The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Tues, February 1, 2022 ■ ל' שבט, תשפ"ב
סימן קנ"ד סעיף ט'-י"א

Halacha Highlight

Benefitting from sacred objects

Rema Siman 154 Seif 9
משום לב בית דין מתנה עליהם
Because *Bais Din* stipulates about them

Shulchan Aruch (סע' ט') cites two opinions about the permissibility of using a Torah cover that was used for a privately owned *sefer Torah* before it was donated to the *Bais HaKnesses*. According to the first opinion, it is prohibited to use that cover on other *sifrei Torah* since it was sanctified for use for this one *sefer Torah*. The second opinion is lenient and Rema relates that the custom is to follow the lenient opinion since לב בית דין מתנה עליהם—*Bais Din* stipulates that such use is permitted. Even though there are authorities who maintain that one may not redirect an object from one sacred use to another if the move is merely parallel, nevertheless, the principle of לב בית דין permits redirecting the object to another use on the same level of sanctity (ספר צדקה ומשפט פט"ו הע' כ"ט).

Mishnah Berurah earlier (ס"ק ל"ה) mentioned that the principle of לב בית דין is limited to property that belongs to the *tzibbur* rather than property that belongs to an individual. He also mentions that this principle applies only with regards to something whose benefit cannot be avoided but in the event that one could avoid benefitting from that sacred property the principle of לב בית דין does not apply. This latter principle raises the question of the permissibility of placing the Torah crown on the head of the person who finishes reading the Torah. Clearly, one can avoid deriving this type of benefit from the Torah crown and yet Shulchan Aruch ruled that when there is a custom to do so one need not protest the practice because it is included in the principle of לב בית דין. Sefer Tzedaka u'Mishpat (פט"ו הע' כ"ז) answers that the reason it is permitted is that wearing the Torah crown is an expression of *kavod hatorah* which is, in fact, in line with its designated purpose.

Overview

Siman 154 Seif 9:

Those who donate a *sefer Torah* and leave the covering in the *Bais HaKnesses*, it is permitted to use that covering for any *sefer Torah* since that was his intent when he donated it. If they were stored in their home and then they sanctified them they may not be used for another *sefer Torah* since it was designated and used for that *sefer Torah*. Some authorities permit its use with other *sifrei Torah* (and this is the custom since *Bais Din* stipulates that this should be permitted.)

- The stringent opinion maintains that any change of sanctity is prohibited unless it goes to a more severe sanctity. (M.B. 39)
- The lenient opinion contends that as long as the sanctity did not go down a level it is permitted. (M.B. 40)

Siman 154 Seif 10:

It is unnecessary to protest those who place the crown of a *sefer Torah* on the one who finishes the Torah but it is necessary to protest those who place it on the heads of grooms.

- When there is a custom to do so it is assumed that Bais Din stipulated that it should be permitted. If it was stipulated when the crown was made that it will placed on the head of *chasanim* it is permitted. (M.B. 42)

Siman 154 Seif 11:

Wax candles that were given by a Cuthean to idolaters and after their attendant extinguished the flame he gave it or sold it to a Jew, those candles may not be lit in the *Bais HaKnesses* even though it may be used for mundane purposes. It is prohibited to kindle wax or a lamp donated to a *Bais HaKnesses* by someone who is a *mumar* for idolatry, see Yoreh Deah *siman* 139 and 254 for more about these *halachos*.

- When it was extinguished it no longer served as an adornment for idolatry and is permitted for private use but it is still considered repulsive for sacred use. If it was never used for idolatry it is even permitted for sacred use. (M.B. 44)
- One may not use this wax or lamps for any *mitzvah* use once it was used for idolatry. (M.B. 45)
- There is a disagreement whether an idolatrous house of worship may be made in to a *Bais HaKnesses* and the custom is to be lenient. Biur Halacha adds that this is limited to where they did not bring idols into the sanctuary but if they did the building may be used for non-sacred matters but may not be used for a *Bais HaKnesses*. (M.B. 45)
- A candelabrum that was used in an idolatrous house of worship may be used privately but may not be used in a *Bais HaKnesses* or for a *mitzvah* since it is considered repulsive. Concerning benches Pri Megadim rules that one may use for a *Bais HaKnesses* benches taken from an idolatrous house of worship. (M.B. 46)
- Donations for a *Bais HaKnesses* from a *mumar* are treated like a korban and are not accepted but it is permitted to take money to pay for a *sefer Torah* in their name. (M.B. 48)

Stories to Share

An Unstated Condition

ש"ע קנ"ד, ט': "המתנדבים ס"ת..."

Today's amud discusses one who donated a sefer Torah to a shul.

A certain ba'al habayis once presented a Torah scroll to a local shul without specifying whether this was a gift or only a loan. Several years later, the man was moving from the town and wished to repossess the sefer, as is customary. But the question came up: since he had not specified that he could take the Torah back whenever he wished, perhaps the kehillah had acquired it? Even a doubt regarding this issue would likely prohibit him from taking what might be shul property.

For this reason, the gabbaim of the shul refused to allow the previous owner to remove the sefer from its safe. The owner protested vehemently. They finally decided to consult with the Chelkas Ya'akov regarding this matter. Did the gabbaim have the right to withhold the sefer Torah or not?

The Chelkas Yaakov replied, "They have no right to prevent him from removing the sefer Torah. The Magen Avraham and the Eliyahu Rabbah both state that the custom is that a sefer left in a shul remains the owner's property. In every community, on the first day of Sukkos, the custom is for many who don't have an esrog to take another's esrog and discharge their obligation. Even though the owner of the esrog doesn't say anything to transfer ownership of the esrog to each user, since the custom is to discharge their obligation in this manner, it is as if he made a declaration. The same holds true in this case; since the custom is to take the sefer Torah even without asking permission, it is as if he clearly stipulated that he can take it when he wishes!"

שו"ת חלקת יעקב, או"ח, סי' מ"ד