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OVERVIEW of the Daf

1) Beis Din's involvement in collecting a debt (cont.)

Additional qualifications to the ruling that a woman may deliver a summons are presented.

Rava discusses when a person is released from חרם.

R' Chisda discusses the procedure that must be followed before a person is placed in חרם.

A related incident is presented.

R' Yehudah notes certain seasons and times when Beis Din may not summon a litigant to appear.

R' Nachman adds additional times when a litigant would not be summoned.

2) Returning property stolen by a father

Rebbi taught his son that children must return any item that could be easily identified as stolen by their father.

Rav Kahana inquired whether a bed and table should be returned and Rav confirmed that they should.

3) MISHNAH: The Mishnah discusses taking change from people who are suspected of theft.

4) Tax collectors

A Baraisa is cited that limits the restriction against taking change from a tax collector.

The premise that a tax collector is a thief is challenged from Shmuel's ruling that the law of the kingdom is the law.

Two circumstances are presented that make the collection of taxes illegal.

The Gemara presents a second context in which the discussion of illegal tax collectors is discussed.

A third context for this discussion is presented.

A Baraisa discusses how judges should adjudicate a case involving a Jew and a gentile robber and R' Yishmael and R' Akiva disagree about using a ruse for the benefit of the Jew.

5) Stealing from a gentile

(Continued on page 2)

REVIEW and Remember

1. Why are people not summoned to Beis Din on Erev Shabbos?

2. What is the point of dispute regarding the permissibility to wear shaatnez to evade taxes?

3. Explain הפקעת הלוואה.

4. What proof did Rava suggest to the principle of דינא דמלכותא דינא?

Distinctive INSIGHT

The law of not stealing from an idolator

מנין לגזל כנעני שהוא אסור

Tur (C.M. 348) writes that if something is stolen from an idolator, it must be returned. In his ספר יום תרועה, Maharam ben Chaviv explains that the ruling of Tur is only rabbinic. He notes that even according to the opinion that it is a Torah-level prohibition to steal from an idolator, it is nevertheless not required to return an item to him once it is stolen. The verse (Vayikra 5:23) to return a stolen item, as well as many of the details of this halacha, do not apply to an item stolen from an idolator.

חוות יאיר determines from the wording of Rambam (in Hilchos Gezeila 1:2 and 2:1) that returning an object stolen from an idolator is an essential part of the halacha. Rambam also writes that it is prohibited for one idolator to steal from another, and even they are required to return objects that are stolen back to their owners.

ים של שלמה questions this opinion ascribed to Rambam, that one who steals from an idolator is in violation of the law of stealing just as if he would steal from a fellow Jew. He explains that the Torah is a code of law between Jews, and this law only applies to conduct between Jews. Furthermore, even if we were to say that stealing from an idolator is prohibited, the scriptural source for this is only incidental (אסמכתא), and even if we were to say that it is a genuine law (דרשה גמורה), this prohibition is only an איסור and not a full fledged לאו.

חכם צבי questions the comment of the ים של שלמה when he says that "the Torah was only given to the Jews," thus insinuating that stealing from an idolator might not be prohibited. He writes that we often find that the Torah legislates certain behaviors and deems them reprehensible or disgusting. Stealing is one of these, and it should be understood that stealing is not allowed at all, regardless of who it is stolen from.

גליוני הש"ס also explains that even though the Torah is a law book given to the Jews alone, we find that the Torah commands us not to steal, but this law is not limited to any particular victim. There is therefore no reason to differentiate between stealing from a Jew or from an idolator, and all cases should be included in the prohibition. ■

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By Dr. and Mrs. Reuven Warshell
In loving memory of their father
ר' שמואל בן ר' נחום ע"ה

HALACHAH Highlight

Wearing shaatnez to evade taxes

לא ילבש אדם כלאים וכו' להבריח בו את המכס

One may not wear kilayim etc. in order to evade taxes

Rash, in his commentary to Kilayim[1], explains that even though the person's intent is to evade taxes, nevertheless, it is prohibited for him to wear shaatnez. The reason is that the Tanna follows the position that unintentional transgressions are prohibited **(דבר שאינו מתכוין אסור)**. The reason[2] it is considered unintentional but not inevitable **(פסיק רישיה)** and thus permitted is that we refer to a circumstance where he will not derive benefit from wearing the garment, for example, it is a warm day and he is already covered. This is in contrast to the Tanna (Kilayim 9:5) who rules that a clothing seller is permitted to wear the garments that he is selling to model it for his customers as long as he does not intend to wear it for protection.

