the traveler. Since the wallet of the traveler had survived the crash, the money was around, and should be returned to him.

Rav Zilberstein ruled that the neighbor was right. *Kiddushin* 51 taught that a man always chooses to act in a way that would help himself financially before doing a favor for someone else. The father therefore certainly bought the appliance for himself and was bringing the money back to return it to his neighbor. The tragedy of the car crash had caused him to lose his life and appliance, but his children were still obligated to return the cash to their neighbor (*Daf Yomi Digest*).

Kiddushin 52

“Your Object Is Returned”

Rav taught that one cannot create *kiddushin* with a stolen object. Even if a man stole an object from a woman and then returned it to her with the statement, “You are married to me with this object that I am handing to you,” she would not be married to him. To create marriage he must give her an item of value of his own. To return to her that which is hers is not a gift. It cannot create *kiddushin*.

Rav Zilberstein related the following question: A man subscribed to a newspaper. Each day the paper was supposed to be delivered to his mailbox. When he would look in his mailbox he would find yesterday’s paper. He called the paper to complain. They assured him that they delivered the paper every morning. He still kept getting yesterday’s paper. Finally, he decided to wake up early in the morning and keep watch on his mailbox. He saw the paper come and get delivered to his mailbox. Twenty minutes later, his neighbor walked by. The neighbor took out that day’s paper from the mailbox and neatly folded yesterday’s paper into the mailbox. He burst out of his observation post with a complaint. “You are a thief. You keep taking my paper. You owe me money. Pay me the subscription fee that I have paid for receiving delivery of the daily paper, as you have

been stealing it!” The neighbor calmly responded, “I do not owe you money. I keep returning the paper to you.”

The Gemara says that if someone steals *chametz* from his friend before Pesach, and returns it to the friend after Pesach, the theft is considered repaid. Even though *chametz* after Pesach is worthless—for one may not get benefit from *chametz* that was owned by a Jew after Pesach—the thief can tell his victim, “Your object is returned before you.” So it is with the newspaper: yesterday’s paper is not worth as much as today’s paper, but I am telling you, “Your object is returned before you.” Did the neighbor have to pay the subscription fee?

Rav Zilberstein ruled that the neighbor’s halachic arguments were faulty. The *Pischei Teshuvah* (*Choshen Mishpat* 363:1) deals with a person who stole an *esrog* before Sukkos and returns it after Sukkos, and claims, “Your object is returned before you.” He explains that in the case of stealing a loaf of bread before Pesach, after Pesach one can return the loaf, for to the eyes of all it seems that a loaf of bread was given to the man who lost a loaf. People do not know that this loaf is forbidden. To their eyes, it appears that a loaf was returned to the victim. The loaf in truth is valueless, but that damage is not visible, and is considered *hezek she-eino nikar*. However, everyone knows that an *esrog* is usable only on Sukkos. When one returns an *esrog* after Sukkos, to the eyes of the masses it appears that the thief took one object and returned something else that was worth a mere fraction of what he had taken. In such a case, he cannot claim, “Your object is returned before you.” Everyone knows that a newspaper is purchased to read today’s news. There is no interest in yesterday’s articles. The thief cannot claim, “Your object is returned before you.” He is returning an item worth a fraction of what he took. He owed his neighbor the funds for the subscription (*Chashukei Chemed*).

Kiddushin 53

Grabbing a Mitzvah

The Gemara related that after the death of Shimon ha-Tzaddik there was a curse in the loaves of bread that were in the Temple, *lechem ha-panim*. During the forty years when Shimon ha-Tzaddik served there was a blessing in the *lechem ha-panim*. It would be miraculously filling. Each *kohen* would try to get from the show bread. Many would receive an olive-sized piece. After eating it, the *kohen* would feel full. However, after the death of Shimon ha-Tzaddik there was a curse in the *lechem ha-panim*. When *kohanim* would try and get some of the *lechem ha-panim* each would end up with a small piece the size of a pea. The righteous would stay away and not even try to get. Only the materialistic *kohanim*, who were always hungry, would grab from the holy bread.

The *Magen Avraham* writes in the name of the *Darkei Moshe* (53:26) that one should never fight with others to try and fulfill a mitzvah, for the righteous *kohanim* avoided fighting with their fellow *kohanim* to try and get a small piece of the *lechem ha-panim*. The *Aruch ha-Shulchan* ruled based on this that it is forbidden to forcibly grab the pulpit and serve as *chazzan* of the community

against the will of the community. If someone forcibly grabbed the role of *chazzan* the community should not respond with amen to his blessings. Eating *kodshim* is certainly a mitzvah. Yet our Gemara taught that the *righteous* would avoid the melee that would surround the division of the show bread. Their example should be instructive to all *mitzvos*.

However, the *Machatzis ha-Shekel* and *Chasam Sofer* challenged the view of the *Magen Avraham*. They pointed out that the mitzvah of eating *lechem ha-panim* would only have been fulfilled if each *kohen* got to eat an olive-size amount. After the death of Shimon ha-Tzaddik there was not enough bread to go around. Each *kohen* would end up with a pea-sized amount of bread. Perhaps the righteous did not fight for their part of bread because even if they had succeeded, they would not have fulfilled the mitzvah. However, maybe, when one might actually fulfill a mitzvah properly, it is correct to strive to do so and even to fight to get the mitzvah.

The *She'arim Metzuyanim be-Halachah* questions the Chasidic practice of scrambling for *shirayim*, food left over from the Rebbe. If righteous *kohanim* avoided *lechem ha-panim* so as to avoid a fight, shouldn't people avoid *shirayim* of a human being to avoid a fight?

He suggested an answer based on the writings of the Mahari Bruna. Perhaps it is only with the show bread that it was correct to avoid fighting for it. The Torah states that the gifts given to the *kohanim* should be edifying and honorable acts. The verse stated, *le-mushchah bahem*, "they were to be made royal through them." To fight for a crumb is not a behavior that makes someone feel royal and therefore the righteous *kohanim* avoided it. However, when getting to eat the leftovers of a Rebbe, the Torah never said that the eating must be edifying. Then, perhaps it is correct to even struggle to get to partake of the holy food of the *tzaddik* (*Heichalei Torah*).

Kiddushin 54

Torah was not Given to Angels

A certain group of Jews have a custom that a *sandak* at a *bris* wears a special garment to give honor to the event. One day a man was honored with serving as *sandak*. He did not have the fancy garment. A friend of his possessed the traditional fancy robe with gold threads. He asked to borrow his friend's robe. The friend lent the robe to him. After the *bris* the *sandak* was mobbed with guests begging for him to bless them. In the crush, wine spilled, and the robe became soiled. The cleaning of such a robe was expensive. The lender demanded that the borrower pay for the cleaning of the robe. Did the *sandak* have to pay?

Rav Yitzchok Zilberstein argued that in light of *Kiddushin 54* the *sandak* should not have to pay. The Gemara taught that the garments of the *kohanim* that are usable do not trigger violations of *meilah* if they were used by mistake. Rashi and Ramabam explain: Torah was not given to angels. When Hashem allowed *kohanim* to wear holy garments, He did not intend that they should only wear them while doing the service and remove them the moment the service was complete. That would be an unfair expectation. Rather, they can

continue wearing the garments even after they finish the service, and the garments were sanctified with the ruling that *kohanim* who benefit from them by mistake do not violate *meilah*. Therefore, if Hashem does not expect His *kohanim* to remove garments the moment service is complete, a lender also cannot expect that the borrower remove the robe the moment he finishes to serve as *sandak*. Therefore, he was still entitled to wear the robe while people asked for his blessing. The wine spilling was an *oness*, an unexpected event, that occurred while he was still legitimately using the garment he borrowed. This should be considered damage caused through the normal usage of the borrowed item, *meisa machmas melachah*, and as a result, the borrower should be exempt from paying for the dry cleaning (*Chashukei Chemed*).

Kiddushin 55

Performing a Misdeed to Save A Friend from Sin

The Gemara contains an important principle. The Gemara teaches that we do not tell one person to commit a minor sin to save someone else from a more significant sin. The case the Gemara dealt with was the Mishnah in *Shekalim* that discussed an animal found near Jerusalem. The Mishnah taught that the finder is to suspect that what he found was a sacrifice. The Gemara thought that the Mishnah was teaching that the finder should set aside money, redeem the animal's holiness on the coins, and then bring from the coins all the possible *korbanos* that the animal might have been.

There is a prohibition forbidding a person from removing the sanctity of an unblemished animal. The Gemara thought the Mishnah was stating that the finder should violate that sin to spare the former owner of the sacrifice from the greater crime of his sacrifice going to waste. The Gemara asked, "Do we say to a person, 'Transgress a prohibition in order to help someone else?'" The Gemara then reinterprets the Mishnah and teaches that the finder would redeem

the animal only after it got a blemish. There is no sin in redeeming a sacrifice that was blemished.

It emerges from the Gemara that we don't instruct a person to do even a small sin in order to "undo" the effect of someone else's wrong act. The Poskim point out that this lesson is only true when the sin one is saving his friend from is a relatively minor sin. However, in the event that we have an opportunity to spare someone from unwittingly transgressing a major prohibition, it is right to assume the burden of the "lesser" sin.

The following story displayed this principle.

A certain community only had enough money to either build a *shul* or a *mikveh*. An argument broke out among the community members regarding how to spend their collective funds. One group insisted that their first obligation was clearly a *mikveh*. If there was no *mikveh* in the city, it was quite likely that some people would violate very serious prohibitions. A second group insisted that the *shul* should come first. They argued that praying with a *minyan* is a daily obligation. Without a *shul*, every day people would miss out on a *minyan*. Furthermore, without a *shul* they would not have the chance to hear Torah readings. In terms of a *mikveh*, they argued, that there were other *mikvaos* located nearby that people could use.

The members of the community decided to take their dispute to the *Chazon Ish*. He answered, "Build the *mikveh*. True, the people will not have a *shul* to daven in. However, it is worthwhile to forgo a *shul* in favor of a *mikveh* to ensure that people don't transgress *issurei kareis*! Perform the lesser sin of praying without *minyan* to save others from the major sin of ignoring the laws of *mikveh*" (*Daf Digest*).

