The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שי"ד סעיף א'

Overview

Siman 314 Seif 1:

Construction and demolition do not apply to utensils. This is true when it is not actual construction, for example a barrel that does not contain 40 *seah*, **that broke and one reattached the broken piece with pitch, one may break it to remove its contents as long as one does not intend to pierce it nicely so that the hole should serve as an opening for if one were to do so it would constitute making a utensil. If the barrel is complete it is prohibited to break it even if one does not thereby form a utensil and even making a new hole is prohibited. If a hole is already there one may not widen it** assuming one intended for this. **If a knife was inserted in the side of a barrel before Shabbos it is permitted to remove it and reinsert it since he does not intend to add to the size of the hole.** This is limited to where he also removed it once before Shabbos but if he never removed it from the barrel before Shabbos it is prohibited since it is inevitable that he will make a hole and an opening in the barrel. Whether it is permitted to remove earthenware from a weak utensil is discussed above in *siman* 308:42.

- Full-fledged construction and demolition applies to utensils, therefore, it is permitted to break a barrel only if the broken pieces are attached with pitch since it is not full-fledged demolition but if the barrel was complete it would constitute actual demolition and is prohibited even if the utensil is small. (M.B. 1)
- If it contained 40 *seah* it would be considered an *ohel* and subject to the prohibitions of construction and demolition even in small amounts. (M.B. 2)
- It may be broken anywhere even where the pieces are not attached with pitch. (M.B. 4)
- The same is true if one cuts off the top and intends to improve the broken part so that it should remain a utensil. (M.B. 5)
- Taz implies that even if the hole is small so that one cannot put things in and take things out it is prohibited at least Rabbinically even if the utensil is weak. (M.B. 6)
- Although generally to be liable one must intend to construct after the demolition, nevertheless, Rabbinically it is prohibited. Gra agrees with the *Poskim* who maintain that the prohibition of demolition does not apply to utensils even if one demolishes a whole utensil. (M.B. 7)
- In other words, the hole was made to break the utensil. Shulchan Aruch then teaches that even when the hole does not constitute a quality opening it is still prohibited. Rambam writes that one who makes an opening to put things in and take things out is liable for *makeh b'patish* and Rabbinically it is prohibited even if the hole allows one to just put things in or just take things out. He also wrote that any action that completes a *melacha* is a *toladah* of *makeh b'patish*. The Gemara rules that banging a nail in a wall to hang something upon it violates the prohibition of *makeh b'patish*. Making a hole in the ground for water to drain is a Biblical violation of construction. (M.B. 8)
- If the hole is not widened to the point that one could put things in and take things out, nevertheless, it is Rabbinically prohibited. (M.B. 9)
- Rema is explaining that according to Shulchan Aruch if one does not have intent to widen the hole it is permitted even though it will inevitably become widened. Rema himself maintains that if it is inevitable that it will become widened it is prohibited even if that is not his intent. (M.B. 10)
- By removing and inserting it the hole will inevitably become widened but since it is only Rabbinically prohibited as long as that is not his intent it is permitted. Regarding a wall or a barrel that contains 40 *seah*, even Shulchan Aruch agrees that the knife may not be removed and reinserted since it will inevitably widen. In general, many authorities agrees that an inevitable outcome is prohibited even for a Rabbinic prohibition but in the case of a wall it is permitted since it is also a *melacha she'ainah tzricha l'gufa* but nonetheless people are generally stringent and Taz even maintains that it is technically prohibited but notes that he cannot be more stringent that the Terumas HaDeshen. Regarding a barrel that is at worse only Rabbinically prohibited one may remove a knife when there is a great need. (M.B. 11)
- Although in *seif* 12 we are taught that there is no issue to remove something from an object that is detached from the ground, the concern here is fashioning an opening rather than construction and is, at least, Rabbinically prohibited. (M.B. 12)

Halacha Highlight

Opening cans

Shulchan Aruch Siman 314 Seif 1

ובלבד שלא יכוון לנקבה נקב יפה שיהיה לה פתח

As long as one does not intend to puncture a quality hole that will serve as an opening

Shulchan Aruch states that the *melachos* of construction and demolition do not apply to utensils. He then explains that this is true when one does not perform a full-fledged act of construction. For example, if a barrel broke and one repaired it by reattaching the broken pieces with pitch, it is permitted to break that barrel in order to access its contents as long as one does not intend to fashion a quality opening because if he did so he violated the prohibition of מתקן מנא—fashioning a utensil. Mishnah Berurah (סק"ה) explains that the same concern applies when one cuts off the top altogether. In other words, if one cut off the top and intended for the broken utensil to remain usable, it is prohibited.

Chazon Ish (או"ח סי' נ"א ס"ק י"א) writes that one who opens a can of food is liable for having violated the prohibition of construction even if he did not fashion a quality opening. The reason is that while the can is closed it is not considered a utensil being that one cannot put food in or take food out, and the very act of opening violates the prohibition against construction. Even if one intends to throw out the can immediately it is prohibited since there are many people who reuse the can for other things. Additionally, there are some people who do not empty the contents of the can immediately upon opening it and instead store the contents in the can after the can was opened. Therefore, it is prohibited for anyone, even someone who intends to immediately empty the contents, to open a can out of concern that he will open the can with the intent to continue to use it to store its contents. Rav Shlomo Zalman Auerbach (שמירת שבת כהלכתה פ"ט הע' ז' וי"ד) maintains that in places where people commonly throw away cans after they are opened and one has the intent to discard the can after the contents are emptied, it is permitted to open a can on Shabbos since something intended to be discarded is not considered a utensil.