

compulsory. הלכה כדברי האומר – And Rava said: The halachah follows the opinion of the one who says it is elective.<sup>[19]</sup> – The halachah follows the opinion of the one who says it is elective.<sup>[19]</sup>

The respective positions of Rabban Gamliel and R' Yehoshua cited above figured prominently in an incident.<sup>[20]</sup> מעשה בתלמיד אחד – The Rabbis taught in a Baraisa: תנו רבנן – THERE WAS AN INCIDENT INVOLVING A CERTAIN DISCIPLE WHO CAME BEFORE R' YEHOSHUA. אמר לו – [THE DISCIPLE] SAID TO HIM: תפלת ערבית רשות או חובה – IS THE EVENING PRAYER ELECTIVE OR COMPULSORY? אמר ליה רשות – HE REPLIED: IT IS ELECTIVE. בא לפני רבן גמליאל – [THE SAME DISCIPLE] then CAME BEFORE RABBAN GAMLIEL. אמר לו – HE SAID TO HIM: תפלת ערבית רשות או חובה – IS THE EVENING PRAYER ELECTIVE OR COMPULSORY?<sup>[21]</sup> אמר לו חובה – [RABBAN GAMLIEL] REPLIED: IT IS COMPULSORY. אמר לו והלא רבי יהושע – [THE DISCIPLE] SAID TO HIM: BUT R' YEHOSHUA TOLD ME IT IS ELECTIVE! אמר לו – [RABBAN GAMLIEL] SAID TO HIM: המתן עד שיבאו בעלי תריסין לביית המדרש – WAIT UNTIL THE SHIELD-BEARERS [i.e. Torah scholars] ENTER THE STUDY HALL and pose your question again.<sup>[22]</sup> כשבאו בעלי תריסין – WHEN THE SHIELD-BEARERS ENTERED, אמר השואל ושאל – THE QUESTIONER AROSE AND ASKED.<sup>[23]</sup> תפלת ערבית רשות או חובה – IS THE EVENING PRAYER ELECTIVE OR COMPULSORY? אמר לו רבן

RABBAN GAMLIEL REPLIED: IT IS COMPULSORY. אמר להם רבן גמליאל להקמים – IS THERE ANYONE WHO DISPUTES THIS RULING? אמר ליה רבי יהושע לאו – R' YEHOSHUA SAID TO HIM: NO.<sup>[24]</sup> אמר לו – [RABBAN GAMLIEL] SAID TO [R' YEHOSHUA]: והלא משמך אמרו לי רשות – BUT IN YOUR NAME IT WAS REPORTED TO ME that the evening Prayer is ELECTIVE! אמר יהושע עמוד על – SAID [RABBAN GAMLIEL] TO [R' YEHOSHUA]: YEHOSHUA, STAND UP ON YOUR FEET AND LET THEM TESTIFY AGAINST YOU! עמד רבי יהושע על רגליו ואמר – R' YEHOSHUA STOOD UP ON HIS FEET AND SAID: אני חי והוא מת – WERE I ALIVE AND HE [the questioner] DEAD, I would be able to deny my ruling, יכול החי להכחיש את המת – for THE LIVING ARE ABLE TO CONTRADICT THE DEAD. ועתה שאני חי והוא חי – NOW, HOWEVER, THAT I AM ALIVE AND HE IS ALIVE, היאך יכול החי להכחיש את החי – HOW CAN THE LIVING CONTRADICT THE LIVING? I am forced to confess that I issued that ruling.

The Baraisa goes on:

היה רבן גמליאל יושב ודורש – RABBAN GAMLIEL CONTINUED SITTING AND LECTURING, ורבי יהושע עומד על רגליו – AND R' YEHOSHUA REMAINED STANDING ON HIS FEET,<sup>[25]</sup> עד שרנגו כל העם – UNTIL ALL THE PEOPLE MURMURED IN indignation ואמר – AND SAID TO CHUTZPIS THE ANNOUNCER:<sup>[26]</sup> STOP! ונעמד – AND HE STOPPED.

#### NOTES

but see *Rashash* here; see *Meiri to Mishnah* 26a; see *Meromei Sadeh to Shabbos* 9b).

19. The law follows this ruling of Rava. Despite this fact, however, Jews everywhere have always prayed Maariv and accepted it upon themselves as obligatory (*Rambam, Hil. Tefillah* 1:6; see *Rif, Rashba, Rosh*). (Nevertheless, there remains a vestige of the fact that Maariv was originally elective in that when praying with a *minyan*, the *shaliach tziibur* (the one who leads the prayers) does not repeat the Maariv *Shemoneh Esrei* as he does for Shacharis and Minchah (*Mishnah Berurah* 237:1).)