Kiddushin 56

Throwing *Orlah* Peaches in Front of Bride and Groom

Fruit trees have a special status, for the first three years of the tree the produce is *orlah*. *Orlah* may not be eaten, nor may we benefit from it in any way. The Mishnah taught that if a man gives his beloved a fruit that is *orlah* and tells her, “You are betrothed to me with this fruit,” she is not married to him.

Poskim discuss the issue of whether *orlah* fruits must be treated with respect. These are fruits that must be destroyed. Perhaps, then, there is no mandate to treat them with respect before they are annihilated? This has relevance to wedding celebrations.

In *Berachos* 50b we learn that in Talmudic times there was a practice of throwing certain fruits in front of bride and groom during the wedding. They had the practice of throwing almonds and walnuts. In Hebrew an almond is a *shaked* and a walnut is *egoz*. The gematria of אגוז equals the same as the word טוב; its gematria is also one away from that of the word קטא, and we have a rule that in gematria even if the sums are one off from each other there is a linkage between the words. Thus the walnut was a symbolic statement that the sins would be turned into good acts. Marriage causes all the

sins of bride and groom to be forgiven. Throwing the אגוז in front of the couple conveyed to them the thought that with their marriage, they were starting life anew with a completely clean slate. שקד means “almond,” and it can mean “fast.” Throwing almonds in front of the bride and groom was a prayer that they should merit to see a family grow quickly from them. In later times, the practice developed to throw wheat kernels in front of the bride and groom. This too was to convey the hope that they should merit to see their family grow quickly like wheat.

While there were reasons to throw these food items before bride and groom, Jewish law taught that the food items were to be treated with respect. The Gemara in *Berachos* taught that during the winter, when bride and groom would be surrounded with mud, celebrants at the wedding should not throw the almonds and walnuts, for the nuts will become muddy and ruined. The *Shulchan Aruch* rules that if one threw wheat kernels before the bride and groom one should see to it that he quickly sweeps them from the floor so that they not get ruined as people walk by.

Would *orlah* fruits have to be preserved? Could someone throw *orlah* peaches in front of bride and groom? Perhaps since we have to destroy the *orlah*, there is also no need to make sure that the fruit not get damaged when thrown before the bride and groom. If that would be the case, one should be permitted to throw *orlah* peaches, even though they are soft fruits that will certainly be ruined when thrown.

The *Pri Megadim* (*Orach Chaim* 171:1) raised this question. His conclusion is that there are two reasons why not to throw almonds during the winter before bride and groom. One is that one should eventually eat the almonds, and therefore it is wrong to throw them into a place where they would become muddy and inedible. This

reason would not apply to *orlah* produce, which is not to be eaten. However, there is a second reason to treat the almonds with dignity. There is a prohibition of *bizzui ochlin*, disrespecting food. Food items are a gift from the Almighty to preserve life. A person who wastes a food item, or ruins it, shows disrespect. It is a display of disrespect to the Creator when food is simply ruined. Therefore, while *orlah* will never be eaten, ruining *orlah* peaches by throwing them in front of a bride and groom is not allowed, for it is considered *bizzui ochlin*. Walnuts and almonds have a hard shell. Throwing them before a bride and groom would not ruin them and would not be a sign of disrespect to food (*Me'oros Daf ha-Yomi*).

Kiddushin 57

Godly Men

The Gemara taught that Shimon ha-Amsuni would interpret each word *את* found in the Torah. When he got to the verse, *את ה' אלוֹקֶיךָ*, תִּירָא, “Fear Hashem your Lord,” he stopped and recanted all his interpretations. He could not see how anything could be included within the mandate of honoring Hashem. Rabbi Akiva taught that the verse meant to include Torah scholars, *talmidei chachamim*. Shimon ha-Amsuni accepted the lesson of Rabbi Akiva and returned to his learning.

The Ya'avetz points out that in the Zohar there is a troubling statement. On the verse, *es pnei ha-Adon Hashem*, “[three times a year you shall greet] the face of the Master Hashem,” the students of Rabbi Shimon bar Yochai stated: this is Rabbi Shimon bar Yochai. They interpreted the verse to refer to Rabbi Shimon. It was teaching that one should visit his teacher Rabbi Shimon three times a year just as there was a mitzvah to greet the Almighty and ascend to the holy temple three times a year. The Ya'avetz asked: how could the students of Rashbi seem to link Rashbi to the honor due to Hashem? He answered that *Kiddushin 57* provided the answer. Since the verse

אֵת ה' אֱלֹהֶיךָ תִירָא was interpreted by Rabbi Akiva to include Torah scholars, the honor due to the scholar is a bit of the honor due to Hashem. Therefore, just as we are to visit Hashem, we are to visit and greet our Torah scholars. This linkage is only in regards to honor. However, in general it is not correct to use terms that usually are used in reference to God to refer to human beings, even if they are Torah scholars. The Ya'avetz himself sharply protested when the students of Rabbi Eliezer Rokeach honored him upon his appointment as Rabbi of Amsterdam by writing that Rabbi Rokeach was "above any blessing and praise." "Above any blessing and praise," is a phrase in our prayers used to describe the Almighty. Therefore, the Ya'avetz felt it was not right to try and use it in reference to flesh and blood (*Me'oros Daf ha-Yomi*).

Kiddushin 58

May a Father Change His Mind and Use the New *Tefillin*?

It is a common practice for a father to purchase a new set of *tefillin* for his son in honor of his son's bar mitzvah. The child usually eagerly anticipates the gift. He is excited to receive a beautiful, new, and special set of *tefillin* which he will wear virtually every day of his life.

A father once asked Rav Yitzchok Zilberstein the following question: He had told his son that he would purchase for him a new set of *tefillin*. He had gone to the *sofer* and ordered the highest quality pair. When he went to the scribe to pick up his purchase he was taken with the beauty of the new *tefillin*. He now desired to use the *tefillin* himself. He asked, "May I repaint my *tefillin* so that they will look new and give them to my son, while I take the new *tefillin* for myself?"

Rav Zilberstein responded that *Kiddushin 58* taught that it would be wrong to do so. The Mishnah taught that if Reuvein asks Shimon to betroth a particular woman to him, if Shimon went and betrothed her to himself, she would be married to Shimon. The Gemara explains that while the marriage would take effect between the emissary and the bride, the emissary acted as a trickster. A representative of the

court would announce in *shul* that he was a crook. Since Reuvein was assuming that Shimon would betroth the woman to Reuvein, when Shimon stepped in and betrothed her to himself, it was deceptive and wrong. A bar mitzvah boy assumes that his father will purchase a new pair of *tefillin* for himself. If the father decides to change his mind, keep the new pair for himself, and to gift an old pair to the boy, he is being deceptive and acting like a trickster (*Chashukei Chemed*).

Kiddushin 59

Fair Competition

The Gemara related a story about Rabbi Gidel and Rabbi Abba. Rabbi Gidel was trying to buy a particular field. Rabbi Abba then went ahead and purchased that field for himself. Rabbi Gidel complained about Rabbi Abba's actions to Rabbi Zeira. Rabbi Zeira conveyed the complaint to Rav Yitzchok Nafcha. Rav Yitzchok Nafcha said, "Let us wait until the holiday. When Rabbi Abba comes to visit me then I will ask him about his actions." When Rabbi Abba came, Rav Yitzchok Nafcha asked him a theoretical question. "If a poor man was trying to acquire a loaf of bread [that was ownerless], *ani hamehapeich bechararah*, and someone else jumped in and grabbed it for himself, *uba acheir ve-natlah heimenu*, what would you say?" Rabbi Abba responded, "Such a person is to be publicly called a *rasha* [sinner]." Rav Yitzchok then asked, "So why did you behave in this way? Rav Gidel wanted to buy a field and you jumped ahead and purchased it for yourself instead." Rabbi Abba responded that he did not know that Rabbi Gidel had an interest in that field. he volunteered that he was willing to give the field as a gift to Rabbi Gidel. A lesson from

this Gemara is that if one person is pursuing a particular item, it is not right for someone else to jump in and take the item for himself.

There is a dispute among the Rishonim how to define this law. According to Rashi, if a man is pursuing an item that is *hefker*, or trying to purchase a particular object, anyone else who jumps in to acquire the object for himself is called *rasha*. According to Rabbeinu Tam, this rule only applies if the object is easily available elsewhere. If I can get such a field easily from a different source, it is not right for me to jump in and buy this field when someone else is currently trying to purchase it. However, if the object is not available from another source, one is allowed to jump in and pursue the object, even though someone else already had his eye on that same item and was attempting to acquire it. The Rema rules like Rabbeinu Tam.

The *Me'oros Daf ha-Yomi* related a story in which this Halacha was invoked. In the city of Königsberg in Prussia there were two communities that existed side by side. One was made up of Jews from Germany. The other was populated with Jews from Polish origin. There was a financial downturn. The two communities were facing a money shortage. They decided to merge the two groups and thereby eliminate some of the paid communal positions. The German Jews had one man who was both the *chazzan* and the *shocheit*. The Polish Jews had two people for these positions: one was the *chazzan* and the other was the *shocheit*. As the communities were being merged, the *chazzan* of the Polish Jews realized that he was about to lose his livelihood. He quickly went out and completed a course of study in the laws of ritual slaughter. He passed his exams and presented himself as a candidate for the position of *chazzan-shocheit* of the combined community. There were those who sought to disqualify him. They argued: the *chazzan-shocheit* of the German Jews was pursuing the

same position in the joint community. For the *chazzan* of the Polish community to now throw his name in the mix should be viewed like a man who tried to take the loaf that a poor man was pursuing. He should be considered a *rasha* and be disqualified. The *Sridei Eish* ruled that the man was not to be disqualified. Halacha follows the ruling of Rabbeinu Tam. The rule that *ani hamehapeich bechararah uba acheir venatlah heimenu* does not apply when it is hard to find an alternative. There was no easy alternative source of livelihood for the *chazzan* of the Polish Jews, therefore, he was entitled to compete with the *chazzan* of the German Jews for the *chazzan-shocheit* position even though the *chazzan* of the German Jews had been the first to pursue that opportunity (*Me'oros Daf ha-Yomi*).

