

## מאי טעמא דרבנן דפטרי –

### What is the reason of the *Rabonon* who exempt him

#### Overview

We have previously explained the ברייתא, which states that if one stole an animal and slaughtered it on שבת that (according to the רבנן) he is exempt from paying ד' וה' . It was necessary to establish this ברייתא in a case where another person slaughtered the animal, not the thief.<sup>1</sup> The question of the גמרא is, if we maintain that מעשה שבת are permitted (מה"ת), so it is a שחיטה ראויה, how can we explain the view of the רבנן that he is exempt from paying ד' וה' . Our תוספות rejects a possible solution to this question.

לא בעי למימר דלא דרשי אוי ותחת לרבות את השליח דלא ניחא ליה למימר דפליגי בשליח:  
The גמרא did not want to say that the reason the רבנן exempt him from paying ד' וה' when the טביחה was done by someone else is because they do not expound either 'אוי' or 'תחת' to include a שליח,<sup>3</sup> for it was not appealing for the גמרא to say that ד' וה' by שליח argue regarding a שליח ר"מ ורבנן.<sup>4</sup>

#### Summary

All agree that there is a עבירה regarding שליח לדבר עבירה.

#### Thinking it over

Does it seem (to you) that the actual explanations that the גמרא offers<sup>5</sup> are more appealing than the answer תוספות suggested?

<sup>1</sup> We derived from various פסוקים (either from 'אוי', or from 'תחת') that by ד' וה' there is עבירה לדבר עבירה, so therefore the גנב is liable to pay ד' וה' for the טביחה of his שליח. See footnote # 2.

<sup>2</sup> See footnote # 1 that we derive from either או or תחת to include a שליח for the טביחה. See footnote # 1 that we derive from either או or תחת to include a שליח for the טביחה.

<sup>3</sup> Therefore, since the טביחה was done through someone else (see 'Overview'), the רבנן maintain עבירה לדבר עבירה even by ד' וה', therefore the thief is פטור from ד' וה'.

<sup>4</sup> We do not find elsewhere that there is a dispute whether יש שליח לדבר עבירה regarding ד' וה'. It seems that all agree that by ד' וה' we say עבירה לדבר עבירה.

<sup>5</sup> The גמרא first omits שבת, then offers highly unusual cases for ע"ז and הנסקל; it would seem to be more ניחא if we would say that the רבנן maintain אשלד"ע (even) by ד' וה'.