

MD Torah WEEKLY

	ירושלים	בית שמש	בני ברק
הדלקת נרות	4:03	4:02	4:17
צאת השבת	5:19	5:20	5:21

Parshas Vayechi - י"ח
Dec 21, 2002 – ט"ז טבת תשס"ג – Vol. 4 No. 11

Talking Business

Everyday Jewish Business Law



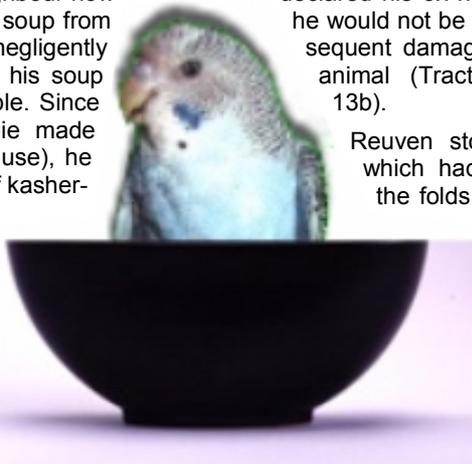
Living Education

Principles of Education Gleaned from the Weekly Parsha

Unhealthy Chicken Soup

Question

Pinny had two pet budgies in a cage. He decided to release them. He took the cage to the window and removed the first. The bird flew happily away. When it came to the turn of the second bird, it was not so fortunate. It seems it had forgotten how to fly. When it was released, it fell straight into a huge pot of chicken soup which was cooling on the porch below! The neighbour now claims the cost of the soup from Pinny, since he negligently dropped the bird into his soup and rendered it inedible. Since the non-kosher budgie made the pot *treif* (unfit for use), he also claims the cost of kashering the pot. Pinny counters that he had already relinquished ownership of the bird before it fell in the pot and is therefore not liable for the damage. Who is right?



Answer

The Torah makes a person liable for any damage he directly causes. He is not only responsible for damage caused by his body, but also for that which is caused by his property. This responsibility ceases the moment he relinquishes ownership of the property (with the exception of *bor* - creating an obstacle in the public domain). Thus, if a person declared his ox *hefker* (ownerless), he would not be liable for any subsequent damage caused by this animal (Tractate *Bovo Kamo* 13b).

Reuven stood up. A stone which had been resting in the folds of his clothes fell from his fifth floor porch and broke the Ming vase the ground floor neighbour had standing in his garden. Although Reuven had no idea that

(Continued on page 2)

Even Weak Students Deserve Fair Attention

"This time you brought me a package deal", the morning Rebbe told the Rosh Yeshiva in an air marked with cynicism and haughtiness, as he summarized the "virtues" of the new student who had arrived only few days earlier to the Yeshiva. The Rosh Yeshiva held himself back, realizing that a quick, defensive reaction would have no value and would probably only exacerbate the semi-hostile feelings this Rebbe was expressing!

"Are you talking about Shimon?" asked the Rosh Yeshiva. "I tend to think that he is blessed with many fine virtues. He is courteous, seems to do his work, comes to the Yeshiva on time and follows most of the Yeshiva rules."

"Do his work?" chuckled the Rebbe, "In my class he was busy making gestures back and forth with his former classmate from the school in Netanya, who himself is no bargain."

"Reb Baruch", called the Rosh Yeshiva to his disgruntled Rebbe, "why have you so quickly concluded that Shimon is totally useless? Does he not possess even one good *midah*? Is his eagerness to be on time, pleasant manner and the effort he makes to learn have no value?"

(Continued on page 2)

Rav Leff Speaks

The Mother Of All Morality

We are commanded by the Torah to be fair and just. Yet, we are taught to treat the non-Jew differently from the Jew, and in a way that does not appear to be fair.