20. The incident that follows is among the most famous in the Talmud. To provide the reader with some background for the story, we present a brief introduction culled from the monumental work *Doros HaRishonim* (volume 3) by R' Yitzchak Isaac HaLevi.

The period of the Mesivta of Yavneh, during which the events the Gemara is about to relate transpired, followed directly after the destruction of the Second Temple in the year 69 C.E. Realizing that the fall of the besieged city of Jerusalem was imminent and perceiving that the survival of the central Sanhedrin was critical to the nation's future, the aged *Av Beis Din* (Head of the Sanhedrin) and Torah leader of the generation, Rabban Yochanan ben Zakkai, petitioned the Roman general Vespasian to spare the city of Yavneh for the Torah scholars to gather there. This petition was granted. (The details of this story are recounted in *Gittin* 56a-b.) The Mesivta at Yavneh at which the surviving Sages subsequently convened was thus the direct successor to the Great Sanhedrin (though it lacked some of the powers of that body, such as the ability to judge capital cases).

As had been the case in previous generations, the Sanhedrin – and now the Mesivta at Yavneh – was headed by two Torah giants, the *Nasi*, or *Reish Mesivta*, and the *Av Beis Din*. The position of *Nasi* was above that of *Av Beis Din*.

At the time of his petition to Vespasian, Rabban Yochanan ben Zakkai had also requested, and been granted, that the Romans spare the family of the *Nasi*, which was descended from the royal line of David. Thus, as soon as the Mesivta began functioning in Yavneh, Rabban Yochanan ben Zakkai installed as *Nasi* Rabban Gamliel (known in history as Rabban Gamliel of Yavneh, and not to be confused with his grandfather of the same name, Rabban Gamliel the Elder), son of the previous *Nasi* Rabban Shimon (who did not survive the Destruction) and fifth in a line of *Nesim* which originated with Hillel. When Rabban Yochanan ben Zakkai subsequently passed away at the age of 120 (about eight years after the Destruction), his position as *Av Beis Din* was filled by R' Yehoshua, an older colleague of Rabban Gamliel.

The nation at this time was still reeling from the blow dealt it by the loss of the Temple. This was in addition to the enormous loss of life that

the war with Rome had brought about. Over a million Jews had perished in the siege of Jerusalem alone, and many thousands had been taken captive and sold into slavery. The old order was gone, and Jerusalem and the surrounding cities lay in ruins.

Indeed, the first few years at Yavneh were almost totally devoted to offering succor to the bleeding nation ("Said R' Elazar the son of R' Tzadok: When Rabban Gamliel and his *beis din* were at Yavneh, they were occupied with the public need and did not interrupt [even for prayer], so as not to disrupt their concentration" – *Tosefta, Berachos* 2:6.) Only later, when the situation had stabilized somewhat, did the Mesivta, which was comprised of 72 chief Sages in addition to others of immense though lesser stature, begin devoting a considerable part of its efforts to its primary function – the Torah. Among other matters, this included resolving issues of uncertainty in the orally transmitted Mishnah, deciding on matters that had been in dispute between Beis Shammai and Beis Hillel, and in general clarifying details which the upheavals of the nation had obscured. Over all of this and more, the *Nasi* presided.

It had always been important, even in pre-Destruction days, for the *Nasi* to exercise his authority. Now, however, in the aftermath of the greatest upheaval the nation had ever experienced, it was the strongly held opinion of Rabban Gamliel that the prestige of the *Nasi's* office needed to be protected even more, in order to unify the people.

Against this backdrop, the story that follows, which transpired about fourteen years after the Destruction, will be better understood.

21. [See *Sifsei Chachamim* who cites *Rama, Yoreh Deah* 242:31 regarding the propriety of asking a second halachic authority for a ruling after obtaining one first from someone else. See also *Mili D'Brachos*.]

22. Torah scholars are referred to as shield-bearers because they battle each other in Torah like warriors outfitted with shields (*Rashi* here and to *Bechoros* 36a).

Another explanation is that they shield the generation with their merit (*Tos. HaRosh*; see also *Aruch* תריס ט).

23. [*Tosafos* (*Bechoros* 36a) cite *Yerushalmi* as stating that there is an obligation to stand when asking a question regarding halachah. See also *Tzlach* and *Yoreh Deah* 246:13 with *Shach* and commentators.]

