

SHE'AILOS U'TESHUVOS

by Rabbi Doniel Neustadt

QUESTION: Is it permissible to wind up a [mechanical] baby swing or a wind- up toy on Shabbos(1)?

DISCUSSION: Winding up a baby swing set could possibly be a violation of a Shabbos Labor, either 1) tikun mana, fixing or creating an object, which is a prohibition derived from makeh b'patish, or 2) boneh, building. Let us explain: There is a general agreement among the poskim that one is not allowed to wind up a stopped watch on Shabbos. The Chayei Adam(2) rules that winding a stopped watch is Biblically prohibited because of tikun mana. The winding is considered an act of repair, as a clock or a watch are meant to run continuously and are therefore in a "broken" state when they have stopped. Although in the past some poskim(3) have disputed this logic(4), the majority of the poskim(5), including the Mishnah Berurah(6), rule stringently and do not permit winding a stopped watch. Such is the prevalent custom and it may not be changed(7).

The Chazon Ish(8), too, considers winding a watch a Biblical prohibition. Unlike the Chayei Adam quoted above, though, he prohibits it for a different reason. He maintains that by winding a watch one is "bringing to life" a piece of machinery which has been "dead." When this is done by tightening parts (as in winding a watch where the loose parts of the spring are tightened up), it is considered boneh, building(9).

A major practical difference between these two arguments would be in regard to winding up toys. If we were to follow the Chayei Adam's logic as to why it is prohibited to wind up watches, then a strong case could be made to permit winding toys. Harav S. Z. Auerbach(10) introduces two basic arguments to prove that there is a fundamental difference between the winding of a watch and the winding of a toy. In brief:

1. Winding a watch sets it for a long period of time (thus "transforming" it). A toy, however, "runs" for a few minutes and then stops.
2. Since the purpose of a watch is to show the time at all times, when it is stopped, it is considered "broken", and winding it is considered "fixing" it. A toy is not malfunctioning when it does not run. It is made to run at specific times only. Thus, when it is stopped, it is not considered "broken." Winding it does not render it "fixed." In other words, winding does not "fix" it; rather, it makes it usable, which is permitted.

The above arguments, however, hold true only if we were to follow the Chayei Adam's logic for prohibiting winding watches. Were we to follow the Chazon Ish's reasoning, however, then there

would be no difference between a watch and a toy. In both cases the "dead" item is being "brought to life" through the winding process. There is a strong possibility, therefore, that it would be prohibited to wind up toys, either Biblically or by Rabbinic decree(11).

It seems that winding up a baby swing is similar to winding up toys. L'chatchilah, therefore, one should refrain from winding up a baby swing on Shabbos, in deference to the opinion of those who prohibit it(12). When absolutely necessary, however, since the Mishnah Berurah rules like the Chayei Adam, one has an authority to rely on if a crying baby cannot be quieted unless the baby swing is activated. Even then, it would be preferable if the winding were done by a non-Jew(13). If a non-Jew is unavailable, a minor should be asked to do it(14). If a minor is unavailable, an adult should wind the swing, with a shinui, in an unusual manner(15).

QUESTION: Is it permitted to touch, lean or sit on a tree on Shabbos?

DISCUSSION: Since it is Biblically prohibited to tear a branch or a leaf from a tree on Shabbos, the Rabbis erected numerous 'fences' [precautionary measures] in order to prevent this transgression. [It is for this reason that Chazal forbade riding an animal on Shabbos, since it is easy to forget and pull a branch off a tree while riding an animal(16). As an extension of this edict, the Rabbis declared all animals to be muktzeh(17).]

It is Rabbinically prohibited, therefore, to:

3. Shake a tree on Shabbos(18). One may touch a tree if it will not shake (19).
4. Climb, sit, or lean heavily [e.g., to tie one's shoes] on a tree on Shabbos(20). One may sit on a dead tree stump(21).
5. Swing from a branch or from an object directly connected to a tree. Thus a swing or a hammock which is connected to a tree may not be used on Shabbos(22). Even a swing which is connected to a chain and the chain, in turn, is connected to a ring which is attached to the tree is still forbidden to be used(23). If, however, poles are connected to two trees and a swing or hammock is attached to the poles, they may be used, provided that the trees are sturdy and will not move or bend.
6. To place or hang an object [e.g., a jacket, a sefer] on a tree on Shabbos.
7. To remove an object from a tree on Shabbos. Even before Shabbos, it is prohibited to place [or leave] items on a tree that are usually used on Shabbos, since one could easily forget and remove them from the tree on Shabbos(24).
8. To smell a growing, edible fruit while it is growing on a tree, since it could easily lead to picking the fruit from the tree in order to eat it (25). It is even forbidden to eat - on Shabbos - a fruit that has fallen off the tree on Shabbos. It is permitted, however, to eat it immediately after Shabbos(26).