Kiddushin 60

How to Gain Forgiveness from a Deceased Person

Rav Zilberstein related a powerful story. A man was working in a factory. One day his boss told him that the factory was letting go of him. He was very upset. He was worried about livelihood and feeding his family. He spoke to others very harshly about his boss. He besmirched his name and tried to get others to see him negatively. A month later he was offered another job at another factory. The hours were better than his former job. The pay was more generous. He served there honorably for several years. One day he was talking with the owner of the factory. "How did you know about me? Why did you hire me?" He asked. The owner answered, "Your boss at your earlier place of work called me. He vouched for your integrity and work ethic. He was sure you would be a better fit in this factory than in his. Based on his words I hired you." The man felt terrible. He had bad-mouthed his benefactor. He had ruined the reputation of the man who had helped him. That man was no longer alive. Was there anything he could do to gain forgiveness?

Rav Zilberstein answered that *Kiddushin 60* might contain the answer. The Gemara related a dispute about the following scenario. A

man gave his wife a *get* and stipulated, “This is your *get* on condition that you give me two hundred *zuz*,” and he then died. The Sages said: if she had given the money to the man prior to his death, retroactively, that gift made her *get* active, she was a divorced woman, not a widow, and she would be exempt from *yibbum* or *chalitzah* with the brother of the deceased spouse. However, if she had not given the money to her husband, then she was a widow, and obligated in *yibbum* or *chalitzah*. Rabban Shimon ben Gamliel taught that even if the husband were no longer alive, if she gave the money to his father or brother, that would be considered giving the money to him, and it would render the *get* valid retroactively, and she would still be exempt from *yibbum* or *chalitzah*. Apparently, the Sages disputed the meaning of the phrase: “On condition that you give to me.” Did that condition mean only give to the husband himself, or did it even mean give to the father or brother of the husband who inherit the possessions of the deceased man?

They never argued about a case of giving the money to a child of the husband. (If the husband had a child, there would be no possibility of *yibbum* and *chalitzah*, for the widow of a man who had a child does not need to perform *yibbum* or *chalitzah*.) Perhaps all would agree that since a child is considered the extension of his father, if she gave the money to the child of her husband, it would be considered having given funds to the husband.

Therefore, to gain atonement, Rabbi Zilberstein felt that the worker should provide monetary compensation to the children of his former boss. Giving to children, even after death of the father, is considered giving to the father. His giving money to them would be considered giving funds to the boss and would cause his nasty words to be forgiven (*Chashukei Chemed*).

Kiddushin 61

Why Tenai Kaful?

The Mishnah taught that Rabbi Meir ruled that a stipulation could only serve as a condition with the power to negate an act if it was fully explicated. Thus, if someone said, “I am marrying you on the condition that I will give you a gift of flowers in addition to the marriage ring,” it would not be able to break the marriage. If he did not deliver the flowers but did give her a ring she would be married to him. His condition did not create a stipulation since it was not phrased with both possible scenarios. To invalidate the marriage because of lack of delivery of the flowers, he would have had to have said, “If I give you a gift of flowers besides the wedding ring you are married to me, and if I do not give you the gift of flowers you are not married to me.” Then, if he did not give the gift of flowers, his lack of fulfilling the condition would invalidate the marriage. However, if he merely said that he was marrying her on condition of giving the ring and the flowers: if he did not deliver the flowers, it would not invalidate the marriage.

The Ramban and Rashba were bothered by this opinion. Even if a condition is only a binding stipulation if it is phrased in a particular

manner, the woman was under the impression she would get flowers. If she did not get flowers, that alone should invalidate the marriage, based on the rule of *mekach ta'us*. Shouldn't a false representation invalidate an acquisition or sale?

The Ramban answered that it would all depend on the case. If it was clear that she only intended to get married because she anticipated receiving the flowers, if she did not receive the flowers, she would not be married. Rabbi Meir taught that if one makes a condition, but did not bother to fully explicate it, that showed that he really did not mean what he said. Had he meant to create a binding stipulation, he would have fully expressed the thought. If he meant to create a condition he would have said, "If I give you the flowers the marriage will stand and if I do not deliver the flowers the marriage will be null and void." The fact that he did not bother to fully spell out his condition is proof that his words about the flowers were not binding. He was merely exaggerating how generous he would be with her. She accepted the ring. She accepted his words, without his fully detailing them and guaranteeing that she would receive the flowers. As a result, she waived the right to annul the marriage, and the marriage took effect even if he gave her the ring and never delivered the flowers.

Perhaps this logic underlies the lesson of the Chofetz Chaim in regards to what one may say to help make a match happen. If a prospective father-in-law asks you if a student is a Torah scholar, Chofetz Chaim ruled that you can say the student is a scholar, even though you know that he is not an expert in many areas of Torah. Chofetz Chaim explains: if the father of the bride really cared about scholarship he would have had the boy tested by a sage. Anyone whose research consisted of merely asking if a student was a scholar

was being negligent. His lack of effort showed that he did not really care if the prospective groom was a scholar. This ruling is similar to the idea of the Ramban: one who really cares expends significant effort. If a man made a condition in a haphazard manner, that shows he did not invest effort and did not really care about the condition. As a result, no one relied on his words, and he never set up a mechanism to reverse his action.

A story is told about Rav Isser Zalman Meltzer. One day in his class, a student asked a question. Rav Meltzer complimented the question and changed the lesson as a result of the challenge. After class, some of the elite students questioned their Rebbe's actions. The question was not really compelling. The student was not one of the harder workers in the class. Why suddenly accept his question and compliment it? Rav Isser Zalman answered that he had seen a man asking about that student that day in the yeshiva. He surmised that the man was looking for a *shidduch* for his daughter and was asking if the young student was a good learner. That was why the young man had chosen to ask a question. He saw the possibility of a *shidduch* and was trying to impress the future father-in-law. As a result, Rav Isser Zalman had complimented him and accepted his challenge. Some might ask: while Rav Isser Zalman was being sensitive to his student, perhaps his compliment was unfair to the father of the bride? The father of the bride might have wrongly assumed that the boy was an outstanding student when in truth he was not such a special scholar. In light of the lesson of the Ramban about *tenai kaful*, since the father did not invest much effort into his research about the young man, Rav Meltzer was right to assume that he did not care too deeply about it, and he was correct in helping his student by complimenting his question (*Chashukei Chemed*).

Kiddushin 62

The Persimmons of Komemiyut

The Gemara taught that a fruit still attached to a tree is exempt from tithes. Therefore, if one were to take fruits that had been picked and declare that they were to serve as *terumah* or *ma'aser* for fruits that were still attached to the tree, nothing would take effect. However, Rav Yochanan taught that if the farmer said, “These detached fruits are to be *terumah* and *ma'aser* for the fruits on the tree once they become detached,” then, once those fruits are picked, the *terumah* and *ma'aser* will be considered separated. Even though, generally, one cannot sanctify that which is not yet in the world, and one might argue that detached fruits were not in the world at the time of the tithing declaration, Rav Yochanan taught that since it was in the power of the farmer to pick his fruits and bring them into the world, they were considered a *davar she-ba la-olam*.

Dayan Weiss analyzed this Gemara to help the Jews of the Israeli town, Komemiyut.

Komemiyut grew many persimmons. If they would pick the persimmons when ripe they would not have them available when the market desired them. They used to pick the persimmons before

they ripened, when they were very sour. They would then store the persimmons in large depots. Over time the persimmons would lose their sour taste and become edible. Thus, they would have the inventory needed to supply the market. Sometimes, if they got a large order for fruit while the fruit was still in storage and weeks away from being edible, the farmers would heat the persimmons in large ovens, in a process called blanching, to hasten the ripening and make the fruit sweet.

The settlers had a problem: when should they separate tithes? To separate the tithes when the fruits were picked did not seem right. When the fruits were picked they were very sour and hardly edible. The Rambam writes that one cannot separate as tithes fruits that are not ripe and edible. To separate the tithes after the blanching did not seem practical. They worried that with the large amounts of fruit, they might lose track, and some of the fruits would be heated and delivered to the customer before they remembered to separate tithes.

Rav Weiss pointed out that *Kiddushin* 62 teaches that one can separate *terumos* and *ma'asros* and stipulate that they will take effect later. Thus, they could take fruits as *terumos* and *ma'asros* at the time of the picking and stipulate that they would only take effect once all the fruit were heated and sweetened. Since it was in their power to blanch the fruits, ripened fruits would not be considered *davar shelo ba la-olam*, and the tithing would work for them and take effect once they would be sweetened (*Me'oros Daf ha-Yomi*).

Kiddushin 63

How to Treat Employees

The Baraisa taught that a man can betroth a woman with working for her as an employee. If he tells her, “Become married to me from the work that I will do for you,” if he then performs the labor she would be married to him. An employee deserves to get paid. Since he deserves wages, performing the labor is considered giving a gift to the woman and she becomes married to him through the gift.

Rav Zilberstein was asked the following question about paying employees. A man made a wedding in a fancy hall. Typically at a wedding, the members of the band sit and eat at a table near the bandstand during one of the courses and play a recording to maintain a nice atmosphere in the hall. The members of the band sat down to eat at a table and put on a CD for the enjoyment of the guests. The father of the bride approached them. He told them that he did not have enough space for his guests. Each plate cost him more than two hundred shekel. He told them to please get up from the table so that others could sit there. The band members did so. They were hungry though. So they ordered pizza. Fifteen minutes later the pizza delivery man walked through the fancy hall carrying a tray of pizza

and soda. The band members ate pizza for supper and played music for the duration of the wedding. After the wedding, the father of the bride had a complaint. "You humiliated me. I did not give you to eat and you were hungry. However, why did you have the delivery man walking through our fancy hall? Why eat in public? You could have eaten outside! You owe me money for causing me shame. I will only pay you half of your price."