24. Out of respect for Rabban Gamliel (*Tzlach*) and to preserve the public concord (*Doros HaRishonim* *ibid.* pp. 314-16), R' Yehoshua sought to conceal his opposing ruling (cf. *Pnei Yehoshua*). See also *Menachem Meishiv Nefesh*.

25. [According to the protocol of that great assemblage one did not take his seat after rising to speak until instructed to do so by the *Nasi*.]

26. [Literally: interpreter.] The announcer would stand before the lecturer, hear the lesson from him, and repeat it to the assembled (*Rashi*).



The saga continues:<sup>[27]</sup>

אָמְרִי – They said: עַד כַּמָּה יִצְעָרֶיהָ וַיִּוִּיל – How long will [Rabban Gamliel] go on distressing [R' Yehoshua]? בְּרֵאשׁ – On Rosh Hashanah last year, he distressed him;<sup>[28]</sup> בְּכַבּוּרוֹת בְּמַעֲשֵׂה דְרָבִי צְדוֹק צַעְרִיהָ – in the matter of the firstborn in the incident with R' Tzadok, he distressed him;<sup>[29]</sup> הֵכָא נָמִי צַעְרִיהָ – here too he distresses him! תָּא וְנַעֲבְרִיהָ – Come, let us depose him!<sup>[30]</sup>

Agreeing to this, the Sages asked:

מִמָּן נִקְמִיהָ – Whom shall we appoint in his stead? לְרָבִי יְהוֹשֻׁעַ – Shall we appoint R' Yehoshua? We cannot do so, for בָּעֵל מַעֲשֵׂה הוּא – he is personally involved in the incident.<sup>[31]</sup> נִקְמִיהָ לְרָבִי אֶקִּיבָא – Shall we appoint R' Akiva? We cannot do that either, for דִּילְמָא עֲנִישׁ לִיהָ דְלִית לִיהָ זְכוּת אָבוֹת – perhaps [Rabban Gamliel] will cause punishment to befall him and he will die,<sup>[32]</sup> because he does not have the merit of righteous forefathers to protect him.<sup>[33]</sup> אֲלֵא נִקְמִיהָ לְרָבִי אֶלְעָזָר – Rather, let us appoint R' Elazar ben Azaryah, בֶּן עֲזַרְיָה – for he is wise, and he is wealthy, and he is the tenth generation from Ezra.

The importance of these attributes for the position of *Nasi* is explained:

הוּא חָכָם – He is wise, דָּאִי מְקַשִּׁי לִיהָ מְפָרְק לִיהָ – so that if he is asked something, he will be able to answer. הוּא עֲשִׂיר – He is wealthy, דָּאִי אֵית לִיהָ לְפָלְחוּי לְבִי קִיסָר אָף הוּא – so that if one is needed to deal with the house of the Caesar, he too (like Rabban Gamliel) will be able to go and deal with them.<sup>[34]</sup> וְהוּא עֲשִׂירִי לְעֶזְרָא – And he is the tenth generation from Ezra, דָּאִית לִיהָ זְכוּת אָבוֹת וְלֹא מְצִי עֲנִישׁ – so that he possesses the merit of righteous forefathers, and [Rabban Gamliel] will be unable to cause him punishment.

This choice was adopted:

אָתוּ וְאָמְרוּ לִיהָ – So they came and said to [R' Elazar ben Azaryah]: נִיחָא לִיהָ לְמַר דְּלִיחָוִי רִישׁ מְתִיבְתָּא – Is it pleasing to the master to become head of the Mesivta? אָמַר לְהוּ אִיּוּל – He said to them: I will go and consult with the members of my household.<sup>[35]</sup> אָוּל וְאָמְלִיךְ בְּרַבִּיתָּהּ – He went and consulted with his wife. אָמְרָה לִיהָ – She said to him:

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27. [What follows appears to be the Gemara speaking rather than the Baraisa.]

28. This is a reference to an incident cited by the Mishnah in *Rosh Hashanah* (25a) wherein Rabban Gamliel and R' Yehoshua disagreed as to the proper day for Rosh Chodesh. When Rabban Gamliel heard that R' Yehoshua disputed his decision, he was fearful that this would lead to a division among the people, with some celebrating the High Holy days and festivals on one day and the others on the next day. Indeed, according to R' Yehoshua, Yom Kippur would fall a day later than it would according to Rabban Gamliel. Therefore, Rabban Gamliel ordered R' Yehoshua to demonstrate publicly his acceptance of the *Nasi's* (i.e. Rabban Gamliel's) authority and treat that day as an ordinary weekday by coming to him carrying his walking stick and his money, both of which are prohibited on Yom Kippur. See *Megadim Chadashim* here and *Doros HaRishonim* ibid. p. 305.

