

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses a Jewish worker hired to work for an idolater who is making nessec wine and gives rulings as to whether the wages he receives are permitted for benefit.

2) Prohibited wages

The Gemara searches for the rationale for prohibiting the wages that one receives for working with nessec wine.

R' Avahu in the name of R' Yochanan asserts that this case of the nessec wine and a case involving a donkey are Rabbinically imposed penalties.

3) Donkey drivers and Shemittah

A Baraisa is cited that addresses the penalty imposed on donkey drivers.

Abaye and Rava offer different explanations for the case of the Baraisa and the rationale for the penalty.

4) Prohibited wages (cont.)

The Gemara inquires whether the wages collected for working with ordinary wine are also prohibited.

An incident is presented in which R' Chisda ruled that wheat received as wages for transporting ordinary wine must be burnt and the ashes buried in a cemetery.

Alternatives to R' Chisda's instructions to burn the wheat and then bury it are suggested but rejected.

5) Shemittah produce

Members of R' Yannai's household borrowed shemittah produce and repaid the debt with ordinary produce and when the matter was told to R' Yochanan he approved of the practice and cited a Baraisa regarding payment to a harlot as

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REVIEW and Remember

- Under what conditions do the wages of someone who worked making wine with an idolater become prohibited
- What is the reason wages become prohibited to someone who helped manufacture nessec wine?
- What is **סתם יין**?
- Why did R' Chisda require that the prohibited wheat be burned and the ashes be buried in the cemetery?

Distinctive INSIGHT

סתם יין Earnings paid for work for

איבעיא להו שכרו לסתם יין מהו?

The Mishnah at the beginning of the perek taught the halacha that it is prohibited to benefit from work done with **יין נסך**—wine which was known to have been used in the service of idolatry. For example, if a Jew was hired by an idolater to pour wine from one barrel to another, or even if he was hired to transport containers of wine, the wages earned are prohibited from benefit.

The Gemara asks whether this halacha applies to wages earned by a Jew for works with **סתם יין**—wine which is not known to have been used for idolatry. What are the issues of this inquiry? On the one hand, wine which is known to have been used for idolatry and wine which is not known to have been used for this purpose are both prohibited to drink and from benefit. Accordingly, we might say that they share the rule that the wages earned for working with them are prohibited.

On the other hand, wine which was known to actually have been used for the service of idolatry is impure to an extreme degree—it has tum'ah similar to that of a dead body. Yet, wine whose status is uncertain only transmits tum'ah to beverages and foods, but not to persons or utensils. Perhaps, because the tum'ah of this wine is less, we could expect that wages earned from working with it would not be so restricted as we find with actual wine of idolatry.

The Gemara concludes that the wages earned for **סתם יין** are prohibited. This is proven from a case where a boat was rented to an idolater to transport a shipment of **סתם יין**, and R' Chisda ruled that the wheat which was paid as the rental fee for the boat had to be destroyed. Tosafos (**ד"ה אגר**) questions the conclusion at which we arrived from this case. Tosafos notes that there is a difference between the wages of an individual and the rental fee earned as payment for a large cargo ship. In the Gemara earlier, Rava taught that shemitta fruit earned by an individual worker is permitted, as it does not add up to much. The sages did not penalize a worker that his earnings should become limited with the status of shemitta fruit. Donkey drivers, however, who work with large volumes of fruit, are to be penalized, and we do not allow them to be paid with shemitta fruits. And, if they are paid with these fruits, the earnings are considered an exchange for shemitta products, with the appropriate restrictions.

Similarly, here, the ruling of R' Chisda was regarding a boat, which seems to be a large container vessel, while our

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HALACHAH Highlight

Purchasing an esrog on credit

זזפי פירי שביעית מעניינים ופרעו להו בשמינית

They borrowed shemittah produce from the poor and paid them back with produce from the eighth year

Machaneh Ephraim¹ proves that methods of acquisition (קנינים) that are effective due to Rabbinic enactment are ineffective for Biblical prohibitions and mitzvos. Therefore, those people who purchase their esrog but do not pay the seller until after Yom Tov are not doing the correct thing. Biblically, it is the exchange of money that effects the transfer of property and the mechanism of acquiring property by “drawing” (משׁיכה) it into one’s possession is only a Rabbinic enactment. Accordingly, if one does not give the seller money for his esrog, Biblically it is not his and since the Torah requires ownership of the esrog in order for the mitzvah to be fulfilled these people are not fulfilling the mitzvah.