Who was right?

Rav Zilberstein ruled that the band members were right and the host wrong. The Mishnah teaches in *Bava Metzia* that one who hires employees must treat them according to the practice in the land. If the normal practice is to feed them while they work, he must feed them while they work. The normal practice with band members is to allow them to eat at the wedding. The host had no right to refuse to feed them. He caused himself his own embarrassment by not giving them the meals that they were entitled to. As a result, he owed them the full price for their labor (*Chashukei Chemed*).

Kiddushin 64

May a Younger Sibling Marry Before an Older Sibling?

Rav Moshe Feinstein was asked about the following case: A man had found a wonderful *shidduch* for his young son. The couple was amenable and the father of the bride wanted the marriage to occur quickly before the groom would reach the age of twenty. The father of the groom wished to delay. He had an older son. The older brother would feel bad were his younger brother to marry before he did. Perhaps the younger brother should wait until the older brother found a spouse and married? Perhaps only after the marriage of the older brother would it be correct for the younger brother to marry?

Rav Moshe ruled that the younger brother should marry and not wait for his older brother. He proved this ruling from *Kiddushin 64*. The Mishnah taught that if a man married off his daughter but did not specify which daughter he intended to marry off, he certainly married off the daughter who was a minor and not the daughter who was an adult. The Gemara explained that the Mishnah was discussing a scenario where the adult daughter had appointed her father to serve as her *shaliach* to marry her off. Nevertheless, we are

sure that the father married off the younger daughter. The reason for this is that a father has an obligation to marry off his daughter who is not yet an adult, and he would not ignore this obligation, even to first help his daughter who was no longer his obligation. This is a difficult rationale. In truth, a father always has an obligation to marry off his daughter. Even if she has reached adulthood he has a mitzvah to marry her off. Why, then, did the Gemara characterize him as being more obligated to his younger daughter than to his older daughter? Rav Moshe explained that only the father had the obligation to marry off the younger daughter; the older daughter, however, was obligated herself to find a spouse in addition to her father's obligation to help her. The Gemara meant to say that a father would certainly first fulfill the obligation that was exclusively his before fulfilling the obligation that was partially his and partially upon his daughter. If it is morally wrong for a younger child to marry before the older child, how can Halacha be sure that the father married off his younger child before his older child? A father would not want to perform an act that was forbidden or discouraged. We see from the Gemara that it is not wrong for a younger sibling to marry before the older one gets married. Therefore, Rav Feinstein instructed the young couple to marry promptly (*Daf al ha-Daf*).

Kiddushin 65

How Did our Patriarchs Marry?

The Gemara taught that for *kiddushin* to take effect the marriage ceremony must be performed in front of two kosher witnesses. The witnesses make the marriage happen. If someone were to give a ring in front of a single witness the marriage would not take effect. It is a well known tradition that our patriarchs, Avraham, Yitzchak, and Yaakov, observed Torah and its laws, even though the Torah had not yet been given. If so, how did they marry? Were there kosher witnesses in Aram when Yaakov married Leah? Were there witnesses available to Yehudah when he had relations with Tamar? How could Yosef marry Osnat in Egypt? Some explain that Osnat was Jewish, but nonetheless there were no kosher witnesses in Egypt for Yosef to get married in their presence. So how did he marry?

In the journal *Ha-Me'assef* an interesting solution was suggested. Bills of divorce are analogous to writs of marriage. *Kiddushei Shtar* share similar laws with *gittin*, based on the verse *ve-yatzah ve-haita*, “and she will get divorced and marry.” A *get* usually has witnesses signed on its bottom. However, if a husband wrote the *get* in his own handwriting it is kosher without witnesses. Therefore, a writ

of marriage, *shtar kiddushin*, written by the husband in his own handwritting would also be kosher without additional witnesses. Our patriarchs perhaps married with such contracts. They wrote the contracts by themselves. Therefore, they did not need witnesses. Perhaps this is why the midrash stresses that Yosef showed Yaakov the marriage contract between him and Osnat. He would not have been able to get married in any other way. There were no kosher witnesses to witness a ring handover. He was able to marry her because he married with a *shtar* that he wrote himself (*Daf al ha-Daf*).

Kiddushin 66

Kohanim as Kings

The Gemara related a tragic story about King Yanai. King Yanai was a *kohen* from the Hasmonean dynasty. He once succeeded spectacularly in war. Afterwards he encouraged all to express thanks to the Almighty by remembering the poverty that Jews used to experience and contrast it with the great wealth the Almighty had blessed them with. At the celebration, a wicked man told Yanai that the Sages hated him in their hearts. Yanai asked, “How can I know if that is true?” He told him, “Attempt to wear the *tzitz*, the gold headband, of the Kohen Gadol. The Sages will be upset.” Yanai donned the garments of the Kohen Gadol. The Sages were in fact upset. They told him, “You are already a king. Leave the crown of being the High Priest to others.” As a result, of this dispute, Yanai eventually killed many Sages.

Yanai was a Hasmonean. The Ramban points out that Yaakov Avinu told the tribe of Yehudah that they would be the ones from whom kings and rulers would descend. The Hasmoneans sinned when they took for themselves the position of king. As priests they should have left the position of king for the seed of David and other members of the tribe of Yehudah. The Ramban suggested that this

sin was what caused the Hasmoneans to eventually be killed. Rav Kook suggested a defense of the practices of the Hasmoneans.

Rav Kook pointed out that the role of the priest was religious. He was to serve in the holy Temple and he was to teach Torah to the nation. The role of the king was nationalistic. He was to lead the nation in diplomacy, governmental relations, and war. Generally, these two roles should have been kept separate. However, the Greeks attacked both the national identity and the religious practices of the Jews. Perhaps for this reason the Hasmoneans sought to fill both roles, the role of the Kohen Gadol and the role of the *melech* (Rav Yehuda Zoldan).

Kiddushin 67

Marrying an Amelekite

Rav Chaim Soloveichik taught that Amalek is more than an ethnic group. Any Gentile nation that acts in the ways of Amalek is part of the Amalek nation. According to this analysis, there were authorities who felt that the Germans during World War II had the status of Amalek. If someone had a factory that employed Gentiles in Poland in 1938 and his Polish employee approached him asking for counsel about who to marry, this law might become relevant. Imagine a scenario where the Polish employee asks her Jewish boss, in 1938: should I marry a Nazi from Germany or a French artist from Paris?

What should the boss advise?

Kiddushin 67 contains the lesson of Rav Yochanan about Gentile geneology. Rav Yochanan taught that among the Gentiles, the family identity is determined by the father. Therefore, while the Torah commanded that the Jews could not allow any members of the seven nations who resided in Israel before the Jews entered the land to stay in the land, if an Ammonite man were to marry a Canaanite woman, the child would be an Ammonite and could serve as an *eved* to a Jewish master in the Land of Israel.

Based on the fact that Gentiles follow patrilineal descent, the *Gilyonei ha-Shas* asked how could the Gemara teach that grandchildren of Haman studied Torah in Bnei Brak? If the father was an Amalekite, then they too were from Amalek, and the law states that Jews are not to accept converts from Amalek. He answered that men from other nations married daughters of Haman. Since the father was from a different nation, the child was not an Amalekite. His conversion was accepted and in this way descendants of Haman learned Torah in Bnei Brak.

Hashem has declared that He does not want the nation of Amalek to exist in this world. Since the father's status would determine if the family is an Amalekite family, if a Jew could encourage his employee to marry a Frenchman and thereby avoid creating more Amalekite children, that would be the correct action to take (*Chashukei Chemed*).

Can the Status of *Mamzeirus* Be Broken?

The Mishnah on *Kiddushin* 69 taught that according to Rabbi Tarfon there is a way for a male *mamzer* to lose his status as a *mamzer*. He may marry a *shifchah* (a Gentile bondmaid). She can bear him a child. That child will have the status of an *eved*. Once the *eved* becomes *meshuchrar* (freed), he will be a full-fledged new born Jew without the status of *mamzeirus*.

The Gemara does not propose a way for a female *mamzeres* to lose her status. After all, even if she were to co-habitate with an *eved*, the child would be a Jewish *mamzer*. Is there a way for a *mamzeres* to save her children from being *mamzeirim*?

The *Sha'ar ha-Melech* proposed a solution. If the *mamzeres* marries a man and he died leaving no children, she would then fall to *yibbum* to his brother. While there is a prohibition against marital relations with a *mamzeres*, there is also a positive mitzvah of *yibbum*. The positive mitzvah of *yibbum* would overrule the negative prohibition of *mamzeres*. If she would conceive from that first interaction, the child would be born from a permitted act. The *Sha'ar ha-Melech* argued that such an offspring would not be a *mamzer*. He felt that *Kiddushin* 67 proved this contention. The Gemara had questioned the rule of the Mishnah that declared that in any permitted marriage the geneology follows the father. If so, the Gemara asked, if a convert were to marry a *mamzeres*, the child should be a kosher Israelite, and yet the child is a *mamzer*, even though such a liaison is permitted. The Gemara answered that the Tanna of the Mishnah was of the opinion that a convert could not marry a *mamzeres*. Since the marriage act entailed a sin, the child would be considered a *mamzer*.

One might ask: why did the Gemara not mention the case of a *mamzeres yevamah*, whose *yavam* has relations with her and she conceives. Such an act would be permitted. Yet the child would still be a *mamzer* and presumably not be ascribed to the father. Such a scenario should run afoul of the rule in the Mishnah that anytime the marriage was permitted, the child is given the *yichus* of the father. Since the Gemara never brought up this case, the *Sha'ar ha-Melech* proved that in this instance, the child would not be a *mamzer*, and would have the status of his father.

According to the *Sha'ar ha-Melech* there is a way for a *mamzeres* to break the curse of *mamzeirus*. If she becomes a *yevamah* and her *yavam* succeeds to get her to conceive in their mitzvah interaction, the child would not be a *mamzer* (*Chashukei Chemed*).

Kiddushin 68

Should We Ever Proselytize?

Our faith does not seek out converts. We do not intend to try and convince Gentiles to join us. Is there ever an exception? Are there times when we should try and convince Gentiles to join our ranks?