29. The Gemara in *Bechoros* (36a) relates that R' Tzadok, a Kohen, had a *bechor*, a firstborn kosher animal, which he testified had become blemished unintentionally. [The law is that a *bechor* must be given to the Kohen, who in turn must bring it as a sacrifice. In the absence of the Temple, the Kohen must wait until the *bechor* accidentally develops a blemish. He may then slaughter and eat it even outside the Temple (see *Bechoros* 34a-35a). The Kohen owner, however, having a monetary interest in the *bechor's* being declared permissible, is not believed to say that the blemish occurred accidentally.] Rabban Gamliel and R' Yehoshua disputed the status of the animal [since R' Tzadok was not only a Kohen but also a Torah scholar, who is not really suspect of lying], with R' Yehoshua permitting the animal for slaughter and Rabban Gamliel prohibiting it. The Gemara there relates that a sequence of events similar to the present one transpired wherein Rabban Gamliel forced R' Yehoshua to remain standing while he (Rabban Gamliel) continued the lecture.

30. As alluded to in the introduction to this story, Rabban Gamliel's actions were motivated not by concern for his own honor but because he considered strong use of the authority of *Nasi* necessary for the nation in its state at that time. [In another incident (less than two years before – see *Doros HaRishonim* ibid. pp. 334-5), the Mesivta, headed by Rabban Gamliel, had ostracized the great R' Eliezer for not submitting to the majority view of the Sages in a particular case. In regard to his actions at that time, Rabban Gamliel had declared, "O Master of the Universe! It is clearly known to You that I did this not for my own honor . . . but so that dissension should not spread in Israel!" (*Beve Metzia* 59b).] The majority of the Sages, however, did not approve of the harsh treatment of such an eminent Torah scholar as R' Yehoshua, no matter what the motive (*Doros HaRishonim* ibid. p. 318). [Even so, the initial outburst at Rabban Gamliel's action appears to have come from the *tz*, the people who had come to hear the lecture, not from the Sages themselves (ibid. pp. 324-6).]

31. His appointment would thus cause Rabban Gamliel inordinate anguish (*Rashi* see also *Meiri*).

Another explanation: It would appear as if R' Yehoshua had argued with Rabban Gamliel only for the purpose of having him removed from his post, so that R' Yehoshua himself could take over (*Maharsha*; cf. *Rashash*).

32. *Rashi* cited in *Ein Yaakov* (not extant in our versions). [In his anguish Rabban Gamliel might cry out to God, Who would then punish Rabban Gamliel's replacement.]

33. [R' Akiva was descended of proselytes (see *Rav Nissim Gaon*). Others say that Yosef, R' Akiva's father, was himself a proselyte (*Rambam* in introduction to *Yad HaChazakah*).]

34. Literally: serve. [Only a man of wealth was able to deal effectively with the Roman government.]

35. See *Sifsei Chachamim* and *Maharatz Chayes*.



לְּדָמָא מַעֲבִירִין לָךְ – Perhaps they will eventually remove you as well from the post. אָמַר לָהּ – He said to her: לְשִׁתְּמַשׁ אֵינֶשׁ – Let a person use a precious glass cup one day, וְלִמָּחָר לִיתְבַּר – and the next day let it break.<sup>[1]</sup> אָמְרָה לֵיהּ – She said to him: לֵית לָךְ חִינֵרְתָא – But you have no white hairs in your beard, and it is befitting for a lecturer to be older. הָהוּא יוֹמָא בְּרַ תְּמִנִי סְרִי שְׁנֵי הָהּ – That day [R' Elazar ben Azaryah] was eighteen years old. אֶתְרַחֵשׁ לֵיהּ נִסָּא – A miracle occurred for him וְאֶהְדְּרוּ לֵיהּ תְּמִנִי סְרִי דְרֵי חִינֵרְתָא – and eighteen rows of hair in his beard turned white.

