



### דף ב.

#### אור לי"ד בודקין את החמץ

- The Torah (Sh'mos 12:15) forbids the consumption of *chametz* (i.e., leavened grain products) on Pesach and other forms of pleasure and benefit (e.g., one may not feed *chametz* to his dog or fish).
- The Torah also forbids ownership of *chametz* on Pesach. This *issur*, called *בל יראה ובל ימצא*, is based on the *posuk* *שבעת ימים שאור לא ימצא בבתים* - for seven days leaven shall not be found in your homes (Sh'mos 12:19), and also on the *posuk* *ולא יראה לך חמץ וגו'*, *chametz* shall not be seen in your possession etc. (Sh'mos 13:7).
- There is also a mitzvah to dispose of one's *chametz* before Pesach (תשביתו, Sh'mos 12:15).

The Mishna (2a) teaches that on the night preceding Pesach (i.e., the eve of the fourteenth of Nissan) there is a mitzvah, called *bedikas chametz*, to search for *chametz* throughout one's house (in any area in which *chametz* might have been brought during the year).

Rashi explains that searching for *chametz* is required to ensure that one does not violate *בל יראה ובל ימצא* by having *chametz* remaining in his possession during Pesach.<sup>1</sup>

Question: These words of Rashi imply that *bedikas chametz* is a biblical requirement necessary to prevent the violation of *בל יראה*.<sup>2</sup> The Rishonim,<sup>3</sup> however, point out that the Gemara below on 4b explicitly states that

*bedikas chametz* is a rabbinic enactment. The Gemara says that a person (who has *chametz*) circumvents the *issur* of *בל יראה* through the performance of *bitul chametz* (nullification of *chametz*). If one declares all *chametz* in his possession to be worthless - as though it were the dust of the earth, the *chametz* loses its significance and there is no violation of *בל יראה* and *ובל ימצא*. Why, then, does Rashi say it is necessary to perform *bedikas chametz* to prevent *בל יראה*?

Several answers:

(a) The Ran explains that in a case in which *bitul* was not performed then there is a Torah obligation to perform *bedikas chametz*.<sup>4</sup> The Ritva adds that although one could indeed rid himself of his *chametz* and circumvent the Torah *issur* of *בל יראה* merely by performing *bitul chametz*, the Torah's **preferred** manner of *chametz* disposal is searching for one's *chametz* and physically destroying it. Therefore, Rashi says that one searches for *chametz* to prevent the violation of *בל יראה* since that is the preferred manner of disposing of one's *chametz*.<sup>5</sup>

(b) Alternatively, the Ran explains that the sages were concerned one might not perform *bitul* wholeheartedly (*שמא לא יבטל בלב שלם*), and a half-hearted *bitul* is not effective and does not prevent *בל יראה*. Therefore, the sages

required one to search out and rid his house of *chametz* even if he performed *bitul*.<sup>6</sup>

(c) The Rav M'bartenura explains that the sages were concerned that one who performs only *bitul* might subsequently find *chametz* on Pesach and retract his *bitul*<sup>7</sup> (and thereby violate *בל יראה*).<sup>8</sup> Therefore, the sages required one to search for *chametz* and destroy it.

(d) The Cheishek Shlomo, citing a Gemara on 5b, explains that one may not hold an idolater's *chametz* in his possession on Pesach if he is responsible for its safekeeping ( *שלא יקבל* ) *פקדונות מן הנכרי*. With respect to such *chametz*, *bitul* is not effective since the Jew does not actually own the *chametz*.<sup>9</sup> The Gemara says that one can disown or nullify only *chametz* that belongs to him. Thus, he suggests the reason a person must perform *bedikas chametz* even after he performs *bitul* is to ensure he does not have any *chametz of an idolater* in his home.

2] In contrast to Rashi, Tosfos maintains that the sages instituted *bedikas chametz*, not because of a concern about a possible violation of *בל יראה*, but because of a concern that one who has *chametz* in his house on Pesach might come to eat it (in violation of a kares-bearing sin). The Meiri explains that although having nullified *chametz* in one's home is not a violation *בל יראה*, eating nullified *chametz* is forbidden. This is because the declaration of *bitul* serves to remove the *chametz* from one's possession, rendering it ownerless, and one does not violate *בל יראה* upon having ownerless *chametz* (or his friend's *chametz*) in his house. On the other hand, the *issur* to eat *chametz* is not dependent on ownership, for one is prohibited from eating any *chametz*, even that belonging to his friend or that which is ownerless. Therefore, even if one nullified his *chametz*, there is still concern he might mistakenly eat it on Pesach and incur the penalty of kares.<sup>10</sup>]

3] Tosfos explains that although the sages never forbade having non-kosher food in one's house, the sages were concerned about

mistakenly eating *chametz* because one is accustomed to eating it all year round.<sup>11</sup>

Interestingly, the Radvaz<sup>12</sup> reads allegorical significance into the mitzvah of *bedikas chametz*. Citing a Midrash, he explains that *chametz* is symbolic of the yetzer horah (evil inclination). Before Pesach, one is commanded to search the crevices of his heart and rid himself of all traces of the yetzer horah. He explains that since this is a very difficult task, the sages were more cautious with regard to [having] *chametz* than with regard to [having] other forbidden foods (in one's home).

דף ג:

כתיב כל בן נכר לא יאכל בו

The Gemara relates of a certain idolater who boasted about eating from the best part of the *korbon pesach* despite the fact that the Torah states *כל בן נכר לא יאכל בו* - no stranger (i.e., idolater) may eat from the *korbon pesach*. R' Yehuda ben Beseira, wanting to expose the idolater's duplicity, prompted him to request the tail of the *korbon*, suggesting that it was the choicest part. [R' Yehuda ben Beseira lived in Netzivin, and due to his advanced age was unable to make the pilgrimage to Yerushalaim, see Tosfos, *ד"ה ממליה*.<sup>13</sup>]

The following Erev Pesach when the idolater requested the tail of the *korbon pesach* lamb (in the name of R' Yehuda ben Beseira), the people there sensed that something was amiss because the tail is supposed to be offered on the mizbeach and may not be eaten. They investigated the matter, and upon discovering that he was an idolater who was wrongfully trying to partake of the *korbon pesach*, they executed him.<sup>14</sup>

The Rambam<sup>15</sup> writes that one who feeds an idolater a k'zayis from the *korbon pesach* is in violation of an *issur* because the Torah states *כל בן נכר לא יאכל בו*. The Kesef Mishna explains that the Rambam assumes that the *posuk כל בן נכר וגו'* is not addressing idolaters but rather Yisraelim. The *posuk forbids a Yisrael* from allowing an idolater to join in the *korbon pesach*.

The S'mag<sup>16</sup> indicates that the *posuk* כל בן נכר וגו', is addressing idolaters, not Jews, and it teaches that idolaters are forbidden from partaking of the *korbon pesach*.

The Kesef Mishna explains that the Rambam does not interpret the *posuk* as the S'mag because it is unlikely that the Torah would address idolaters because idolaters do not pay heed to the Torah.<sup>17</sup>

The T'zalach<sup>18</sup> disagrees with the Kesef Mishna's interpretation of the Rambam. He maintains that this *posuk* does indeed mean to address idolaters (as the S'mag says), informing them they are forbidden to eat from the *korbon pesach*. He suggests the reason the Rambam forbids a Yisrael to feed an idolater a portion of the *korbon pesach* is not because the *posuk* is addressing Jews but is due to the *issur* of לפני עור לא תתן מכשול (lit. do not place a stumbling block before a blind man) which forbids one to cause a fellow man to transgress an *issur*.<sup>19</sup>

The Minchas Chinuch<sup>20</sup> asks, if the sin of כל בן נכר לא יאכל בו does not pertain to an idolater (as the Kesef Mishna says), it is difficult to understand why, in the incident related in our Gemara, the idolater was put to death for eating from the *korbon pesach*.

The Netziv says that although he was not halachically subject to capital punishment, the zealots killed him for entering the *Bais Hamikdash*, as we find in Sanhedrin 81b where the Gemara relates that the young Kohanim would execute a fellow Kohen if they found him performing the *avodah* in a state of *tumah*.

Alternatively, Horav Elchanan Wasserman<sup>21</sup> suggests that the idolater violated the sin of גזל - stealing - in that he joined a *korbon pesach chaburah* (group) under the false pretense that he was Jewish. He had no right to take a portion of the *korbon pesach* from the others in the group since he misrepresented himself as a Jew. Since גזל is one of the *שבע מצוות בני נח* - seven Noahide laws - the idolater was rightfully executed (because an idolater is subject to capital punishment for the violation of the *שבע מצוות בני נח*).

דף ד:

#### מדאורייתא בביטול בעלמא סגי

• The Gemara says, as mentioned above, that the obligation to perform *bedikas chametz* is of rabbinic origin. According to Torah law it would have been sufficient to perform only *bitul* - nullification of *chametz*.

The nature and mechanics of the act of *bitul chametz* is a matter of dispute:

Rashi explains that *bitul chametz* is derived from the wording of the *posuk*, אך ביום הראשון שאור מבתים תשביתו - on Erev Pesach you must abolish the *chametz* from your houses. Since the *posuk* uses the unique term *תשביתו* (abolish) rather than *תבערו* (destroy) it implies that one need not physically destroy his *chametz*, but can dispose of his *chametz* merely by declaring it to be considered as dust.

Tosfos (ד"ה מדאורייתא) disagrees and maintains that *bitul* is a declaration of *hefker* (disowning). By declaring one's *chametz* as dust of the earth, he thereby disowns it. As a result, one who performs *bitul* is exempt from destroying his *chametz* (*min haTorah*) because the *issur* of ובל יראה ובל ימצא pertains only to one's *chametz* that he owns. [Tosfos points out that even though the Gemara in Nedarim 45a says that one who wishes to disown his possessions must declare so in the presence of three people, this requirement is only *miderabbanan*. *Min haTorah* a declaration of *hefker* takes effect even if no one else is present.<sup>22</sup> Alternatively, the Maharam Chalavah (6b) explains the reason a declaration of *hefker* generally requires the presence of three people is to ensure the sincerity of the owner (i.e., that he seriously wants to disown the object and he doesn't intend to immediately re-acquire it). In the case of disowning *chametz* on Erev Pesach we are certain that the owner is sincere and does not intend to immediately re-acquire the *chametz* (since it is forbidden), and therefore there is no need to make the declaration in the presence of three people.<sup>23</sup>]

The Ran<sup>24</sup> explains that although in general possessions declared as dirt do not

automatically become *hefker*, in the case of *chametz* a declaration of *bitul* effects *hefker* for the following reason:

The Gemara on 6b cites R' Elazar who explains that the *issur* of בל יראה is a novel *issur* because as a general rule, all *issurei hana'ah* (items forbidden for benefit by the Torah) are halachically considered ownerless since such items have no use. Since the Torah forbids eating or benefitting from *chametz* on Pesach, all *chametz* should automatically be deemed ownerless at the onset of Pesach. By stating the *issur* of בל יראה the Torah reveals that any *chametz* kept in one's possession on Pesach is considered as though it is his - at least with respect to the *issur* of בל יראה. –

כאילו של אדם, ועשאן הכתוב אינן ברשותו[נבי דברים  
הן ברשותו וכו',

Since *chametz* has no use, and under normal circumstances would be considered ownerless (if not for the *posuk* of בל יראה), it is easier to remove *chametz* from one's ownership (before Pesach) than to remove ordinary possessions. Although a mere declaration of *bitul* generally is not sufficient to effect *hefker*, *bitul* is sufficient with regard to *chametz*.

