

OVERVIEW of the Daf

1) An agent appointing an agent (cont.)

Rava challenges and then resolves the challenge to his ruling that Bais Din may appoint a second agent in the presence of the first agent or in his absence.

Two incidents are presented and there are two versions of the second incident.

2) MISHNAH: The Mishnah teaches that if one lends money to a kohen, levi, or poor person with the understanding that the lender would keep the gifts that are normally given to the borrower as payment for the loan the lender has the right to assume the borrower is alive. The halachos that apply if the borrower dies are presented.

3) Clarifying the Mishnah

The Gemara questions how it is possible for the lender to keep the gifts if the intended recipient never received them.

Rav, Shmuel and Ulla offer different explanations for the Mishnah's ruling.

The Gemara points to the weakness of each explanation.

A Beraisa is recorded that elaborates on the Mishnah.

Details of the Beraisa are explained.

Another related Beraisa is cited.

The Gemara notes a discrepancy between the two Beraisos.

A resolution is offered that is supported by an aphorism cited by R' Pappa.

4) Clarifying the Mishnah's final ruling

A Beraisa cites Rebbi's explanation of the Mishnah's case where the borrower dies.

R' Yochanan explains Rebbi's qualification.

R' Yonason and R' Yochanan discuss the right of a lender to continue to collect terumah and ma'aser when the borrower left only a small piece of land.

5) Ma'aser rishon

A Beraisa presents two seemingly inconsistent rulings and asks for clarification.

Abaye offers an explanation.

This explanation is rejected and R' Mesharshiya the son of R' Idi suggests an alternative explanation.

This explanation is also rejected and R' Ashi offers a third explanation.

The premise of R' Ashi's explanation, i.e. the farmer has the right to separate terumas ma'aser, is questioned.

The Gemara answers that the Beraisa follows Abba Elazar ben Gamla who demonstrates from a verse that the practice is permitted. ■

Distinctive INSIGHT

The enactment to enable a kohen or levi to borrow money
המלוה מעות את הכהן ואת הלוי ואת העני להיות מפריש עליה מחלקן

Our sages allowed an arrangement to be made between a farmer and a kohen, levi, or poor man. The farmer may lend money to any of these individuals, and a condition would be made whereby they would not have to repay the loan with cash, but that it would be paid off with the farmer keeping the teruma or ma'aser that he designates as tithes and would have otherwise given to any of these individuals. Instead of presenting these gifts to the kohen, for example, the farmer would retain it as partial payment of the loan. The farmer would then sell the teruma in the market, and keep the money. The ma'aser rishon for the levi or the ma'aser ani for the poor could be kept outright, as these may be eaten by a regular ישראל, but the cash value would be deducted from the loan amount. The Yerushalmi (3:7) explains that the reason for this enactment was to enable the kohen, levi, or the poor to be able to borrow money and be able to have the debts paid off easily. Accordingly, this arrangement would not be condoned for pre-existing loans, as the lender already showed that he did not need this special consideration to lend his money. Interestingly enough, Noda B'Yehuda (2:199) allows this arrangement even for preexisting loans, but permission must be received from the poor person.

Meiri asks how this stipulation works, as the produce from which the teruma and ma'aser will be taken has not yet grown, and the rule is that no transactions may be made upon items that do not yet exist (דבר שלא בא לעולם). What is the legal mechanism by which this condition works?

Meiri suggests that, in fact, the legal force behind this arrangement is lacking, but as long as neither party rescinds his involvement, the loan can be paid back slowly but surely.

Meiri also notes that with the designation of אפותיקי (specifying from where payment will be made) the deal can be affected even with fruits that are not yet grown. Here, the land where the fruits and their tithes will be grown is clearly identified, and the condition is therefore valid.

Finally, Meiri explains that collection of a loan is not dependent upon whether the item to be collected is in this world now or not. There still remains an obligation to pay one's debt, so the teruma and ma'aser from produce which is yet to be grown can be taken for collection when it later grows. ■

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By Rabbi and Mrs. Makhlof Suissa
In loving memory of their mother
מרת אסתר גיטל בת ר' יעקב, ע"ה

HALACHAH Highlight

Prepaying ma'aser money to the poor

המלוה מעות את הכהן ואת הלוי ואת העני וכו'

Someone who lends money to a kohen, a levi or someone who is poor etc.