The Gemara comments:

הָיִינוּ דְקָאָמַר רַבִּי אֶלְעָזָר בֶּן עֲזַרְיָה – It was in reference to this that R' Elazar ben Azaryah said:<sup>[2]</sup> "I AM LIKE A SEVENTY-YEAR-OLD MAN," – וְלֹא בֶן שִׁבְעִים שָׁנָה – and he did not say "I am a seventy-year-old man."<sup>[3]</sup>

The Gemara relates the vast changes that the appointment of R' Elazar ben Azaryah brought about:

אִתּוּ הָיוּ סִלְקוּהוּ לְשׁוּמֵר – It was taught in a Baraisa: אוֹתוּ הָיוּ סִלְקוּהוּ לְשׁוּמֵר – THAT DAY THEY REMOVED THE DOORKEEPER of the study hall – וְנִתְּנָה לָהֶם רְשׁוּת לְתַלְמִידִים לִיבְנוֹס – AND PERMISSION WAS GRANTED TO all THE STUDENTS TO ENTER. שְׁהָיָה רֶבֶן גַּמְלִיֵּאל – FOR RABBAN GAMLIEL, when he was *Nasi*, WOULD PROCLAIM AND SAY: כָּל תַּלְמִיד שֶׁאֵין תּוֹכוֹ בְּבֵרוֹ – ANY STUDENT WHOSE INSIDE IS NOT AS HIS OUTSIDE, i.e. who is not sincere,<sup>[4]</sup> לֹא יִבְנוֹס לְבֵית הַמְּדִרָשׁ – MAY NOT ENTER THE STUDY HALL!

The Gemara continues the story:

הָהוּא יוֹמָא אִתּוֹסְפוּ בִּמְה סִסְקִלִי – That day many benches were added to the study hall to accommodate the great influx of students who entered because of the new policy. אָמַר רַבִּי יוֹחָנָן – אֲבָהָה יוֹסֵף בֶּן דֹּסְתַאי וְרַבִּי יוֹסֵף בֶּן דֹּסְתַאי וְרַבִּי יוֹסֵף בֶּן דֹּסְתַאי – Abba Yosef ben Dostai and the Rabbis disagree about the matter. אָמַר אֶתְרַחֵשׁ אַרְבַּע מֵאוֹת סִסְקִלִי – One says four hundred benches were added – וְאָמַר אֶתְרַחֵשׁ שְׁבַע מֵאוֹת סִסְקִלִי – and one says

seven hundred benches.

רַבִּינָא – Seeing this development, Rabban Gamliel was dispirited. אָמַר – He said: לְדָמָא חָס – Perhaps, God forbid, I have withheld Torah from Israel!<sup>[5]</sup> אָמְרוּ לֵיהּ בְּחִלְמִיָּה חֲזָבִי חִינֵרִי – They showed him in his dream white pitchers filled with ash.<sup>[6]</sup>

The Gemara comments:

בִּלְבָד – But that was not the case i.e. this was not truly a Heavenly sign that Rabban Gamliel was correct; הָיָה לְיִתְרוֹבִי – it was only to put his mind at ease that they showed him this.<sup>[7]</sup>

The consequences of the new admissions policy were far reaching:

אֶתְרַחֵשׁ – Tractate EDUYOS WAS TAUGHT ON THAT DAY. – וְכָל הֵיכָא דְאָמְרִין בּוֹ בְּיוֹם – And any place wherein the expression "on that day" is used<sup>[8]</sup> – הָהוּא יוֹמָא הָהּ – it is a reference to that day, i.e. the day that R' Elazar ben Azaryah was installed as *Nasi*. וְלֹא הָיָה הַלְכָּהּ – And there was not a single law that had thus far been left unresolved in the study hall which they did not then resolve.<sup>[9]</sup> וְאֶפְרָיִם גַּמְלִיֵּאל לֹא מָנַע – And even Rabban Gamliel did not withhold himself from the study hall even for a moment.<sup>[10]</sup> – דִּתְנִין – As we learned in a Mishnah:<sup>[11]</sup> בּוֹ בְּיוֹם – THAT DAY, YEHUDAH, AN AMMONITE CONVERT, CAME BEFORE THEM IN THE STUDY HALL. – מָה אָנִי לְבֵית הַקְּהָל – WHAT is the law as far as whether I MAY ENTER THE CONGREGATION, i.e. may I marry a Jewish woman?<sup>[12]</sup> – אָמַר לוֹ רֶבֶן גַּמְלִיֵּאל – RABBAN GAMLIEL SAID TO HIM:<sup>[13]</sup> אָסוּר אֵתָּה לְבֵית הַקְּהָל – YOU ARE FORBIDDEN TO ENTER THE CONGREGATION. – אָמַר לוֹ רַבִּי יְהוֹשֻׁעַ – SAID R' YEHOShUA TO HIM: מוֹתֵר אֵתָּה לְבֵית הַקְּהָל – YOU ARE

## NOTES

1. This was a popular folk saying (*Rashi*). I.e. if I have the opportunity to serve in the position of *Nasi* now, let me do so and not worry about the future.

