

OVERVIEW of the Daf

1) Torah study:

The Gemara cites two teachings related to the danger of separating from the words of Torah.

2) Me'ilah

A Mishnah is quoted that elaborates on which items are subject to the prohibition of me'ilah and which are not. The quote concludes with a dispute between R' Yehudah and R' Yossi whether the fruit that grows from a sanctified tree is subject to the prohibition of me'ilah.

A Baraisa relates that Rebbi ruled like R' Yehudah in the case of a pit and like R' Yossi in the case of a field or a tree.

The language of the Baraisa is challenged and revised.

Another Baraisa that discusses the status of the contents of sacred items is presented. Rabbah limits the dispute in the Baraisa to one of two circumstances.

Abaye challenges this understanding, thereby forcing Rabbah to adjust his explanation of the dispute.

The Gemara elaborates on the point of dispute in the two disputed cases.

The interpretation of the first dispute is unsuccessfully challenged.

The Gemara's understanding of R' Elazar's position in the second dispute is unsuccessfully challenged. ■

REVIEW and Remember

1. What happens to a person who separates himself from Torah?

2. According to Rabbah, what is the point of dispute between Tanna Kamma and R' Elazar the son of R' Shimon?

3. What is the point of dispute between R' Meir and Rabanan?

4. Does the sale of a pit include the sale of its water?

Distinctive INSIGHT

Does **חצר הקדש** acquire things using **חצר**?

אבל הקדש בור ואחר כך נתמלא מים... מועלין בהן ואין מועלין במה שבתוכן, דברי רבי יהודה

The Mishnah in Me'ilah cited in our Gemara rules that if a person consecrates a pit, and it is later filled with water, only the pit is consecrated, but not its contents. Rashbam and Tosafos explain that we do not say that **הקדש** becomes the "owner" of the water situated in its pit by the virtue of the **חצר** of **קנין**. The reason for this is that **חצר** functions as a form of an extension of one's hand (**יד**) and we do not find that **הקדש** has a **יד**.

K'tzos HaChoshen (200:#1) elaborates upon this theme. He cites several sources which concur that **הקדש** does not acquire items using the **חצר** of **קנין**. He notes that some explain that **חצר** works using **יד**, while others understand that it works based upon **שליחות**. Although **הקדש** does possess the ability to use **שליחות**, nevertheless, he explains that we only recognize the function of **שליחות** to apply when it is also possible for **יד** to be used.

Achronim explain that a **חצר** can work to restrict an item for its owner, but at that point it is still necessary for the person to acquire it (**זכיה**), and it is the **זכיה** that works based upon **יד**. Therefore, **הקדש**, which does not have **יד**, cannot complete the acquisition.

K'tzos also notes that this inability for **הקדש** to acquire something using **חצר** only occurs when **הקדש** uses its own **חצר** to try to acquire something. However, a civilian may use his private yard in order to transfer something to **הקדש**. K'tzos also notes that even when **הקדש** applies to something due to **חצר**, the laws of **מעילה**, trespass, do not apply to it. This is because the laws of **מעילה** only apply to something that is declared as consecrated by mouth, but not to something that becomes owned by **הקדש** due to legal transfer alone. In fact, the Gemara in Zevachim (45) even discusses a disagreement among Tannaim whether **מעילה** applies to an item which is consecrated by a non-Jew. We see that although something clearly is owned by **הקדש**, the laws of **מעילה** would only apply if it consecrated by a Jewish person.

