The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Mon, Feb 3 2025 ■ ה' שבט תשפ"ה
סימן שפ"ג סעיף א'-ב'

Halacha Highlight

Soldiers that take lodging in a Jew's home

Shulchan Aruch Siman 384 Seif 2

אנשי חיל שהמלך שנכנסו בבתי היהודים

If the kings soldiers enter Jewish homes

Shulchan Aruch (סע' ב') rules that when soldiers occupy Jewish homes, whether by force or whether with consent, as long as the Jewish owners maintain utensils that cannot be moved on Shabbos in their homes, the gentiles to not prohibit the residents from transporting items in the yard. The reason is that in such a situation it is considered as though the soldiers are guests who are there temporarily and thus do not prohibit (מ"ב סק"ח). In the event that the Jewish homeowners do not have the right to keep utensils in their homes, the soldiers prohibit if they remain for more than thirty days (מ"ב סק"ט). Mishnah Berurah (סק"ו) questions why the soldiers should prohibit when we learned in *seif* 1 that when a gentile is present without authorization, he does not prohibit. He answers that *dina d'malchusa* requires homeowners to house the soldiers. Therefore, even if the homeowner does not want the soldiers in his home, they are considered to have authorization due to the *dina d'malchusa*. However, if the officer in charge deviates from the *dina d'malchusa* and forces soldiers in a Jewish home they do not prohibit.

Chazon Ish (או"ח סי' צ' ס"ק ל"ה-י"ל"ו) cites Gra who, based on Yerushalmi, contends that even if the gentile is there against the will of the homeowner and in violation of *dina d'malchusa*, they prohibit provided that they have the strength to remove the homeowner's from their home. On the other hand, if the soldiers cannot remove the Jew from his home, they do not prohibit even though *dina d'malchusa* requires the homeowner to house them. He then expresses surprise that the Mishnah Berurah did not cite Gra's position. He also expresses uncertainty regarding the *halacha* when the soldiers will sleep in the Jewish home but will eat elsewhere. Although elsewhere (סי' ש"ע סע' ה') we learned that where a person eats is his primary residence, nevertheless, in this case since the army prefers that they eat in their place of lodging, it may be that their lodging is considered their primary residence.

Overview

Siman 384 Seif 1:

When a gentile enters as a lodger without authorization he will never prohibit. If he has authorization and lodges regularly, he prohibits immediately but if he does not lodge regularly he does not prohibit until after thirty days.

- He does not intend to reside permanently, his intent is to lodge there temporarily. (M.B. 1)
- Shulchan Aruch does not mean that he was told not to lodge here, rather the intent is that he never secured permission. (M.B. 2)
- There is a disagreement whether a gentile who occupies a house due to the homeowner's delinquency in paying his debt is categorized as with permission or not. (M.B. 3)

Siman 384 Seif 2:

Regarding soldiers of the king that enter Jewish homes, whether forcefully or willingly, if the Jewish homeowners of the homes the soldiers entered have the right to store utensils that may not be moved on Shabbos, they do not prohibit.

- The law of the land requires homeowners to provide lodging for the soldiers and thus even if the homeowner protests, they are considered to be there with authorization and prohibit. Sefer Mishkinos Yaakov disagrees and maintains that the owner retains control over his house even when the soldiers are there and they do not prohibit. (M.B. 6)
- If the homeowner does not have any control, the soldiers will prohibit if they are there for more than thirty days. (M.B. 9)