For example, it is permissible to lend money with interest to a non-Jew (according to the Rambam it is a *mitzvah* to do so), but it's forbidden to lend with interest to a fellow Jew. There is no obligation to save the life of a non-Jew who is in danger, but one does have to save the life of another Jew. It is permissible to speak *lashon hora* about a gentile, but not about a Jew. (And even though it is still not proper to speak it about a gentile, that's only because one should not become habituated to speaking *lashon hora*.) One

may profit from the error of a non-Jew in business matters, but not from that of a Jew. (Excepting cases in which keeping the money would involve a *chilul HaShem*, or there would be a *kiddush HaShem* in returning it.)

Once, in a supermarket, the cashier gave me too much change, and I returned it. She looked at me and said, "Are you for real? You're the first person who ever gave anything back to me here." I explained to her that I'm Jewish, and it's part of Judaism not to keep money that doesn't belong to you. There's no *kiddush HaShem* if they don't know that you're Jewish and that your Jewishness is the source of your ethical conduct.

The truth is, however, that there is no injustice in our differing treatment of

(Continued on page 3)

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Parsha Points to Ponder

The Pathway into Shabbos

But Israel extended his right hand and laid it on Ephraim's head though he was the younger and his left hand on Menasheh's head. He maneuvered his hands, for Menasheh was the first born. (Bereishis 48:14)

When Yosef presented his sons Ephraim and Menasheh to Yaakov, Yosef gave priority to Menasheh by placing him on Yaakov's right. Switching his hands, Yaakov gave priority to Ephraim. The issue between them related to a fundamental concept of spiritual life: how a person enters the sanctity of the Shabbos.

We are commanded both to keep Shabbos and to remember Shabbos. In halacha, keeping Shabbos refers to the prohibitions of Shabbos. Remembering the Shabbos refers to the positive mitzvos of Shabbos. In Chassidic literature, keeping Shabbos is spiritually related to the nighttime, when it is dark, and remembering Shabbos, which implies an enhancement of the sanctity of Shabbos, is related to the daytime, which is filled with light. We begin Shabbos by keeping it, i.e., by avoiding work and removing all thought of the weekday activities from our minds. Remembering Shabbos relates to Shabbos day which, according to the Arizal, is the highpoint of Shabbos.

Menasheh and Ephraim correspond to these two mitzvos of Shabbos. Yosef called his first born Menasheh because "G-d has

made me forget all my hardship..." (Bereishis 41:51) Menasheh represents keeping Shabbos, the observance of the prohibitions, the turning away and forgetting of the hardships of the week. Yosef called his second son Ephraim saying, "G-d has made me fruitful in the land of my suffering." (Bereishis 41:52). Ephraim represents the enhancement of the goodness, blessing and sanctity of Shabbos which comes with observing Shabbos as a positive commandment. Yosef wanted Menasheh to be given priority in the blessing because the natural order of Shabbos observance involves keeping Shabbos (observing the prohibitions of Shabbos) by turning away from the material activities and concerns of everyday life before remembering Shabbos. But Yaakov disagreed, because a person cannot turn away from the mundane unless he has some foretaste of the sacred. In this sense, remembering Shabbos (the positive observance of Shabbos) is what makes it possible to keep Shabbos. And this is suggested in the kiddush, for we learn the mitzvah of kiddush from the mitzvah of remembering Shabbos (which pertains primarily to Shabbos day). Nevertheless, the essential kiddush is the kiddush we say at night, for it is the foretaste of the sweetness and the sanctity of Shabbos which liberates us from the worldly pre-occupations of the week.

Based on sefer *Shem Mishmuel* MD

(Living Education—Continued from page 1)

"You know", continued the Rebbe, "if we keep taking students like him, our Yeshiva will never build up a good reputation."

Let's analyze the Rebbe's approach to this new student. His first overlook is that whatever he expects from his students he should expect from himself. His comments to the Rosh Yeshiva were said in a haughty, self-righteous tone, unbefitting of a *ben Torah*. He, himself, displayed *middos* which he would have derided if he had seen them expressed by a student of his. This, in itself, invalidates his overriding opinion of Shimon's behavior.