Interestingly, Rambam[3] cites both, seemingly contradictory, Mishnayos. He cites the Mishnah that allows a clothing seller to model the clothing he sells as long as he does not intend to use the clothing for protection from inclement weather and in the next halacha he cites the Mishnah that prohibits a person from donning a shaatnez garment to evade taxes. Kesef Mishnah[4] cites Rash who maintained that these two rulings represent opposing positions and wrote that Rambam mustmaintain that the Mishnayos are not contradictory. To explain, he suggests that the Mishnah regarding taxes prohibits donning the shaatnez garment because the person will be wearing the garment in the normal fashion and thus it is an outright violation of the prohibition. The reason why the garment seller is permitted to model the garments that he sells is that modeling garments only involved draping the garment over his body and he did not wear it in the normal fashion. When we combine the fact that the garment seller only draped the garment over his body and he does not intend to wear the garment the final outcome is that the practice is permitted. ■

1. ר"ש כלאים פ"ט מ"ב ד"ה ואפילו
2. ע' תוס' רי"ד לסוגיין ד"ה ומ"ס
3. רמב"ם פ"י המל' כלאים הט"ז
4. כסף משנה שם ■

(Overview. Continued from page 1)

The Gemara challenges the implication from R' Akiva's position that at least in theory it would be permitted to steal from a gentile.

R' Yosef suggests one resolution to this matter.

Abaye rejects this resolution and Rava offers an alternative resolution.

Abaye unsuccessfully challenges this resolution.

R' Bibi bar Gidal in the name of R' Shimon Chasida rules that it is prohibited to steal from a Canaanite but his lost objects are permitted.

The sources for these laws are presented.

A Baraisa adds that where there will be a desecration of Hashem's name even taking a Canaanite's lost object is forbidden.

Shmuel rules that it is permitted to benefit from the mistake of a Canaanite.

A number of related incidents are presented.

6) The law of the land

Rava suggests a proof to Shmuel's ruling that the law of the kingdom is the law.

Abaye unsuccessfully challenges this proof.

A number of different rulings from Rava regarding the collection of taxes are recorded and explained. ■

STORIES Off the Daf

Ill-gotten gains

טעותו מותרת

The Sdei Chemed, zt"l, writes a fascinating testimony regarding today's daf:

The Maharal of Prague, zt"l, said, "Although we find in Bava Kamma 113 that an idolater's monetary error in a Jew's favor may technically be kept if he is certain there will not be a chillul Hashem, one should not make the mistake of thinking that one will have lasting benefit from such money. I bear witness for future generations: I have seen many who profited greatly due to mistakes made by idolators. Tragically, all such persons eventually lost everything they had. By the time they passed away, there was nothing to leave to their progeny.

"But those who sanctified Hashem's name and returned the money when an idolator had made an error even though it meant losing a potential fortune, were lastingly successful and left large estates to their heirs."

The Sdei Chemed then recounts his own experience. "I too can testify. A certain Torah scholar who was truly G-d-fearing traveled in the same ship with a non-Jewish nobleman. When they arrived at the harbor, the idolators disembarked first. In their rush to disembark, however, the nobleman lost his wallet which contained a huge sum of money. Although no one noticed it drop because of all of the hustle and bustle, the Torah scholar noticed it on his way off the ship.

"Since he did not know who had lost the wallet, he had the find proclaimed in all the nearby provinces, with the added stipulation that he will return it to whomever knows the precise content of the wallet.

When the officer arrived and proved himself, the scholar returned the wallet and even refused to take any reward. As can be imagined, this made a tremendous kiddush Hashem in the entire country.

"Ashreichem Yisrael who publicly sanctify Hashem's great name and show all the nations that we are the chosen people of Hashem!"[1] ■

1. שדי חמד מע' ט' כלל ל"ט

Daf Digest is published by the Chicago Center, under the leadership of HaRav Yehoshua Eichenstein, shlit"a
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