

## OVERVIEW of the Daf

### 1) Relinquishing rights (cont.)

The Gemara concludes its unsuccessful challenge to R' Nachman's ruling permitting an heir to relinquish rights on Shabbos.

R' Yochanan offers an alternative way to explain the Baraisos which would not refute R' Nachman's ruling.

The Gemara clarifies the dispute between Beis Shamai and Beis Hillel regarding relinquishing rights on Shabbos.

2) **MISHNAH:** The Mishnah records a dispute regarding when partners have to formally make a shituf.

### 3) Clarifying the dispute

Rav explains that Tanna Kamma's lenient ruling applies only when the wine from the two partnerships is placed in one utensil.

Rava suggests a proof to Rav's understanding from the Mishnah but the proof is disputed by Abaye.

Two explanations, one from Rabbah and one from R' Yosef, are presented to explain R' Shimon's opinion.

A Baraisa cites the opinion of R' Elazar ben Tadaï who rules that in both cases of the Mishnah a shituf is required.

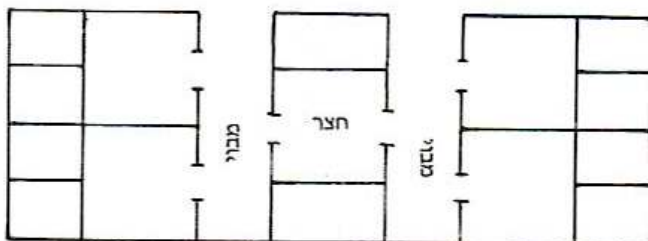
Two explanations, one from Rabbah and one from R' Yosef, are presented to explain R' Elazar ben Tadaï's opinion.

### 4) The dispute between R' Meir and Rabanan

A Baraisa records a dispute between R' Meir and Rabanan whether an eruv can serve as a shituf as well.

R' Nachumi and Rabbah disagree regarding how to explain the dispute. ■

## Daf DIAGRAM



אמר רבה הכא במאי עסקינן בחצר שבין שני מבואות

Rabbah explains that the reason R' Shimon rules that a shituf is unnecessary even if one partnership is with wine and the other with oil is because the Mishnah is discussing a chatzer between two mevuo's. Although the two shitufs can not combine to merge the two outer mevuo's it is nonetheless effective to permit carrying between the chatzer and either one of the mevuo's. ■

## Distinctive INSIGHT

### Hefker on Shabbos

ואסתלוקי רשותא בשבת שפיר דמי

The Pri Chadash (Orach Chaim 444:2) writes that it is forbidden to make an object hefker (i.e. to renounce ownership of the object) on Shabbos or Yom Tov. This is also the opinion of the Ritva (to Shabbos 120a), who writes that it is forbidden because it resembles a kinyan (a transaction in which ownership is conveyed from the previous owner to a new one) which is forbidden on Shabbos as well.

On the other hand, Teshuvos Avodas HaGershuni (1:25) writes that it is permitted to make an object hefker on Shabbos (see also Peirush HaRosh al HaTorah to Shemos 20:10). The Sha'ar HaMelech (Hil. Lulav 8:2) suggests that there is no real dispute. Rather, the Ritva refers to a case in which the person had in mind to make the object hefker specifically for another person to acquire it, as this certainly resembles a transaction. However, where a person's intention is only to divest himself of the object, hefker does not resemble a transaction, and is permitted (see also Aruch LaNer to Sukkah 34b d"h HaRan).

Teshuvos Reishis Bikkurim (§3) cites our Gemara as evidence that it is permitted to make something hefker on Shabbos, as we see here that although a person cannot acquire dominion over a domain on Shabbos (as this resembles a transaction – Rashi d.h. U'Mikna), it is permitted to renounce dominion over a domain on Shabbos.

R' Yosef Engel (Gilyonei HaShas here) rejects the proof. He explains (on the basis of an expanded analysis that he

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## REVIEW and Remember

1. If a Jew takes possession of a convert's property after Shabbos, does he restrict the other residents from carrying?
2. How did Abaye refute Rava's proof to Rav's explanation of Tanna Kamma?
3. Explain סומכין על שיתוף בקום עירוב.
4. Why is an eruv made with bread and a shituf with wine?