The Ritva and Meiri state that although the term תשביתו connotes *bitul*, as Rashi says, the Torah's preferred method of disposing of *chametz* is searching for it and destroying it.<sup>25</sup>

• Some versions of the Rambam<sup>26</sup> read that *bitul* is effective for unknown *chametz* but known *chametz* must be destroyed. Many commentators, however, reject this version of the Rambam because they cite several Gemaras which clearly indicate that *bitul* is effective even for known *chametz*.

דף ה:

יכול יקבל פקדונות מן הנכרים ת"ל לא ימצא

The Gemara derives from the term לא יראה that *chametz* may not be seen by you - that one violates בל יראה only by having his own *chametz* in his possession on Pesach. However, if a Jew has a non-Jew's *chametz* in his house on Pesach he is not in violation of בל יראה. The Gemara concludes that this leniency applies

only if the Jew did not accept responsibility for the non-Jew's *chametz*. However, if a Jew agreed to guard *chametz* of a non-Jew and accepted responsibility<sup>27</sup> for it, it is considered to some degree as the Jew's *chametz* and he may not keep it in his house over Pesach. [This law is derived from the fact that the *posuk* לא ימצא does not include the word לך, thus implying that one can be subject to the *issur* of בל יראה ובל ימצא even for *chametz* that does not entirely belong to one.]

The Gemara does not discuss the *halacha* with regard to a Jew's *chametz* situated in a non-Jew's house on Pesach, thus allowing for the following three-way dispute.

(a) The Ramban,<sup>28</sup> citing a Mechilta, states that in addition to the condition of ownership, we derive from the *posuk* בבתיכם (in your houses) that the *chametz* must be situated in one's house or on his property. If one's *chametz* is in his neighbor's house on Pesach, the Ramban says that the owner is not in violation of בל יראה.

(b) The Rosh maintains that the Mechilta's exemption does not apply in a typical case of one who leaves his *chametz* at a non-Jewish neighbor's house because generally when a person grants his friend permission to leave something in his house he is משאל מקום - lends his space [to the מפקיד (owner of the item) for the placement of his item]. Lending space in one's home for the placement of a friend's item is halachically viewed as if the friend was granted [temporary] ownership of the space. Hence, although the *chametz* is in the non-Jew's house, it is viewed as being on the Jew's property since the space in which the item is laying was lent to the item owner. Consequently, the Rosh rules that even if a Jew leaves his *chametz* at a non-Jew's house over Pesach, the Jew is in violation of בל יראה.<sup>29</sup>

(c) The Geonim, cited by the Rosh, agree with the Ramban, that a Jew who has *chametz* in a non-Jew's house is not in violation of בל יראה - provided the non-Jew accepts responsibility for the *chametz*. However, if the non-Jew did not accept responsibility for the *chametz*, the Geonim agree with the Rosh that the Jewish

owner is in violation of **בל יראה** (because the space in which the *chametz* is stored is lent to the Jew and is considered as the Jew's property).<sup>30</sup>

The Boruch Ta'am<sup>31</sup> explains why the non-Jew's acceptance of responsibility is significant: The Gaonim are of the opinion that the concept of **שאלת מקום** (lending space for a **פקדון**) does not apply when the **שומר** (custodian) accepts responsibility because in such a case it is in the shomer's interest to ensure the item is stored safely. Therefore, in such a case the item's place is not lent to the **מפקיד** (owner of the item) but is retained by the shomer. Only when the *shomer* does not accept responsibility for the **פקדון** does he lend the place to the **מפקיד** since in that case the place of storage is of concern only to the **מפקיד** (item's owner). Therefore, the Gaonim are of the opinion that when the non-Jew accepts responsibility for the *chametz*, the Jewish owner is not in violation of **בל יראה** since in that case the space in which the *chametz* is stored is not lent to the Jew.

The Graz<sup>32</sup> submits that if a Jew deposits his *chametz* in a non-Jew's house without the non-Jew's knowledge, the Jewish owner is not in violation of **בל יראה** according to all opinions. This is because in such a case the place (in which the *chametz* was deposited) certainly does not belong to the Jew and is not lent to him (since the non-Jewish owner of the house is not even aware that the Jew placed *chametz* in his house).<sup>33</sup>

• Note: The foregoing discussion only addresses the biblical *issur* of **בל יראה**. In many instances, even if there is no violation of **בל יראה** there is still a rabbinic obligation to dispose of the *chametz*.

#### דף ו:

#### הבודק צריך שיבטל שמה ימצא גלוסקא יפה

• *Min haTorah*, once an individual properly searches his house for *chametz* and disposes of all his known *chametz* he has adequately fulfilled his obligation. Even if a person inadvertently overlooked some *chametz* during his search, he is not in violation of **בל יראה** -

provided he immediately disposes of any *chametz* he finds on Pesach.

Rav Yehuda says in the name of Rav that there is a [rabbinic] obligation to perform *bitul* after *bedikas chametz*.

The Gemara explains the reason the sages did not want a person to rely only on *bedikas chametz* is that a person might sometimes overlook an appealing piece of *chametz*, and upon finding it on Pesach he might have **דעתי עלייה** - have his mind set on it.

Rashi explains that we are concerned a person might delay burning such a piece of *chametz* (when he finds it on Pesach) and thus he would be in violation of **בל יראה**. Therefore, the sages instituted that in addition to *bedikas chametz* one should nullify his *chametz*.

The Ramban<sup>34</sup> is troubled by Rashi's explanation. If indeed, one discovers an appetizing piece of cake on Pesach and desires it, then a prior declaration of *bitul* will not avert a violation of **בל יראה**. When a person desires to eat his nullified *chametz*, he thereby retracts his *bitul* because he thereby demonstrates that the *chametz* is significant to him and that he wants to reacquire it.

In answer, the Meiri explains that the point of performing *bitul* is that after one declares that his *chametz* is like dust of the earth it becomes repulsive to him and chances are that he will no longer desire his *chametz*. [However, *bitul* will not avert a **בל יראה** violation in a case in which one does indeed desire his *chametz* on Pesach despite his *bitul*.]

Alternatively, the P'nei Yehoshua explains that Rashi does not mean to say we are concerned that one who finds *chametz* might desire to retain it for himself and eat it. Rashi means that a person might delay burning it - intending to feed it to a stray dog. Such an intent is not deemed a retraction of *bitul* since there was no intention to reacquire the *chametz*. To prevent a **בל יראה** transgression in such situations Rav Yehuda in the name of Rav requires one to perform *bitul* in addition to *bedikas chametz*.

2] The Rashash<sup>35</sup> points out that a *בל יראה* violation is possible even after *bitul*, for one can retract from his *bitul*. In fact, the Rav M'bartenura (cited above on ב דף) asserts the reason the sages required one to dispose of his *chametz* and not to rely merely on *bitul*, is due to a concern one might find *chametz* on Pesach and retract the *bitul*. Consequently, it is difficult to understand why the Gemara says that after a person performs *bitul* we are no longer concerned he might find *chametz* and violate *בל יראה*.

In answer, the Rashash explains that when the Gemara says that *bitul* prevents one who finds *chametz* on Pesach from violating *בל יראה*, the Gemara only means that *bitul* makes a *בל יראה* violation more unlikely. The sages enacted *bedikas chametz* in conjunction with *bitul* because the combination of both methods makes a *בל יראה* violation twice as unlikely. Firstly, chances are that one will not find *chametz* after he performs *bedikas chametz*. Secondly, even if he discovers some *chametz*, chances are that he will not retract from his *bitul*.

The sages were not satisfied with *bitul* alone because there is a possibility that one will find *chametz* afterwards and, although unlikely, he might retract his *bitul*. They also were not satisfied with the performance of *bedikah* alone, because although it is unlikely to find *chametz* after a *bedikah*, if he does find *chametz* there is a risk that one might delay its disposal and violate *בל יראה* (if no *bitul* was performed, see Meiri and P'nei Yehoshua above).<sup>36</sup>

#### דף ז.

#### הבודק צריך שיברך

Rav Yehuda states that one who searches for *chametz* must recite a *bracha*. The Ran explains that although all mitzvos require a *bracha*, the novelty of Rav Yehuda's teaching is that we do not delay the blessing until the performance of the primary portion of the mitzvah which is the burning of the *chametz* (on Erev Pesach). Rather, the *bracha* is recited

prior to the *bedikah* since that is the beginning of the *biur* (disposal) process.<sup>37</sup>

The Gemara concludes that the proper text of the *bracha* is *על ביעור חמץ* - Blessed are You, Hashem...who commanded us regarding **destroying** *chametz*.

The Ran asks, since the *bracha* is recited prior to *bedikah* the text should be *על בדיקת חמץ* - Blessed...regarding **searching** for *chametz* - rather than *על ביעור חמץ*.

He answers that since the purpose of the *bedikah* is the ensuing disposal of the *chametz*, we speak of *biur chametz* (cf., Rosh).<sup>38</sup>

The Rambam<sup>39</sup> writes that as soon as a person resolves to search for his *chametz* with the intent of disposing and nullifying it, he automatically accomplishes *bitul*, for at that point he [presumably] deems the *chametz* worthless. The Rambam thus says that the *bracha* refers not only to the act of searching but also to the act of nullification that takes place when one prepares to search for *chametz*.<sup>40</sup> Accordingly, the text *על ביעור* is particularly appropriate because the *bracha* refers to the *bitul* that is effected at the time of the *bracha*. [See Rashi cited above on ד דף' who says that *bitul* is a fulfillment of *תשביתו* and thus is considered a form of *biur*.]<sup>41</sup>

The Bais Yosef<sup>42</sup> asks why we do not use the term *חמץ ביטול על* since, *min haTorah*, the mitzvah to dispose of *chametz* is fulfilled with the act of *bitul*.

He answers that a *bracha* is only recited on physical acts, not on mere thoughts. Since *bitul* can be accomplished merely by thinking and does not require verbalization,<sup>43</sup> we cannot recite a blessing on *bitul* (alone).<sup>44</sup>

#### דף ח.

#### חצר אין צריכה בדיקה מפני שהעורבין מצויין שם

Rava says that one need not search for *chametz* in his yard because he may assume that any *chametz* which was left there was eaten by birds. Likewise, the Gemara cites a braysoh which states that a *bedikah* need not be performed in a cowshed because we assume that the cattle ate any remaining *chametz* (Rashi).