All trees - whether fruit bearing or barren, living or dead - are included in these Rabbinical decrees(27). But the restrictions apply only to the part of the tree which is higher than ten inches

from the ground(28). Trees and bushes which do not grow to a height of ten inches are not restricted in any way(29).

FOOTNOTES:

1 Obviously, a musical swing set is prohibited, and is not the subject of our discussion.

2 44:19.

3 Panim Me'iros 2:123; Ya'avetz 1:41; Kesav Sofer 55; Sho'el u'Meishiv 6:53 and others.

4 In their opinion, a watch is made initially as an object that must be constantly wound. When it is stopped, it is not considered broken, and winding it does not fix it.

5 See Da'as Torah 338:3 and Minchas Shabbos 80:241.

6 338:5. See also 252:50.

7 Kesav Sofer 55 and Minchas Shlomo 9.

8 O.C. 50:9.

9 This is similar to the view of the Chazon Ish concerning the usage of electricity on Shabbos.

10 See Minchas Shelomo 9 and Shemiras Shabbos K'hilchasah 16, note 39. See also Be'er Moshe 6:32 for a concurring opinion.

11 Harav M. Feinstein is orally quoted (Sefer Tiltulei Shabbos, pg. 28, note 36) as Biblically prohibiting wind-up toys (even according to the logic of the Chayei Adam); Harav S.Y. Elyashiv is orally quoted (Shalmei Yehudah 5:12) as prohibiting wind-up toys "just like it is prohibited to wind up a watch." Harav S.Z. Auerbach (Minchas Shelomo 9, Tikunim u'Miluim to Shemiras Shabbos K'hilchasah 16, note 39) writes that according to the logic of the Chazon Ish, it may be rabbinically prohibited to wind up toys.

12 Rabbi P.E. Falk (Zachor v'Shamor, sec. 38, pg. 33).

13 Since a non-Jew may do any forbidden labor for a small child's needs; O.C. 276:1; 328:17. See also Sha'ar ha-Tziyun 338:19.

14 Based on Rama O.C. 259:7; Magen Avraham 269:1; Mishnah Berurah 277:15. See also Rama O.C. 362:7 and Mishnah Berurah.

15 See also Children in Halachah, pg. 217, who permits winding a swing after first activating it by pushing, since many poskim agree that one is allowed to wind a watch which has not stopped; see Sha'ar ha-Tziyun 338:17- 18. This leniency is debatable.

16 O.C. 305:18.

17 O.C. 308:39.

18 Unless mentioned otherwise, Yom Tov has the same halachos.

19 Rama O.C. 336:13.

20 O.C. 336:1; 336:13 and Beiur Halachah.

21 Aruch ha-Shulchan 336:18. Mishnah Berurah's position, however, is not clear.

22 O.C. 336:13.

23 Harav M. Feinstein (oral ruling quoted in Sefer Hilchos Shabbos, vol. 1, pg. 62).

24 Mishnah Berurah 336:12 based on O.C. 277:4 and 514:6. [See explanation by Harav S.Z. Auerbach, quoted in Shemiras Shabbos K'hilchasah, pg. 330. See also a more lenient opinion in Tehilah l'David 277:7.]

25 O.C. 336:10.

26 O.C. 322:3.

27 Mishnah Berurah 336:1. There are some poskim who are lenient in the case of a tree which has completely dried out; see Mishnah Berurah, ibid. and Aruch ha-Shulchan 13.

28 Mishnah Berurah 336:21.

29 O.C. 336:2. However, if the tree or bush which are under 10 inches high are fruit-bearing, some poskim prohibit those as well; Mishnah Berurah 336:19.

Weekly-Halacha, Text Copyright © 2005 by Rabbi Neustadt, Dr. Jeffrey Gross and **Torah.org**.
Weekly sponsorships are available--please send email to the moderator, Dr. Jeffrey Gross
jgross@torah.org.

Rabbi Neustadt is Rav of Young Israel in Cleveland Heights. He may be reached at 216-321-4635 or
at jsgross@core.com.