Rav Yitzchok Zilberstein related that an outreach worker once approached him with this question. A couple had started to attend classes. They had signed their children up in a religious school. The mother asked the outreach team to reach out to her husband, study with him, and bring him closer to observance. She admitted that he was not Jewish, and she was hoping they would convince him to convert. The outreach professional approached Rav Zilberstein, should he try and actively proselytize?

Rav Zilberstein answered that he should try and convince the man to join the Jewish faith. The Gemara in *Kiddushin* 68 taught that the Torah warns Jews not to allow their daughters to marry Gentiles, for the children will be Jewish but the Gentile in the home might lead them astray to idolatry. Since there is a fear of the Torah that such a father might be a bad influence, it would be a great mitzvah to try and convince him to join the Jewish faith so that he would be a positive religious influence in the home (*Chashukei Chemed*).

Kiddushin 69

Someone Who Swears to Make *Aliyah* to America

The Mishnah taught that ten geneological groups, *asarah yuchsin*, ascended from Iraq, *alu mi-Bavel*, when Ezra led Jews back to Israel to build the second temple. The Gemara asks; why did the Mishnah state that the groups of Jews *alu mi-Bavel*, ascended from Bavel? Why not state *halchu mi-Bavel*, they went from Bavel? The Gemara answers that this Mishnah teaches a law: the land of Israel is higher than all other lands, and Jerusalem is higher than the rest of the land of Israel. For this reason, the Mishnah characterized the move to Israel as an *aliyah* from Bavel.

The *Yam Shel Shelomo* derived a Halacha from this Gemara. If one were to swear that he will make *aliyah* from Israel to another land, he would deserve lashes for violating the prohibition of *lo tisa shem Hashem Elokecha lashav*, “Do not invoke (in an oath) the name of Hashem, Your Lord, in vain.” It is an impossibility to ascend from Israel, for Israel is the highest land. Therefore, one who makes such an oath has made a *shevuas shav*. Rav Zilberstein pointed out that perhaps other authorities would disagree with this ruling of the *Yam Shel Shelomo*.

The Netziv asked: how could the Gemara state that Israel is higher than all other lands? The land of Israel is clearly not higher than the mountains of the Alps or the Himalayas? He answered that the Gemara only meant to say that it is higher than its neighbors, places like Egypt, Jordan, and Iraq. According to this interpretation, if one were to swear that he will make *aliyah* to America it would not be a vain oath. America is not adjacent to Israel. Therefore, it was not incuded in the rule that Israel is higher than other lands. Perhaps the United States has a higher altitude than Israel, and therefore an oath to ascend to the United States is not an impossibility.

The *Chasam Sofer* asked the question of the Netziv but provided an alternate answer. The *Chasam Sofer* also asked: how could the Gemara state that Israel is the highest land? Our maps do not indicate that it is higher than all the other lands? He answered that the earth is a globe. The highest point on a circle is the point from which the circle began. The world began with the creation of the holy mountain in Jerusalem. The Temple contained the foundation stone. It was called *even shesiyah*, *shemisham hushtat ha-olam*, for the world was established from there. Since the land of Israel began the world, the land of Israel is the beginning of the circle of the globe, the globe revolves around Israel, and as a result it is higher than all the other lands. According to the *Chasam Sofer*, one who swear to make *aliyah* to America should be considered according to *Yam Shel Shelomo* as one who has made an oath in vain, for all lands are lower than Israel, since they were created after the holy land was formed (*Chashukei Chemed*).

Kiddushin 70

How Can Someone Who Suffers from Celiac Disease Recite *Birkas ha-Mazon*?

There is one blessing which is a biblical obligation: *birkas ha-mazon*, the blessing recited after eating a meal, is mandated by verses in the Torah. According to Jewish law, only one who has eaten bread made from the five grains is considered to have eaten a meal and is biblically obligated to recite *birkas ha-mazon*. Individuals who suffer from celiac disease cannot eat bread made from the five grains. Gluten would cause them great pain. Can such an individual ever get to fulfill the biblical commandment of *birkas ha-mazon*?

On *Kiddushin 70*, Rav Chelbo made a surprising statement. Rav Chelbo said that converts are as difficult to the Jewish nation as the *sapachas* plague. The commentators struggle with this statement. The Torah repeatedly expresses admiration for converts and commands all to treat them with love. Why would Rav Chelbo say that converts are like the plague?

Rashi suggests that Rav Chelbo referred to converts who do not fully adopt religious law and practice. Those who continue the habits they got used to while they were gentiles are as difficult as a

plague for the Jewish nation, for, even as Jews they will sin. Those sins might bring punishment on all; in addition, regular Jews might learn from their misbehavior and emulate their actions. Tosafos quoted an opinion who added another point. All Jews at Sinai accepted responsibility for each other. There were 603,550 Jewish men at Sinai. Each Jewish man accepted upon himself 603,550 covenants. For each of us is responsible for the behavior of every single Jew. If converts are included in this commitment, it is understandable why Rav Chelbo would decry conversion, for he knew that some would continue their gentile behaviors and all Jews would bear some of the guilt based on the rule of mutual responsibility, *areivus*.

The *Mishnah Berurah* (197:24) teaches that on a biblical level, one Jew can recite *birkas ha-mazon* for his friend who ate, even though he did not eat anything. The reason for this law is that all Jews are responsible for each other. The Jew who ate was obligated to recite the blessing after the meal. Since there is mutual responsibility, the Jew who did not eat also is obligated in that blessing. However, rabbinic law legislated that one should only recite *birkas ha-mazon* if he ate at least an olive-sized piece of bread. The Sages linked this law to the verse *ואכלת ושבעת וברכת*, “And you will eat, be sated, and you will bless,” meaning: only one who ate may bless.

Nonetheless, the *Shulchan Aruch* (484) rules that one who led a Seder meal in his home and then went to the home of his friend to lead their Seder meal may recite the blessings for the people at the second Seder, if the people there do not know how to recite the blessings. In such a case, he must make sure to say each word aloud, including the names of Hashem. Such a recital would not be considered invoking the name of Hashem in vain. Since he is responsible for them, and they cannot bless on their own, he is merely teaching them and fulfilling his responsibilities when reciting the blessing aloud.

Based on this rationale, if someone suffers from celiac, he should sit with our brethren who do not yet fulfill the laws of Torah when they eat. Then, at the end of their meal of bread, he should recite aloud each word of the *birkas ha-mazon*. Based on *areivus* and *chinnuch*, his recital would not be a vain utterance of Hashem's names, and it would be a fulfillment of the mitzvah of *birkas ha-mazon* (*Chashukei Chemed*).

What is the Definition of a Place of Danger?

The Gemara related that Bavel was the place of best lineage. Ezra left Bavel and took with him all the problematic families. If a person arrives from Bavel wishing to marry, one can be confident that they have a good lineage and marry him or her. Bavel was even preferable to the Land of Israel in this regard. If someone came from Israel, and wished to marry, one could not be fully confident that he or she was of good lineage. In the days of Rav Pinchas there was a desire to change the realities. There were those who wished to declare that Israel was more pure than Bavel. Rav Pinchas told his students, "I am about to enter into danger. Therefore, put me on a stretcher and bring me to the yeshiva. After I say my lesson, grab me and run before anyone can harm me." The students agreed. Rav Pinchas entered the house of learning. First he distracted all with a striking comment. He declared that based on Torah law, fowl can be eaten even if it is not killed by *shechitah*. When the Sages were trying to figure out the source for this suprising ruling, he declared, "All lands have lineage problems when compared to the Land of Israel, but the Land of Israel has lineage problems when compared with Bavel. Bavel is the purest."

His students then grabbed him and ran, and the Sages who were in a state of uproar were unable to catch up to him. The Sages of Israel then tried to purify the families of Israel. They started to do research as to which families were pure and which families had *mamzeirim* or slaves who had intermingled with them. Their research created danger. They had to stop.

What is the definition of danger? When should an activity not be performed because it is dangerous to health?

During the first decade of the twenty-first century our brethren living in Judea and Samaria were subjected to rocks, terror attacks, and shootings. A Jew from Bnei Brak asked Rav Zilberstein at that time: would Halacha forbid him from traveling to Judea and Samaria for it was now a place of danger?

Rav Zilberstein answered that the *Mishnah Berurah* writes that danger is defined as an event that might occur to one out of a thousand. Since there were many thousands of Jews traveling in Judea and Samaria and not getting hurt, the chances of getting hurt were less than one in a thousand. As a result, Judea and Samaria would not be considered a place of danger. Alternatively, Rav Shlomo Zalman Auerbach ruled that the definition of a place of danger was dependent on the feelings of people. If most people would flee from a particular place it was a place of danger. During the terrible intifada, most residents did not flee Judea and Samaria. Furthermore, many people went to visit and did not feel a need to flee in panic. As a result, it was not a place of danger and the Jew from Bnei Brak could travel there (*Chashukei Chemed*).

Kiddushin 71

Who Is More Needed: A Genius or A *Ba'al Middos*?

The Gemara in *Horayos* discusses the horrific question of who is to be saved first when one can only save one person from a sea that is threatening to drown several individuals. The Mishnah taught that if two people were drowning in the sea, one a king and the other a sage, the sage should be saved before the king. Rambam explains that this is because the sage brings a very great benefit to the nation. From the Rambam we see that those who bring the most benefit to the nation are the ones to be saved first.

What would the law be in the following scenario? Two budding Torah scholars are drowning in the river. One is a great genius. The other has fantastic personal qualities; he is a *ba'al middos*. Who should be saved first? Who helps the nation more? Will the nation gain the most from the genius who someday might master great amounts of Torah? Alternatively, perhaps the *ba'al middos* is more consequential for the nation?

