The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Sunday, Aug 25 2024 ■ כ"א אב תשפ"ד
סימן שמ"ז סעיף א'

Overview

Siman 347 Seif 1 (a):

Biblically, one is not liable unless he lifts an item from a private domain and deposits it in a public domain or vice versa. One who stretches his hand containing an item inside and a person inside takes it from him or if someone inside stretches his hand containing an item outside and someone outside takes it from him so that in each case one person lifted the item and the other person deposited the item, they are both exempt but it is Rabbinically prohibited to do so. If someone outside lifts an item, stretches his hand inside and deposits it into his friend's hand or if the person outside stretches his hand inside and takes an item from his friend's hand and transports it outside so that the person outside has both lifted the item and deposited it, he is liable and his friend is exempt even though the act is prohibited. Even if the person standing outside is a gentile it is prohibited since it is as if one gave it to him so that he would take it outside. The same is true if someone inside stretched out his hand and placed something in the hand of someone standing outside or if the person inside took something from his friend's hand who is standing outside and brought it inside and in both cases the one standing inside is liable since he lifted and deposited the item and the one standing outside is exempt.

- עקירה does not mean that the item was lifted specifically off the ground because even taking something from one's pocket is considered an עקירה since items at rest in one's pocket are also considered as though they are at rest. The same is true if the item was in his hand before Shabbos in that it is considered to be at rest. (M.B. 2)
- The one extending his hand did not deposit it in his friend's hand, rather the friend took it from his hand. (M.B. 3)
- If a person only lifted the item or only deposited the item he has also violated a Rabbinic injunction. (M.B. 4)
- A person's hand is considered to be four by four *tefachim* wide. (M.B. 5)
- He has not violated a Shabbos prohibition, he violated the prohibition against causing another Jew to sin, i.e., לפני עור. It is prohibited to lend a utensil to someone who is suspected to use that utensil to violate Shabbos unless one has reason to believe it will be used for another activity. However, one may only make such an assumption if the permitted activity is common but if not one may not make such an assumption unless it is necessary to promote peace. Regarding gentiles there is no prohibition of assisting (מסייע) unless he cannot violate the prohibition without your assistance. It is proper etiquette to wish a person working success (תצלח מלאכתך) unless he is engaged in a prohibited activity. (M.B. 7)
- There is a disagreement whether the person inside is liable if the hand of the person outside is higher than ten *tefachim*. If someone threw an item and his friend moved to catch it, they are both exempt. If the thrower ran to catch it, there is an uncertainty whether he is liable. If one throws an object from one public domain to another and it passes through a private domain on its way or if the object goes from one private domain to another and passes through a public domain, the thrower is exempt. If one walked an object two *amos* in one public domain and two *amos* in another public domain, he is liable since the two public domains combine. If one passes an item from one private domain to another and in the process it passes over a public domain, if the private domains are on the same side of the street, he is liable even though it was passed more than ten *tefachim* above ground level so that it is a *makom patur*. If the private domains are on opposite sides of the street, he is exempt. If one removed water from a puddle he is liable since the water is considered at rest but if he took fruit or oil that was floating on water he is not liable since it was not considered at rest and thus it is not a true "lifting." (M.B. 8)
- Even if the person inside is a gentile, the person outside is liable since people will say that it was given to him with the intent that it should be brought in. (M.B. 9)

Halacha Highlight

Donning a garment while walking through the public domain

Shulchan Aruch Siman 347 Seif 1 (a)
והניחו ברשות הרבים
And deposited it in the public domain

Shulchan Aruch explains that in order for one to be liable for transporting an item from a public domain to a private domain or vice versa it is necessary for him to lift the item from its place of rest in one domain (עקירה) and deposit it in the other domain (הנחה). If these two steps are performed by two different people, meaning one lifted the item and his friend deposited the item, neither one is Biblically liable, although each one violated a Rabbinic injunction. Mishnah Berurah (סק"ב) explains that the term עקירה should not be understood literally to mean that he lifted the item from the ground. If one had an item in his pocket and he removed the item from his pocket and deposited it in another domain, he is also liable since removing the item from his pocket constitutes an act of lifting. He further explains that garments are subordinate to the person who is wearing them and when a person is not walking he is considered at rest.

Chazon Ish (או"ח סי' ק"ה סק"ו) addresses the case of one who took an article of clothing from a private domain into a public domain and then donned that article of clothing while walking. Although generally one who is walking is not considered to be at rest, he rules that donning the garment onto his body is considered an act of depositing the clothing since it is now at rest on his body. Rav Moshe Feinstein (אג"מ או"ח ח"ב סי' קי"ב) maintains a similar position in a different case. He addresses someone who is walking in a public domain and realizes that he has a *yarmulke* in his pocket. He writes that the person should not place the *yarmulke* on his head since that would involve depositing the item in the public domain, rather he should run to a private domain and throw it from his pocket in an unusual manner. He subsequently, writes that it is preferred to throw it from his pocket in an unusual manner while yet in the public domain.