

OVERVIEW of the Daf

1) Using money for חליפין (cont.)

The Gemara concludes its challenge to R' Pappa's assertion that all opinions agree that money could be acquired with a חליפין transfer.

The rejection of this challenge and subsequent exchange are recorded.

Ultimately, we are told that R' Pappa retracted his position that coins could be acquired through a חליפין transfer.

The Gemara presents additional Amoraim who agree that money may not be used to effect a חליפין transfer.

R' Abba challenged Ulla's position that money may not be used to effect a חליפין transfer.

Ulla was silenced by the challenge and R' Abba offered his own resolution to the challenge.

Ulla finds support for this explanation.

R' Ashi offers an alternative explanation of the Baraisa that defuses the challenge.

Another unsuccessful challenge to the position that coins may not be used to effect a חליפין transfer is presented.

2) Using non-utensils for חליפין

According to both interpretations of the cited Mishnah non-utensils may be used to effect a חליפין transfer. This is a challenge to R' Nachman who holds that non-utensils may not be used to effect חליפין.

The Gemara defends R' Nachman's position.

R' Nachman's position is explained to be consistent with R' Yochanan's position that Biblically money acquires movable objects and it is a rabbinic enactment that requires משיכה.

The Gemara explains how Reish Lakish, who disagrees with R' Yochanan, understands the Mishnah.

3) Using money for חליפין (cont.)

An unsuccessful attempt is made to demonstrate that coins could be used to effect or could be acquired by חליפין. ■

REVIEW and Remember

1. According to the Gemara's conclusion is one able to acquire coins with a חליפין transaction?
2. What is the difference between the phrase יפה דינר and דינר יפה?
3. What dispute do R' Sheishes and R' Nachman have regarding חליפין?
4. What is the difference between a coin disqualified by the government and a coin disqualified by a region?

Distinctive INSIGHT

Currency cannot be acquired with חליפין

אקנינהו לרב שמואל בר אחא אסיפא דביתיה, כי אתא נפק לאפיה תווד

Earlier, R' Pappa said that although currency cannot be used to effect the transaction of חליפין, it can itself be acquired using חליפין. Now, the Gemara comes to show that R' Pappa did not remain steadfast in this opinion, and he, in fact, retracted it. The story was that R' Pappa was owed twelve thousand dinarim by a debtor in Mechoza, which was far away. Once, when R' Shmuel bar Acha was going to Mechoza, R' Pappa asked him to collect the money for him, and he authorized him to collect it by transferring the money to him together with the threshold of his house. When R' Shmuel returned, R' Pappa was so grateful that he went to greet him to Tevach. We see that R' Pappa did not use חליפין to transfer his money to R' Shmuel, which would have been a more convenient and obvious option, ostensibly because R' Pappa held that coins cannot be acquired using חליפין.

In its description of this episode, the Gemara in Bava Kamma (104b) says that the money was owed to R' Pappa as a loan. Several Rishonim note that this is difficult, as the Gemara in Bava Basra teaches that a loan owed to Reuven cannot be transferred to Shimon with any קנין. If the money of R' Pappa was a deposit, the story would be reasonable, but here it seems it was a loan. Tosafos in Bava Basra answers that in this case specifically the Rabbis enacted that a proxy can be appointed to collect a loan for the lender. He is not simply transferring the loan to the next person, rather, he is assigning him the right to collect for him.

Maharam Shif explains that the reason the Gemara points out that R' Pappa came to greet R' Shmuel upon his return was not simply that he greeted him because his money was being returned, but specifically because R' Pappa was relieved that the debtor in Mechoza agreed to give the money to R' Shmuel and had recognized the transfer of rights to the money from R' Pappa to R' Shmuel. R' Pappa had used a קנין סודר to transfer the funds to R' Shmuel together with the steps of his house (Rashbam, Bava Basra 150b). The steps of the house were not acquired with the standard methods of acquiring land, but rather with a סודר, and the money was transferred with it. Yet, the Gemara notes that for the money itself R' Pappa did not use the סודר, which effects חליפין, which shows that R' Pappa retracted his initial opinion. ■

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HALACHAH Highlight

Are animals muktza on Shabbos?

