

OVERVIEW of the Daf

1) The property of an idolater (cont.)

R' Nachman explains to R' Huna why he granted the field to the one who made the chazakah, rather than R' Huna, who was the one who purchased the land from the idolater.

Others also rule that if one Jew purchases land from an idolater and another makes a chazakah on that land, the land is given to the one who made the chazakah.

2) Secular law

Rabbah reports in the name of Shmuel three halachos that result from secular law.

A dispute is presented regarding the third law concerning the acquisition of property that belonged to someone who was delinquent paying his taxes.

The view that secular law authorizes the confiscation of the property of one who was delinquent in paying his head tax is unsuccessfully challenged.

R' Ashi reports in the name of Rava's scribes that the law allows the confiscation of the property of one who was delinquent paying his head tax but R' Ashi rejects their opinion as being factual.

R' Ashi discusses whether someone unemployed must carry a share of the city's tax burden.

3) Acquiring the property of a deceased convert (cont.)

R' Assi in the name of R' Yochanan rules that the boundary and the chatzav plant divide the field of a deceased convert in two but not for the purpose of peah and tum'ah.

Ravin in the name of R' Yochanan said that the boundary or the chatzav plant divides the field even for peah and tumah.

The Gemara explains the relevance of these matters in the context of peah and tumah.

It seems from Ravin that the boundary and the chatzav plant do not divide the field for purposes of Shabbos.

Rava disagrees and asserts that it divides the property even for purposes of Shabbos and begins to explain the relevance of this matter for Shabbos. ■

Distinctive INSIGHT

Paying the tax to the officers of the king

ואמר רב אשי פרדכת מסייע מתא, והני מילי דאצילתיה מתא

Rav Ashi presents some laws regarding payment of the tax which is collected from the city dwellers by the king.

Rashbam explains that a פרדכת is a person who is idle. He does not work, he does not learn, and he is not involved in the general welfare and upkeep of the city. Rav Ashi explains that this person must contribute to the general tax which is levied against the city by the king. When the officers of the king approached him and demanded that he pay his share of the tax, he excused himself by saying that he had no money. The officers let him go, but they continued to collect the tax, including his share, from the other citizens of the city. This resulted in the amount given by other citizens to be increased by the amount this person could or would not pay. The rule of Rav Ashi is that this man is still obligated to pay his share and to reimburse the other people of the city who paid for him.

Rabeinu Chananel explains that the פרדכת would pay "the little that he has." שו"ת רשב"ש understands that this means that it is not nec-

essary for this person to pay back the full amount that was demanded from him by the king's officers, but only a portion of it. He sees that this is, in fact, indicated in the words of Rav Ashi himself, as he says that this person must be "מסייע מתא - assist the city in its burden," rather than pay his full share. It is also evident that this indigent fellow does benefit somewhat by asking that the officers of the king exempt him from paying the tax. If, however, he would still be obligated to pay the full amount, this would result in his gaining nothing in his request to be released from paying.

Mahara"m and Terumas HaDeshen also note that the פרדכת need not repay the full amount of the tax which was paid on his account, and that he should only pay an amount determined by a committee of the city residents. Aruch writes that he should pay whatever he is able to afford, and יד רמה writes that he should pay half of what was originally expected from him.

Tur (C.M. 163) writes that the פרדכת must repay his full share of the tax to those who paid for him. שו"ת רשב"ש explains that there is no disagreement here between Rabeinu Chananel and Tur. Rabeinu Chananel, who said that he pays what he can is speaking about a case where he was exempted by the officers of the king, and the other citizens of the city were not expected to pay his share for him, while Tur is speaking about a case where the פרדכת was released from paying, but the officers then placed his share of the tax on the other people in the city. In this case, he would have to pay back that which he caused them to lose. ■

Today's Daf Digest is dedicated
 By the Okner family
 In memory of their grandfather
 Dr. Peter Harry Okner
 ר' פנחס הערש בן ר' שמואל, ע"ה

HALACHAH Highlight

The parameters of which laws are included in דינא דמלכותא דינא

ואריסותא דפרסאי עד מי שנין

The chazakah on Persian does not happen until forty years have passed

Rishonim debate which laws decreed by a king are included in the dictum of דינא דמלכותא דינא – the law of the land is binding law. According to some authorities,¹ a king's authority only extends to those laws that provide a direct benefit for him but those laws that do not provide the king with direct benefit are outside the parameters of his authority. Other authorities² disagree and recognize a king's authority even for those laws that do not provide benefit for the king.

Our Gemara seems to support the position that all laws enacted by the king are binding. The Gemara rules that one cannot establish a chazakah on Persian land in less than forty years. The basis for this ruling is the law, enacted by the Persian king, that a chazakah cannot be established in less than forty years. Such an enactment does not provide the king with any benefit and nevertheless the Gemara recognizes the enactment as binding.

Another proof to this position can be derived from an earlier Gemara (54b) that states that one cannot acquire land without a contract since the king enacted that all acquisitions of land must be performed with a contract. We see again that laws enacted by the king are binding even though

REVIEW and Remember

1. Why does it take forty years to make a chazakah on the property of Persians?
2. When is someone who is unemployed obligated to pay his share of the tax burden?
3. What is the case of tum'ah where a divider is relevant?
4. What is the point of dispute between Ravin and Rava?

they do not provide him with direct benefit. Rashba³, however, argues that this is not a definitive proof. It could be that the enactment is for the benefit of the king. If it were possible for people to purchase land by means of chazakah it would be difficult for the king to collect taxes since there would be people who would claim that the land is not their own and thus they do not have to pay the taxes. By requiring anyone who purchases land to have a contract of sale drawn up there is an official record of who owns the land which makes the process of collecting taxes easier. Thus the enactment that land must be purchased with a contract does provide the king with direct benefit. ■

1. עי ר' יונה ד"ה ושמעין.

2. עי ר' יונה הנ"ל.

3. רשב"א ד"ה הי"ג. ■

STORIES Off the Daf

Expense account

"כרגא..."

Today's daf discusses various types of taxes.

Even long ago, many parents would support their children for a certain time after the wedding so that the young man would be able to devote himself exclusively to Torah. The amount of years that "kest" was given depended on various factors and had many levels. Very often, the precise boundaries of support would be com-

mitted to a written contract to ensure that there would be no misunderstandings later on.

When one couple got married, the parents of the bride agreed to support their promising young choson for a number of years, but in the contract, they put in a clause which discharged them from paying מיסים, the couple's taxes. That very year, there was a dispute between the father-in-law and the groom about the payment of the mandatory poll tax. The father-in-law asserted that the clause which discharged him from paying taxes also released him from paying the yearly head tax, while the son-in-law felt that a head tax

was likely different since it was mandatory for everyone in the city and was no different than any other regular expense that he was not required to pay out of pocket.

When this question was brought before the Maharil Diskin, zt"l, he explained that the son-in-law was correct in this instance. "The word מיסים usually refers to property tax and the like. It does not include head taxes which apply to each person irrespective of his financial status. In terms of our question, it is no different than food, clothing, and similar regular expenses!"¹ ■

1. שו"ת מהר"ל החדשות, סוף סי' קל"א