The Shulchan Aruch,<sup>45</sup> citing the Smak, qualifies this *halacha* and maintains that the exemption from *bedikas chametz* only applies in the case of a yard in which there is an **uncertainty** of *chametz* (ספק חמץ - a chance of *chametz*). However, if one knows for certain that he once left some *chametz* in his yard, he must perform a *bedikah* before Pesach to ensure the *chametz* is no longer there ( אין ספק מוציא ( מידי ודאי).

The Magen Avraham<sup>46</sup> maintains that the Smak's stringency is limited to an enclosed area, such as a cowshed or barn, where only the animals inside are able to eat the *chametz*. If one knows for certain there was *chametz* in the barn during the year,<sup>47</sup> he must suspect that the animals perhaps hid some *chametz* in the barn instead of eating it. However, if one left *chametz* in an open yard, the Magen Avraham submits that no *bedikah* is required - even if the *chametz* was there on the evening of *bedikas chametz*, for we may assume that the birds will either eat the *chametz* or carry it to their nests before Pesach.

The Mekor Chaim,<sup>48</sup> while disagreeing with the Magen Avraham's distinction between an open and confined area, makes another distinction. He maintains that the Smak requires *bedikah* [in a yard or barn that had *chametz*] only if the place is known to have remnants of *chametz* on the eve of Pesach, at the time of *bedikas chametz*. However, if one knows that he fed some *chametz* to his animals a few days before Pesach (and does not know what happened since then), he may assume that the *chametz* was eaten by the animals or birds, and he is exempt from performing *bedikas chametz*.

2] The Ramoh<sup>49</sup> notes an apparent contradiction between two rulings of the Shulchan Aruch. In one *halacha* the Shulchan Aruch cites the Smak, who says that a barn or yard which definitely contained *chametz* requires *bedikah*. However, in another *halacha* he cites the opinion of the Hagahos Maimonios who permits one to dispose of his *chametz* by throwing it

into a place frequented by birds - even as late as the morning of Erev Pesach.

To answer this contradiction the Magen Avraham<sup>50</sup> invokes the distinction cited above. He explains that the Smak's stringency (about not relying on animals to consume known *chametz*) applies only in an *enclosed* area but throwing *chametz* into an *open* yard frequented by birds is permitted.

The Mekor Chaim who disputes the Magen Avraham's distinction answers differently. He explains that the Hagahos Maimonios is not referring to one's privately-owned yard, but rather to a public area. Throwing *chametz* into one's own yard on Erev Pesach is forbidden because, as stated above, if one has known *chametz* in his yard on Erev Pesach, he is obligated to search and dispose of it. However, throwing *chametz* into the street on Erev Pesach is permitted because it is tantamount to disowning it.<sup>51</sup>

#### דף ט.

#### אין חוששין שמא גררה חולדה

The Mishna says that we need not concern ourselves with the possibility that a weasel might have dragged *chametz* from an area that was not yet searched to an area that was already searched and cleansed of *chametz*. For if this were the case, all the rooms in all the houses of the entire land would have to be searched simultaneously to ensure that no *chametz* is dragged from an un-searched area to a searched area. The Rambam adds that this *halacha* is the basis for the *halacha* stated above (Mishna 2a) that one is exempt from searching a שאין מקום מכניסין בו חמץ - a place where *chametz* is not brought during the year. If there was a concern that a weasel might drag *chametz* from one place to another, then all places would require searching, even those places where *chametz* is never brought (cf., Tosfos אין חוששין).

The Mishna below 10b states that whatever *chametz* remains after *bedikas chametz* should be stored in a hidden and secure place - out of the reach of weasels, mice and small children. Rava (9b) explains that although our Mishna

says that we are not concerned about weasels dragging *chametz*, this refers to unknown cases of weasels dragging *chametz*. However, the Mishna below on 10b advises hiding the *chametz* after *bedikas chametz* lest one notice a mouse or weasel dragging his *chametz*. Rava explains that if one happens to see a weasel dragging *chametz* into a room he already searched, he would be obligated to perform another search.

Alternatively, Rav Mari explains that the Mishna on 10b advises one to conceal the remaining *chametz* after the *bedikah* because of a concern that one might awake on the following morning (i.e., Erev Pesach) and notice that some of the stored *chametz* (which he planned to eat or burn) is missing. In such a case, one would be obligated to re-search his house because the missing *chametz* demonstrates that some *chametz* was taken and moved by mice or children during the night.

Tosfos (9a, ד"ה כ"ד, first *p'shat*) asserts that Rava's and Rav Mari's *halacha* is relevant only in cases in which *bitul* was not performed.<sup>52</sup> Tosfos reasons that one who performed *bitul* has the right to assume that the weasel ate the *chametz* that he dragged into the house, because the rule is ספק דרבנן לקולא - when in doubt regarding rabbinic laws we are lenient - (and once *bitul* was performed, the obligation to search for *chametz* is only a rabbinic law, as explained several times above, see דף ב' ודף ד').

The Rambam and Shulchan Aruch make no such distinction, thus indicating that in their view anyone who sees a weasel dragging *chametz* into his house after *bedikas chametz* is obligated to redo the *bedikah* - even if *bitul* was performed. They are of the opinion that the rule of ספק דרבנן לקולא is applicable only if we are not certain that *chametz* was brought into the house. However, after it is ascertained that *chametz* was brought into the house, a *bedikah* is required to ensure that it is no longer there. [The Maggid Mishna<sup>53</sup> adds that the law of *bedikas chametz* is not subject to the rule of ספק דרבנן לקולא because the *halacha* of *bedikas*

*chametz*, by its very nature, is a requirement to search for possible *chametz*.<sup>54</sup>]

### דף י. על ובדק ואשכח

As stated above, if after *bedikas chametz* one notices a mouse or child dragging *chametz* into the searched rooms of his house, he must re-search the house.

The Gemara cites a dispute whether one may discontinue his search as soon as he finds a piece of *chametz*, or must he continue to search the entire house. The Tur,<sup>55</sup> in ruling on this question, differentiates between one who performed *bitul* - whose obligation to search for *chametz* is only *miderabbanan*, and one who did not perform *bitul* - whose *bedikah* requirement is *min haTorah*. If one did not perform *bitul* the *halacha* is stringent and we suspect that the piece of *chametz* that he found is perhaps not the one taken by the mouse (unless it has an identifying mark), and the individual is required to continue searching the entire house. However, if one performed *bitul* the *halacha* is lenient and he is permitted to discontinue his search as soon as he finds one piece of *chametz*.

Rava says that if one observed a mouse dragging a loaf of bread and then finds crumbs, he may not assume that they are from the loaf taken by the mouse because a mouse does not usually crumble its food. However, if a child was observed dragging the loaf, then one may assume that the crumbs are from the loaf taken by the child (because it is usual for a child to crumble his food) and the search may be discontinued.

Tosfos and the Rosh maintain that in the case of the child, one may discontinue his search only if he finds enough crumbs to account for the entire piece of missing *chametz*. However, if there are not that many crumbs and a portion of the missing loaf is unaccounted for, he must continue his search for the missing portion.

The Rambam<sup>56</sup> disagrees and explains that it is usual for children to crumble their food while



eating, and therefore the crumbs are taken as an indication that the child probably ate part of the loaf. Accordingly, even if a portion of the loaf is missing we may assume that it was eaten by the child, and no further search is necessary.<sup>57</sup>

- The Ri'az<sup>58</sup> maintains that if, after *bedikas chametz*, one sees a mouse dragging *chametz* into his house (or he notices that some of the remaining pieces of *chametz* are missing), he is required to perform an even more thorough search than originally performed. The Mishna on 2a says that ordinarily one is required to search only places into which one brings *chametz* during the year. If, for example, one never brings *chametz* into his garage or basement, he is not required to search there. However, if one sees a mouse dragging *chametz* into his house after he performed *bedikas chametz*, he must search even his basement and garage because we have no reason to assume that the mouse did not bring the *chametz* there.

The Bach<sup>59</sup> disagrees and maintains that one is required to search only the room into which the mouse dragged the *chametz*; he is not required to search the entire house, and certainly not the basement. He bases his leniency on the Mishna's statement (9a) that one need not suspect that a weasel dragged *chametz* from place to place or from house to house (for if so, all Jews would have to perform a simultaneous *bedikah*). He rules that only the room into which the weasel dragged the *chametz* requires a new search, because the Mishna says that we do not suspect that the *chametz* was dragged from room to room.

Moreover, he rules that even if one failed to notice into which room the weasel took the *chametz*, he need search only the rooms into which the weasel has unobstructed entry. However, we need not suspect that the weasel dragged the *chametz* into a closed room through a hole or under the door.<sup>60</sup>

דף יא:

אוכלין כל ד' ותולין כל ה' ושורפין בתחילת שש

1] The Gemara above (4b and 5a) derives from p'sukim that the biblical *issur* to eat *chametz* and benefit therefrom takes effect at midday on Erev Pesach.

R' Yehuda (Mishna 11b) says that one must discontinue eating *chametz* on Erev Pesach at the end of the fourth hour of the day, and he must discontinue deriving any benefit at the end of the fifth hour (i.e., one hour before midday). At the beginning of the sixth hour of the day (i.e., 11:00 a.m.) one must burn his *chametz*.

The Gemara explains that although *min haTorah* one may eat and benefit from *chametz* until the end of the sixth hour (i.e., midday), the sages advanced the deadline for eating *chametz* because people might err regarding the time of day. On a cloudy day, one might eat *chametz* after midday, thinking it is only the fifth hour (see *daf* below).

The Kesef Mishna<sup>61</sup> asks why R' Yehuda permits one to wait until the sixth hour to burn his *chametz*. He argues that since the sages decreed that *chametz* in the sixth hour is אסור בהנאה (forbidden for benefit), they should have obligated one to dispose of his *chametz* prior to that point (just as the Torah obligates one to dispose of his *chametz* before midday, when it becomes אסור בהנאה on a biblical level, see Tosfos 12b, <sup>62</sup>ד"ה ניכול).

Initially, the Kesef Mishna suggests that perhaps this indeed is what R' Yehuda means. When R' Yehuda says that one must burn his *chametz* at the beginning of the sixth hour, he actually means that one must finish burning his *chametz* by the beginning of the sixth hour, or, in other words, one must burn his *chametz* at the end of the fifth hour.

