

35.6.2

21a (משנה א) → 22a (סיום המסכת)

- I שליחות: parameters of violating משנה א
- a If: בעה"ב told שליח to get the הקדש (funds) from "a window or a box" and he brings from either – בעה"ב is liable
- i Even if: the בעה"ב later said that his intent was only one of them (the one the שליח did *not* choose)
- 1 Reason: דברים שלב are meaningless in re: interactions (including contracts, תנאים and שליחות)
- b But if: בעה"ב told him to get it from the window and he brought it from the box – or vice-versa – שליח is liable
- II משנה ב: involving a בעה"ב, an agent and a storekeeper (end-user)
- a If: בעה"ב sent funds with חש"ו and they completed their task – בעה"ב is liable; if not (e.g. wrong storekeeper) – חנוני is liable
- i Challenge: חש"ו are not שליחות בני
- 1 Answer1 (ר"א): they treated them like a basket of olives (olives sweat in the basket and that זיעה is considered liquid that comes out לרצון → מכשיר לטומאה) i.e. treated like insensate vehicles for בעה"ב's intent (per ט:א)
- 2 Answer2 (ר' יוחנן): they treated them like monkey or elephant who brings an עירוב – if the recipient takes it from them, this is a valid עירוב → their insensate actions are a valid "agency" when it is result-driven
- b If: בעה"ב sent funds with competent person and the בעה"ב remembered that it was הקדש before the שליח got to the store
- i And: therefore, בעה"ב is now considered "מזיד" and exempt from מעילה
- ii Then: חנוני is מועל – when he uses the money
- 1 Question: is this even a case where שליח didn't become aware that these are הקדש-funds?
- 2 Challenge: תוספתא מעילה ב:ז – if the בעה"ב remembered but not the שליח – the שליח is liable
- (a) Answer (ר' ששת): in our משנה, both of them remembered → חנוני is liable
- iii Solution (for בעה"ב): when he remembers, he should immediately take a coin or vessel in his own house and declare that the הקדש – wherever it may be – is מחולל on this coin/vessel
- 1 Reason: הקדש can be redeemed with silver or כסף שווה
- III משנה ג: further details about "violating" שליחות (thereby uprooting it, thereby liability goes to שליח)
- a If: he gave the שליח פרוטה (of הקדש) and told him to use ½ for wicks and ½ for candles – and שליח used full פרוטה for either
- b Or if: he gave the שליח פרוטה and told him to use it for either wicks or candles and he used ½ for candles, ½ for wicks
- c In both cases: neither is liable (as each was מועל in ½ פרוטה)
- d But if: he gave him פרוטה and directed him to use ½ for נרות from place X and ½ for פתילות from place Y
- i And: שליח got נרות from place Y and פתילות from place X – שליח is fully liable (he was מועל in the entire פרוטה)
- IV משנה ד: consequences of שליח modifying directions of בעה"ב in re: expenditures
- a If: he gave the שליח 2 פרוטות, charging him to buy an אתרוג & שליח bought an אתרוג (@פ"ט) and a pomegranate (@פ"ט) – both liable
- i ד' יהודה: בעה"ב isn't liable, as he can claim that he wanted a bigger אתרוג (worth 2) and he brought him a small one (@1)
- b If: he gave the שליח דינר, charging him to buy a garment and he bought a garment (@3 טלע) and a טלית (@3 טלע) - both liable
- i ד' יהודה: בעה"ב isn't liable, as he can claim that he wanted a nicer חלוק, worth ז"ז, and not one worth 3 סלעים (½ דינר)
- 1 Inference (from ר"ק's position): if someone told his שליח to sell a כור and he sold ½, the sale is valid and לוקח acquires it
- (a) Rejection: in this case, perhaps the garment was worth a דינר and he got it at half-price
- (b) Challenge: ר' יהודה's dissent implies that the garment he got was inferior to what he requested
- (i) Defense: the בעה"ב may have responded that the שליח should have spent the דינר on a superior חלוק (worth 2)
- (ii) Proof: ר' יהודה (elsewhere) accedes to חכמים in case of קטנית, as they have a set price (per ר"פ's explanation)
- V משנה ה: entrusting הקדש funds (unknowingly) to another
- a If: he gave coins to a שלחני (money-changer)
- i If: he entrusted them bound up, the שלחני may not use them → if the שלחני expends them, he violates מעילה
- ii But if: he entrusted them as loose coins, the שלחני may use them → בעה"ב is in violation
- b But if: he gave them money to a regular person (בעה"ב), in any case he may not expend it → if he does, he is in violation
- c A storekeeper: is like a regular citizen, per ר' יהודה; ר"מ says he should be treated as a שלחני

- VI פרוטה של הקדש with one חכמים dispute ר' about status of coins in pouch משנה 1
- a If: a coin of הקדש fell into a pouch (of coins) or he declared that a פרוטה in this pouch is הקדש
 - b ל'ע מעילה applies to the first one he takes out
 - c חכמים. he isn't in violation until he spends all the coins (i.e. it applies to the last one out)
 - i Note: ר' assents in a case where he declares "a פרוטה from this pouch is הקדש" – no violation until he spends the last one
- VII 3 versions of ר' ל' challenge to יוחנן ר' regarding ר'ע's agreement with חכמים in סיפא
- a סיפא to רישא ד' דימי
 - i Answer: in סיפא, he declared "this pouch will not be exempted from הקדש" (i.e. something in it will be הקדש → last coin)
 - b דבין rule of שורין – if someone says "הקדש" and he has two – the larger one is הקדש
 - i Answer: in סיפא, he declared "this pouch will not be exempted from הקדש"
 - c ד'פ rule of לוגין (דמאי ז:ד) – if someone buys wine from כותים (and he cannot separate תר"מ, e.g. he bought it just before שבת)
 - i Note: this is under the assumption that שומרונים are careful about תר"מ, but only for their own use, not what they sell
 - ii ד'מ he may declare that he will leave over 2 parts for תרומה etc. – and drink and leave them at the end
 - iii ד' יהודה, ר' יוסי ור"ש prohibit (i.e. first must be taken)
 - iv Answer: in סיפא, he declared "this pouch will not be exempted from הקדש"

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 דעתן עלך מסכת מעילה ודעתך עלן
 יה"ר מלפניך יא"א שייבנה בית המקדש במהרה בימינו
 ושם נעבדך ביראה כימי עולם וכשנים קדמוניות