



The Greater Washington Community Kollel

# SHABBOS DELIGHTS

## TORAH MINUTE

IN MEMORY OF RABBI KALMAN WINTER ZT" L

**It is an honor to present this week's Torah Minute from our archives. The following was penned by our founder, Rabbi Kalman Winter ZT" L.**

In chapter 23, verse 2 of this week's Torah reading, Mishpatim, we learn "after the majority you shall decide." Thus, in Jewish law, matters brought before the court were decided by majority rule. One of the greatest sages, Rabbi Yehonasan Eybeschitz, was asked by a gentile theologian the following question. The Torah says to follow the majority. Given that the Jewish nation is a minority and the majority has a different belief and faith, why do the Jews not accept the prevailing faith of the majority?

Rabbi Eybeschitz answered that the principle of following the majority applies only when the matter is in doubt. In the face of certainty, a matter is not subject to majority rule. For example: if there are nine kosher butcher stores and one non-kosher store in a city and a box of meat is found in the street, the meat is ruled to be kosher. However, if on the box the label reads Perdue, would anyone imagine to deem it kosher? Similarly, we have no question as to our faith and belief. Our Torah, transmitted faithfully from parent to child for over 3300 years, is not subject to majority rule. How fortunate we are to be that additional link in the golden chain from Sinai!

**Wishing you a Good Shabbos!**

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## TABLE TALK

### Point to Ponder

**Then his master should bring him... to the door or the doorpost, and his master shall bore his ear with the awl... (21, 6)**

*Why is the ear bored? The ear heard on Har Sinai, "Do not steal" and he stole, therefore his ear should be bored. (Rashi)*

According to Rashi's reason, any person who transgresses any of the Commandments which were given on Har Sinai should have his ear bored. Why only in regard to one who steals?

In addition, according to Rashi, the ear should be bored after the theft took place either before or after he is sold. Why is the ear only bored after he says that he wants to remain by his master?

### Parsha Riddle

**Where in this parsha do we see that the Torah is concerned even for the dignity of a thief?**

Please see next week's issue for the answer.

**Last week's riddle:**

**How many of the 613 mitzvahs can we perform nowadays?**

**Answer: 270. The others can only be performed if the Bais Hamikdash is standing (Chofetz Chaim).**

## HATORAH V'HAMITZVAH

### HALACHA INSIGHTS FROM THE PARSHA

In Torah law, there are five civil claims that a victim of assault has against his assailant, four of which appear in *parashas Mishpatim*:

If men quarrel and one strikes his fellow ... for his lost time shall he pay, and he shall provide for healing. (21:18-19)

These are the claims of *sheves* – income lost by the victim while recuperating from his injury – and *ripui* – the cost of his medical care.

An eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot; a burn for a burn, a wound for a wound, a bruise for a bruise. (21:24-25)

The Oral Law explains that these prescriptions are not to be taken literally; rather, these are the claims of *nezek* – the victim's permanent loss of earning power due to irreversible injury, as measured by the decrease in the price that would be paid to purchase him as a slave, and *tza'ar* – pain, as measured by the amount someone would pay to avoid the pain in question. (*Bava Kama* ch. 8)

(The fifth claim, *boshes* – humiliation, does not appear in *parashas Mishpatim*.)

In the modern era, the amounts of tort compensation awarded by courts will often far exceed the more limited amounts prescribed by *halachah*. Contemporary authorities discuss whether a Jewish victim of a Jewish assailant is entitled to these greater amounts, and whether he is permitted to pursue such claims in secular court (despite the general obligation to adjudicate disputes in *Beis Din*).

In a case of obstetrician malpractice that resulted in a baby being born with serious defects, R. Mendel Shafran ruled that the child's parents may sue the physician for whatever they are entitled to under the law, on various grounds, including the argument that in our society, a physician assumes malpractice liability (as defined by the law) as a condition of his authorization to practice, and accordingly, "anyone who hires a physician does so under the assumption that he will be responsible for injuries, and any physician who is hired to provide treatment is liable for any injuries that he causes."

R. Zalman Nechemia Goldberg, however, disagreed, arguing that the doctrine of *minhag* (prevailing custom) is properly utilized to clarify the precise terms of explicitly stipulated contractual obligations, but should not be invoked to create entirely new obligations (*Umka de-Dina* [5766] pp. 66-68).

PRESENTED BY

**RABBI YITZHAK GROSSMAN, ROSH CHABURAH**

## KIDS KORNER

### Who Am I?

#### #1 WHO AM I?

1. I am for rings.
2. I am for remaining an *eved*.
3. I am for not listening.
4. Doorway.

#### #2 WHO AM I?

1. I am for the eye.
2. I am for the tooth.
3. I create freedom.
4. I am for the slave.

#### Last Week's Answers

**#1 Yisro** (I added, I loved the Torah, My conversion got me a letter, I was an advisor.)

**#2 Shabbos** (I am for the seventh, I was the fourth, Two in one, Sanctify and enjoy me.)

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**Beginning a new topic this Monday, Jan 31  
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