In conclusion, the Kesef Mishna is inclined to permit burning *chametz* in the sixth hour - as the simple reading of the Mishna indicates. He explains that although the sages forbade benefitting from *chametz* during the sixth hour, they evidently did not say that it must be treated exactly the same as *chametz* after midday and

they did not require one to dispose of it prior to the sixth hour.<sup>63</sup>

2] Even though R' Yehuda did not require one to burn his *chametz* until the sixth hour, the accepted custom is to burn *chametz* prior to the sixth hour because of the following reason:

The Rosh<sup>64</sup> says that even though *bitul chametz* is performed after *bedikas chametz*, one should perform *bitul* again on Erev Pesach after he finishes eating *chametz*, because the nighttime *bitul* does not include the *chametz* that one plans on eating the next day for breakfast.

The Ma'hari Vayl<sup>65</sup> adds that the daytime *bitul* should not be performed until after the burning of the *chametz* because one should burn *chametz* that legally belongs to him. If one were to nullify his *chametz* prior to burning it, he would not fulfill the mitzvah of *ביעור חמץ* since the *chametz* is no longer his. The Gemara (top of 7a) says that *bitul* is only effective when performed prior to the time of *איסור הנאה*, i.e., prior to the sixth hour. Once the sixth hour arrives, one's *chametz* is no longer under his jurisdiction since it is *אסור בהנאה* and he is no longer empowered to nullify it. Consequently, it is imperative that one finish burning his *chametz* prior to the sixth hour so that he can perform *bitul*.

#### דף יב:

#### אמר רבא גזירה משום יום המעונן

R' Yehuda (mentioned above) asserts that the sages advanced the deadline for eating *chametz* to two hours before midday because of a concern that people might err regarding the time of day, and think that it is the fifth or sixth hour of the day, when in reality it is already after midday.

The Gemara says that if witnesses testify that they observed a murder during the fifth hour of the day in city A and they are proven to have been in city B on that morning, their testimony is discredited. They are not believed to say that they erred and really witnessed the murder in the seventh hour. Since the sun is in

the eastern sky during the fifth hour and it is in the western sky during the seventh hour, we assume that witnesses would not confuse the fifth hour with the seventh. In light of this, the Gemara seeks to understand why R' Yehuda is concerned of such a mistake regarding *chametz*.

Abaya explains that one who delivers testimony in court is especially careful and precise and he would not make an obvious mistake. With regard to the deadline for eating *chametz*, however, the sages were concerned that someone might mistake the seventh hour for the fifth (*חמץ לכל מסור*).

Alternatively, Rava explains that although on a sunny day such a mistake would not occur, the sages were concerned about a cloudy day when the position of the sun is not visible. The Gemara explains that the sages allowed one to eat *chametz* until the end of the fourth hour, and they were not concerned that on a cloudy day one might confuse the seventh hour with the fourth, because the fourth hour is when people eat breakfast and people are familiar with it even on a cloudy day.

The Rambam<sup>66</sup> writes that when the Gemara speaks of hours of the day, it does not refer to fixed sixty-minute hours, but rather *שעות זמניות* - variable hours - which are each one-twelfth of the day. A "talmudic hour" is 60 minutes only during the vernal and autumnal equinox when the day is exactly 12 hours. However, when, for example, the day is thirteen hours, a talmudic hour is 65 minutes. To illustrate: If the day begins at 5:30 a.m. and ends at 6:30 p.m., according to the Rambam one must stop eating *chametz* by 9:50 a.m. (i.e., four 65 minute intervals from the beginning of the day).<sup>67</sup>

The Terumas Hadeshen<sup>68</sup> disagrees and maintains that regardless of the length of the day, one may eat *chametz* until 120 minutes before midday. He argues that when the Gemara speaks of people making a two-hour mistake, it is referring to ordinary 60-minute hours because a person's error does not increase or decrease due to the length of the day. Consequently, he rules that even if the day

begins at 5:30 a.m. and ends at 6:30 p.m., *chametz* may be eaten until 10:00 a.m. (i.e., 120 minutes before chatzos).<sup>69</sup>

דף יג.

### בשעה חמישית א"ל צא ומוכרה בשוק

1] The Gemara records an incident of a man who gave a bag of *chametz* to Yochanan Chakukaah for safekeeping and did not come to collect it before Pesach. Rabbi instructed Yochanan to keep the *chametz* until the fifth hour of the day on Erev Pesach, and then sell it [to a non-Jew].

This incident teaches us two *halachos*.

(a) It is forbidden for one to act on behalf of an absent owner and sell his *chametz* before the fifth hour because we must entertain the possibility that the owner might appear and want to eat his *chametz*.

(b) After the fifth hour, when eating *chametz* is no longer permissible, it is a mitzvah to sell the absent owner's *chametz* in order to spare the owner a monetary loss, for his *chametz* would become אסור בהנאה - forbidden for benefit - if it remains in his ownership over Pesach. [Saving a fellow Jew from a potential loss falls under the mitzvah of השבת אבידה - returning a lost object.]<sup>70</sup>

The Magen Avraham<sup>71</sup> rules that a *shomer* who suspects that if he delays the sale of his friend's *chametz* until the fifth hour on Erev Pesach, he won't be able to find a (non-Jewish) buyer, he is permitted to sell the *chametz* before the fifth hour.

The Magen Avraham<sup>72</sup> also rules that rather than sell his friend's *chametz* outright, the *shomer* should try to find a non-Jewish buyer willing to sell the *chametz* back to him after Pesach (as is the common practice today in our pre-Pesach *chametz* sales).

2] The Tur,<sup>73</sup> in codifying this *halacha*, adds that if the *shomer* (watchman) fails to sell the *chametz* before the end of the fifth hour (after which *chametz* may no longer be sold), the *shomer* is obligated to burn the *chametz* - to prevent the violation of בל יראה.

• The Gemara on 5b says that if a Jew accepts responsibility<sup>74</sup> for the safekeeping of a non-Jew's *chametz*, he is in violation of בל יראה if he keeps the *chametz* in his house on Pesach (because having responsibility for an item is considered as ownership to some degree). However, if the Jew did not accept responsibility, then the *issur* of בל יראה does not apply since the *chametz* is not his.

Accordingly, if the *shomer* accepted responsibility for his friend's *chametz*, it is obvious that the *shomer* must burn it before Pesach - to prevent himself from violating בל יראה.

The Tur teaches that even a *shomer* who did not accept responsibility must burn the *chametz*. The Bach<sup>75</sup> explains that in this case, although the *shomer* is not subject to the *issur* of בל יראה for the possession of his friend's *chametz*, the *shomer* is still obligated to burn the *chametz* to prevent his friend (the owner) from violating בל יראה.

The Vilna Gaon<sup>76</sup> disagrees with the Bach's explanation and maintains that the *shomer* will himself be in violation of בל יראה if he fails to burn his friend's *chametz*. Even though the Gemara says on 5b that one does not violate בל יראה for storing a non-Jew's *chametz* in his house (when he did not accept responsibility for it), possessing *chametz* of a Jewish person is different. The Vilna Gaon maintains that one is responsible to dispose of a fellow Jew's *chametz* that is in his house regardless of whether he accepted responsibility for it.<sup>77</sup>

• The Magen Avraham<sup>78</sup> maintains that if a *shomer* failed to sell the *chametz* that was entrusted to him for safekeeping, and consequently was compelled to burn it before Pesach, he considered negligent in his duty as a *shomer* and he must compensate the owner for the loss of *chametz*.<sup>79 80</sup>

## דף יד:

### חלל חרב הרי הוא כחלל

An *av haTumah* (lit. father of *tumah*, or primary source of *tumah*), such as a *nevielah* (carcass of an animal that was not killed by *shechitah*), transmits *tumah* to people and utensils through contact. A person who contracts *tumah* from a *nevielah* (or from another *av hatumah* source) is called a *mikvehtumah* (first degree of *tumah*). A *mikvehtumah* is only potent enough to convey *tumah* to food and drink, not to people or utensils.

A human corpse is called an *אבי אבות הטומאה* (lit. the father of an *av hatumah*) because it is potent enough to render one an *av hatumah*. A person who comes in contact with a corpse is an *av hatumah* himself and he will in turn transmit *tumah* to a person who comes in contact with him. A corpse also transmits *tumah* to anyone under the same roof as it, whereas other types of *tamei* item or people only transmit *tumah* through contact (or carrying).

Another stringency of *טומאה מת* (corpse *tumah*) is that one who contracts *tumah* from a corpse (whether by contact or by *אהל*) is *tamei* for seven days and requires the sprinkling of the *parah adumah* ashes for his purification. Whereas, one who contracts *tumah* from an *av hatumah* need only immerse in a *mikveh* for his purification.

The Gemara derives from a *posuk* (חלל חרב, Bamidbar 19:16) that a sword [or other metal utensil] that comes in contact with a corpse has the same degree of *tumah* as the corpse itself. Consequently, a person who touches the sword becomes an *av hatumah* and is *tamei* for seven days, as if he touched a corpse. Moreover, the Gemara here indicates that if a metal object comes in contact with an *av hatumah* (such as, with a person who touched a corpse or with a person who touched a sword that touched a corpse) the object itself becomes an *av hatumah*.<sup>81</sup>

There are various views among the Rishonim as to the parameters of this *halacha*.

(a) Rabbeinu Yitzchak of Simpont<sup>82</sup> is of the novel opinion that this *halacha* is limited to a utensil that was used as a weapon to slay the dead man. Most Rishonim, however, disagree and maintain that it applies to any utensil that came in contact with a corpse (or was under the same roof).

(b) Rashi limits this *halacha* to *כלי מתכות* - metal utensils, whereas the Rambam<sup>83</sup> asserts that it applies also to all other types of utensils (e.g., wooden utensils or cloth garments) besides earthenware.<sup>84</sup>

(c) Rabbeinu Tam (*Nazir* 54b) applies this *halacha* to the law of *ביטול נזירות* - the negation of *nazirus*. If a *nazir* comes in contact with a corpse, the days that he counted towards his term of *nazirus* are negated and he must bring a *korbon* and begin counting his term of *nazirus* anew. According to Rabbeinu Tam a *nazir* who comes in contact with a *כלי שנגע במת* - utensil that touched a corpse - must count his term anew.

(d) Rabbeinu Chaim HaKohen (ibid.) disagrees with Rabbeinu Tam and asserts that this *halacha* does not apply to the law of *tumas nazir*, nor to the law of *tumas Kohanim*. Although the Torah forbids a Kohen from contracting *tumah* from a corpse (whether via touching or *אהל*), a Kohen is not forbidden from coming into contact with a utensil that touched a corpse. Rabbeinu Chaim HaKohen, citing a *posuk* in Yeshaya 66:1, laments that if indeed this *halacha* were to apply to *tumas Kohanim*, then "איזה בית אשר תבנו לי" - What house can you build for me? He argues that, as a Kohen, he would be forbidden from entering most any house, since almost all houses contain utensils that once came in contact with a corpse, or that were under the same roof as a corpse.<sup>85</sup>

(e) The Ran (*Bava Basra* 20a) says that a utensil that touched a corpse transmits *tumah* through contact only, but not through *ohel*.