2. In a Mishnah above, 12b. [This Mishnah is recited on Pesach night as part of the Haggadah.]

3. [The passage in the Mishnah reads in full: "R' Elazar ben Azaryah said: I am like a seventy-year-old man, yet I was not successful in proving that the Exodus from Egypt should be mentioned [i.e. that one is required to recite the third chapter of the *Shema*, which mentions the Exodus] at night, until Ben Zoma expounded it." R' Elazar ben Azaryah remarked that he was like a seventy-year-old man, but not that he was seventy years old, because he was actually only eighteen at the time.] The day that Ben Zoma made his exposition was the day that R' Elazar ben Azaryah was installed as *Nasi* (*Rashi* to Mishnah 12b). See also above, 12b note 38.

4. I.e. he studies Torah but does not possess fear of Heaven (*Maharsha*, based on *Yoma* 72b).

5. And I will be punished for this (*Rashi*).

6. As if to say: Just as the pitchers are beautifully white on the outside yet on the inside contain worthless ash, so the students appear worthy but are not truly so (*Maharsha*).

7. Since Rabban Gamliel had been motivated by pure intentions, God wished that he not feel despondent. In truth, however, his policy was in error.

Rabban Gamliel's policy had been in line with the Talmudic dictum (*Chullin* 133a): "Whoever teaches an unworthy student is as if he throws a stone at *Markulis*." [The idol *Markulis* was worshiped by throwing stones at it. Thus, one who throws a stone at *Markulis* with the intent to disgrace it has in fact unwittingly done the very opposite of disgracing it. So too one who teaches Torah to an unworthy student is actually doing a disservice, for the student will put the Torah to improper use (*Maharsha* *ibid.*).] R' Elazar ben Azaryah, however, felt that this applies only to where the student is *known* to be unworthy. Where his character cannot

be determined, he should be accepted (*Tos. R' Yehudah HeChasid; Rambam, Hil. Talmud Torah* 4:1 with *Kesef Mishneh* and *Lechem Mishneh*; cf. *Aruch HaShulchan, Yoreh Deah* 246:21).

8. Such as in the last four Mishnahs of the fifth chapter of *Sotah* and in several Mishnahs in the fourth chapter of *Yadayim*.

9. The great number of new students occasioned such intensified study and discussion that many questions that had previously vexed the Rabbis were resolved then (*Rashi*). Hence, the numerous expositions attributed to "that day."

[*Doros HaRishonim* (III pp. 318-23) argues forcefully that the expression *bo bayom*, "on that day," does not refer to a single day (the day on which R' Elazar ben Azaryah was installed as *Nasi*) but rather to a longer period which began on that day. Furthermore, he brings numerous proofs (*ibid.* pp. 216 ff.) that in stating that "Eduyos was taught on that day," the Baraisa does not refer to the entire tractate but only to the last three chapters (whose Mishnahs begin with the words "So-and-so testified"). The earlier chapters, although also formulated in Yavneh, were arranged before the incident with Rabban Gamliel and R' Yehoshua. On both these points, however, he is (at his own admission) in dispute with the Rishonim (see, for example, *Rambam to Eduyos* 2:10).]

10. So as not to lose a moment of Torah learning (*Rambam to Yadayim* 4:4; cf. *HaKoseiv in Ein Yaakov*).

11. *Yadayim* 4:4. Scripture states (*Deuteronomy* 23:4): An Ammonite and a Moabite shall not enter the congregation of Hashem, even their tenth generation shall not enter the congregation of Hashem, to eternity. This is interpreted to mean that an Ammonite or Moabite man, even after he converts, may not marry a Jewish woman ("enter the congregation of Hashem").

See *Tos. Yom Tov and Tiferes Yisrael* to the Mishnah in *Yadayim* for explanations as to why the convert in this case felt that he should be permitted to enter the congregation.

