

OVERVIEW of the Daf

1) Renting a ship (cont.)

R' Pappa rules that one who rents a boat may collect the rent and the damages but customarily they are paid at different times.

The basis of this custom is explained.

2) Orphans

R' Anan in the name of Shmuel rules that it is permissible to lend the money of orphans with interest.

R' Nachman strongly objected to this ruling and asked R' Anan to retell the original incident.

R' Anan recounts the original incident.

R' Nachman demonstrates that R' Anan's inference was incorrect.

A ruling is issued that permits the money of orphans to be lent to collect rabbinically prohibited interest.

Tangentially, a Beraisa is cited that discusses the character of different types of investors.

Rabbah and R' Yosef have a discussion regarding the proper management of the property of orphans.

R' Ashi challenges this method of management and offers his own way the property should be managed.

3) **MISHNAH:** The Mishnah mentions a type of business arrangement and rules that it may not be done between two Jews but it may be done with a gentile. Other leniencies in this area that apply to gentiles are presented.

4) **צאן ברזל** agreement

The Gemara challenges the Mishnah's implication that in a **צאן ברזל** agreement the capital is considered in the possession of the recipient.

Abaye offers one resolution for this challenge.

Rava rejects this explanation and offers an alternative resolution.

5) Collecting interest from gentiles

Rav interprets a verse to indicate that it is improper to collect interest from a gentile.

R' Nachman quotes R' Huna also interpreting the verse as indicating that it is improper to collect interest from a gentile.

Rava unsuccessfully challenges this ruling.

Rava presents a second unsuccessful challenge to this ruling. ■

Distinctive INSIGHT

Orphans should not follow in the footsteps of collecting interest

יתמי דאכלי דלאו דידהו ליזלו בתר שבקייהו

Rav Anan taught in the name of Shmuel that it is permitted to lend the money of orphans and for them to collect interest. Rav Nachman was surprised to hear this ruling, and he asked, "Is it proper for orphans to conduct themselves illegally? If they take interest, they will follow their father into the grave!"

Ritva explains that R' Nachman's dismay was that he felt that it would be better for these young orphans to suffer extreme financial deprivation (**מוטב ימותו ברעב**) rather than be recipients of money collected from interest, for if we permit their money to be lent out with interest in this case they will become accustomed to lend their money out for interest as adults.

Ritva and Rashba note that Rav Nachman did not say that the money of the orphans being lent out for interest was prohibited. In fact, if the supervisor of their estate (**אפיטרופוס**) lends their money and collects interest, no prohibition has been violated, neither on a Torah level nor on a rabbinic level. Rav Nachman's criticism was merely that orphans should not be supported with money which was earned in a manner similar to that which is prohibited (**כעין איסור**).

Beis Yosef (C.M. 34) cites the opinion of Rashba that the **אפיטרופוס** who lends money of the orphans, even for set interest (**ריבית קצוצה**), is not in violation of the halacha. He is not thereby disqualified from his eligibility to be a witness in a Jewish court.

On the other hand, the opinion of Maharam (cited by Mordechai, 230), is that if the **אפיטרופוס** lends the money out for interest, and there are witnesses to the transaction, this is an absolute violation of the Torah's law not to lend with interest, and the **אפיטרופוס** is thereby disqualified from testifying in a Jewish court until he returns the money and/or cancels this illicit loan.

Beis Yosef concludes (ibid.) that **תשובת מהרי"ל** writes that it had become common to lend money of orphans out for interest, even though it was improper to do so. Nevertheless, the **אפיטרופוס** should not be stripped of his right to testify in a Jewish court, because he thinks he is doing a mitzvah to earn greater return for the orphans. When a person thinks what he is doing is a mitzvah, or that it is at least something proper, he is not disqualified from testimony, even though he is technically acting in violation of halacha (see Shulchan Aruch C.M. 34:11). ■

HALACHAH Highlight

Thanking someone who lent money for the publication of a sefer

מעות של יתומים מותר להלוותן ברבית

The money of orphans may be lent with interest

The Gemara discusses the permissibility of lending the money of orphans for interest. Along these lines, Pischei Teshuvah¹ cites Magen Avrohom who talks about borrowing money with interest for the sake of obtaining food for Shabbos. Mishnah Berurah² suggests in the name of earlier authorities that this applies when the lender is a gentile or perhaps even from a Jew using a permitted method of borrowing money with interest.