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# HALACHAH Highlight

## Declaring items ownerless on Shabbos

ביטול רשות מיקנה רשותא

*Nullifying one's share is transferring ownership of that share*

In the Gemara Abaye explains the dispute between Beis Shammai and Beis Hillel whether it is permitted to nullify one's share of a chatzer on Shabbos. Beis Shammai maintains that nullifying one's share of a chatzer involves a transfer of ownership of that share in the chatzer to the other members of the chatzer and is prohibited the same as any other business transaction. Beis Hillel contends that nullifying one's share of the chatzer involves nothing more than relinquishing one's ownership but does not involve a transfer of that share to someone else. Rashash<sup>1</sup> proves from this that it is permitted for one to make something ownerless on Shabbos since relinquishing one's share of the chatzer is essentially making it ownerless and it is permitted on Shabbos.

Ramban<sup>2</sup> prohibits declaring items ownerless on Shabbos since declaring something ownerless transfers that item from one's possession into the possession of hefker and thus is similar to a standard business transaction. Megilas Sefer<sup>3</sup> explains that according to Ramban nullifying one's share of the chatzer is not comparable to declaring one's possessions ownerless. The reason is that a declaration of hefker involves the owner relinquishing all

(Insight...Continued from page 1)

wrote elsewhere) that hefker is not a renunciation, but a conveyance of ownership from the original owner to the entirety of the Jewish people! Hence, it is like a gift – which resembles a transaction, and is forbidden on Shabbos – and not comparable to the "pure" renunciation of dominion that is the subject of our Gemara. ■

of his rights and privileges of ownership. When one nullifies his share of the chatzer all he does is relinquish his share that prevented the other residents of the chatzer from carrying in the chatzer. In other words he gives rights of passage to the other residents to enter his house but he does not relinquish his ownership of his house or property altogether. Relinquishing only some of one's control is not comparable to a declaration of hefker and thus is permitted. Orchos Shabbos<sup>4</sup> writes that even those authorities who prohibit making items ownerless on Shabbos permit one to throw something into the garbage. The reason is that the person is not making a declaration that the item is ownerless, the items become ownerless by virtue of the fact that they are no longer usable and thus it is not have the characteristics that normally resemble a business transaction. ■

1. רש"ש ד"ה ובה"ס.
2. רמב"ן ליקוטים ריש פסחים.
3. מגילת ספר לאוין רמ"ב.
4. ספר ארחות שבת ח"ב פכ"ב הע' ס"ט. ■

## Gemara GEM

### The Essence of ביטול רשות on Shabbos

אמר עולא מאי טעמא דבית הלל

A Jew who does not participate in the eruv of the chatzer may relinquish his portion in the chatzer to the other occupants. Beis Shammai requires that this gesture be done before Shabbos begins, while Beis Hillel allows it to be done even on Shabbos itself. The Gemara brings an inquiry of Ulla analyzing the opinion of Beis Hillel. "What is the reason for the opinion of Beis Hillel?" he asks. The Ran explains, in the name of יש שפירשו, that Ulla was asking how this method works. The rule is that once Shabbos begins without the ביטול, carrying in this chatzer is already prohibited for part of the Shabbos, and the rule is that it should then be prohibited for the entire Shabbos. The answer of Ulla is that we consider it as if the person

who relinquishes his property rights meant to do so from before Shabbos began, but he simply forgot to announce his intentions until Shabbos had already started. Therefore, it is as if this chatzer has been permitted for the entire Shabbos.

Abaye questions Ulla's premise from the case of a gentile who was a member of the chatzer, who died on Shabbos. In this case, the remaining Jews who did not participate in an eruv may now use the method of ביטול even at this point. Here, however, the explanation of Ulla fails, for there is no way these Jews can be considered to have wanted the eruv from before Shabbos, because they had no idea that the gentile was going to die later that day. Therefore, Abaye provides an alternative answer for Beis Hillel. Abaye feels that the question of "מאי טעמא – what is the reason for allowing ביטול on Shabbos itself?" had nothing to do with the rule of איסור למקצת שבת. Rather, Abaye understood that the question was how could Beis Hil-

lel allow a person to relinquish his property on Shabbos, when this is similar to performing a transaction? The answer is that Beis Hillel do not consider ביטול to be a transaction, but rather it is looked upon as a withdrawal, or an abandonment of one's rights, which is allowed on Shabbos.

Ran himself rejects the explanation of the יש שפירשו in their understanding of Ulla, and he explains that even Ulla was coming to ask how Beis Hillel could allow ביטול, when it is so similar to making a transaction on Shabbos. Ulla answered that it is considered as if the person was willing to relinquish his property from before Shabbos began, and not on Shabbos itself. Abaye proves this cannot be so from the case of the gentile who dies, and he therefore suggests that the true meaning behind ביטול according to Beis Hillel is סילוק/removing one's self from the property, rather than transferring one's rights to anyone else. ■

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