

OVERVIEW of the Daf

1) Stealing and eating cheilev

R' Chisda rules that one who steals and then eats cheilev is obligated to pay for the stolen cheilev since the theft occurred before the transgression of eating the cheilev.

It is noted that this ruling seems inconsistent with a parallel ruling of R' Avin who ruled that someone who shot an arrow on Shabbos that tears silk while in flight is exempt from payment.

Two resolutions to the contradiction are presented.

The difference between these two resolutions is identified.

2) Shooting an arrow that tears silk while in flight

R' Avin's ruling is cited that one is exempt from the damage he caused when an arrow he shot on Shabbos tore silk while the arrow was in flight.

A challenge to this ruling is presented.

A resolution is suggested but successfully challenged and an alternative resolution is presented.

The Gemara unsuccessfully attempts to clarify the details of this resolution.

Another resolution to the challenge against R' Avin's ruling is recorded.

Many details related to clarifying this resolution are presented.

R' Ashi offers an alternative explanation of the Baraisa that resolves the challenge to R' Avin's ruling.

R' Acha concurs with R' Ashi that the Baraisa refers to a case where the object was dragged into a person's hand whereas Ravina explains that the object was dragged into the public domain and nonetheless he acquires the object.

The Gemara explains that both R' Acha and Ravina derive their position from an inference from a Mishnah in Bava Kamma.

After explaining their respective inferences the Gemara explains why each one rejects the inference of the other.

3) Violating a relative

The Gemara begins to present a challenge to the Mishnah's ruling that one must pay a fine for violating a relative. ■

Distinctive INSIGHT

The duration of a prohibited act

עקירה צורך הנחה היא הכא נמי הגבהה צורך אכילה היא

We have already established that no financial restitution is made by a person who simultaneously committed a crime where he is liable for his life as well as having caused property damage. Rav Chisda taught that even Rabbi Nechunia ben Hakanna agrees that if a person stole forbidden fats (חלב) and ate them, he must pay back the owner the value of the fats, even though he is liable for kares for having eaten this forbidden food. The reason for his having to pay is that the moment when the fats were stolen occurred first, when they were taken from the possession of its owner, but the moment the punishment of kares was incurred was only later, when the fats were subsequently eaten. Because the kares and the financial responsibility were not at the same moment, both penalties are applied.

The Gemara contrasts this to a case of transporting an item for a distance of four amos on Shabbos in the public domain, which is a melacha. Rav Idi explains that the act of moving an object across a four cubit distance begins with its being lifted up, and it only ends when it is placed down. If any material damage occurs during any point of its movement, the person who violated the Shabbos is exempt from paying. The Gemara asks why the case of eating fats is different. The act of eating, which causes the kares, actually begins with lifting the fats, which is the precise moment of when it is being stolen. Why, then, should the person have to pay?

The Gemara answers that there is a fundamental difference between the cases. Moving an object on Shabbos four amos in the public domain necessarily must begin with the object being lifted, and it must end with the object being placed down. However, the picking up of the fat has nothing to do with eating it, as eating can be done by leaning over and taking a bite.

Some Rishonim understand that according to the conclusion of the Gemara any act which is necessary in order to eat the חלב is considered part of the act of eating. Therefore, if a monetary damage occurs, for example, while the person is placing the fats into his mouth, he would be exempt from paying. Other Rishonim understand that the Gemara means to teach that the general rule that any act other than eating itself, even one which is preliminary to eating, is never part of the forbidden act. Therefore, even though placing food in the mouth is necessary in order to eat it, the legal moment of eating does not begin before the actual eating is in progress, and it does not start earlier. This is unlike carrying on Shabbos, where the duration of the act begins as the object is lifted up, and it continues until it is placed down. ■

HALACHAH Highlight

Receiving nutrition on Yom Kippur

גונב חלבו של חברו ואכלו

One who steals his friend's cheilev and eats it...