Netzi"v adds that this same distinction can be made regarding items that may be brought on the altar. Only those items which are verbally declared to be consecrated may be brought on the altar for an offering. We also find that there is a special mitzvah to formally declare the status

HALACHAH Highlight

Lost objects found in shul

אבל בבור ושובך דברי הכל מועלין בהן ואין מועלין במה שבתוכן
 However, concerning a pit or dovecote all opinions agree that me'ilah applies to the pit but not to its contents

The Gemara teaches that if one sanctifies a pit and it subsequently fills with water according to all opinions the water is not sacred. The reason is that the water is not a derivative of the pit. Tosafos¹ explains that hekdesh does not acquire the water that fell into its domain using the mechanism of kinyan chatzer since hekdesh property does not acquire objects that are placed in its domain as do private individuals. Rashba² also writes that hekdesh does not acquire property with kinyan chatzer and explains that a person's chatzer acquires property on his behalf because it is considered an extension of his hand—חצר משום יד—and hekdesh does not possess a hand by which to acquire property in this fashion. Shita Mikubetzes³ cites authorities who maintain that a chatzer may be able to acquire property in its domain but it would still not be subject to the prohibition of me'ilah since only items sanctified by a person are subject to the prohibition of me'ilah and not items that fell into hekdesh property by themselves.

This discussion bears greatly on a common scenario. One finds a lost object on the floor in a shul. Is the finder

(Insight...continued from page 1)

of הקדש upon a first born male animal (בכור) or the goat which is designated as a chattas by the lots which are drawn by the kohen gadol on Yom Kippur, although both of these are automatically earmarked for their respective offerings. ■

permitted to keep the object or do we assume that the shul has acquired the object by virtue of the fact that it is in its courtyard? Magen Avrohom⁴ rules that the finder may keep the object for himself. The reason is, as explained by Rashba, kinyan chatzer works as an extension of the hand of the owner and hekdesh does not have a hand by which to acquire property. Proof to this ruling is found in a Mishnah in Shekalim (7:2) that teaches that money found on Har Habayis is not sacred since the Beis Hamikdash complex does not have the means to acquire the lost money. Ketzos Hachoshen⁵ challenges the application of Rashba to the case of a shul. A shul does not have the status of hekdesh as does the pit under discussion in our Gemara or the Mishnah in Shekalim. It is no more than jointly owned property of the members of the community and as such one could say that the shul which is not hekdesh does acquire lost objects that are found in its domain. ■

1. תוס' ד"ה ואין
2. רשב"א לקמן ע"ט ד"ה והקשה
3. שיטה מקובצת ד"ה אבל
4. מגן אברהם סי' קנ"ד ס"ק כ"ג ■

STORIES Off the Daf

The value of Torah study

כל הפרש עצמו מדברי תורה נופל בגיהנום
 On today's daf we find that one who separates himself from Torah falls into gehinom.

In Radin it was the custom for the bochurim to learn before davening. At the end of the seder, the shamash would bang on the table to remind everyone that it was time for shacharis. One time, the shamash miscalculated and he thumped the bimah several minutes before it was actually time to daven. This caused the entire yeshiva to miss out on those precious minutes of learning and the Chofetz Chaim, zt"l,

was obviously very disturbed by this slip.

Even after many years had passed, this bitul Torah still concerned the Chofetz Chaim. One day he gave a heartfelt groan and said, "Oy vey! Who knows what the shamash will do in the beis din shel ma'alah regarding those minutes of bitul Torah that he inadvertently caused..."

The Chofetz Chaim had this attitude regarding his own time as well; his unshakable dedication to learning Torah at every available moment amazed everyone who knew him.

During the summer of תרצ"ו, it became known that the Chofetz Chaim, zt"l, and Rav Chaim Brisker, zt"l, were traveling together to Warsaw since Reb Yaakov Broide, z"l, had appointed them to execute his last will and testament.

A large group of bochurim from Yeshivas Toras Chaim, along with their maggid shiur Rav Avraham Yisrael Salomon, zt"l, went to visit the two luminaries. The group first went to Rav Chaim Soleveitchik, zt"l, but before they could say a word to him, he suggested that they go check on the Chofetz Chaim to ensure that all of his needs were adequately met. When they entered the Chofetz Chaim's room they were surprised to see him sitting and completely absorbed in his Gemara study. Rav Chaim was so impressed that he blurted out, "He just came in from a long and exhausting trip and he is already sitting and learning with such concentration!" His admiration was not lost on the visitors. ■

1. הנהגות החפץ חיים ע' רפ"ט וש"ג