A more common application of the question of borrowing money with interest for the sake of a mitzvah arises in the context of publishing sefarim. It is not uncommon for authors to give thanks to those who assisted in the publication of the sefer and often times they mention people who loaned them money. Is this practice prohibited since it involves the borrower's returning to the lender more (i.e. the public expression of thanks) than the money that was borrowed or is it permitted since it only involves Rabbinic interest for the sake of a mitzvah?

Erech Shai³ rules that the practice is prohibited since it violates the prohibition of ריבית דברים – verbal interest. The ruling of Rema⁴ that permits borrowing money with interest for the sake of a mitzvah is limited to where it is necessary in order to fulfill the mitzvah. In this case, however, there is no allowance to thank the lender at the beginning of the sefer

REVIEW and Remember

1. Is it permitted to lend the money of orphans with interest?

2. Who is given the money of orphans to invest?

3. Who has possession of the capital in a צאן ברזל agreement?

4. Is it permitted to take interest from a gentile?

since the mitzvah of publishing the sefer was accomplished without having to give interest to the lender. Darchei Teshuvah⁵ cites authorities who permit the practice. Their rationale is that part of the intent of publicizing the name of the lender is to inspire others to follow his example and thus it is considered as though the loan with interest is being done so that the mitzvah could be performed. Darchei Teshuvah writes that in his opinion this answer is forced. Rav Moshe Feinstein⁶ writes that what is permitted is to publicize that Hashem will bless this lender for the mitzvah that he performed by assisting the publication of the sefer. Since it is a statement of fact, intended to inspire others to also assist in the publication of sefarim, rather than an expression of gratitude, it is permitted. ■

1. פתחי תשובה יו"ד סי' ק"ס ס"ק כ"ב.
2. מ"ב סי' רמ"ב סק"ד.
3. ערך שי יו"ד מהדו"ב יו"ד סי' ק"ס סעי' י"ב.
4. רמ"א יו"ד סי' קע"ב סעי' א'.
5. דרכי תשובה יו"ד סי' ק"ס.
6. שו"ת אג"מ יו"ד ח"א סי' פ'.

STORIES Off the Daf

The usurer's downfall

מרבה הונו בנשך ותרבית לחונן דלים יקבצנו

On today's daf we find that the punishment for one who lends money for prohibited interest is that he loses his capital.

Rav Yechiel Michel Stern, shlit"a, tells a fascinating story regarding this. A certain man made his living from prohibited interest. Although he initially accrued a vast fortune of ill-gotten gains, it was not too long before tragedy struck. One of his biggest "clients" lost

everything he had and had no hope of repaying even the principal of the loan. This defaulting was a big blow to his creditor, since he had lent a lot of his fortune to the now bankrupt businessman.

When the local rav noticed this man complaining that he now had even less capital than when he had began his business, the rav looked at him in a marked manner and told him a parable. "One time, a fierce lioness learned that her cub was caught in a hunter's trap. The mother was inconsolable and could not even sleep because of her loss.

A bear approached the lioness and said, 'I really do not understand why

you are so upset by this. How many children have you hunted down? How many mothers have been bereaved by your prowess? When this kind of sorrow finally lands on your doorstep, why should you be so inconsolable?"

"The same can be said to you," the rav explained. "I know of many people who have been ruined financially because of the forbidden interest they were required to pay you to borrow the money that they required. How many people have been unable to sleep because of you throughout your business career? Why should you be so upset when this finally happens to you?"¹ ■

¹רעיונות לדרוש, עי' תס"ב