Secondly, he did not show an interest to help Shimon improve, whether in *middos*, concentration or otherwise. Rather, the Rebbe showed that he expected to receive perfect students and have them sit as angels and faithfully accept his lesson as though it was given by Moshe Rabeinu.

This is not chinuch (education)! A teacher or Rebbe's job is to deal as effectively as possible with the students he is given. Of course, he would love to have a group of perfect students, whose only interest is to absorb with great awe every pearl of wisdom which emanates from the mouth of their Rebbe. Maybe, if our Rebbe at hand was a living example of that which he expected from his students, he would merit the above. However, in reality, even the best of Rebbes in any school system do not merit perfect students.

Rather, the Rebbe's job is as follows: to analyze the behavioral and academic level of his students, be aware of their virtues and lackings, and design a plan of expectations and reaction or punishments, in order to see that each student achieves as much as possible. If the Rebbe follows the above advice, those wonder students which he dreamed of, instead of receiving them as gifts from the administration, will develop through his own efforts, with *siyata dishmaya*. Then, he will not only feel accomplished, but will be accomplished and won't even think of complaining about his "lot".

Was Yitzchok Avinu, the great Rebbe of his generation(s), confronted with only perfect students? Of course not! Even his own son, Esav, was rampant with bad *middos*, yet we don't see Yitzchok complaining to his wife about the poor quality son (student) she gave birth to. We find exactly the opposite! While Rivkah loved Yaakov, Yitzchok loved Esav (Bereishis 25:28). Did Yitzchok not love Yaakov as well? Of course he did! However, he took the son (student) which Hashem had placed before him who needed the most guidance and tried his best to guide him down the right path, in *middos* and in Torah learning and fulfillment.

If Esav exemplified so many bad *middos*, what thread of light did Yitzchok see in him which encouraged him to try and work with Esav? Rashi says (ibid 25:27) that Esav showed that he had the ability to be exacting in the fulfillment of mitzvos. True, he used this *midah* to deceive his father, but nevertheless he still showed the ability to be exacting. The *Beis Yisrael* ("פ' תולדות תש"ט וזיאהב") explains that when Esav came to Yitzchok he had positive thoughts as well. Only when he left Yitzchok's presence, did he revert to his wicked ways.

Another good *midah* Esav exemplified was honoring his father. The Midrash says (Bereishis Rabbah 63:10) that Yitzchok loved Esav for he was always careful to save the best food and

(Continued on page 3)

(Talking Business—Continued from page 1)

the stone was there, he is liable for the damage it caused. Even if he is not the owner of the stone, he remains responsible. If someone had placed it on his lap without his knowledge, this would not change the law. Our Sages inform us (Ibid. 26b) that a person is held responsible for all damage he directly caused, albeit inadvertently. This ruling is brought down by the *Shulchan Oruch* (*Choshen Mishpot* 421:10), who mentions that a person is even liable for damage he caused in his sleep.

In our case, the last thought that entered Pinny's head when he released the second budgie was to throw it into the neighbour's soup. And yet it is possible that he would be liable for the damage he thereby caused. It all depends on the precise course of events after he released the

bird. If it flapped its wings and flew a short distance before plunging into the soup, Pinny is not liable for the damage. The moment he let go of the bird, he declared it *hefker*. It was therefore an ownerless bird which ruined the neighbour's soup. On the other hand, if the bird fell *directly* into the soup, we view this as Pinny inadvertently throwing the bird into the soup. This case would then be similar to that of Reuven inadvertently throwing a stone which was hiding in his clothes by standing up. The fact that he is unaware of the stone's presence does not exempt him from liability.

As regards kashering the pot, Pinny will always be exempt. Rendering the pot non-kosher is not a visible type of damage. When it comes to damage which is not visible (*hezek she'aino nikar*), our Sages only make a person liable if he intentionally inflicted such damage. If, as in our case, the invisible damage was caused unintentionally, there is no liability (Tractate *Gittin* 53a).

