

**Wembley Synagogue**

בני תבואה

Insights from the commentators into the Sidra of Ki Tavo 5768

What's the Sidra about?

First Aliyah: This section introduces us to the mitzvah of *bikurim*, the requirement to bring one's first fruits to the Holy Temple. This mitzvah applies to fruits and produce grown in the land of Israel, and only those for which the land of Israel is praised: wheat, barley, dates, figs, grapes, pomegranates and olives. When in the Temple, the owner of the fruits recites a brief thanksgiving prayer to G-d and presents the produce to the priests. **Second Aliyah:** During Temple times, Jewish farmers were required to separate from their produce several different tithes. These were distributed to the priests, the Levites, the poor, and one tithe which was eaten by its owners in Jerusalem. The different tithes were not all given each year, rather there was a three-year cycle. In this aliyah, the Torah gives the procedure to be followed on the day before Passover during those years which followed the conclusion of a cycle. The farmer was to declare that he has performed all his tithing duties and then beseeches G-d to bless His people and the Land. **Third Aliyah:** Moses admonishes the Jews to observe G-d's commandments; reminding them that they have selected Him to be their god, and He, in turn, has chosen them to be His holy and treasured nation. **Fourth Aliyah:** The Jews are instructed to gather large stones when they cross the Jordan River. These stones were to be plastered, and the entire Torah was to be engraved upon them. Another set of stones was also to be inscribed with the entire Torah, and be set on Mt. Ebal. **Fifth Aliyah:** The Jewish people are instructed to proclaim blessings and curses on Mount. Grizzim and Ebal. The elders of the Levite Tribe together with the Holy Ark stood between the two mountains, and six tribes were stationed atop each mountain. The Levites and priests faced each mountain alternately, and stated the blessing and curses. At the end of the aliyah, we are told of the bountiful blessings which will shower us if we hearken to G-d's commandments. **Sixth Aliyah:** This section continues with the aforementioned blessings, and then launches a lengthy description of all the maledictions and suffering which will befall the Jews when they neglect the mitzvot. **Seventh Aliyah:** Moshe reminds the Jews of all the miracles which have been their lot from when G-d took them out of Egypt until that very day. He concludes by saying that it is therefore incumbent upon them to follow G-d's covenant.

CONSUMER COMPETITION

The Weekly Halacha Discussion- A review of practical halachic topics related to the weekly Sidra
By Rabbi Doniel Neustadt.

QUESTION: A person is negotiating the purchase of a house or a car. May another person come and bid for the item? **DISCUSSION:** Three factors must be determined in order to answer this question: 1) The extent of the negotiations; 2) The availability of other homes or cars of similar [or slightly different] size, location, condition, etc.; 3) The amount of money that the new bidder will save by buying this item and not another one which is available to him. Based on these three factors, the practical halachah breaks down as follows: If the buyer and seller have agreed [or are very close to agreeing(1)] on a price, and there are similar items available on the market, then it is prohibited for another person to bid for the item(2). Bais din has the right and duty to object to his bidding and to block him from doing so. If he disregards the halachah and places a bid anyway, he may be referred to as a rasha, a wicked person, publicly(3). Even if he has already bought and taken possession of the item, he is still duty bound to return it lest he be referred to as a rasha(4). Bais din, however, does not have the power to forcibly remove it from his possession once he has already obtained it. If the buyer and seller agreed [or are close to agreeing] on a price, but there are no similar items available on the market, then it is permitted, according to the basic halachah, for the new bidder to bid for the item(5). A ba'al nefesh, though, should refrain from doing so(6). If the buyer and seller agreed [or are close to agreeing] on a price, and there are similar items available on the market, but the new bidder will save a big amount of money(7) if his bid is accepted, there are many poskim(8) who allow him to bid on the item while other poskim do not accept this leniency(9). Although bais din cannot get involved in such a case, a ba'al nefesh should refrain from entering into this position. If the buyer and seller did not agree [or come close to agreeing] on a price, then it is permitted for the new bidder to put in a bid for the item. If, however, the item came up for sale only as a result of the first bidder's effort [e.g., the first bidder convinced the seller to put the item on the market], some poskim hold that a newcomer may not come and place a bid on the item(10).