Kiddushin 71 teaches that there are secrets associated with names of Hashem. Only someone who is modest, humble, never loses his

temper, never gets drunk, never bears a grudge, and has already attained middle age, may be included in the select society of those who know these secrets. Throughout Jewish history there were giants who knew the secret names of Hashem. Individuals like the Maharal of Prague and the *Chasam Sofer* used their knowledge of these secrets to effect miracles and save the Jewish nation. There are many geniuses. However, there are not many individuals who know these names of Hashem. It is a great benefit to the nation for the names to be known and used for holy causes. Therefore, the young man with sterling character can help the nation more than the young man who is a genius. His rescue should take precedence (*Chashukei Chemed*).

Kiddushin 72

May a Torah Scholar Act as a Medical Clown?

The Gemara in *Kiddushin* taught about the obligation to give honor to Torah scholars. Sometimes the honor due a sage overrules other commandments. For example, most Jews have a mitzvah to return a lost object to its rightful owner. However, if it is an object that would be disrespectful to the sage to carry, a Torah scholar is not to return it: *zakein ve-eino lefi kevodo* (a sage for whom it is not according to his honor to carry the object) need not return the item.

According to the Rosh (*Bava Metzia* 2:22), he may not choose to return it and waive his honor, for that would be a lack of respect to the Torah within him. Someone asked Rav Zilberstein: could he, a Torah scholar, waive his honor and become a medical clown who would visit sick individuals and make them laugh and thereby help them heal?

Rav Zilberstein suggested that *Kiddushin* 72 proves that a sage may act in a funny manner if there is a medicinal aim to the behavior. The Gemara relates that Rebbe asked Leivi, “Show me the Persians.” Leivi said, “They are like the soldiers of King David.”

“Show me the Chavrin,” “They are like angels of destruction.” “Show me the Yishmaelim,” (Due to their black garb) “They are like the demons of the bathroom,” “Show me the sages of Bavel,” “They are like the ministering angels.” The *Eitz Yosef* explains that Leivi would dance before Rebbe to lift his spirits. Rebbe was asking that Leivi perform. Leivi would define each group, and then act like a soldier, angel, or a demon, to entertain Rebbe and make him laugh. If it was appropriate for Leivi to act in a funny manner to lift spirits, it should be appropriate for a scholar in our era to act like a clown to help the ill heal (*Chashukei Chemed*).

Kiddushin 73

Teaching an Uncomfortable Law

Mechoza was a town with many converts. Rav Zeira went to Mechoza and publicly taught; “A convert is not considered a member of *kahal* and so while he is a Jew he is permitted to marry a *mamzeres*.” The people were very offended and stoned him with their *esrogim*. Rava said, “It was not wise to publicly teach this law in this town that has so many converts.” Rava went to Mechoza and declared, “A convert may marry a female *kohen*, for the restrictive laws of whom the *kohen* may marry do not apply to the daughters of *kohanim*.” The people threw silk garments on him as a display of regard and love. He then added that converts may marry *mamzeirim*. The people were upset. They told him, “You just forfeited all the silks we just gave you.” Rava defended himself. He said, “Now you are better off. Those who wish to marry up, by marrying a daughter of a *kohen*, may do so. And those who want to marry down, by marrying a *mamzer* or *mamzeres*, may do so as well.” The *Atzmos Yosef* pointed out that Rava did not disagree with the ruling of Rav Zeira. Rava also taught that a convert may marry a *mamzeres*. Rava taught a popular law

first, then he mentioned the law that he knew would be less popular. This is apparently the way to share an uncomfortable law. First, one should teach a law that is complimentary and then one can add a law that some might find difficult and off-putting (*Chashukei Chemed*).

Kiddushin 74

May One Marry A Karaite?

The Karaites are a Jewish sect. They were formed in the ninth century in Bavel. Karaites reject the Oral Law. They, like the Samaritans before them, only follow the literal interpretations of Biblical verse. There are Karaites in Israel, Turkey, Crimea, Poland, Lithuania, and the United States. If a Jewish man falls in love with a Karaite woman, may they marry?

Rabbi Eliezer taught that examples of individuals who have the status of *safek mamzeirim* include a child who does not know who is his father (*shtuki*), a child who does not know who either of his parents are (*asufi*), and a Samaritan. The Samaritans were an ethnic group brought to Israel by Sennacherib from the country Kuta to replace the Jews he had exiled. When the Samaritans came to Israel they were attacked by lions. They realized that in the holy land the Almighty is exacting and punishes misbehavior. They then converted to Judaism. However, they, like the Karaites after them, did not follow the Oral Law. They only fulfilled the literal meaning of biblical verses. The Gemara discusses why Samaritans had a

questionable lineage status. One of the reasons proposed is that the Samaritans were not fulfilling laws of divorce in the correct manner. As a result, within the Samaritan community there were *mamzeirim*. If a Samaritan woman married correctly but then did not receive a kosher *get* before marrying someone else, her child was a *mamzer*. As a result, according to Rabbi Eliezer, all Samaritans were to be treated as possible *mamzeirim*. If someone sought to marry a Samaritan, he may be marrying a woman whose mother had been married, then not halachically divorced, but then who lived with someone else and bore this individual.

The *Beis Yosef* (*Even ha-Ezer* 4) quotes a responsum from Rabbi Shimshon who ruled that Karaites have the status of the Samaritans. They are *safek mamzeirim*. Some Karaites have had kosher weddings, but they did not have kosher divorces prior to their remarriage. The Rema also rules that one is not to marry a Karaite for this reason.

The Radbaz however suggested that the ruling of Rabbi Shimshon only applied in places where the Karaites lived together with the observant community and were socially integrated with the observant population. Then there would be grounds to worry that perhaps a Karaite couple had a kosher wedding but then the wife went to live with a second man without first receiving a kosher *get* from the first spouse. However, if a Karaite community was isolated from the observant community and living on its own, there are no grounds to prohibit them. Karaite women never could have had kosher weddings if they lived in an isolated community. For a marriage to take effect, it needs two kosher witnesses. The witnesses create the marriage. They are *eidei kiyum*. Karaites are not kosher witnesses. They do not fulfill all the laws of the Torah. If Karaites served as witnesses the marriage never took effect. In an isolated community, the only options for

witnesses were disqualified individuals and therefore there would be no grounds to worry about possible lineage problems.

Rav Ovadia Yosef ruled in accordance with the Radbaz. He permitted marriage with Karaites. He argued that since they did not have the option of kosher witnesses their marriages were never marriages and they was no likelihood of *mamzeirus* in their ranks (*Portal Daf ha-Yomi*).

Kiddushin 75

S'fek Sefeika

The Gemara mentioned the principle that in a case of *s'fek sefeika*, we should be lenient. Generally, the meaning of this term is that when there is doubt whether there is a doubtful prohibition, there is no need to be strict. For example, the Gemara in *Avodah Zarah* mentioned a scenario where thieves broke into a home, and there was now a question whether the wine in the home was still kosher. The conclusion of the Gemara is that the wine would be kosher. This was based on the concept of *s'fek sefeika*. We are unsure if the thieves touched the wine. Then we have a second doubt. Even if the thieves touched the wine, we are unsure if the thieves were Gentiles whose touch would invalidate the wine or the thieves were Jews whose touch would not negatively impact the wine. Since there is a doubt whether there is a doubtful prohibition it is permitted.

The Rashba in his responsa explained the reason for this law. The Torah has mandated that when we are unsure we are to always follow the *rov*, majority, as it is written *acharei rabbim lehatos*. The concept of *s'fek sefeika* is based on the majority. Since the majority

of the possibilities of what happened would lead us to the conclusion that the wine is kosher, the law is that the wine is kosher.

Poskim teach that there are exceptions to the rule of *s'fek sefeika*. The Ridbaz was asked the following question by a farmer in Egypt. The farmer possessed cows. He noticed that someone had placed grasses that might have been poisonous in front of his cow. The cow had been slaughtered. He wanted to know: could he eat the meat? Perhaps it is a situation of *s'fek sefeika*. Perhaps the grasses were not poisonous. Even if the grasses were poisonous perhaps the cow had not ingested anything from those grasses? The Ridbaz ruled that the farmer could not eat from the meat of the cow. He based his rule on the principle that *sakanta chamira me-issura* (danger is more strict than prohibition). In regards to religious prohibitions the Torah permits situations of *s'fek sefeika*. However, in regards to danger the Torah states, *venishmartem me'od lenafshoseichem*, "And you are to watch yourselves a lot to preserve your lives." The Torah said, "a lot" in regards to danger. Therefore, the farmer had to be strict and was not to take any risk by ingesting the meat of the cow that might be tainted with poison (*Me'oros Daf ha-Yomi*).

Kiddushin 76

Appointing a *Ger* to Serve as a *Rosh Yeshiva*

The Gemara related a story from which we can derive the following lesson. Welcome scholars as guests to your home. That way, when you need them they will construct compelling arguments to advocate on your behalf.

Rav Ada bar Ahavah was graciously welcomed to the home of a particular convert. This convert wanted to serve as the leader of the town. He was fighting with Rav Bibi for this privilege. Rav Bibi also sought to serve as the leader of the town. They brought their dispute before Rav Yosef. Rav Yosef told them that a Baraisa seemed to indicate that Rav Bibi was the one for the job. In regards to appointing a king, the Torah mandates, *Som tasim alecha melech... mi-kerev achecha tasim alecha*, “When you shall surely appoint a king over you... make sure to appoint a man from among your brothers as king over you.” Since the Torah mentioned the word for appointment twice, *Som tasim*, it is teaching that all appointments to positions of authority have to be from amidst your brothers and not from a convert. Rav Ada then challenged Rav Yosef. He asked him, “Would

this apply even to a convert whose mother was a Jewess from birth?” Rav Yosef conceded that a convert whose mother was a Jewess from birth could be appointed to positions of power. The host of Rav Ada was such a convert. Rav Yosef conceded that he could serve in a position of authority. He therefore divided up the responsibilities. For religious matters Rav Bibi would be the leader, while for secular matters, such as municipal security, the host of Rav Ada would be the leader.

In light of this Gemara, it emerges that a convert should not be appointed to any position of authority.

Rav Moshe Feinstein was asked if a convert should be appointed as a *rosh yeshiva*. One who serves as the head of a yeshiva has the authority to suspend students and to decide which student may attend the institution and which may not. Did that render the position of *rosh yeshiva* a position of authority? If so, perhaps based on *Som tasim*, a *ger* should not fill that role?

