

OVERVIEW of the Daf

1) Wartime

The Mishnah's statement that during war there is no time for libations is unsuccessfully challenged.

2) **MISHNAH:** The Mishnah discusses the halachos of an employee who is sent nesech wine for his wages.

3) Paying a tax bill with nesech wine

R' Yehudah in the name of Rav rules that one could ask an idolater to pay his tax bill even though he knows the idolater will use nesech wine to pay the bill.

This ruling is unsuccessfully challenged.

4) **MISHNAH:** The Mishnah discusses the steps one must take to sell wine to an idolater in a manner that the wine does not become nesech wine and thus prohibiting the purchase money.

5) The proprietary act of an idolater

Ameimar asserts that an idolater acquires movable objects with meshicha – pulling an object into one's domain – and cites proof to his assertion.

R' Ashi disagrees with Ameimar's assertion and presents a source for his position.

A discussion ensues whether this is an acceptable proof.

Ameimar's position is challenged from a Baraisa.

Abaye responds to the challenge.

Rava rejects this response and offers an alternative response.

R' Ashi's position is unsuccessfully challenged.

The Gemara presents another challenge to R' Ashi's position. ■

REVIEW and Remember

1. Why is it permitted to instruct an idolater to pay one's taxes if one knows he will use nesech wine to pay the tax?

2. How do gentiles acquire movable property?

3. According to R' Shimon ben Gamliel, what is done when nesech wine mixes with permitted wine?

4. What is the punishment for an idolater who steals less than a perutah?

Distinctive INSIGHT

Finding an idol in a box of scrap metal—is the deal an error?

אמר אביי משום דמיחזי כי מקח טעות

Ameimar and Rav Ashi disagreed regarding the halacha of the power of an idolater to effect a transaction merely by taking possession of an object and pulling it into his domain (*משיכה*), even without any transfer of money. Ameimar holds that an idolater acquires an object with pulling it into his property, while Rav Ashi holds that this is inadequate.

As the sugya continues, the students in the yeshiva cite a Baraisa from which we find a question against the opinion of Ameimar. The case is where a Jew buys a box of scrap metal from an idolater, and after taking delivery he notices that there is an idol in the box. The halacha is that if he took possession of the box of metal and he has not yet paid for it, the Jew may return the box to the idolater. If, however, he already paid for it, as he now pulls the box into his possession it is too late. The Jew has taken ownership of the box, including the idol, and it will now be prohibited from benefit. We see clearly from the first case that if the money has not been paid, the transaction has not been finalized, thus proving that merely pulling the object into his possession is not considered a transaction.

Abaye answers that in general it may be that pulling an object is a valid transaction, but in this case it is not valid because the transaction was in error. The Jew does not wish to take possession of a box of metal which contains an idol, because he will not be able to use that piece. The transaction is reversed, no matter how it was done, as the Jew was not given what he asked for.

Rava quickly notes that if this was the case, then even in the second case, where money was paid, the transaction should be deemed an error and therefore reversed. Rava then offers a different explanation to explain both cases.

The Gemara in Bechoros (13b) presents the view of Abaye. In the first case, where the Jew did not yet pay for the scrap metal, the transaction can be reversed based upon the rule of its being in error, because it is understandable that a merchant does not always check the merchandise before paying for it. However, once the buyer pays the money, we do not allow him to back out with claiming that he did not notice that the box contained an idol, and that he was fooled. We assume that he will not pay before inspecting the merchandise. If, after paying, he then claims that he found an idol, this is not viewed as being an error, and it is as if he has agreed to buy it.