QUESTION: It has become customary for Jewish book publishers and cassette tape producers to prohibit copying or otherwise reproducing any part of their materials under any circumstances. What, if any, is the halachic background for this prohibition? **DISCUSSION:** The poskim, in their written works, hardly deal with this issue. It is important, therefore, to present some of the arguments that may be made

on either side of the question(11): On the one hand, it may be permissible to copy such material based, in part, on the following arguments: Complete Ownership - When one buys a book or a tape he may do with it whatever he pleases. He may destroy it, lend it to a friend, or make a copy either for himself or for a friend. Since, after all, he paid for the item in full, he is entitled to unrestricted use 12; Intangibles - Many poskim maintain that it is halachically permissible for one to benefit from "intangibles" such as another person's idea or invention. Once the creator has committed his wisdom or talent to paper or tape, he no longer owns anything of material value. If so, nothing tangible is being taken away from the rightful owner(13). But a strong case may be made for prohibiting copying and reproducing materials: Benefiting from another person's labour - Although, as stated, many poskim do not expressly prohibit benefiting from another person's creativity, when creativity is one's business the rules are different. If by copying someone else's creation you are causing him a business loss, it may be prohibited according to the majority of the poskim(14). [According to a minority view, bais din even has the power to force the copier to pay the publisher whatever profit he has generated from his copying(15).] Government law - In many countries the law prohibits copying or reproducing materials in any form. Halachah follows government law whenever the intent is to protect the safety and welfare of the citizen(16). Retention of Ownership - The publisher may claim that his wares are for sale subject to certain restrictions on the buyer. This parallels the Talmudic case where a seller has the right to withhold certain rights from a buyer(17), provided that he does so at the time of sale. Since the publishers state explicitly that copying is forbidden, it may be argued that their statement is tantamount to a "provisional sale"(18). This is known in halachah as shiur b'mechirah, i.e., a sale with partial retention of ownership. Intangibles - Some poskim do not differentiate between tangible and intangible possessions. In their opinion, the owner of intangible items has the halachic power to prohibit others from infringing on his ownership(19). None of the above arguments, either pro or con, are exhaustive or completely irrefutable, especially as regards copying for personal use(20). It goes without saying, however, that one who copies a published or a taped work against the wishes of the publisher or producer stands a good chance of transgressing a serious, possibly Biblical, prohibition. Indeed, Harav M. Feinstein(21) writes that one may not copy a Torah cassette tape without the explicit consent of the producer. He goes on to say that one who does so commits a form of theft, but he does not explain the source for his ruling or the reasoning behind it (22). Other prominent rabbonim have rendered similar rulings orally(23). Harav S. Wosner(24) allows copying individual pages from a published book for classroom use. A careful reading of his responsum implies, however, that this is permitted only when we can reasonably assume that the publisher would have no objection. If the publisher, however, clearly objects, it seems that it is prohibited to disregard his objection(25). Note, however, that there are certain publishers and producers who do not object to copying or reproducing their work under certain limited conditions, such as classroom use. In any case, one must be particular to ask each company or author if and how they allow copying, for laxness could result in the violation of a serious prohibition. A possible exception to the above is when a book is out of print and no plans for reprinting are underway. One can argue that in such a case the publisher or author has nothing to lose, for there is no possibility for making a sale. Indeed, some poskim advance the argument that the author is pleased when his work is studied or heard by additional people. A rav should be consulted.

QUESTION: When faced with a choice, is there any reason to patronize a Jewish-owned store rather than a non-Jewish-owned store? **DISCUSSION:** Rashi in Parshas Behar(26) quotes Toras Kohanim that states that one should patronize a Jew when possible. Although this is not recorded as law in the Rambam and Shulchan Aruch, the Chofetz Chayim(27) rules that one should follow this policy. Even if the Jewish-owned business is located a bit further away and it will take longer to shop there, it is still a mitzvah to give preference to the Jewish-owned establishment(28). One must shop at Jewish-owned store, however, only when the price is the same or slightly higher. If the price is much higher, then there is no mitzvah to patronize it. The poskim do not give a precise definition of what is considered "much higher" and what is considered "slightly higher"(29), and it may, therefore, be up to each individual to decide this for himself. When judging what is considered much higher or slightly higher, the judgment may be based on the total outlay of money, not on the price differences per item. For instance, if shopping at the non-Jewish store will yield an overall saving of \$20, even though the savings per item is only a few cents, \$20 may be considered a significant difference and it would be permissible to shop at the non-Jewish store(30). The same ruling applies to differences in quality of goods or service. If there is only a slight difference, then it is a mitzvah to support the Jewish businessman. If there is a great disparity, then it is not a mitzvah. There is no mitzvah to patronize a Jew who is classified as a mumar(31). The rules of preferring a Jew over a non-Jew apply to retail trade only, not to wholesalers (32).

