

OVERVIEW of the Daf

1) The liability of a contractor

A Baraisa is cited that presents a discussion regarding the liability of contractors who make an error doing their job.

The Gemara inquires whether dye on wool is considered something tangible or not.

The circumstances of the question are clarified and the question is reframed accordingly.

This explanation is successfully challenged and another explanation of the question is presented.

This explanation is also successfully challenged and a third explanation is offered.

The third explanation is unsuccessfully challenged.

Ravina suggests another circumstance where the Gemara's earlier question would be relevant.

Two unsuccessful attempts to answer the Gemara's inquiry are recorded.

2) Is appearance a significant factor?

Rava notes a contradiction between a Mishnah in Orlah and a Mishnah in Oholos (regarding which there are two versions which the Gemara explains are not contradictory) whether appearance is a significant factor.

R' Kahana resolves this inquiry.

3) The sanctity of Shemittah

Rava notes a contradiction between a Mishnah and a Baraisa whether wood is subject to the restrictions of Shemitta produce.

Rava resolves his own inquiry.

This resolution is challenged. ■

REVIEW and Remember

1. What is the dispute between R' Meir and R' Yehudah regarding a contractor who constructs the wrong piece of furniture?
2. Is a monkey more valuable when it is dyed?
3. What is דם תבוסה?
4. When is produce subject to the restrictions of Shemitta?

Distinctive INSIGHT

When are branches and sticks included in the laws of Shemitta?

אלמא עצים יש בהן משום קדושת שביעית ורמינהו עלי קנים ועלי גפנים וכו'

Rava brought a contradiction. The Mishnah in Shevi'is (7:1) teaches that the halachos of Shemitta apply to branches of סטים and קוצה which grow on their own. These are plants or flowers from which dark dyes are derived. This also means that when their season ends, whoever has any of these items in storage must clear them out and place them in the field (ביעור). This Mishnah clearly indicates that the halachos of Shemitta apply to non-edible plants and branches. The Baraisa (cited in Sukka 40a) teaches that bundles of sticks and branches from vines generally do not have kedushas Shemitta, unless they are gathered to be used for animal fodder. We see here, notes Rava, that the laws of Shemitta do not apply to sticks. Rava then proceeds to resolve these two sources using an inference from a verse to describe when the laws of Shemitta apply to sticks and when they don't.

Some commentators wonder, however, why Rava felt that these two sources pose a contradiction in the first place. The Mishnah in Shevi'is begins with a clarification: "A major rule of Shemitta is that anything that grows and is edible by man or by animals, or if it is a plant from which a dye is derived, the laws of Shemitta apply to it." The Mishnah then continued to give examples of plants which are in this category. We see, therefore, that these branches have kedushas Shevi'is because a dye can be derived from them, even though they are not edible as food. What, then, is the reason Rava asks from other branches which do not have kedushas Shevi'is?

Tosafos Rabeinu Peretz explains that Rava thought that the reason Shemitta applies to the branches listed in the Mishnah in Shevi'is 1:1 is that they are somewhat edible. He understood that when the Mishnah gave the reason that they provide a dye, it was actually teaching us that although these plants are primarily used for dyes, the fact they are somewhat edible is enough to include them in the laws of Shemitta. The contradiction was from the Baraisa in Sukka, where branches are not included in the laws of Shemitta when they are collected for firewood,

HALACHAH Highlight

Painting schach

אלמא חזותא מילתא היא

We see that appearance is significant

There was once a person who used a reed mat for his schach and he had an idea that painting the mat would make his sukkah more beautiful but was uncertain whether it is permitted to paint schach. The reason for his uncertainty was his knowledge that schach must be made from items that are leftover from the threshing house or the winepress and paint does not come from either of those places. He sent his question to Rav Shlomo Kluger for a ruling.

Rav Shlomo Kluger¹ answered by noting that there is a limit regarding the application of the principle that a change in the object effects acquisition (שינוי קונה). He maintains that the principle applies only to those items that become disqualified for a reason that is not related to their physical make up. A stolen object or an animal that was worshipped as an idol, for example, has not changed physically; it has merely undergone a change of possession or halachic status, therefore, a change to the physical make up of that item will effect acquisition. But something that could become disqualified as a result of something related

(Insight. Continued from page 1)

despite the branches' being somewhat edible. The answer given is that the reason the branches in the first Mishnah are included in Shemitta laws had nothing to do with their being edible at all, but rather due to the benefit from their use occurring as they are used (הנאתם וביעורם שוה). ■

to its physical make up is not affected by a physical change, meaning even after the item undergoes a physical change its essential character remains the same. Thus, since there is a requirement for schach to have certain physical characteristics, namely, leftovers from the threshing floor and the winepress, a physical change will not affect its essential character and thus painted schach remains acceptable.

A second reason he rules leniently is based on our Gemara that states that "appearance is insignificant." Accordingly, coloring the schach is not even considered a physical change to the item and thus it remains usable as schach. Moreover, one should not think that the paint on the schach is an interposition between the person and the schach. The reason this is not a concern is that it is no different than a person who spreads out a sheet beneath the schach which is allowed as long as it is there to beautify the sukkah, so too, painting the schach is permitted since its function is to add beauty to the sukkah. ■

1. שו"ת האלף לך שלמה אר"ח סי' שס"ד ■

STORIES Off the Daf

Pulling the wool over his eyes

גזל צמר

Today's daf discusses a thief who stole wool.

One time two merchants travelled overseas to a country where wool was common and could be procured cheaply. They both purchased an equal amount of fine wool for the same price and both hired a wagon to take their fine wool to the nearest port. When they arrived, they hired passage on a ship that had space for their wool.

One of the merchants owed a

large sum of money and decided to obtain more wool from his friend's share. When he was sure the victim was fast asleep he crept over to where they kept the wool and stole a significant quantity from his friend. As they were getting off the boat the thief noticed that his bale of wool felt quite a bit lighter. He immediately realized what had occurred; instead of lightening his friend's load of wool he had actually taken from his own share and added it to his companion's bale!

He had no choice but to confess to his companion that he had attempted to steal some wool to repay his crushing debts but that his plan had backfired.

He was very surprised at the other merchant's reaction. "I don't believe it for a minute. I know you for many years and I don't believe you would actually steal. I think this is just a way to get me to loan you the wool with the good intention of repaying me when you are able. Well, I am very sorry, but I refuse to lend you the wool."

This case eventually went before the Malbim, zt"l. He answered, "Since you feel that this merchant is too honest to be a thief, you would believe him if he swore to you. He can swear that he stole the wool and take it back!"¹ ■

1. רעיונות לדרוש ע' פ"ח