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HALACHAH Highlight

Selling chometz to a gentile

אמר אמרימר משיכה בעובד כוכבים קונה

Ameimar says that meshicha is the proprietary act for an idolater

The Gemara presents a disagreement whether gentiles acquire property by the act of *meshicha* – pulling – or with money. Tosafos¹ writes that this halacha is also the subject of a debate between Rashi and Rabbeinu Tam. Rashi follows the opinion that a gentile acquires property with money whereas Rabbeinu Tam subscribes to the position that property is acquired through *meshicha*. Consequently, if one wishes to sell his animal to a gentile to avoid issues related to a *bechor* he should make sure that the gentile gives money and does *meshicha* on the animal to be certain that it entered the possession of the gentile. Mishnah Berurah² writes that the same approach should be adopted when selling *chometz* to a gentile. The preferred method is to have the gentile give money towards the purchase of the *chometz* in addition to taking physical possession of it. Mishnah Berurah³ also discusses what should be done if the quantity of *chometz* is too abundant for the gentile to take *meshicha* on all the *chometz* or if it is in a distant location.

Rav Moshe Feinstein⁴ writes that if a rabbi is selling *chometz* to a gentile on behalf of numerous sellers he should make sure that he receives from the gentile at least a perutah for all

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Chasam Sofer explains that Rava holds that this purchase is not an error. Rava holds that when an idolater sells his deity to a Jew, this is a gesture of nullifying the power of that idol, as we find on 53a according to one opinion. Once the idol was cancelled, it was no longer prohibited from benefit for the Jew. ■

of the sellers. Since the money received is to effect the transfer of the *chometz* into the possession of the gentile he must pay each of the “sellers” a perutah for each transaction to be valid. Teshuvos Chelkas Yaakov⁵ writes that if the intent of the rabbi is to give the money that he receives to each of the “sellers” it would indeed be necessary for the gentile to give at least a perutah to each of the “sellers.” However, if the expectation is that the rabbi is going to keep the money the issue is subject to a disagreement in the Gemara Kiddushin (7b) related to a father who accepts one perutah for the betrothal of his two daughters. Do we focus on the “buyer” and “seller” or do we focus on the number of items that are being “sold.” Since that question is unresolved one should be strict and make sure that the gentile gives a perutah for each one of the “sellers.” ■

1. תוס' ד"ה רב אשי.
2. מ"ב סי' תמ"ח ס"ק י"ז.
3. מ"ב שם ס"ק י"ט.
4. שו"ת אג"מ או"ח ח"א סי' ק"נ.
5. שו"ת חלקת יואב קמא או"ח סי' כ"ב. ■

STORIES Off the Daf

The Father's Merit

"משיכה בנכרי קונה..."

A certain very wealthy man left a large sum of money to ensure that he have a minyan davening for him after his passing and that a certain person would say kaddish for his soul. He gave a very generous sum to each of the minyan and an even greater sum to a local talmid chacham to say kaddish for him. They were to meet in what had been his house the entire year, for shachris, minchah, and maariv, rain or shine.

Sadly, the talmid chacham who had been hired to recite kaddish for him lost his father. The family who felt that the sum their father had allocated to this

young man to say kaddish was outrageous immediately protested, claiming that they were now free from paying him anything. “After all, he must now say kaddish for his father and cannot continue saying for anyone else...”

When they asked their rav this question he referred it to the Maharsham, zt”l. The Maharsham ruled that they were still responsible to pay the young man for saying kaddish. “First of all, you are correct that no one has the right to say kaddish for anyone other than their wealthy patron in his house. We can also add that the Nesivos explains that they cannot change their mind once a person has been taken on as a worker and paid and the same is true here.

“This concept is actually clear from the Ritva in Avodah Zarah 71. There we

find that Ameimar holds that meshichah constitutes acquisition even for an idolater. This is the opinion of the Ritva although others argue. For our purposes he writes there that money acquires when hiring someone to do something. This is clear from the halachah that a slave is acquired with money.

“The truth is that although the young man can say kaddish after this minyan, this is unnecessary. We see this from the Magen Avraham that a son transfers the merit for all of his Torah and good deeds to his father automatically.¹ The son can certainly rely on this opinion in our case since his father gave him permission to take on saying kaddish for the wealthy man.”² ■

1. מ"א, ס' רפ"ה
2. שו"ת מהרש"ם, ח"ב, ס' כ"ט ■