(f) The Ramban (*Bamidbar* 19:16) asserts that although one who comes in contact with a utensil that touched a corpse is *tamei* for seven days, he does not require the sprinkling of the *parah adumah* ashes. Tosfos (*Nazir* 54b, ד"ה

ש) disagrees and maintains that he does require the sprinkling of the *parah adumah* ashes, the same as one who touched the corpse itself.<sup>86</sup>

#### דף טו.

#### אבל איך נשרוף תלויה עם טמאה

R' Meir (Mishna 14a) says that on Erev Pesach when burning one's *chametz* during the sixth hour, one may burn *terumah teme'ah* with *terumah tehovah* in the same fire even though the *terumah tehovah* will come in contact with *terumah teme'ah* and become *tamei*. Even though the Torah enjoins one to guard *terumah* from becoming *tamei*, R' Meir is of the opinion that this law only applies to **edible** *terumah*. However, on Erev Pesach when one must burn his *chametz*, he is permitted to allow his (leavened) *terumah* to become *tamei*.

The *halacha*<sup>87</sup> follows R' Yosi who disagrees with R' Meir and maintains that one may never allow *terumah tehovah* to come in contact with *terumah teme'ah* - even on Erev Pesach when the (leavened) *terumah tehovah* is forbidden for consumption.

The Gemara has a lengthy discussion as to the source of R' Meir's *halacha* and the reason his logic was rejected by R' Yosi.

The Shaar HaMelech<sup>88</sup> raises an interesting question based on the following two points.

(a) A *tamei* food does not transmit *tumah* unless it is at least a *k'beitzah* - the volume of an egg.

(b) When *B'nai Yisrael* entered Eretz Yisrael they were commanded to burn all *asheiros* (trees that were worshiped). The Gemara in Succah 31b says that if on Succos one used a *lulav* taken from an *asheira* tree, he has not fulfilled the mitzvah, because *כתותי מכתת* - [it is considered as though] the *lulav* lacks the required *shiur* (minimum required size, which is three tefachim long). Rashi explains that since a *lulav* from an *asheira* is destined to be burned, it is halachically viewed as though it is already burned. Therefore, the *lulav* is considered as though it lacks the minimum required three-tefach *shiur*.

The Shaar Hamelech asks, since there is a mitzvah to burn *terumah teme'ah*, it should be considered as though it lacks the required minimum *shiur* of *k'beitzah*.<sup>89</sup> Thus, all *terumah teme'ah* should be incapable of transmitting *tumah* to other foods. Why, then does R' Yosi prohibit burning *terumah tehovah* on Erev Pesach together with *terumah teme'ah*?

In answer, the Tiferes Yisrael<sup>90</sup> suggests that the concept of *כתותי מיכתת שיערא* only applies to an *asheira* which is *אסור בהנאה*. Since a Kohen is permitted to benefit from *terumah teme'ah* while burning it (e.g., he is permitted to heat food over a fire fueled by *terumah teme'ah*) it has significance and is not considered lacking the minimum *shiur*.<sup>91</sup>

#### דף טז.

#### וכל משקה אשר ישתה בכל כלי יטמא

1] The *posuk* (Vayikra 11:34) states, *מכל האוכל אשר יאכל אשר יבוא עליו מים יטמא, ולכל משקה אשר ישתה בכל כלי יטמא* (any food which is moistened by water becomes [susceptible to] *tumah*, and any beverage that is drunk in a vessel [renders food susceptible to] *tumah*). This *posuk* teaches that food is not susceptible to *tumah* unless it has once become wet. The first part of the *posuk* teaches that water prepares a food for *tumah* susceptibility, and the second part of the *posuk* teaches that other liquids in addition to water render food susceptible to *tumah*.

The Toras Kohanim (ibid.) derives that only seven beverages are *מכשיר* - prepare - food for *tumah* susceptibility. They are: wine, bee honey, olive oil, milk, dew, blood, and water (see Machshirin 6:4 and Rambam ibid.).

Rav (16a) is of the opinion (based on a statement of Yosi ben Yoezer) that *min haTorah* only food is susceptible to *tumah*, not beverages. He holds that if a *nevielah* or corpse comes in contact with a beverage, it is only *tamei miderabbanan*.

The Rambam<sup>92</sup> rules according to the opinion that disagrees with Rav and holds that beverages are susceptible to *tumah min*

*haTorah*. The Rambam, however, asserts that only the seven beverages listed above (concerning הכשר - preparing food for *tumah* susceptibility) are susceptible to *tumah*. However, apple juice, for example is not susceptible to *tumah min haTorah* since it is not listed among the seven beverages.

The Raavad disagrees and maintains that all beverages are susceptible to *tumah*. He argues that there is no scriptural grounds for limiting *tumah* to the seven beverages fit for הכשר.

2] The Gemara in an attempt to refute Rav's position, cites the concluding portion of the above cited *posuk*, לכל משקה אשר ישתה בכל כלי - any beverage...is *tamei* - as proof that beverages are susceptible to *tumah*. Rav answers that the *posuk* is not referring to the *tumah* susceptibility of beverages. Rather, that part of the *posuk* teaches that other beverages besides water are capable of being מכשיר (preparing) food for *tumah* susceptibility.

The Maharsha<sup>93</sup> explains that even the opinion that challenged Rav understands that the end of the *posuk* is referring to the law of הכשר, otherwise there would be no source that beverages other than water are valid מכשירים. However, this opinion holds that in addition to the *halacha* of הכשר, the *posuk* indicates that beverages themselves are מקבל טומאה (contract *tumah*) because the *posuk* repeats the word יטמא. He claims that the phrase לכל משקה אשר ישתה וגו' serves a dual purpose. It is a continuation of the beginning of the *posuk* which speaks of הכשר, and it also is read independently, informing us of a new law - that beverages are מקבל טומאה.

The Tzlach<sup>94</sup> cites this Gemara (and the Maharsha) in support of the Rambam's opinion - that only the seven beverages listed with regard to הכשר are מקבל טומאה. Since the phrase לכל משקה וגו' which teaches that beverages are מקבל טומאה is the same phrase that teaches that beverages (other than water) are valid מכשירין, it appears that the beverages with regard to both *halachos* are the same seven beverages.

דף יז.

#### לוי תנא משקין בי מדבחיה

R' Yosi ben Yoezer (cited on 16a) testified that משקין בית מטבחיה דכן - liquids (e.g., blood) in the area where *shechitah* is performed in the *Bais Hamikdash* are always *tahor* (even if they come in contact with *tumah*). As mentioned above on דף טז, R' Yosi is of the opinion that only food is susceptible to *tumah min haTorah* but not beverages. Although the sages decreed *tumah* even on beverages (which come in contact with *tumah*), they did not apply their decree to beverages inside the *Bais Hamikdash* because they did not want to increase הפסד - the loss of sacrificial matter (due to *tumah*).

The Gemara (17a) cites two versions of R' Yosi ben Yoezer's statement. Rav's version was בחימא משקין בי (*liquids of the place of shechitah*), whereas Levi's version was משקין בי בחימא - *liquids of the mizbeach*. According to Rav, R' Yosi's leniency is limited to blood and water which are found in the place of *shechitah*, whereas according to Levi, R' Yosi's leniency applies even to oil and wine (since these, too, are offered on the mizbeach).

In the narration of the story of Chanukah (Shabbos 21b) the Gemara tells how the triumphant Chashmonaim, after ousting the Greeks from the *Bais Hamikdash*, found only one sealed flask of undefiled oil which miraculously burned for eight days.

Hagaon R' Itzel Hamburg,<sup>95</sup> citing our Gemara, questions the necessity for the miracle of Chanukah. He asks that even if the Greeks opened all the sealed flasks of oil, the oil would still be valid for the menorah because R' Yosi ben Yoezer testified that beverages in the *Bais Hamikdash* are impervious to *tumah*.

In answer to this question, the T'shuvos Shoel U'meishiv<sup>96</sup> cites a Gemara in Avodah Zorah 52b which derives from the *posuk* in Yechezkel 7:22, ובאו בה פריצים וחללוה (the ravagers will enter the *Bais Hamikdash* and desecrate it) that when the *Bais Hamikdash* was breached by the Greek armies, its sanctity was

revoked (see Al Hadaf ibid.). He explains since the *Bais Hamikdash* lost its sanctity during the Greek's siege, the Temple oil during that era did not have the status of *בי מטבחה*. משקיני בי מטבחה Therefore, any oil touched by the Greeks became *tamei*.

Horav Uri Shraga Toibash<sup>97</sup> suggest another answer. He points out that the question is only relevant according to Levi's version of R' Yosi ben Yoezer who says that oil, too, is impervious to *tumah*. Now, the Gemara (17a) says that Levi concurs with Shmuel who says that R' Yosi ben Yoezer never said that *משקיני בי מטבחה* is entirely *tahor*; rather, all he said was that these beverages, after contracting *tumah*, lack the ability to transmit *tumah* further to other foods or beverages. Accordingly, there is no basis for this question, because according to Rav (who says that *בי מטבחה* are *tahor*) the *halacha* is limited to blood and water, and does not apply to oil. And according to Levi (who says that R' Yosi's *halacha* applies even to oil), R' Yosi only excluded these beverages from transmitting *tumah* to others, but they themselves could indeed become *tamei*.

#### דף יח.

##### פרה ששתתה מי חטאת ר"י אומר בטלו במעיה

- *פרה ששתתה מי חטאת ר"י אומר בטלו במעיה* (water into which the ashes of the *parah adumah* are mixed) has unique properties. On the one hand, it has the power to purify a person from *tumah* - טומאת מת - contracted from a corpse. On the other hand, a person who touches it becomes a *rishon l'tumah* (i.e., he is *tamei* to the degree that he has the capacity to transmit *tumah* to food) and requires immersion in a *mikveh*.

R' Yehuda says that if a cow drank *mei chattos* before it was slaughtered, its flesh is *tahor*. It certainly does not contract *tumah* at the time it drank the water, because living animals are not susceptible to *tumah*. R' Yehuda explains that its meat does not contract *tumah* at the time of the slaughter either, because *mei chattos* loses its ability to transmit *tumah* once it enters an animal's stomach.

Tosfos (ד"ה בטלו) explains that *mei chattos*'s capacity to impart *tumah* is linked to its capacity to purify. If *mei chattos* are rendered invalid for use as purification waters, they also forfeit their capacity to impart *tumah*. Tosfos, citing a Tosefta, explains that the *mei chattos* must be constantly guarded (משמרת) to be valid for use as purification water, and once they enter the animal, they are no longer considered guarded (היסח הדעת).<sup>98</sup> Therefore, *mei chattos* which is inside an animal at the time of the *shechitah* does not impart *tumah* to the meat.

