



This month's Daf Digest is dedicated
 L'ilui Nishmas Rivka Yenta bas Asher Anshel (14 Elul) and Yosef ben Chaim haKohen Weiss (8 Elul)
 Family Weiss, London

OVERVIEW of the Daf

1) גלגול שבועה (cont.)

The Gemara concludes the Baraisa of Tanna D'vei R' Yishmael that pinpoints the source of the use of גלגול שבועה even in monetary matters.

It is noted that this source only proves the principle of גלגול שבועה when there is a definitive claim but there is no source for the use of the principle for uncertain claims.

Another Baraisa is cited that demonstrates that גלגול שבועה can be used even for uncertain claims.

The Gemara inquires about how far the principle of גלגול שבועה could be extended.

R' Yehudah in the name of Rav suggests one case.

The Gemara rejects that case as an example.

Rava offers a revised version of that case.

Rava's explanation is unsuccessfully challenged.

2) **MISHNAH:** The Mishnah discusses the validity of transferring property by means of חליפין.

3) Clarifying the language of the Mishnah

The Gemara inquires whether the Mishnah should be read literally and leads us to the conclusion that one could use coins to make a חליפין transaction.

R' Yehudah explains the true intent of the Mishnah so that one would not draw the conclusion that money could be used for חליפין.

It is noted that a careful reading of the Mishnah supports this explanation.

The Gemara explains how the Mishnah would be under-

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REVIEW and Remember

1. What is the punishment for falsely calling someone a slave?
2. May one use a coin to make a חליפין transaction?
3. What is the point of dispute between R' Sheishes and R' Nachman regarding חליפין?
4. How is property transferred to the Beis HaMikdash?

Distinctive INSIGHT

Calling another Jew a "רשע"

רשע—יורד עמו לחייו

In its discussion regarding the cases where we apply the rule of גלגול שבועה, the Gemara suggests that one case may be where Reuven demands that Shimon take an oath that he is not Reuven's slave. The Gemara quickly notes that if anyone publicly calls someone else a slave, the Jewish court will reprimand him and even banish him for having insinuated that this man's status is compromised. In fact, if Reuven calls Shimon a רשע — an evil person — the Baraisa uses an enigmatic term and rules "יורד עמו לחייו" — he may pursue him to his very life."

Rashi here explains that this means that it is permitted to undermine the person's ability to earn a living, and to interfere with his vocation, yet Rashi in Bava Metzia 71a asks how it is possible that our sages permitted outright revenge and to allow a Jew to harm another. Furthermore, the Gemara (Kesuvos 50a) teaches that a father may contend with his son until he is twelve years old and encourage the son to study properly. After age twelve, the father may be "יורד עמו לחייו". How can this response make any sense when referring to dealing with a son and attempting to encourage him to learn Torah properly?

Rather, Rashi explains that the Gemara which instructs how to deal with one's son means that a father may take a direct and disciplinary approach if necessary, and to compel the son to study in a structured manner.

In response to Rashi's question, Maharam Shif explains that our Gemara is discussing how to react to someone who shames another Jew by calling him "an evil person." The offender has demonstrated that he has removed himself from the category of one who fulfills "וחי אחיך עמך—live together with your fellow brother." He is now able to be dealt with measure for measure, and to be subject to scorn for his verbal abuse.

Igros Moshe (Choshen Mishpat, 1:38) writes that this halacha only applies to where the insult was launched unprovoked. However, where the belittling remarks were spoken as part of a heated exchange in the midst of feuding between the parties, the one who verbalizes them should not be vilified. He was himself hurt, and his poor choice of words under such circumstances should not be treated with such contempt. ■

HALACHAH Highlight

Oral consecration of property

אמירתו לגבוה כמסירתו להדיוט

A statement of consecration is as effective as handing an object to a private person

The Yerushalmi¹ writes that the source for the principle, אמירתו לגבוה כמסירתו להדיוט – A statement of consecration is as effective as handing an object to a private person, is the pasuk (Tehillim 24:1) – לה' הארץ ומלואה To Hashem is the land and all that is in it. Meiri² explains that the Beis Hamikdash acquires the property through the mechanism of חצר – courtyard. Since the entire world is Hashem's property, He acquires the property as soon as the benefactor makes his declaration. This approach would seem to have bearing on a dispute between Nesivos and Or Sameach. Nesivos³ maintains that land cannot be acquired via the mechanism of חצר whereas Or Sameach⁴ holds that one can acquire land via the kinyan of חצר. Since the principle that a declaration of consecration applies even to land it would seem that the Yerushalmi supports the approach of Or Sameach.