The need for kashering only arises if the soup was still hot when the bird fell in. If it was cold, one could theoretically still consume the soup after extracting the budgie. Could Pinny then argue that his neighbour needlessly threw out the soup and thereby claim exemption from payment? Rav Spitz (*Mishptei HaTorah, Bovo Kamo* No.14) asserts that this argument is invalid. Edibility is not just dependent on *kashrus*. When a live creature falls into food, it makes it unhygienic and unhealthy—and inedible. MD

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drink he had for him.

True, Yitzchok saw that Esav was not like Yaakov, but, even so he “loved” him, meaning he felt that through the few good *middos* he did express, he could eventually change his whole character and direct his great potential to serve Hashem.

This we see alluded to in *ויאהב יצחק את עשו*... — “*And Yitzchok loved Esav...*”, where the word used to express Yitzchok’s love for Esav — *ויאהב* — is written in the future tense and read in the past tense (according to biblical grammar), to signal to us that Yitzchok’s love was a desire to see Esav take the positive he already possessed and use it to affect his other *middos* in the future.

This “love” Yitzchok showed for Esav, as all of our forefather’s ways, was imbedded into the make-up of the Jewish nation for all generations and each individual can take advantage of it when need be. We too, as educators and descendants and students of Yitzchok, are commanded to “love” our weaker students as he did, and take advantage of this power of “love” which Yitzchok implanted in us to search out the good points in every student, judge his potential, and see how his good *middos* can positively affect his whole personality.

In our parsha, *Vayechi*, Yaakov’s words of *mussar* to Shimon and Levi are full of admonishment for their role in wiping out the city of Shechem and of plotting to kill Yosef. However, when he decides to curse these events, he does not curse Shimon and Levi, but their anger alone. Bad deeds and even bad *middos* alone do not discount the person behind them. Rather, lackings need to be clearly identified and then dealt with. People with lackings have value and deserve our blessing and support for they too are destined to overcome and accomplish. And thus, after blessing all his sons, except for Reuven, Shimon and Levi, the *posuk* adds in an apparently redundant wording, that Yaakov “blessed all his sons” (*Devarim* 49:28), to teach us that Reuven, Shimon and Levi were also included in their father’s blessing. On one hand admonishment, and on the other, blessing. This is the recipe for a successful educational process.

If the Rebbe mentioned above responds to this article and wants to differentiate between Yitzchok and himself, claiming that while Esav did not bother Yitzchok, his *talmidim* bother him, he merely needs to review the Gemorah in *Brachos* (10a) concerning Rebbe Meir and his neighbors. The Gemorah explains that a pack of belligerent insolents lived in the neighborhood of Rebbe Meir and caused him a lot of aggravation. Rebbe Meir was about to daven for their demise, when his wife, Bruriya, suggested that according to the reading of the *posuk* in *Tehillim* (104:35), “*יתמו חטאים...ורשעים עוד אינם*” — *The sins will come to an end...and there will no longer be wicked people*”, we learn that the object is to rid people of their sins and not to exclude them or exile them because of their lackings. Rebbe Meir conceded and then davened that they do *teshuvah*, which they eventually did.

Thus, even a teacher who has a difficult student should not despair, and should not prematurely consider expelling or excluding him from his class. Rather he should look for his good *middos*, highlight them, admonish his student for his lackings, give him a plan to help him improve and, as Rebbe Meir did for his neighbors, daven that his student should see the light and do *teshuvah*. MD

Thoughts on the Midrash

The Depths of History

The midrash explains that the parsha in which Yaakov blesses his sons is closed because “the eyes and heart of Yisrael were closed.” The idea is that what happens to the Jewish people has a deep impact; that it touches the very deepest levels of existence. The same idea is expressed when G-d tells Yaakov that he will descend with him into Egypt. G-d participates in his troubles. The exiles and redemptions of the Jewish People are

not only chapters in our national experience. They mark fundamental changes in the spirit of man, for when the Jewish people are in exile, the Divine truth which elevates the life of man is concealed, and when the Jewish people are redeemed, the heart of man is opened to the mystery of the Divine.