The Mishna in Parah 9:3 states that a cup of *mei chattos* from which animals or birds drank is *posul* (disqualified) because we assume that some of their saliva dripped into the cup, and *mei chattos* mixed with saliva is *posul*.<sup>99</sup>

Tosfos (ד"ה בטלו) asks why R' Yehuda says that *mei chattos* is nullified in the animal's stomach. The Mishna in Parah indicates that as soon as an animal drinks from *mei chattos* it is rendered invalid, even before the water enters the animal's stomach. Accordingly, as soon as an animal drinks *mei chattos* it should immediately forfeit its ability to impart *tumah* - since such *mei chattos* is not valid for purification. (See answer suggested by Tosfos.)

Rabbeinu Peretz answers that there is a distinction between the invalidation of *mei chattos* which enters an animal's stomach and that which enters only its mouth.

*Mei chattos* in an animal's stomach is inherently *posul* due to *היסח הדעת* (lack of conscience guarding) and therefore it loses its ability to impart *tumah*. However, *mei chattos* inside an animal's mouth is not inherently *posul*; the only reason such *mei chattos* may not be used for purification purposes is that it contains some saliva. If it were possible to isolate the saliva, the *mei chattos* in the mouth would be valid for purification. Therefore, *mei chattos* in an animal's mouth has the capacity to impart *tumah* - since such *mei chattos* is inherently valid [without the saliva that it contains].<sup>100</sup> ■

1) ע' הג' חשק שלמה כאן שמעורר למה לא כתב רש"י דצריך לבדוק משום מצות "תשביתו".

2) ע' פנ"י שמעורר מה"ת שיש חיוב מדאי לחשוש לחמץ שאינו ידוע לו וכתב דאולי אם אינו בודק במקומות שמכניסין בו חמץ חשיב כחמץ הידוע לו וכן ע' מקור חיים בביאורים שכתב דהוי כפירות שדרכן להתלע דצריכין בדיקה מן התורה (כדמבואר ביו"ד סימן פ"ד).

3) ע' תוס' שהק' מגמ' בדף ו': הבודק צריך שיבטל, וע' בר"ן ובמאירי ובר' דוד דמבואר דדעת תוס' להקשות גם מדף ד: דגם שם מבואר להדי' "דמדאוי' בביטול בעלמא סג"י אלא דמאלים קושייתו מדף ו' כיון דמבואר שם דסוף סוף הבודק צריך שיבטל בין כך, ע' ריטב"א, ודו"ק.

4) ע' ר"ן שמבאר כוונת רש"י דמי שאינו מבטל חמץ צריך שיבדוק מה"ת כדי שלא יעבור על ב"י, ואף דמבואר בדף ו': דסוף סוף הבודק צריך שיבטל (כנ"ל) כתב הר"ן באד"ה אלא וברבנו דוד שכי' דמשנתנו איירי בשלא ביטל ולא הזכיר ביטול במשנה אלא בא רב יהודה אי"ר וחידיש דהבודק צריך שיבטל, ומשמע דד"ן הבודק צריך שיבטל לא נתקנה עד אחר זמן המשנה, וכי"כ בכסף פ"ב מהל' חמץ ומצה ה"ג (ועד"יין צ"ע בכונת הר"ן, וע' פנ"י) וע"ע במרומי שדה כאן.

5) וכן כתב המאירי בדאמת עיקר כוונת התורה הוא שיבדוק ויבער החמץ (וכעין זה הרבנו דוד שכי' דהתורה כפשטה לא צותה על הביטול אלא על ביעור החמץ במעשה, ומבואר בדף ו': דלא ס"ל דלשון תשביתו היינו ביטול כשיטות רש"י בדף ד: וע' רמב"ן שכי' דאף דביטול מהני אבל ביעור ע"י שריפה הוא דרך המעולה, וכן ע' בריטב"א שכי' דעיקר מצות ביעור היינו איבוד מן העולם וזהו עיקר תרגומו של תשביתו).

6) ומבאר שם התוס' יו"ד דמהני חזרה בלב כיון שביטול חל בלב, וכן מבואר בחי' הרמב"ן כאן (וע' שו"ת רע"א סימן כ"ג לענין "דברים שבלב אינן דברים"), וע' ב"י סימן תל"ד ד"ה ומש"כ רבינו כל חמירא שכי' דמשמע בירושלמי דצריך לבטל בפה דוקא, אולם הטור בסימן תל"ז סותם דגם ביטול בלב מהני.

7) ע' לקמן בדף ו' מה שהבאנו בשם הרש"י וקה"י בענין זה.

8) כן העלה השג"א סימן ע"ז (ע"ש שהאר"ך).

9) וכתב החשק שלמה דבזה מיושב הקושיא שהבאנו לעיל לענין תשביתו דמשו"ה לא כתב רש"י דצריך לבדוק משום מצות תשביתו משום דאין לו חיוב תשביתו על חמץ של עכו"ם אף אם קבל אחריות עליו.

10) ואפי' אם ע"י ביטול נעשה החמץ כעפרא דארעה מ"מ י"ל דע"י אכילה אחשביה (אולם היוצא לפי"ז דע"י אכילה עובר גם על בל יראה שהרי אחשביה והוי חזרה על ביטולו [כמש"כ הרע"ב], והטעם דלא כתב כן תוס' י"ל דס"ל דלא גזר חז"ל אלא משום אכילה שיש בו חומר דאיסור כרת).

11) ע' קוב"ש שהק' מסוף תמורה דף לג': דמבואר דכל איסורי הנאה יש בהם חיוב שריפה או קבורה (משום תקלה), וא"כ מהו החידוש בחמץ בפסח, וע' שפת אמת וחו"א.

12) סימן תתקע"ז (ח"ג סימן תקמ"ו).

**דף ג**

13) תוס' כתב בתירוץ אחד שלא עלה ריב"ב לרגל משום "נציבין חו"ל היא" עכ"ל, משמע דס"ל דבני חו"ל פטורין מקרבן פסח ומחיוב ראייה, וע' משל"י ריש הל' קר"פ שתמה על זה, וכן ע' שו"ת שאילת יעבי"ץ סימן קכ"ז דג"כ תמה מה"ת לפטור בני חו"ל מקר"פ, וכתב דאולי מי שדר יותר ממהלך לי יום מירושלים פטור מלעלות לרגל דאין חיוב להשתדל בעבור החזק קודם לי יום לחג.

14) ע' מהרש"ל ומהרש"א שמבארים מה היה ס"ד דהווא ארמאה ובאיזה מהלך רימהו ריב"ב.

15) פרק ט' מהלכות קרבן פסח ה"ז.

16) כ"כ המנח"ח מצוה י"ד בשם הסמ"ג.

17) ז"ל הכס"מ לאו לדידהו מזהיר דעכו"ם לא חיישי למאי דמזהיר קרא, וע' תוס' הרא"ש יבמות דף ע': סוד"ה אלא שכי' קצת באופן אחר וז"ל "ולא מצנין אזהרה לעכו"ם" (ר"ל, ה"ז מצות נאמרו לבני נח קודם מתן תורה אבל לא מצינו אחר מתן תורה אזהרה מיוחדת לעכו"ם) אולם ע' תוס' הרא"ש שם דף עא: ד"ה לאתויי שמצדד דאולי אתא פסוק זה להזהיר לעכו"ם (אלא שמסיים דדבר תימה הוא), וע"ע במנח"ח שהק' באופן אחר דלא מצנין איסור זו בין ה"ז מצות בני נח.

18) לקמן דף עג. ד"ה וזהו בלי ספק.

19) (ומבואר בע"ז סוף דף ו'. דאסור לישראל לתת מכשול לפני עכו"ם ולהכשילו לעבור על מצות דידהו).

20) מנח"ח מצוה י"ד.

21) קובץ שעורים כאן אות ו'.

**דף ד**

22) ע' תוס' דף ד: שכי' דביטול מטעם הפקר ומהני בלי ג' משום דמדאוי' אי"צ ג', ולפי"ז לכאוי' הטעם שהמבטל צריך שיבדוק משום דמרבנן לא אהני ביטולו כיון דלא היה לפני ג', והא דלא כי' תוס' כן לעיל בדף ב. י"ל דאי משום הא בלבד היה יכולים חז"ל לתקן שיבטל ויפקיר לפני ג' ולא צריכין לתקן בדיקה דוקא, וק"ל.

23) וכעין זה במרדכי שכתב דהכא בחד סגי דודאי גמר בלבו להפקיר, וכיון לזה השפת אמת כאן שכי' דלא בעינן ג' בחמץ משום דאין כאן חשש שיחזור בו.

24) חידשי הר"ן לקמן דף ו'. ד"ה הבודק, וכעין זה כתב הרמב"ן ריש פירקין אלא דהר"ן ס"ל דביטול מטעם הפקר והרמב"ן ס"ל דביטול אינו מטעם הפקר ע"ש.

25) ע' מש"כ לעיל בהערות על דף ב' (אות 5).

26) ע' פ"ב מהל' חו"מ ה"ב ובכס"מ ולח"מ שם, וע' קהל"י ס"ב.

**דף ה**

27) ע' רא"ש שהביא פלוגתא בזה אי עסקינן דוקא בשקיבל הישראל אחריות גניבה ואבדה כשי"ש או אפי' אם קיבל עליו רק אחריות שומר חנם, וע' תוס' ב"מ פב: ד"ה אימור שכי' דאינו חייב ישראל על חמץ של עכו"ם עד שיקבל עליו אחריות אונסים כשואל, וע' קוב"ש אות י"ז.

28) (רמב"ן ע"ה"ת) פרשת בא יב-יט, מובא בשג"א סימן פ"ג.

29) ומבאר הרא"ש דהמכילתא מייירי בנכרי שהלוח לישראל על חמץ כהא דתנן לקמן בדף לא.

30) כתבנו דעת הגאונים על פי פשוט הדברים וכפי הבנת רוב אחרונים, אולם השג"א בסימן פ"ג ר"ל דדעת הגאונים כדעת הרמב"ן ולא בעינן שיקבל הנכרי אחריות.

31) או"ח סוף סימן ת"מ, מובא בקהל"י כאן סימן ד' ע"ש.

32) סימן ת"מ סעיף א', וע"ש בקונטרס אחרון אות א'.

33) ע' ביאור הלכה סוף סימן ת"מ שהביא חולקין על הגר"ז ונשאר בצ"ע.

**דף ו**

34) ריש פירקין.

35) שם.

36) ע"ע קהל"י סימן א'.

**דף ז**

37) וע' ברא"ש שתי' דלא תימא דהבדיקה אינה כ"כ מצוה כיון שאינה אלא לבער החמץ מן הבית (וזה אינו מצות עשה, קר"י, וע' שו"ת נוב"ת סימן ס' וס"א שכי' דהברכה נתקנה על מצות תשביתו ולא על מניעת האיסור אולם מתוך המשך דברי הרא"ש מבואר דס"ל דהוצאת חמץ מן הבית ושרפתו קודם זמן איסורו אינו אלא כדי שלא יעבור עליו בבל יראה ולא משום מצות עשה דתשביתו, וע' מרומי שדה כאן).

