

שבת דינין קבועים בכל יום –

Where the courts of law are in session every day

OVERVIEW

taught that the rule of ' is effective from the time of onward since the " are in session only on Mondays and Thursdays; however before , when the " was in session every day, a may be married any day. It seems that instituted that the " should not be in session that often. clarifies what accomplished.

asks:

ואם תאמר וכי תיקן עזרא שלא יהו בתי דינין קבועים בכל יום אלא בב' ובה' בלבד¹ -
And if you will say; and did indeed institute that the בתי דינין should not be in session every day, but only on 'ב' ו'ה'!

has an additional difficulty:

ועוד קשה דאמרינן בשבת (דף קכט,ב ושם) מי שיש לו זכות אבות יקז² בב' ובה'³ -
And there is an additional difficulty; for the גמרא states in שבת, only 'he who has the merit of his ancestors should have bloodletting on 'ב' ו'ה', but not anyone else -

וכי קודם תקנת עזרא לא היו מקיזין כל עיקר⁴ -
Is it indeed so that before this תקנת עזרא they were not מקיז at all?!

answers:

ואומר רבינו תם דקודם תקנת עזרא לא היו קבועים בכל יום -
And the ר"ת answers; that before תק"ע the "ב"ד was not in session every day -
אלא כשהיו צריכין לשום דין היו יושבין בכל יום ויום⁵ -
But rather whenever a ruling was necessary the "ב"ד would convene on

¹ If the prevailing custom was that "ב"ד was in session every day, why would עזרא enact that they should only be in session on Mondays and Thursdays?!

² One of the medical procedures (in those days) was bloodletting.

³ The גמרא there says because on 'ב' ו'ה' the שלמעלה ושלמטה are in session (the שלמעלה is always in session) and since it is a דין his עבירות are remembered (see רש"י there "ד"ה שב"ד), and unless he has זכות אבות it is dangerous for him to be מקיז דם.

⁴ Before תק"ע the "ב"ד (שלמטה) was in session every day (as was the שלמעלה [see footnote # 3]), so every day if one did not have זכות אבות he would not be מקיז דם. This seems very strange.

⁵ It will be necessary to say that when the גמרא writes שבת דינין קבועין בכל יום it means they would convene any day if necessary, but they were not scheduled to convene every day

whichever day it was; there was no set day when בי"ד was in session -

ועזרא תיקן⁶ שיהיו קבועין בב' ובה' וכל הרוצה לדון יבא וידון -

And עזרא **instituted that** בי"ד **should convene on** every ב' וה' (regardless if there was anything pending) **and whoever wanted a ruling can come and be judged -**

והיו יכולין להקיז בכל יום קודם תקנת עזרא כיון שלא היו קבועים -

And so therefore **before** תק"ע **they could be** מקיז דם **every day**, since בי"ד **was not scheduled to convene** (it was not such a severe יום הדין and it would not pose a danger).

תוספות offers an alternate answer:

ורבינו יצחק תירץ שלא היו קבועים תחלה אלא בעיר אחת ועזרא תיקן בכל עיר ועיר בב' ובה':

And the ר"י **answered that initially** before תק"ע the בי"ד **would not convene** everywhere, **but rather only in one** major city (every day⁷),⁸ **and** עזרא **instituted that** the בי"ד **should convene in every city on** ב' וה'.

SUMMARY

Before תקנת עזרא the בי"ד would either meet (any day) when the need arose, or they would only meet in one city, but not in all cities as it was after תק"ע.

THINKING IT OVER

According to the ר"י did the תק"ע change anything in the city where בי"ד would convene every day?⁹ If עזרא did change it to ב' וה', the question remains why would עזרא change it, and if not, then a בתולה should be able to marry there every day?¹⁰

⁶ Since the בי"ד had no schedule it took time to convene the בי"ד, and it was a bother (for the דיין), however with the תק"ע, the בי"ד was already in session and no time was wasted.

⁷ See 'Thinking it over'.

⁸ There was therefore no danger to be מקיז דם since בי"ד was not convened in every city; only in select larger cities.

⁹ See footnote # 7.

¹⁰ See שטמ"ק.