Based on *sefer Sefas Emes* MD

(Rav Leff—Continued from page 1)

Jews and non-Jews. It can be explained as follows: Somebody comes to your door in the middle of winter. He says: “You don’t know me, and I don’t know you. But I have a big problem. I’m going to be evicted from my apartment. My wife and are going to be out in the cold if we don’t come up with \$1,000 immediately.” You can see that he’s on the level; the guy is in tears, he really needs the money. So I give him \$100 and tell him, “Listen, I hope you find nine other people to make up the rest.” Would you consider me a good person for doing that? Sure you would.

Compare this with a similar situation: There’s a knock on the door. This time, it’s my mother: “Son, I have a big problem. Unless I come up with \$1,000 immediately, they’re going to throw your father and me out into the cold.” So I tell her the same thing. “Mom, here’s \$100, I hope you can find nine other people to help.” Would you consider me a good person for doing that? Obviously not. It’s different. Why? Because the closer the connection with the other person, the more one is expected to help.

This fundamental understanding is reflected in the Torah. The Torah mandates a certain minimum that one is expected to do for every human being. I can lend money to a non-Jew with interest. There is absolutely nothing

wrong with that. Every bank in the world takes interest. The whole economy is based on it. But when your mother asks for a loan, you don’t take interest. And when a fellow Jew comes to ask for a loan, that’s like your mother, or your brother or sister. It’s not the same as taking interest from a stranger. You are naturally expected to do more for your own flesh and blood than for others.

The same applies to saving a life. Why should I endanger my life to save somebody else’s? But if it’s a member of my family that’s drowning, that’s different. There I can be expected to take risks.

Of course, if there’s no risk involved, if the non-Jew is drowning in his bathtub and I can give him a hand, I should certainly do so. Basic rules of morality and decency apply. You cannot murder a non-Jew. You cannot steal from him. (Although there is a dispute as to whether this prohibition is of rabbinical or Biblical origin, all agree that it’s forbidden.)

G-d created the non-Jew as well as the Jew, and he must be treated with a certain level of

decency and respect.

Regarding the return of a lost article, there is a well-known saying: “Finder’s keepers, loser’s weepers.” That’s a sound philosophy, isn’t it? In the world in general it’s accepted. It’s not stealing. But if your mother lost something, you don’t think that way. MD

There’s no kiddush HaShem if they don’t know that you’re Jewish and that your Jewishness is the source of your ethical conduct.

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Halacha L'Maase
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Amen

- According to the midrash (Yalkut Shimoni 429) the wicked in *gehenom* who recite amen even once are released: In the future, G-d will be sitting in the Garden of Eden teaching Torah and all the tzaddikim will be sitting before Him. When He is done, Zerrubabel Ben Shealtiel will get up and say *yisgadal veyiskadash* and his voice will be heard from one end of the world to the other. Everyone will say *amen*; even the wicked in *gehenom*. When He hears the voices of the wicked saying *amen*, his compassion will be awakened and He will give the key to *gehenom* to Michael and Gavriel and say to them, "Go, open the gates of *gehenom* and bring them up." This teaches us how important it is to recite the Kaddish and to answer *amen*.
- When a person dies and passes on to the World of Truth, his children and family recite the Kaddish for the sake of the deceased so that the congregation can respond and recite "amen," and in the time to come all the wicked will be released from *gehenom* by the merit of their saying *amen*. So, just as we are so dedicated to reciting the kaddish for the deceased, we should listen to the Kaddish and answer *amen yehay shmei rabbah* and thereby sanctify the name of G-d in public.
- Even a child who answers *amen* has a portion in the world to come.
- After the destruction of Beis Hamikdash and the cessation of the daily sacrificial service, G-d mercifully left us in our exile a *mikdash me'at*: prayer and song and praises of G-d. Because prayer is such an important matter, a person should make an effort to pray in a synagogue, which is compared to the Beis Hamikdash because the Presence of G-d resides there. In the synagogue, his prayer will be more powerful because of the holiness of the place and because his prayer is said along with the congregation **MD**