Noda B'Yehudah¹ relates that he was asked about a person who was very careful to separate ma'aser from the money he earned and distribute it to the poor. To be certain that his records were accurate he kept a ledger that kept track of all the money that he earned in one column and all the money that he distributed in a second column. Sometimes he would distribute money to the poor before he earned it and would later pay himself back with the money that he earned. When the fellow died his heirs examined his ledger and saw that at the time of his death he had forwarded money to the poor so the ma'aser column owed him money. The question was whether the heirs could collect that money. Noda B'Yehudah began by expressing uncertainty about the legitimacy of forwarding money to the poor and later collecting it from ma'aser. It is not similar to our Gemara, he explains, where the money was given in the first place as a loan because the money in this case is given to the poor as a gift so it is not clear that he could recover the money he forwarded. Nonetheless, since the practice is commonplace he justifies the practice and allows a person to collect the money he forwarded to the poor.

Teshuvos Avnei Yashfei² was asked about the practice of giving predated checks for ma'aser. Do we consider the predated checks as a valid method of fulfilling one's ma'aser obliga-

REVIEW and Remember

1. Does halacha accept a claim of אונס when it comes to gittin?

2. Why does lending money to a levi for his ma'aser not violate the prohibition against collecting interest?

3. Is there any recourse for a creditor if the lender dies without land?

4. Explain תורם שלא מן המוקף.

tion or not? The basis for the uncertainty is that predated checks have a market value even before the date on the check arrives since people are willing to purchase those checks before they can be cashed in the bank. Accordingly, it could be seen as though money was already given to the poor before it was earned and the money that is subsequently earned has not been properly ma'asered. Avnei Yashfei suggests that the benefactor should stipulate that the money is a loan until the date on the check arrives. Once that date arrives the check will become a gift for the poor. He then mentions that Rav Shlomo Zalman Auerbach said that one is permitted to rely on the abovementioned leniency of Noda B'Yehudah to forward the money to the poor even without explicitly stipulating that it is a loan. ■

1. שו"ת נודע ביהודה מהדור"ק יו"ד סי' ע"ג
2. שו"ת אבני ישפה"ח ג סי' צ"א ■

STORIES Off the Daf

Making an effort

מי יחיב לה תירקבא של דינרים ולא איפייסא

Rav Shach, zt"l, said, "When one person asks another for help, often the person beings asked says that he will 'try.' This expression is said automatically in an offhand manner and is not seen as assuming an obligation at all. Often people believe that making no more than the slightest effort on his friend's behalf is sufficient. They think that agreeing to make an effort means any kind of effort or no effort, but this is incorrect..."

Rav Shach would use the following story to illustrate why:

A young man once approached Rav Eliyahu Kamai, zt"l, the Mirrer Rosh Yeshivah and requested financial aid for a worthy cause.

"I cannot give you the entire sum that you need," Rav Kamai replied. "I will give you..." and he named a generous sum.

The bochur was not satisfied, though. "Please give the full sum. If you cannot, at least agree to try to procure the remainder from another source."

Rav Kamai completely refused this request.

The bochur was confused. "But all I ask is that you try. Why refuse such a small request?"

Rav Kamai replied, "Do you know the meaning of saying 'I will try?' In Git-

tin 30 we find the case of one who gave his wife a גט and said, 'This divorce will take effect if I do not appease you within thirty days.' Rav Yosef explains that even if he tried to appease her but she was not amenable, the גט takes effect. Surely, if he had given her a chest full of coins or made other great efforts, she would have been appeased! We see that Chazal understood 'making an effort' to mean something very different than what most people intend today. Today, people believe that this is just an expression without true meaning, but this is inaccurate. In light of this, how can you ask me to make an effort? Who can say he has fulfilled his obligation to 'try'?" ■

1. משלחנו של רבינו עמוד ק"ח ■