Rav Moshe ultimately pointed out that the Torah has given us a mitzvah to love the convert. As a result, we should try to find ways to give them positions. Serving as a *rosh yeshiva* is not a position of authority. It is up to the students to decide if they would like to attend the yeshiva and learn from its head. The *rosh yeshiva* is like a store manager who has the power to let go of a store clerk. Unlike the case in *Kiddushin* 76, which discussed someone who has the power to levy taxes and seize property, a store clerk has no real authority. Since we have a special obligation to be kind to the convert, it is permitted and encouraged to appoint a *ger* to serve as *rosh yeshiva* (*Mesivta*).

Kiddushin 77

If You See a Lost Garment and a Lost Ring: Which Should You Return First?

Rav Yitzchok Zilberstein raised the following question: Reuvein found two lost objects: a garment and a ring. They were equal in value. He could only return one of them. Which should he return?

In *Kiddushin 77* the Gemara asks what is the *chalalah* of which the Torah speaks? The Gemara explains that the explicit mention of *chalalah* (*chalalah muzkeres*) refers to a daughter of a *kohen* prohibition. However, this is not the only way that a woman can be a *chalalah*, but the other cases are derived from *derashos*, rather than mentioned explicitly in the Torah.

The language of this discussion is surprising. When our Sages interpret a Torah text they are deriving biblical law. What difference is there between law that was explicit and did not need the Sages to derive it with their methodologies and laws that were derived by the Sages?

Rav Yosef Engel (*Beis ha-Otzar*, *ma'areches* 1-4, *kelal* 18, *chelek* 1, *amud* 74) suggested that laws that are explicit in the literal meaning

of the verse are more weighty than laws that were derived from the interpretation of the Sages.

Therefore, he suggested the following novel law. If a person is sick and must eat forbidden food, we first give him food that is less forbidden. Only if the lightly prohibited food did not succeed to rescue the ill individual would the law allow him to eat food that is more severely prohibited. Therefore, if a *kohen* was placed under threat by Gentiles who demanded that he violate the law banning marriage with a *chalalah*, he should first marry the *chalalah* who is defined by the Sages as a *chalalah* before marrying the daughter of an illicit *kohen* relationship, for such a woman is more prohibited, since her prohibited status is explicit in the verse.

The *Ha'amek Davar* also writes that a Torah law explicit in the plain meaning of a verse is stricter than a Torah law derived from a derasha on the verse.

In light of this perhaps Reuvein should choose to return the lost garment. The obligation to return a lost garment is mentioned explicitly in the Torah. It is written, *ve-chein ta'aseh le-simlaso*, “And so you shall do for his garment.” Since there is an explicit verse calling for the return of a lost garment, the return of a lost garment is more important than the return of another object, and Reuvein should return the garment and not the ring.

However, Rabbi Zilberstein rejected this idea. The Torah states in regards to returning a lost object, *ve-chein ta'aseh le-chol aveidas achicha asher tovad mimenu u-matzasa*, “And so shall you do for all lost objects of your friend that might be lost from him and you will find.” Since the Torah mentioned that all objects are to be returned, this verse is explicitly including rings and any other object, therefore there should be no need to give precedence to a lost garment more

than to a lost ring. However, in regards to saving a friend from loss to his property, there we can say that returning a lost movable object should take precedence before saving a piece of property. The Gemara teaches the law to return a lost piece of property and the obligation for all to try and prevent damage to a piece of property with the words, *Amar Rava le-chol aveidas achicha lerabbos aveidas karka*, “Rava taught ‘for all the lost objects of your brother’ is to include losses to property” (*Bava Metzia* 31a). Since the Gemara says that the implication of the verse was to include real estate, it sounds like it was not the literal meaning of the verse. The literal and plain meaning of the verses only obligated the return of a movable object. Land was included in the verses from rabbinic exegesis.

Therefore, if one saw a river about to damage his friend’s field and he had the ability to quickly run and save the field by diverting the water, yet at the same time he saw a lost ring or garment, and if he would save the field, he would not succeed in returning the garment to his friend, he should first return the garment or ring for as movables their return is explicitly called for (*Chashukei Chemed*).

Kiddushin 78

The Importance of Donating Lights to the *Shul*

The following question was presented to Rav Zilberstein:

“In our *shul* in Bnei Brak each Shabbos, right after the recital of the Yekum Purkan prayers, there is an interruption. The *gabbai* of the *shul* ascends to the pulpit and offers to sell the privilege of donating the lighting for the shul for the week. This honor is sold for 150 shekel per day. Sometimes a congregant might buy all seven days and give the shul a check for 1,050 shekel. On other Shabbasos, each day gets purchased by a different congregant. With the funds the *shul* receives it pays for the electricity and heating costs. The learning and prayer that will happen because of the lighting becomes a merit for the donor. After the mitzvah is sold, the prayers resume. The *chazzan* then intones the beautiful prayer composed for righteous givers, ‘He who blessed our fathers should bless all those who donate *neir la-ma’or*, candles to be lit.... May the Almighty pay their reward, remove from them all illnesses, heal their entire bodies, forgive all their sins, and send blessings and success to all that they do, together with all of Israel their brethren,’ and all answer with a resounding, ‘Amein!’

“Last Shabbos, Reuvein purchased the sponsorship of Wednesday’s costs. Wednesday was his father’s *yahrtzeit*. He wanted the merit of prayer and learning to serve as an elevating power for his father’s soul. Unfortunately, on Wednesday, the power went down throughout the city. There were no lights in any *shul*, including ours, on Wednesday. It is now Friday. We asked Reuvein for the money he pledged. Reuvein claims that since he purchased Wednesday’s mitzvah of lights and on Wednesday there was no illumination, he does not need to pay anything. He did not want to sponsor any of the other days of the week, on which there were lights. Wednesday was his father’s *yahrtzeit* and he only sponsored the lights for that day to try and add merit for his father on his day of passing. Is Reuvein correct? Is he exempt from paying since he did not receive that which he ordered?”

Rav Zilberstein pointed out that it is a great merit to donate the lights that will illuminate a *shul*.

Kiddushin 78 mentioned the verse in Shmuel which stressed that the lamp of Hashem was still burning in the holy chamber of the *mishkan* when Shmuel received his first prophecy from Hashem while he lay in a bed outside of the sacred space. Prophecy was linked with the flames of the menorah illuminating the holy place.

Tosafos suggests that candles for a *shul* are the equivalent of offering a sacrifice on the holy altar which stood in the Temple. The Gemara in *Bava Basra* (8) teaches that we are not to accept charity from Gentiles. However, the law states that if a Gentile wishes to donate candles that will be lit and illuminate a *shul*, we are to accept his donation of lights for *shul*. Tosfos explains the reason for the difference. Charity should be performed by Jews. We should take care

of our brethren who need help. It is a desecration of God's name if we create the impression that Jews would not take care of their own poor and need the gentiles to help impoverished Jews. However, candles for a *shul* are like a *korban*. Gentiles were able to donate sacrifices when the Temple stood. Therefore, we should accept their donations of candles that are akin to offerings.

The *Yafeh la-Lev* (*siman* 151) also has many sources about the importance of candles for *shul*. He quotes the *Pesikta* which taught, "The Almighty said: light before Me candles so that I will preserve your soul which is like a candle, as the verse states, *ner Hashem nishmas Adam* [The human soul is like the lamp of Hashem]." The Midrash teaches that Hashem told Moshe, "If you are careful to light candles before Me, I will safeguard your lives from any unfortunate occurrence for your souls are compared to a candle."

The *Pele Yoetz* teaches that through the candles in the *shul* one merits to receive the candle of mitzvah and the light of Torah for himself and his family.

Rav Zilberstein argues that all these wonderful lessons discuss one who brought candles to the *shul*. Paying the bills of the *shul*, however, should not have the status of candles for the holy space. A gift of money to pay an electric bill is donating to the *shul* the ability to pay its debt. Debts are not analagous to the soul of man. Thus, if the *shul* was selling the mitzvah of illuminating the *shul*, the meaning of that auction was that the *shul* was renting out its light fixtures. For 150 shekel a day, the donor was renting the lamps in the *shul* so that they would be his lights that would illuminate the *shul* and he would have the merit of *neir la-ma'or*.

In our case, Reuvein's pledge of 150 shekel for Wednesday's lighting meant that he was renting the lamps for the price of 150

shekel. The light fixtures were his on that day. That day, the light fixtures did not work. Perhaps it was his fate that caused the lights not to work. Perhaps it is akin to a person who brings a candle into the *shul* but then cannot successfully strike a match so the candle never ends up giving light to the *shul*. It was his inability to strike the match that caused the flames to never rise. Here, too, it was his *mazal* that might have caused his lamps not to work on that day. Rav Zilberstein felt that the *shul* fulfilled its part of the deal. It had sold its lamps. The electric blackout of Bnei Brak on Wednesday was not the fault of the *shul*. If anything, perhaps it was Reuvein's *mazal* that caused the lamps to suddenly not work. Therefore, he felt that Reuvein should give the *shul* the 150 shekel that he had promised for the rental of the lamps on that day (*Chashukei Chemed*).

Kiddushin 79

Becoming a Man

The following question was brought to the attention of Rabbi Zilberstein. A young man reached the age of Bar Mitzvah on Rosh Hashanah. In the morning he blew *shofar* for the community. In the afternoon, a Torah scholar told people from the *shul* that he was not happy with what they had done. He pointed out that hearing the sound of the *shofar* is a biblical obligation. Most thirteen-year-olds have mature bodies. However, a minority do not. Generally, in regards to biblical laws the Halachah is that we cannot assume that a thirteen-year-old is an adult. Only in regards to rabbinic obligations can we assume that a thirteen-year old-in adult. Members of the community approached the boy and told him of the concerns. The boy proved to them that he was physically mature. The verification had occurred in the afternoon. Should they suspect that in the morning when he had blown *shofar* he had not yet been an adult? Should they hear *shofar* from him a second time?

