

And hiding it in there

ואצנועי¹ בגויה –

OVERVIEW²

The גמרא answered that רבינא may not agree with ר"ה (that הלוח אחר הרוב against a ערלה (the קרוב), however here we assume that it did not come from the קרוב (the vineyard), for the thief who placed the wine here would not have placed it there if the wine was taken from this vineyard, therefore we need to assume that it was taken from other vineyards which are not ערלה. Our תוספות explains why we are not concerned that it may be יין נסך.

תוספות asks:

ואם תאמר מכל מקום יהא אסור דרובא דעלמא נכרים נינהו והוי יין נסך -

And if you will say; but nevertheless (even if there is no concern for ערלה) this wine should be prohibited, since a majority of the world is נכרים, so it is יין נסך –

תוספות answers:

ויש לומר דרוב גנבי ישראל³ כדאמר בפרק בתרא דעבודה זרה (דף ע"ב):

And one can say that the majority of thieves are ישראל, as the גמרא (רבא) states in the last פרק of ע"ז of מסכת ע"ז.

SUMMARY

There is no concern for יין נסך, since the majority of thieves are ישראל.

THINKING IT OVER

The גמרא initially assumed that רבינא agrees with ר"ה (that וקרוב הלוח אחר הרוב), otherwise why is it מותר since it was a vineyard of ערלה. However according to תוספות that the גנבי are careful from איסורי אכילה,⁴ perhaps רבינא disagrees with ר"ה, and generally we follow the קרוב, however here since it was ערלה, so obviously the thieves would not have taken ערלה wine?!⁵

¹ The text in the גמרא reads אצנועי (not ואצנועי).

² See 'Overview' to the previous לימא ד"ה.

³ Therefore, we assume that this barrel was stolen by a ישראל and (even though they steal, nevertheless) the ישראל will not steal wine from a נכרי because it is אסור and regarding this they are careful not to eat a האסור (רש"ש) דבר האסור.

⁴ See footnote # 3.

⁵ See רש"ש.