ופירי נמי עבדי חליפין

And produce may also be used to effect a chalipin transaction

Tosafos¹ writes that a bull is classified as a utensil. This is what emerges from his suggestion that the definition of a utensil is something that is designated for a particular purpose. Based on this, Teshuvos Halachos Ketanos² issued a lenient ruling with regards to the muktza status of animals. Since Tosafos determined that animals are considered utensils it should be permitted to move them if one needs them or their place (צריך גופו וממונו) similar to all utensils whose primary function is for forbidden activities. The obvious difficulty with this ruling is that Shulchan Aruch³ ruled the opposite when he wrote that one is not permitted to lift an animal since it is muktza. The resolution to this challenge is to assume that Shulchan Aruch refers to lifting the animal for its own sake but if it is lifted because the owner needs it or its place it is permitted to move the animal.

Teshivas Maharach Or Zarua⁴ also writes that it should be permitted to move song birds on Shabbos. The reason is that since people benefit from the bird's voice it qualifies as a utensil and is thus not muktza. He then cites Rosh who

maintains that although it is permitted to move (for itself or for its place) a utensil whose primary function is for something prohibited, that allowance does not extend to all muktza objects. Thus, for example, one is not permitted to take a rock from one's yard even if there is a great need since it is not categorized as a utensil to qualify for leniencies that apply to utensils. Similarly, animals are not utensils and therefore do not qualify for leniencies that apply to utensils.

Teshuvos Chikrei Lev⁵ concluded that animals are muktza and offered two refutations of the approach of Teshuvos Halachos Ketanos. Firstly, those animals that do not do work, like songbirds, are not categorized as utensils and thus they, by definition, remain muktza. Furthermore, even if we were to accept Tosafos' ruling that animals are utensils, nevertheless, that is limited to the halachos of using the animal to effect a חליפין acquisition but has nothing to do with the halachos of muktza. Shulchan Aruch Harav⁶ also ruled stringently that even a bird that children use for play is muktza and may not be moved on Shabbos. ■

1. תוס' ד"ה פירי.
2. שו"ת הלכות קטנות ח"א סי' מ"ה.
3. שו"ע או"ח סי' ש"ח סעי' מ'.
4. שו"ת מהר"ח אור זרוע סי' פ"א.
5. שו"ת חקרי לב או"ח סי' פ"ב.
6. שו"ע הרב או"ח סי' ש"ח סעי' ע"ח. ■

STORIES Off the Daf

The burned books

"שמא יאמר לו נשרף חיטיך בעלייה..."

The Jewish people were under the thumb of foreign nations for two millennia. Although Arab leaders often treated their Jewish subjects with callous brutality, compared to the Church the Arabs were gentle. Generally there was a way around a decree in an Arabic country. But in Europe the anti-Jew edicts usually called for more cruel and unusual punishment and could only be mitigated with tremendous effort. It is no accident that the Jews were unable to stay in any country in Europe for the duration of their exile in Europe—every single country cast them out at one time or another.

From Crusades to pogroms, the Jews were defenseless victims who had no recourse but to flee their homes until the hard times passed. Even when they were able to return home, they could not make any claim against a gentile to recover their property or receive justice. Even accusing an aggressor could conceivably cost the victim his life.

A certain man purchased some expensive seforim from a merchant who sold such holy works. Although the merchant took money for the books, the purchaser did not have time to collect the seforim. A few days later, there was a pogrom and when people returned to their homes the seforim could not be found.

After things settled back down, the wealthy man requested the bookseller, also a man of means, to return his money. He claimed, "After all, chazal say

that the transfer of money does not constitute a kinyan, so the burned seforim were still actually yours. Your merchandise was destroyed, and my money needs to return to me."

The merchant insisted they go the She'elas Shalom, ז"ל, for adjudication. He answered, "You are correct that, d'rabbanan, the transfer of money alone does not constitute a kinyan. However, it does d'oraisa. Chazal decreed that it does not acquire to ensure that if there is a fire, the seller will trouble himself to save the merchandise if it is already his friend's property. But this does not apply to seforim since everyone is halachically obligated to save them to ensure that the holy is not disgraced. In our case, the ownership of the seforim changed from the moment the money exchanged hands!"¹ ■

1. שו"ת שאילת שלום, ח"ב, ס' ר"ז