38) כתב הרא"ש דמברכינן על ביעור חמץ לפי שאחר הבדיקה הוא מבטל מיד והיינו ביעור לחמץ שאין יודע לו ועל עסק זה נגרה הברה של בדיקה שהיא תחילת הביעור ונגמרת בשעה חמישית, עכ"ל, ואין לומר דחשיב ממש כברכה על מעשה ביטול אח"כ, דא"כ אם שח באמצע הבדיקה יהא חייב לברך עוד הפעם כיון שהפסיק קודם עיקר קיום המצוה, והרי הרא"ש מוסיק כאן דאין צריך לחזור ולברך דהוי כיושב בסוכה ששח באמצע סעודתו, וא"כ צ"ל דמודה הרא"ש דעיקר המצוה מתחלת בשעת בדיקה.

39) הלכות ברכות פרק י"א הלכה ט"ו.

40) הרמב"ם כתב כן לבאר למה מברכינן "על ביעור" ולא לבער (ע"ש בכס"מ שמבאר דהרמב"ם היה לו ביאור אחר בסוגיין).

41) (כך נראה לבאר ע"פ הרמב"ם, וע' מרומי שדה שהוסיף דעל פי הרמב"ם אתי שפיר הא דמברכינן דוקא בשעת בדיקה ולא ממתין עד שעת שריפה כיון דחל הביטול בשעת הבדיקה) ולכאוי' צ"ע לפי הרמב"ם למה צריכין לומר כל חמירא וכו' כיון דהחמץ ממילא בטל, ועוד צ"ע מהא דאמר ר"י אמר רב (דף ו'): דהבודק צריך שיבטל דמשמע לכאוי' דאינו בטל ממילא ע"י הבדיקה, אולם המעיין בדברי הרמב"ם יראה שלא כתב אלא שמשעה שגמר בלבו לעלל מצות הביעור וכו' ולפי"ז י"ל דלא חשוב כמבוער אפי"כ גמר בלבו לבטל, ולא ע"י שגמר בלבו לבדוק ולבער, ודו"ק (ועד"יין צב"ק, וע"ע במאירי סוד"ה זהו הכלל שהביא בשם הרמב"ם, כשנתן דעתו לבדוק גמר בלבו לבטל, והדבר צ"ע).

42) ריש סימן תל"ב.

43) כך דעת הטור בסימן תל"ו דביטול בלב, וכ"כ הרמב"ן בדף ב, וע' רש"י דף ו': ד"ה הבודק שכתב ב' לשונות ביטול "בלבו" ואח"כ כתב "ואומר", וע' צ"ח שעמד ע"ז, וע' ר"ן ריש מכילתין דמשמע דלפי דעת ר"ת דס"ל דביטול מטעם הפקר צריך אמירה בפה דוקא.

44) [ואע"ג שכתבנו לעיל ע"פ הרמב"ם שהברכה שייך לביטול, וכן משמע ברכה על מחשבה שפיר תקנו לכלול ביטול נמי עם הביעור], וע' ב"י בטור סימן תל"ו שהביא בשם בעל המנהיג שמי שאינו בביתו ומבטל חמץ צריך לברך והטור שם חולק כיון שאין עיקר ביטול אלא בלב אין לברך עליו (אולם אפי' לדעת בעל המנהיג י"ל דלכתחילה אין מתקנין נוסח הברכה על מצוה שחל במחשבת הלב אבל אחר שכבר תיקנו ברכת על ביעור חמץ מברכינן אותו אפי' על ביטול לחוד).

**דף ח**

45) סימן תל"ג ס"ו.

46) שם סק"י.

47) וע"ש במג"א שכתב דאפשר אם ברור לו שלא נתן שם חמץ לי יום קודם פסח לא צריך בדיקה דחשיב כמקום שאין מכניסין בו חמץ.

48) שם.

49) שם בשו"ע סוף סעיף ו'.

50) שם.

51) וכך פסק המשנ"ב שם ס"ק כ"ח בשם הרבה אחרונים.



**דף ט**

52) ע' דבר שמואל דנקט דאף אם עדיין קודם זמן איסורו מ"מ לא אמרינן שיבטל עכשיו.  
 53) פ"ב מהל' חו"מ סוף ה"י בשם הרא"ה.  
 54) המגיד משנה כתב כן לענין עכבר שגירר ספק חמץ ספק מצה לתוך בית הבדוק, וע"ש במל"מ שהק' ע"ז כמה קושיות [אולם כו"ע מודה ליסוד של המ"מ בענין היכא שהיה ודאי חמץ בהבית וספק דילמא אכלו העכבר, ופשוט], ע' מקור חיים סימן תל"ג שמבאר דתקנת בדיקה לא היה אלא במקומות שמכניסין בו חמץ ע"י בני אדם, ולא ע"י בהמות וחיות ולכן ס"ל לתוס' דאמרינן ספק דברנן להקל ולא מחייבינן ליה בדיקה כשיש ספק בגיררה חולדה אם אכלה.

**דף י**

55) סימן תל"ח, וכן ע' בסימן תל"ט שמחלק בין ביטלו ללא ביטלו וע"ש משניב סק"י.  
 56) כך מדייק הבי"ר ריש סימן תל"ח מדברי הרמב"ם פ"ב הל' חו"מ ה"ט.  
 57) וע"ש בב"י שצמד לדעת הרמב"ם דאולי אם יש בפירושים כדי כל הככר גרע יותר ותו לא תלינן בתינוק כיון דלא אכל ממנו כלום ואולי אין דרכו לפרר אלא בשעת אכילה בלבד (ומסיק דנראה יותר שלא כני"ל ותלינן לקולא במצא כדי כל הככר אפי' לדעת הרמב"ם).  
 58) בשילטי גיבורים כאן, ונוכר בב"ח ריש סימן תל"ד סוד"ה ואם כפה.  
 59) שם בסימן תל"ד (ועל הוכחתו ממתני' יש להשיב דאין לדמות היכא שראינו חולדה בפנינו להיכא דלא ראינו כלום, וק"ל).  
 60) וע"ש בב"ח סוד"ה ומ"ש התוס' שהק' על דברי ריא"ז דאם ראינו חולדה בפנינו בשאר ימות השנה שיש לה חמץ בתוך פיו א"כ צריכין לבדוק בער"פ אפי' במקומות שאין מכניסין בהם חמץ, וזו לא שמענו מעולם, עכ"תו"ד, ולעני"ד יש להשיב ע"ז דבדיקת חמץ דרבנן תלינן להקל דהחולדה גררה החמץ למקום שמכניסין בו חמץ כדמצינו ריש דף י, ודו"ק (איברא עדיין יש מקום לדון במי שלא ביטל חמצו דהוי בדיקת חמץ דאין ולא שמענו שיהא חייב לבדוק מקומות שאין מכניסין בהם חמץ, אולם ע' טור בסימן תל"ט דמבואר דאפי' אם לא ביטל תלינן להקל אם אין הככר קטן ויש ספק שאכלו [ע' תוס' סוף דף ט:], וממילא אם רואים חולדה בשאר ימות השנה לעולם תלינן להקל שהכניס החמץ למקום שמכניסין בו חמץ ואף אם הככר גדול לעולם יש לספק שכבר אכלו קודם ערב פסח), וע"ע מקו"ח סימן תל"ג שהבאנו בסוף דף הני"ל.

**דף יא**

61) פרק א' מהל' חו"מ ה"ט.  
 62) דמבואר שם בתוס' דמן התורה צריך אדם להשביט חמצו תוך שעה ששית (משום דעובר על מצות תשביטו מיד בתחלת שבע), אולם ע"ש ברבנו דוד שחולק על תוס' וס"ל דלא מחייבו התורה אלא להשביט חמצו בתחילת שבע, וכן מבואר ברש"י סוף דף יב: ד"ה שלא בשעת ביעורו דמבואר גמ' ע"ה מותר להמתין עד שעת שבע כדי לבער חמצו בתחלת שבע (וע"ש בחי' הר"ן שהק' על רש"י דאם משהחמצו עד שעת שבע נמצא שעבר עליו, ועוד יש לעורר מהא דרש"י בדף ד. ד"ה בין לר' מאיר כתב דבשעה שבע חל האיסור של כל יראה, וע' משניב ריש סימן תמ"ג שהביא מכמה פוסקים שחולקין על רש"י וס"ל דאין עובר בכל יראה עד הערב, וע"ש בשעה"צ סק"ב) וע"ע בתוס' לקמן דף כט: סוף ד"ה רב אשי שכי בשם הר"י דמשהחמץ ע"מ לבערו אינו עובר עליו.  
 63) וע' בחי' מרן ר"י הלוי על הרמב"ם שם שמבאר דחמץ בשעה ששית הוי איסור חפצא ומתו ממש חמץ אחר שש (ויש לעיין אי מדויק במסקנת הכס"מ שלא כהגרי"ז, וע' עוד לקמן טו: - מחלוקת בשש אבל בשבע ד"ה שורפים, משמע דבשעה ששת כיון שאין עליו אלא איסור דרבנן עדיין לא חשוב כדבר טמא וכפת שיעפשה, וע"ש בגליוני השי"ס לר"י ענגיל [על תוד"ה ונשרפת] שהוכיח מזה דאיסורי דרבנן לא הוי אלא איסור גבאר ולא איסור חפצא, ואכמ"ל).  
 64) סימן ט"ו, מובא בשו"ע סימן תל"ד ס"ב.  
 65) מובא ברמ"א שם.

**דף יב**

66) פירוש המשני ריש ברכות, וזהו הדעה הראשונה הנוכר ברמ"א סימן תמ"ג ס"א.  
 67) ידוע פלוגתת הפוסקים אין חושבין היום מעלות השחר עד צה"כ או מנץ החמה עד שקע"ח, ופסק המשניב סימן תמ"ג סק"ח דלכתחילה טוב להחמיר ולחושבו מעלות השחר.  
 68) סימן קכ"א, ונוכר ברמ"א שם בסימן תמ"ג סוף ס"א בשם י"א.  
 69) וע"ש בתרה"ד שכתב דכל זה רק לפי תירוצו של אב"י, אבל לרבא שפי' דהטעם דאוכלין עד סוף שעה ד' משום דשעה ד' הוי זמן סעודה מודה התרה"ד דחשבינן ד' שעות זמניות מתחילת היום, ופסק דאוכלין חמץ עד ב' שעות שוות לפני חצות כיון שאינו נוגע אלא לאיסור דרבנן אזלינן לקולא, וע"ש בט"ז שהאר"ך לדרות דעת התה"ד, וע' משניב שם סק"ט שפסק דבדיעבד במקום הפסד יש לסמוך על התרומת הדשן להקל, וע"ש בב"ה"ל שמצ"י אופן שיהיה שיטת תרה"ד לחומרא ומסיק דאין צריך לחוש לדעתו לחומרא.  
 דף יג 70) וע' להלן מש"כ בשם הטור מג"א והגרי"א דמבואר בדבריהם שדייק שיש חיוב על השומר למכור החמץ של המפקיד מטעם "חיובי שמירה" שלו, וגם משום "שלא יעבור השומר על בל יראה" וגם להציל הבעלים מאיסור בעל יראה (אלא

דמצד טעם בעל יראה לחוד היה אפשר להשומר להמתין עד סוף שעה חמישית ולבערו אז ע"י שריפה, וק"ל).