Rosh⁵ offers an alternative source for this principle. He maintains that the pasuk (Devarim 23:24) – מוצא שפתך תשמור – You should watch what comes out of your mouth. This source indicates that hekdesch does not acquire the property at the time of the declaration; rather it creates an obligation to fulfill the vow that the benefactor made. Rav Chaim Ozer Grodzenski⁶, author of Teshuvos Achiezer, explained that even according to Rosh the declaration of consecration automatically transfers the property to the Beis Hamikdash and it does not constitute a

stood according to the initial incorrect interpretation.

It is noted that the Mishnah that allows produce to be used for חליפין seemingly follows the position of R' Sheishes rather than R' Nachman.

Another interpretation is suggested that will be acceptable even to R' Nachman.

The reason money is not used to acquire movable property is explained in accordance with R' Yochanan's opinion.

The reason money is not used to acquire movable property is explained in accordance with Reish Lakish's opinion.

4) **MISHNAH:** The Mishnah notes two differences between the method of transferring property to the Beis Hamikdash and transferring property to an individual.

5) Transferring property to the Beis Hamikdash

A Baraisa is cited that elaborates on the method of transferring property to the Beis Hamikdash. ■

mere vow to be fulfilled. The verse cited by Rosh is necessary to teach the halacha of a declaration that an item will be sacred after thirty days. If one made a declaration to transfer property to a private person after thirty days he would have the ability to retract within the thirty days but when the declaration was made to consecrate property the verse obligates him to follow through on his commitment. When, however, the consecration was made without qualification it is effective immediately. ■

1. ירושלמי קידושין פ"א ה"ו.
2. מאירי ד"ה המשנה השביעית.
3. נתיבות המשפט סי' רמ"א סק"ג.
4. אור שמח פ"א מהל' גירושין ה"א.
5. רא"ש לנדריים כ"ט: ד"ה שאני.
6. שו"ת אחיעזר ח"ג סי' ס"ז סק"ג. ■

STORIES Off the Daf

The sinning "Tzaddik"

"אמירתו לגבוה כמסירתו להדיוט..."

People can sometimes act very righteous in certain areas, but be appallingly unreceptive to correction in others. It's almost as if they feel that their good actions will atone for their lapses.

In a certain town they were having serious trouble dealing with just such a person. On the one hand, his davening was superlative. He always came precisely on time and would pray with such fervor that he frequently cried tears from the magnitude of his dveikus. His prayers

inspired everyone.

Unfortunately, there was a down side. This man was an informant and extortionist. Whenever he found out any information he could use to make trouble for a fellow Jew, he would threaten to disclose it to the proper, and most often thoroughly corrupt, authority if a payment in cash was not immediately forthcoming.

He was as good as his word and never double-crossed his "cash customers." If he received the money on time he would not inform. But if he was refused or the money was not presented on time, he would always inform.

The people of the town had the ability to make serious trouble for him but

they wondered: should they really make trouble for this "tzaddik"?

Since they didn't know what to do, they consulted with Rav Uri of Strelisk, ז"ל, who immediately quoted today's daf. "It says in Kiddushin 28, 'אמירתו לגבוה כמסירתו להדיוט'. Although this literally means that one's pledge for hekdesch is equivalent to handing it over to a person, there is another explanation that applies to this man. We can tell the true level of one's words to Hashem in prayer by whether one informs on his fellow Jew. You should definitely ignore any of his so-called 'greatness' in his prayers and stop this wicked man!"¹ ■

¹אמרי קדוש השלם, עמוד קע"ג