Kiddushin 79 detailed a dispute between Rav and Shmuel. If a father betrothed his daughter, aged twelve years and six months, while traveling, and that same day she betrothed herself, there is a

need for a physical examination. If the authorities find that her body had matured to adulthood, Rav says we presume she had matured that morning and as a result the father's betrothal was null and void. Shmuel was of the opinion that we are unsure. She is in a state of doubtful marriage to both the man her father betrothed her to, and to the man that she had betrothed herself to. The *Shulchan Aruch* rules according to Rav. The *Chazon Ish* also ruled that Halacha follows Rav. If the authorities discover physical evidence that a young person is an adult, Halacha feels that retroactively all the actions taken by that person on that day were performed by an adult. As a result, Rav Zilberstein ruled that they did not need to hear the *shofar* again. They could be confident that just as he was an adult in the afternoon, he had been an adult in the morning when he had blown shofar for the community (*Chashukei Chemed*).

Kiddushin 80

Assumptions in Jewish Law

Rav Zilberstein was asked the following question:

“I went to buy a pair of new shoes in the shoe store. While there, I took off my old pair of shoes to try on the new pair. I liked the new pair a lot. I decided to wear them out of the store. I paid for them, put them on, and left. I forgot the old shoes in the store when I exited. The next day I realized that I had left my old shoes in the store. I returned to the store and asked for my shoes back. The store owner told me that all shoes left in the store by costumers are discarded. He had thrown out the shoes last night. I demanded that he pay me for the shoes. He told me that he did not owe me anything since he assumed that I had intended to discard the shoes. I told him that in monetary matters majorities and assumptions are not decisive. He owed me the money. He refused to pay. Is he right?”

Rav Zilberstein pointed out that *Kiddushin 80* teaches that assumptions have great power in Jewish law. For instance, if a couple seem to be living as husband and wife with young children in their

home, Halacha would view them as a family. The reason for this is the power of a majority, *rov*. Most of the time, when a couple are living together as husband and wife with young children, it is a family living together. Since that is the case the majority of the time, we can assume it is the case and even carry out capital punishment on the basis of the assumption. In light of this principle, the same should be true with the shoes. Most shoes left in a shoe store are being made *hefker* (ownerless, discarded property). Were the owner of the store to have asked us, “Must I watch the shoes someone left in my store?,” we would have told him that he could rely on the majority and discard the shoes. As a result, he acted correctly in throwing the shoes out. The claim of the buyer that in monetary matters we are not to follow a majority and therefore he should be paid is wrong. In monetary disputes a majority is not sufficiently decisive to extract money from someone’s hands. Here the majority is to keep money in someone’s hands.

The classic example of not following assumptions in monetary law is in the case of purchase of a goring ox.

If someone paid for an ox and it turns out that the ox gores a lot and cannot be used to plough, we would say that the seller can argue, “Some people buy an ox to slaughter it and eat its meat. I thought you were one of those buyers, and as a result, I do not need to return the money to you and take the ox back.” In such a case, were the buyer to argue, “But most people buy an ox for labor. Based on the majority you should have known I was buying the animal to use it in my field and now that it is so violent I cannot use it at all. Return the money to me and take the ox back,” we would tell the buyer, in monetary matters, majorities and assumptions are not decisive. The fact that most people buy an ox to use in the field and not to slaughter is not sufficient proof to take money out of the hands of the seller.

However, in our instance, the assumption that most who discard their shoes intend to throw them out is a support to the store owner, who currently has the money. As a result, the majority is effective to support his point of view. Rav Zilberstein ruled that the store owner did not have to return the value of the old shoes to the customer (*Chashukei Chemed*).

Kiddushin 81

Seclusion with a Married Woman Whose Husband Is in Town

At the end of *Kiddushin* there are discussions about the laws prohibiting seclusion. A man may not seclude himself with a woman who is prohibited to him. He even may not seclude himself with a woman who is not married. He also may not seclude himself with two women. The Gemara taught that if the husband of a married woman is in town another man may enter a secluded area with that woman. A wife whose husband is around is concerned that he might return home. That concern will protect them from sinning with each other. What are the guidelines of this rule? When may a man seclude himself with a married woman whose husband is in town?

The *Binas Adam* is of the opinion that this principle allows the married woman to go into seclusion with another man even at night and even if the door is locked. The *Sefer Dvar Halachah* writes in the name of many Rishonim that even if she is not fearful at every moment that her husband may arrive it is still permitted for her to enter seclusion. The reason they offer is that the temperament of a woman to be concerned that her husband may arrive any moment

is a natural feeling and has nothing to do with the actual possibility that her husband may arrive. Since the woman knows her husband is nearby she is subconsciously on edge when near another man and will not allow a sin to occur.

Following this approach, the *Dvar Halachah* cites the position of the *Chazon Ish* who permitted a woman whose husband is in town to go into seclusion with others even if the husband is unaware of her exact location.

Other Poskim dispute this lenient approach. They maintain that the principle of בעלה בעיר is limited to circumstances where the wife has a real concern that her husband might arrive at any moment. If, however, the wife secluded herself with another man in a location where the husband did not know where she was or if the husband was in town but she knew that it would take him a long time to return home, the leniency would not apply. If she does not have the fear that her husband will return home any moment, she may not enter seclusion with a man. Thus, Rav Moshe Feinstein writes that if a man goes to work an hour away from home and his wife knows that he is at the office she is not permitted to go into seclusion with another man since the principle of בעלה בעיר does not apply.

Rav Shlomo Zalman Auerbach added an important consideration to this discussion. If a man knows that a woman's husband is in town but the wife thinks her spouse is out of town, it is prohibited for him to seclude with her. Although he knows that the act should be permitted since the husband is nearby, nevertheless, since she is under the impression that her husband is out of town, seclusion is prohibited. This is similar to the case of a person who eats meat from a sheep thinking that he is eating meat from a pig; the Gemara ruled that this person must repent for intending to commit a transgression (*Daf Digest*).

All Is in the Hands of Heaven, Except for Fear of Heaven

The Gemara related that whenever Rav Chiya bar Ashi would fall in his face in his prayers, he would plead, “Merciful One, please save us from the evil urge.” The Maharsha is bothered with this supplication. The Gemara teaches elsewhere that all is in the hands of heaven, except for fear of heaven. This seems to mean that for religious achievement, man must expend the effort, and then he will succeed. Hashem will not save a man from sin, or push him to perform a mitzvah. Matters of heaven are in the hands of man. If so, why did Rav Chiya pray that Hashem save him from listening to the evil urge and sinning? It is all in his hands!

The Maharsha answered that it is in man’s hands to begin to return to Hashem. Hashem will not spark man’s religious movement. However, once man begins to move to Hashem, he needs Divine help to successfully complete the attempt to live a holy life. Hence, the prayer of Rabbi Chiya. Once he began to try and conquer his urges he asked Hashem to support him in the effort. As the Talmud teaches, *ha-ba litaheir misayin be-yado*, “one who tries to become pure Heaven helps his efforts.” The Rambam writes that man must choose the right path. Hashem will not choose the right path for the person. However, once one is on the correct approach, he faces many challenges that seek to push him off the path. Man may pray that those attempted distractions fail. Rav Chiya was praying that Hashem save him from the forces that were trying to push him off the holy course, which he had begun with his own efforts. The *Chazon Ish* suggested that prayer is the way man can take the matters of heaven into his own hands. When man prays, he is choosing the right path

with his deeds. Rav Chiya was praying that Hashem should save him from the evil urge and put him on the right path. That prayer was his human effort and a fulfillment of the mandate that religious growth is dependent on human initiative and action (*Chavruta*).

Kiddushin 82

The Greatness of Doctors

The Mishnah taught that a man should not choose as his profession a job in which he might end up being secluded with a woman. It then discussed different ways to earn a livelihood. It listed advisable professions and vocations that one should avoid. It mentioned that the best of the doctors belong in Gehinom. Commentators explain that the Mishnah did not mean to disparage those who practice medicine and save lives. On the contrary, our Sages have interpreted the Mishnah as teaching about how special doctors are.

The *Daf Digest* recorded the following story:

When Rav Yosef Chaim Sonnenfeld, zt”l, was sick, he was treated by a certain doctor with great self-sacrifice. Night and day, this physician was on call to do everything in his power to help him get well.

Once, this doctor asked the Rav, “Rabbi, I really cannot understand the Mishnah in Kiddushin 82 which states that the best doctors go to Gehinom. Is Gehinom a fitting reward for a doctor who gives his all and faithfully treats his patients with skill and care?”

The Rav smiled and replied, “This is not the meaning of the Mishnah. Surely, the fate of a doctor is not that he is predetermined to Gehinom! Rather, the Mishnah’s statement is an exhortation to the doctor regarding his approach to his patients. He should not act as if he felt that they are in the serene state of those who feel connected to Gan Eden. On the contrary, the life of a sick man is a living Gehinom. The doctor should empathize with the agony of the ill and it is into that place that the best doctors must be willing to venture to treat the severely ill!”

On another occasion Rav Sonnenfeld explained why the Mishnah could not possibly be taken literally. He pointed out that the Gemara says that saving one Jewish life is like saving an entire world. How then could the best of the life-savers be on their way to Gehinom?

When Rav Aharon of Belz, zt”l, was in Pest, a certain doctor wished to visit him to receive a blessing. When he came to the apartment he was brusquely rebuffed at the door by the gabbai. “It is not a good time to see the Rebbe now,” he claimed.

The Rebbe heard the noise. He called out to his attendant and asked him what the commotion was all about. The gabbai answered, “Some doctor. ‘The best of them go to Gehinom!’”

“חם ושלום,” The Rebbe vehemently replied, “Heaven forbid such thoughts! You do not understand the meaning of that Mishnah. Chazal are telling us of the great self-sacrifice of the best doctors. While treating their patients they feel that they stand on the brink of Gehinom since one false move can cause irreparable damage or death, G-d forbid...”

The Rebbe immediately ordered that the doctor be found and ushered in to see him (*Daf Digest*).