Poskim debate whether a person violates the prohibition against eating on Yom Kippur when the food goes down his throat (הנאת גרונו) or when his stomach is sated (הנאת מעיו). Chasam Sofer¹ writes that since the Torah does not prohibit eating on Yom Kippur with the terminology of eating (לא) but rather instructs that a person must suffer (עינוי) this prohibition against eating is fundamentally different from other prohibitions. Although other eating related prohibitions are violated when the person swallows the prohibited food on Yom Kippur the prohibition is not violated unless one's stomach benefits from the food. One of the proofs cited is our Gemara. Why, asks Chasam Sofer, does the Gemara refer to a case of stealing and eating cheilev when it could also refer to stealing and eating bread on Yom Kippur? Explains Chasam Sofer that the food is stolen when it goes down the throat, since at that point it is irretrievable but for eating on Yom Kippur one is not liable until the food reaches the stomach. Therefore the two transgressions are not occurring simultaneously and thus the Gemara was compelled to present a case where the two transgressions occur simultaneously.

According to the approach of Chasam Sofer, Rav Chaim Ozer Grodzinski², the Achiezer, was asked whether it is permitted to feed a person through a tube in a way that the food does

REVIEW and Remember

1. Explain עקירה צורך הנחה היא?
2. Does standing interrupt the connection between the lifting of the object and its transfer?
3. Is it possible to acquire property in the public domain?
4. What is the point of dispute between Ravina and R' Acha?

not touch his mouth or throat. Achiezer responded that he is certain that the novel ruling of Chasam Sofer is limited to cases where a person eats the food but if the food does not even go into one's throat it is not an act of eating and is not prohibited even if one's stomach benefits from the food. Rav Avrohom Bornstein³, the Avnei Nezer, suggests as proof to this position the fact that there is a mitzvah to eat Erev Yom Kippur before it is dark even though his stomach will not benefit from that food until after it is dark. This clearly indicates that benefit in the stomach, without being associated with eating, is not included in the prohibition. Accordingly, Poskim⁴ write that the prohibition against eating is not violated if one receives nutrients intravenously. ■

1. שו"ת חת"ס או"ח סי' קכ"ז
2. שו"ת אחיעזר ח"ג סי' ס"א
3. בספרו אנגלי טל מלאכת טוחן ס"ק ס"ב אות ב'
4. ע' שו"ת חלקת יעקב או"ח סי' רט"ז ■

STORIES Off the Daf

Sir Moses and the Czar

הגונב כיס בשבת חייב

Today's daf discusses the situation of a person who has stolen a purse on Shabbos by taking it into the public domain. The conclusion is that the person is not obligated to pay because at the very same time that he stole it, he did the melachah of carrying, and we have a principle of קים ליה בדרבת מיניה - the greater punishment alone suffices when a multiple violation has occurred. Engaging in labor on Shabbos is certainly d'rabah minei, the greater violation; it is one of the worst possible sins! As everyone

knows, only a threat to life or limb can serve as an excuse for chilul Shabbos.

In the middle of one of the worst Russian pogroms, Sir Moses Montefiore approached the Czar to petition that he act to save the Jews' lives. The Czar, a virulent anti-Semite, was not very interested in going out of his way for a people whom he despised, but Montefiore was a nobleman himself and had many connections to important people. It was clear that he had the power to bring tremendous pressure to bear on the Czar and could make things unpleasant for him. It seemed as though there was no choice but that the pogroms be forcibly halted or there would be very unpleasant publicity which would show Mother Russia in a deplorable light. As it turned

out, however, the Czar had an alternate plan.

One Shabbos, the Czar sent a letter to Sir Moses by courier. Although he assumed it was important, Montefiore nevertheless said to the messenger,

"It's Shabbos and as an observant Jew I cannot open this letter."

The messenger opened it for him... and literally dropped dead! The letter had contained a highly lethal material which killed anyone who even breathed it. Sir Moses immediately saw how the Czar planned to "solve" the problem. Realizing he was a wanted man, Sir Moses fled Russia at the first opportunity! ■