71) סימן תמ"ג סק"ד, וע' מקור חיים שפי' דברי המג"א דאינו מתיר למכור קודם שעה חמישית א"כ חושש שלא ימצא קונים כלל (וכן כתב המשניב שם ס"ק י"א, וע"ש בב"יאוור הלכה), דא"כ צריך להמתין דילמא יבא הבעלים בעצמו וירצה לאכלו אף שחושש שיהא מוכרח למכרו בזול.  
 72) שם [ונסתפקתי אם בשעת חמישית תו לא ימצא נכרי לקנותו בדרך זו (על מנת להחזירו) האם מותר לו למכרו קודם שעה חמישית].  
 73) סימן תמ"ג וש"ע שם סעיף ב'.

74) ע' שם ברא"ש שהביא ב' דעות אי עסקין בקבלת אחריות של גנ"א כשיש או אפי' בקבלת אחריות של פשיעה בלבד כשי"ח (מובא בשו"ע סימן ת"מ ס"א).  
 75) שם בסימן תמ"ג, והביאו המג"א שם סק"ה.  
 76) שם בב"יאוור הגרי"א.

77) [לפ"י לכו"י חייב השומר לבער אפי' חמץ של קטן הנפקד אצלו, משא"כ להבי"ח אולי אין חיוב להפריש קטן מאיסור בל יראה], ודע דעוד כמה אחרונים ס"ל כהגרי"א, ע' בית מאיר תמ"ג סק"ב וכן ע' צ"ח בדף כט., וכן ע' פ"י דף ד. על תוד"ה מדאין וכן בדף ה: שמדייק מרש"י שם כדעת הגרי"א וכי דכן משמעות המכילתא מובא ברמב"ם עה"ת פרשת בא וברא"ש שם בדף ה: וע' בחי' ר' ראובן בהוספה בסוף הספר.

78) שם.  
 79) המג"א ס"ל דאפי' אם היה רק שומר חנם מ"מ חייב לשלם דהא דלא מכרו חש"ב כפשיעה, וע' משניב שם ס"י י"ב שם י"ק ש"כ דרוב אחרונים חולקין על המג"א וס"ל דליכא חיוב על השומר לשלם (אפי' אם הוא שומר שכר) דאין חיוב מכירה בכלל חיובי שמירה.

80) ע"ש במג"א שכתב דאם החמץ עדיין בעין אחר הפסח פטור מלשלם [אע"ג דהחמץ אסור בהנאה משום חמץ שעבר עליו הפסח] דיכול לומר לבעלים "הרי שלך לפניך", וע' בהג' חת"ס שהקשה עליו מתוס' ב"ק דף נ: דבשומר אינו יכול לומר "הרי שלך לפניך".

**דף יד**

81) ע' גמרא, הכא נבר של מתכת דרחמנא אמר וכו', דלכא' איירי נבר שנג באב הטומאה, וכן מבואר ברש"י ד"ה בחלל חרב דמתכת שנגע בטמא מת נעשה אב הטומאה כמותו, וע' רמב"ם פ"ה מהל' אבוה"ט הי"ג שהביא מקור לדין זה - "מנין שאף הכלים הנוגעים באדם שנגע בכלים שנטמאו במת, טמאים טומאת ז' ימים שהרי הוא אומר וכו', ע"ש.

82) מובא ברש"י פ"א אהלות סוף משנה ב'.  
 83) פ"ה מהל' אבות הטומאה ה"ג, וע' תוס' נזיר דף נד: ד"ה ת"ש שכתב כן בשם הר"י דה"ה שאר כלי שטף (ור"ת שם חולק וס"ל דזקא מתכות).  
 84) וע"ש בראב"ד דעת שלישית בזה.

85) [וכן מבואר ברמב"ם דחרב הרי הוא כחלל אפי' כשנטמא החרב ע"י אהל, אולם ע' מאירי שבת דף קא: שכי' דחרב הנטמא באהל המת לא הוי כחלל, ע"ש] וע"ע בחי' הרמב"ן ורשב"א שם בבא בתרא דף כ. שיש שינוי נוסחאות בשיטות ר' חיים כהן ור"ת ובסקל"א וטריא ביניהם, וע"ע בתלמודי הרשב"א כאן, וע"ע בפי' הרע"ב כאן שכי' שיטה מחודשת דאם הכלי חרב נוגע בראשון נעשה ראשון כמותו, וע' קוב"ש כאן אות ס"ז (ובקובץ הערות סימן י"ט אות ו') דמבאר שהוא מחלוקת בין הר"ח ורשב"א חולין דף ג.  
 86) וע"ע בחי' מרן ר"י הלוי עה"ת פרשת מטות.

**דף טו**

87) רמב"ם פ"ג מהל' חמץ ומצה הי"ד (וע"ש מה שהק' הכס"מ).  
 88) הלכות גירושין פ"ד ה"ב, מצוין בתוספות רע"א כאן על משנה ז'.  
 89) [כעין זה מציינו במנחות דף קב: דפר"ק לר' שמעון דס"ל "כל העומד לישרף כשרף דמי" ונתר ופרה אמאי מטמא אוכלין עפרא בעלמא ניהו, ולפ"י קשה נגמין לקמן דף כ: דאמר ר' שמעון שם שאין שורפין טמאה עם טהורה לפני ער"פ שחל בשבת].  
 90) בבב"ב כאן על משנה ז' אות ג'.  
 91) אולם זה נגד מש"כ תוס' סוכה דף לה. דבתרומה טמאה אמרינן כותו מיכתת שיעורי, וע"ע בב"יאוור הגרי"א סימן קכ"ד סק"ב בשם ראשונים טעם אחר אמאי דלא אמרינן בתרומה טמאה כותו מ"כיש, וע"ע מה שתי' השער המלך ובמה שמאר"ך בזה התפ"י שם, וע"ע בקהל"י סוכה סימן י"ט מה שכתב לתר, וכן ע' בחזון יחזקאל כאן.

**דף טז**

92) הלכות טומאת אוכלים פ"א הי"ד (וע"ש בכס"מ שהביא דברי ר' אליעזר במשנה בפ"א תרומות מ"ב דמשמע כהרמב"ם).  
 93) ד"ה ברש"י.  
 94) (אות פ"א) ד"ה פירות הנושרים, וע"ש בהמשך הדברים מש"כ בדברי הראב"ד, וכן ע' מש"כ שם באות ע"ג.  
 דף יז  
 95) מובא בהג' ר' שמואל שמעלקא טויבש על מסכת שבת סוף דף כ"א (נדפס בסוף המסכתא עמוד נב. בדפוס וילנא).  
 96) ח"ג (בכרך א') סימן מ"ב.  
 97) (בנו של ר' שמואל שמעלקא, אב"ד יאסו) מובא שם בהג' ר' שמואל שמעלקא, וע' שם מה שתיירץ עוד.

**דף יח**

98) (ע' תוס' דמשמע קצת דפסול היסח הדעת ופסול משמרת הוי ב' דברים אולם מבואר בר"ש פרה פרק ט' מ"ג דפסול היסח הדעת הוא מדין משמרת. וע' 99) כך פי' הרא"ש ור"ש ורע"ב שם בפרה פ"ג מ"ט דפסול משום תעורבות מים (וע' תפארת ישראל שם דמבאר דאינו אלא חומרא דרבנן משום חומר דמי חטאת דמדאין בטל הרוק ברוב מי חטאת שבתוך הכלל), וע' באות הבאה.  
 100) אולם תוס' פי' כאן דהפסול הוא משום דכתיב "מים חיים" שיהא חיותן בכלי או משום מלאכה (ולכאוי' לפי טעם זה פסול כל מים שבכלי מדאין דנחשב כולו כנעשה בו מלאכה הוואיל והפריש מהן לשתות) וכן פי' רש"י בחולין ט: ד"ה אם יכולה חולדה (וע"ש בתוס'), ולכן ת"י תוס' בע"א, וע' תפא"י שם שכי' אי"נ פסול משום היסח הדעת וכ"כ הקרית ספר פ"ט דהלכות פרה, אולם לפ"י הדרא קושית התוס' לדוכתי.

דף	This Al Hadaf was made possible by the following daf dedications...	יום	
ב	לז"נ הרה"ח מוה"ר רפאל צבי מאיר בהרה"ג מוה"ר אברהם בנימין זילבערבערג ז"ל * -הונצח ע"י נכדיו משה אפרים ורפאל צבי מאיר זילבערבערג נ"י	יט טבת	Thrs
ג	לז"נ אליהו יוסף חי ז"ל בן יב"ל הרב מאיר שרגא נ"י * Sponsored by his parents Rabbi & Mrs. Meyer Zywica, Baltimore, MD	כ טבת	Fri
ד	לז"נ מאיר בן אהרן ז"ל * MYER LEVINE - לז"נ האשה טובה מרים בת ר' שמשון הלוי ז"ל *	כא טבת	שבת
ה	לז"נ חיה פייגא בת מרדכי ז"ל * by her children לז"נ אהרן בן דוד אריה ז"ל *	כב טבת	Sun
ו	לז"נ נפתלי בן נטע יצחק ז"ל *	כג טבת	Mon
ז		כד טבת	Tues
ח	לז"נ הרב צבי בן הרב חיים שאול הכהן קניגסברג תנצב"ה *	כה טבת	Wed
ט		כו טבת	Thrs
י		כז טבת	Fri
יא	לז"נ חנה ביילא בת זאב ז"ל * ANN WEINBERG	כח טבת	שבת
יב		כט טבת	Sun
יג		א שבט	Mon
יד	לז"נ חנה בת ישראל ז"ל *	ב שבט	Tues
טו	הוקדש לז"נ אשר אנשיל בן משה יוסף ז"ל * ANSHEL GROSS הוקדש ע"י משפחת וויינבערגער לז"נ ר' בנימין בן ר' יחיאל הלוי ז"ל *	ג שבט	Wed
טז	לז"נ אשר בן אהרן ז"ל (יא"צ ג' שבט)	ד שבט	Thrs
יז		ו שבט	שבת

\* Denotes Yartzeit

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