13. [This proves that Rabban Gamliel was in the study hall on that day.]







cinders?"<sup>[27]</sup> אָמַר לוֹ רַבִּי עֲקִיבָא – R' Akiva said to him: רַבִּי בְּלוּם עָשִׂינוּ – R' Yehoshua! You are appeased? אֵלָא בְּשִׁבְלִי כְּבוֹדָךְ – Did we do this [remove Rabban Gamliel from the office of *Nasi*] for any reason other than your honor? לְמָחָר אַנִּי וְאַתָּה נִשְׁכָּבִים לְפָתוֹר – Tomorrow you and I will arise to his [Rabban Gamliel's] door.<sup>[28]</sup>

The Sages ponder their options:

אָמְרוּ – They said: הֵיכִי נַעֲבִיר – How shall we do this? Shall we remove [R' Elazar ben Azaryah] completely from office? We cannot do that, גַּמְרִי מַעֲלִין בְּקֶדֶשׁ וְאֵין מוֹרִידִין – for we have a tradition that in matters of sanctity we elevate but do not lower. Therefore, once R' Elazar ben Azaryah has been elevated to the position of *Nasi*, he cannot be demoted. שָׁבַת מִרְּחַד שָׁבַת מִרְּחַד – Shall one master lecture one week and the other master one week, i.e. should they alternate? This arrangement too is unacceptable, for אֶתִּי לְקַנְאוֹ – it will lead to jealousy. אֵלָא לְדַרְשׁוֹ רַבִּין גַּמְלִיאֵל תְּלָתָא שְׁבָתֵי וְרַבִּי – Rather, let Rabban Gamliel lecture three weeks and R' Elazar ben Azaryah one week.<sup>[29]</sup>

The Gemara comments:

וְהָיָה דָּאמַר מִרְּחַד – And this is the meaning of that which the master said in a Baraisa: שְׁבַת שְׁלֵמִי הָיְתָה – whose week was

IT WAS THAT OF R' ELAZAR BEN AZARYAH.<sup>[30]</sup>

The Gemara concludes:

וְאוֹתוֹ תַלְמִיד רַבִּי שִׁמְעוֹן בֶּן יוֹחָאי הָיָה – And that student [who originally asked the question that sparked the entire incident] was R' Shimon ben Yochai.<sup>[31]</sup>

Our Mishnah said:

וְשֵׁל מוֹסַפִּין כָּל הַיּוֹם – AND [THE PRAYER] OF MUSSAF may be recited THE ENTIRE DAY.

The Gemara qualifies this ruling:

וְנִקְרָא פּוֹשֵׁעַ – But he [one who prays Mussaf late in the day] is called negligent.<sup>[32]</sup>

הָיוּ לִפְנֵי שְׁתֵּי – The Rabbis taught in a Baraisa: תְּנוּ רַבָּנִין – If ONE HAD BEFORE HIM TWO PRAYERS to recite, אַחַת – ONE OF MINCHAH AND ONE OF MUSSAF, שֶׁל מִנְחָה וְאַחַת שֶׁל מוֹסַף – HE PRAYS THAT OF MINCHAH first AND AFTERWARDS THAT OF MUSSAF, שׁוֹ מִנְחָה וְאַחֲרָיו – FOR THIS ONE [Minchah] IS more FREQUENT WHEREAS THIS ONE [Mussaf] IS NOT as FREQUENT.<sup>[33]</sup> רַבִּי יְהוּדָה – R' YEHUDAH SAYS: שֶׁל מוֹסַף וְאַחֲרָיו – HE PRAYS THAT OF MUSSAF first AND AFTERWARDS THAT

# NOTES

27. I.e. ashes from burnt wood. One who has become *tamei* from a human corpse can only become *tahor* again by being sprinkled with a solution of spring water and the ashes of a *parah adumah* (Red Cow – see *Numbers* 19:1-22). The use of any other water or ashes in compounding the solution renders the solution worthless.

The process of sprinkling was usually (although not necessarily – see *Rashash*) performed by a Kohen, who by definition is also the son of a Kohen. Thus with this second statement R' Yehoshua again intimated that the office of *Nasi* ought to be returned to Rabban Gamliel, who was the descendant of the previous *Nesiim* (see *Ritva*).

*Maharsha* offers a different interpretation of R' Yehoshua's message. In his first parable, R' Yehoshua had used the robe-wearer to represent Rabban Gamliel. In the present simile, the sprinkler represents R' Elazar ben Azaryah. R' Yehoshua intimated to R' Elazar ben Azaryah: Just as one who is not a Kohen dare not assume the duties of a Kohen (represented by the sprinkler), so too you should leave the office of *Nasi* to the royal family of Rabban Gamliel.