FOOTNOTES:

1 See Pischei Teshuvah 237:3 and Aruch ha-Shulchan 237:1 quoting Perishah, who maintains that as long as the two parties were near agreement on a price, it is considered as if an agreement was reached in regards to this halachah. See Igros Moshe C.M. 1:60 who explains that this is the position of the Rama as well. Shulchan Aruch Harav, however, does not mention this Perishah. **2** C.M. 237:1. Even if the new bidder did not realize that a previous bid was placed on the house, he is still required to withdraw his bid once he finds out about the previous agreement. **3** If the new bidder did not follow the halachah and bid on the item and now the seller is ready to sell to him, it is permitted for a third person to bid on the house at this time; Aruch ha-Shulchan 237:2. **4** In the case when his bid was made while yet unaware of the previous agreement, some poksim (Pischei Teshuvah; Aruch ha-Shulchan 237:2) maintain that he cannot be referred to as a rasha if he refuses to return the house once he has obtained it. Other poskim, however, disagree and hold that even in that case he may be referred to as a rasha (Keneses ha-Gedolah, Tur 19; Igros Moshe C.M. 1:60). **5** Rama 237:1; M'harshal 36; Ma'asas Binyamin 27, based on the view of R' Tam who permits this type of bidding. According to the Nesivos 237:3, Shulchan Aruch, too, agrees to this ruling. **6** Shulchan Aruch Harav (Hasogas Gevul 10), Har Tzvi O.C. 2:8 and Igros Moshe E.H. 1:91 based on the view of Rashi who prohibits this type of bid. See also Maharal (Nesivos Olam, Nesiv ha-Tzedek 3) who strongly endorses Rashi's approach to this question. **7** This is defined as being a "real bargain", savings that are undisputedly substantial. When it is unclear if the amount being saved is substantial, a bais din must be consulted. **8** Rama C.M. 237:1; Avnei Nezer C.M. 17. [Igros Moshe C.M. 1:60 seems to rule in accordance with this view.] **9** Shach 237:3 based on the view of the Ramban; Aruch ha-Shulchan 237:1. **10** Teshuvos M'Rashdam 259. See, however, Teshuvos Chasam Sofer C.M. 79 who seems to disagree. See also Masa'as Binyamin 27, Nachlas Tzvi C.M. 237 and Minchas Yitzchak 5:77. **11** See The Journal of Halacha and Contemporary Society # 21, pg. 84-96, for an excellent review of this subject by Rabbi Yisroel Schneider. **12** See Chasam Sofer C.M. O.C. 2 who debates this question. **13** See Beis Yitzchok Y.D. 2:75 who discusses this theory. **14** There is a Talmudic basis for this claim based on the view of Tosfos Kiddushin 59a, in the name of R' Meir, which is endorsed as practical halachah by many of the authorities, see Rashdam 259; Chasam Sofer C.M. 79; Parashas Mordechai C.M. 67; Nachlas Tzvi C.M. 237. M'harsham 1:202. **15** Masa'as Binyomin 27. **16** Beis Yitzchak Y.D. 2:75, based on the Shach Y.D. 165:8. **17** See Bava Metzia 34a where the concept of shiur is mentioned, concerning one who sells sheep yet retains for himself its fleece and offspring. See also Bava Basra 63a. The comparison, though, is not exact, since in our case the seller retains something intangible. **18** This argument is advanced by Rabbi N.Z Goldberg in Techumin, vol. 6, pg. 181-182. See also vol. 7, pg. 360-380. **19** See Shoel u'Maishiv (Kamma, 1:44). See also Minchas Yitzchak 9:153 who proves that this was the view of the Chofetz Chaim. **20** See Pischei Choshen, Geneva, pg. 287, who tends to be lenient when copying tapes for personal use. He does not, however, issue a clear decision. **21** Igros Moshe O.C. 4:40-19. **22** It is also not clear if in the case discussed there the copier bought the tape or merely borrowed it for the sake of copying it. **23** See Heart to Heart Talks, pg. 54, quoting Harav C.P. Scheinberg. **24** Shevet ha-Levi 4:202. **25** See Pischei Choshen, Geneva, pg. 287, who disagrees altogether with Harav Wosner's lenient ruling concerning copying pages for classroom use. See also Teshuvos Shraga ha-Meir 4:77 who prohibits copying both published materials or tapes even for personal use as long as the item is available for sale. **26** 25:14. It is also quoted as practical halachah in Teshuvos Tashbatz 3:151 and Teshuvos Rama 10. **27** Ahavas Chesed 5:7 and Nesiv ha-Chesed 12. **28** M'haram Shick C.M. 31. **29** See Minchas Yitzchak 3:129 who remains undecided on this issue. **30** See Kol ha-Torah, vol. 42, pg. 305. **31** Teshuvos Chasam Sofer C.M. 134, since the word "amisecha" appears in the verse which is the source of this halachah; Minchas Yitzchak 3:129. **32** M'haram Shick C.M. 31; Ahavas Chesed 5:3.

שבת שלום!
Shabbat Shalom



Shabbat starts 6.52pm



Shabbat ends: 7.51pm

The *Insights into the Sedra* sheet is edited by Chazan Anthony Wolfson

Online at: http://www.wembleysynagogue.org/html/sedra_notes.html