

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses whether someone who sold fruit to his friend without specifying whether it was for planting or eating is responsible if the seeds don't grow.

2) Selling an ox that turns out to be a gorer

Rav and Shmuel disagree whether the sale of an ox that turns out to be a gorer is nullified (מקח טעות).

The Gemara explores the exact circumstance of the dispute and concludes that the point of dispute relates to whether we follow the majority in monetary matters.

A Mishnah is cited that seems to refute Rav's position that we follow the majority even for monetary matters.

Ravina rejects the proof.

Ravina's explanation is unsuccessfully challenged.

A Baraisa is cited that supports Rav's position. ■

REVIEW and Remember

1. When is the seller responsible for seeds that do not grow?

2. What is the disagreement between Rav and Shmuel?

3. How does a woman prove that she was a בתולה when she married?

4. When does the purchaser of a slave have the right to return the slave to the seller?

Today's Daf Digest is dedicated
 l'ilui nishmas
 הרב ראובן בן הרב יצחק
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Distinctive INSIGHT

The slave who is found to be an armed robber or a condemned man

המוכר עבד לחברו ונמצא גנב או קוביוסטוס הגיעו. לסטים מזויין או מוכתב למלכות אומר לו הרי שלך לפניך

The Baraisa cited in the Gemara teaches that if a person sells his slave to his friend, and after the sale it becomes evident that this slave is an armed robber or that he has been sentenced to death by the government, the sale is cancelled, and the buyer may return the slave to his owner.

The Gemara in Kesuvos (58a) rules that if a kohen purchases a slave, the slave may be fed teruma immediately, and we do not have to be concerned that the sale might be invalidated if, for example, the slave might be found to be a thief or a condemned man. The Gemara there explains that the reason we do not have to consider the possibility that the sale will be nullified is that the slave's being an armed bandit or being a condemned man is something that is generally well-known (קלא אית להו). Rashi notes that this means that a buyer realizes that many slaves have these reputations. When a kohen buys a slave, we assume that he has already taken this into consideration and will therefore not return the slave by claiming that he was misled.

Tosafos (here, ד"ה לסטים מזויין) asks that our sugya rules that one who buys a slave who turns out to be an armed robber can, in fact, claim that the sale be nullified due to his being misled. Yet, according to Rashi's comment in Kesuvos, the sale would remain valid, as the seller obviously realizes ahead of time that the nature of slaves is to be scurrilous and scandalous.

Rabeinu Tam explains that when the Gemara says that a slave's being a condemned person is a well-known fact, it means that when the kohen buys his slave, and he has not heard anything about his particular reputation, it probably indicates that this slave is not a criminal. If he was, we would have heard about it. Therefore, may assume that this slave is probably a decent fellow and that the sale of this slave will not be nullified. This is why the kohen may feed him teruma immediately. If we do find out that the slave is an armed robber, the sale will be reversed, but in the meantime the chanc-

HALACHAH Highlight

Determining the halachic status of an unmarked piece of meat

כי אזלין בתר רוב באיסורא וכו'

When do we follow the majority? When dealing with prohibited matters etc.

Shulchan Aruch¹ discusses the case of one who purchased meat from a butcher shop and does not recall whether he bought it at a kosher butcher shop or a non-kosher butcher shop. He rules that even if nine butcher shops sell kosher meat and only one butcher shop sells non-kosher meat it is prohibited to eat the unmarked piece of meat. This ruling is based on the principle **כל קבוע כמחצה על מחצה דמי** –when a minority object is fixed in its place it is regarded as equal in number to the majority. Accordingly, the fact that the majority of stores sell kosher meat is countered by the principle of **קבוע** and one may not eat the meat. On the other hand, if the unmarked meat was found on the street its status is determined by the majority. This is based on the principle of **כל דפריש מרובא פריש** –anything which is taken from its original location and is now found elsewhere is assumed to come from the majority.

Authorities disagree about the following question. A piece of unmarked meat is found on the street. Nine butcher shops in town sell kosher meat and only one butcher shop sells non-kosher meat but the non-kosher butcher sells more meat than the nine kosher butcher shops combined. How, in this case, is the majority to be calculated? Is the

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es of this being the case without our having heard about it are minimal, and the slave may eat teruma.

ר"א explains that Rashi holds that when a slave turns out to be a criminal, the sale is only reversed if the buyer has not yet paid money for the purchase. If we realize that the slave has a criminal background only after the buyer has paid, the sale remains valid, as we assume that the buyer checked into the situation to his satisfaction, and that he accepts the slave for who he is. This is the case where the kohen may feed him teruma. ■

majority determined by counting the number of stores or is it determined by calculating the quantity of meat that is sold?

Teshuvos Beis Ephraim² writes that if it could be determined how much meat was sold that day from all of the different stores and we know that the non-kosher store sold more meat than the kosher butcher shops the unmarked meat would be assumed to come from the non-kosher store. Teshuvos Knesses Yechezkel³, on the other hand, disagrees. He asserts that the status of the meat depends upon the number of stores and has nothing to do with the quantity of meat that was sold. His proof to this is that since the Gemara and later Poskim do not mention the total quantity of meat sold in each store it must be that this distinction does not carry halachic weight. ■

1. שו"ע יו"ד סי' קי"י סעי' ג'.

2. שו"ת בית אפרים חיו"ד סי' מ'.

3. שו"ת כנסת יחזקאל סי' כ"ד. ■

STORIES Off the Daf

A Questionable Custom

"וראשה פרוע..."

There is a very old custom that some have that a bride does not cover her hair at the wedding. Some people wonder what could possibly be the halachic justification for this? Why should she be exempt from the Torah obligation to cover her hair?

When a certain Yerushalmi asked Rav Vosner, zt"l, about this custom he replied that it is not at all a simple matter. "Many people have this same cus-

tom. Even after the chuppah they do not cover their hair for the duration of the entire wedding. But the halachic justification for this is very hard to understand. It is clear that this is learned from Kesuvos and Bava Basra 92 where we find that a girl who was never married would go out with her hair uncovered so people would know that she receives two hundred zuz for her kesuvah. It seems obvious that there too she had some kind of covering on her hair, the difference was that they made sure that some hair stuck out so people would know she was never married. It is hardly possible to learn from this that the bride sat with no head cover-

ing at all, chas v'shalom.

"Whenever I am asked about this custom I always rule that they must be stringent, especially in Yerushalayim where the custom was always to be stringent in this matter. Although the Chasam Sofer, zt"l, cites a similar custom, he clearly has reservations about it since he did not find a reliable source for it. He merely states that he did not wish to protest the custom but that he does not approve of it.

"At the very least those who wish to follow this custom should cover the majority of the hair!"¹ ■

1. שו"ת שבט הלוי, ח"ט, סי' רנ"ט. ■