28. To inform him of his reinstatement.

29. Since by right Rabban Gamliel should have been reinstated as *Nasi* without R' Elazar ben Azaryah, and the only reason R' Elazar ben Azaryah was kept in his position was because of the principle that in matters of sanctity we do not descend, it was felt sufficient to allow him to lecture only once a month (*Iyun Yaakov*; see also marginal gloss).

Other texts read: Let Rabban Gamliel lecture for two weeks and R' Elazar ben Azaryah for one (*Menoras HaMaor* §62; see *Ein Yaakov*).

30. In *Chagigah* 3a, a Baraisa is cited in which it is related that two students of R' Yehoshua once visited him in his home in Pekiin [after they had arrived from Yavneh]. He asked them, "Whose week was it?" and they responded, "The week of R' Elazar ben Azaryah." This dialogue, which without our Gemara is unintelligible, is now understood. R' Yehoshua asked, "Whose turn was it to lecture in the *Mesivta*?" [since two *Nesiim* alternated at this]. They responded, "The turn of R' Elazar ben Azaryah."

31. [It has been suggested that the identity of the student was not revealed at the beginning of the episode because the Gemara did not wish to associate the name of a righteous person with the terrible dispute that ensued. The Gemara therefore waited until it was related that the matter was settled amicably to mention the student's name (*Be'er Mayim Chaim*, cited by *Beis Yosef* on *Berachos*).]

32. If he prays later than the end of the seventh hour (*Rambam*, *Hil. Tefillah* 3:5). This is because the preferred time for offering the *mussaf* sacrifice is within seven hours (see *Mishnah Berurah* 286:2 in the name of *Levush*).

33. And we have a principle that when a person has two mitzvos to perform, one more frequent and one less so, the frequent one takes

precedence (*Zevachim* 89a; see also *Zevachim* 91a).

Some assert that this applies only when one must recite both Prayers now, such as where one is going to attend a wedding feast and fears that he will not have the time or the presence of mind to pray Minchah later. Since in this case he must pray both Prayers now, Minchah takes precedence, because it is the more frequent of the two. Where, however, one has the time to pray Minchah later, he should follow the usual sequence and pray Mussaf before Minchah (*Tosafos* in the name of *Ri*). Others dispute this rule and maintain that the principle of giving precedence to the more frequent Minchah Prayer applies in all cases. See *Shulchan Aruch*, *Orach Chaim* 286:4 for further discussion.

[*Rashi* adds that once the time for Minchah arrives, one should recite that Prayer first so as not to be called negligent over Minchah as well. The Acharonim are bothered by why *Rashi* needs to give this reason, since the Gemara has already given another reason, that Minchah is the more frequent Prayer.

*Tzlach* suggests the following explanation: Although R' Yehudah certainly agrees that a more frequent mitzvah takes precedence over a less frequent one, and Minchah is more frequent than Mussaf, he still maintains that one should recite Mussaf first, since the time for Mussaf will elapse before that of Minchah. Thus, we see that the time factor overrides the advantage of frequency. If so, even the Rabbis, who while maintaining that Mussaf may be recited all day agree that one who recites it after seven hours is considered negligent, should also agree that before the seventh hour Mussaf should be recited before Minchah, so as not to be considered negligent for Mussaf. Why, then, do they say that Minchah should be recited first? (Of course if it is already after the seventh hour this question does not apply, because in that case the person is *already* negligent for Mussaf. However, since R' Yehudah is clearly discussing a case of where it is before the end of the seventh hour – since according to him this is the only situation in which Mussaf and Minchah overlap – it is obvious that the Rabbis, who dispute R' Yehudah, are referring to this case as well.)

To answer this question *Rashi* explains that by delaying Minchah one will be called negligent over this Prayer as well. Although there is still plenty of time to recite Minchah, perhaps *Rashi* subscribes to *Tosafos'* view (cited in the beginning of this note) that where one is not pressed for time in regard to Minchah, the fact that this is the more frequent Prayer does not dictate that it be recited first. Thus, *Rashi* assumes that the Gemara must be discussing a case in which the person will not have much time for Minchah later. In such a situation one who delays Minchah will be considered negligent, just as he is for Mussaf. Since the negligence factor applies equally to both Prayers, the principle of frequency becomes operative and Minchah must be recited before Mussaf. For further discussion of *Rashi's* comment here, see cf. *Rosh Yosef*, *Divrei David*, *Rashash*, *Pnei Shlomo* and *Sifsei Chachamim*.]