Teshuvos Shoel U’meshiv² disagrees and demonstrates from the comment of Tosafos to our Gemara that it is possible to acquire an esrog for use for the mitzvah by “drawing” it into one’s possession without paying money. Tosafos³ cites the Gemara in Sukkah (39a) that teaches that when purchasing the four species from an am ha’aretz during the Shemittah year one should ask that the esrog be given as a gift since one should not give money to an am ha’aretz for Shemittah produce out of

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question was in reference to wages earned by a single worker.

Tosafos answers that the case of R’ Chisda could very well be a case of a small boat for hire, used to transport a single barrel across a river. If this limited arrangement and its earnings were deemed prohibited, we have resolved our issue regarding wages earned for סתם יינם for individual workers. ■

concern that he will not properly care for the money that now possesses sanctity. The other option is to have him raise the price of the lulav and then give the esrog as a “gift.” Tosafos³ suggests another option based on our Gemara. Our Gemara relates that the household of R’ Yannai would borrow shemittah produce and pay back the loan with produce from the eighth year and by doing so the produce that was returned did not have the sanctity of shemittah produce. Accordingly, one could ask for the esrog to be sold but the money will not be paid until after the esrog is destroyed. At that point one could pay the am ha’aretz for the esrog since the money will not acquire the sanctity of money received for shemittah produce being that the esrog is no longer extant. It is evident from Tosafos that one could acquire an esrog for the purpose of the mitzvah by “drawing” it with the agreement to pay for the esrog at a later date. ■

1. מחנה אפרים הלי מכירה קנין ומשיכה סי' ב'.
2. שו"ת שואל ומשיב מהדו"ד ח"ג סי' כ"ט.
3. תוס' ד"ה יאות. ■

STORIES Off the Daf

Benefit from the Dead

”שכרו אסור...”

Acertain doctor worked giving post-mortem documents. Without such a document it is impossible to bury the deceased in any civilized land. He was fairly well paid and had no complaints. One day, someone pointed out that it may be forbidden to take money for servicing the departed since one may not have any benefit from a dead body. This is just as on today’s daf we find that one may not derive any pleasure from even porting יין נסך.

When this doctor asked the Maharam Shick, zt”l, he replied that it was permitted. “You can also ask how we pay people to watch the deceased before buri-

al. First of all, the רמב"ן and ר"ן explain that it is only forbidden to get benefit from יין נסך when he clearly wants it to remain undamaged, like a porter in our case.

“Although the halachah is that one may not derive benefit from איסורי הנאה even if he does not want it to remain undamaged, there is another reason why this is not a problem. It is incumbent on the departed’s relatives to guard him from mice and the like. If they do not wish to do so themselves, or they cannot, they may certainly pay others to fulfill this mitzvah which is incumbent on them.

“Yet although this answers how we can pay people to guard the deceased it does not explain why a doctor may take money to examine the deceased and issue death certificates. The answer is found in the Chasam Sofer, zt”l. He ex-

plains that when it is a mitzvah to deal with the איסורי הנאה with proper respect and ensure that he is buried properly, one is not obligated to do this without financial remuneration.¹ Since it is a mitzvah for the doctor to examine the dead man and issue such a certificate, he is certainly within his rights to take money for this service.”² ■

1. שו"ת חתם סופר, יו"ד, סי' ק"ל
2. שו"ת מהר"ם שיק, יו"ד, סי' שמ"ג ■

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support for his position.

R’ Yochanan explains the Baraisa in a way that is consistent with his position.

6) Harlot’s payment

The Gemara begins to search for the circumstances of the Baraisa’s first ruling that if an animal was given to a harlot and afterward he cohabited with her the animal may be used as an offering. ■