



דף יט:

עזרה רשות הרבים היא

• There is a rule derived from scriptural sources (Sotah 28a, cf., Gemara beginning of Niddah), ספק טומאה ברשות הרבים ספיקו טהור - an incidence of doubtful *tumah* that occurs in a public domain is ruled *tahor* - and conversely, in a private domain doubtful *tumah* is ruled *tamei*.

Rav, in explaining the Mishna in Eduyos 2:3 (cited on 19a), says that if a needle that was an *av hatumah* (primary source of *tumah*) was lost in the flesh of a *korbon*, the flesh is *tamei* but the *Kohen* who handled the flesh is *tahor*. The Gemara explains that even though there is a ספק - chance - that the *Kohen* might have unwittingly touched the needle,<sup>1</sup> the *Kohen* is *tahor* based on the above mentioned rule - ספק טומאה ברה"ר ספיקו טהור - doubtful *tumah* in a public domain is ruled *tahor*.

The Mishna in Tohoros 6:6-9 states that the criteria for defining public and private domains regarding the law of doubtful *tumah* are different from those pertaining to the law of *hotza'ah* - carrying on Shabbos. With regard to Shabbos, any enclosed area is defined as a *reshus hayachid*, but with regard to *tumah*, *reshus hayachid* refers to an isolated area in which there are less than three people

present. The Rambam<sup>2</sup> explains that even though the *azarah* (courtyard of the Bais Hamikdash) where the *Kohen* handled the *korbon* is defined as a private domain with respect to carrying on Shabbos (since it is enclosed by walls), with regard to *tumah* it is considered a public domain since it is accessible to the public and is frequented by large crowds of people.<sup>3</sup>

The Torah forbids a *Kohen* from coming in contact with a corpse and from coming under the same *ohel* (roof) as a corpse. This *issur* pertains even to a *Kohen* who is already *tamei*. Thus, even today when all *Kohanim* are presumed to be *tamei* (due to the absence of *parah adumah* which is necessary to purify one from corpse *tumah*), *Kohanim* are, nevertheless, forbidden to come in contact with a corpse (except to attend the funeral of their *ז' קרובים* - seven closest relatives).

The authorities consider whether it is permissible for a *Kohen* to enter a hospital where a corpse might be present (if he is doing so, not because he is seriously ill, but to visit someone or to treat a minor illness).

One suggested reason for ruling leniently on this matter is the fact that a hospital is a place accessible and frequented by the public,

and therefore, although enclosed, qualifies as a public domain with regard to the law of ספק טומאה. Consequently, if we are uncertain whether or not there is a corpse in the hospital, perhaps a *Kohen* should be permitted to enter based on the rule ספק טומאה ברה"ר ספקו טהור - we are lenient regarding doubtful *tumah* in a public area.

The She'arim Metzuyanim B'halacha<sup>4</sup> rejects this argument based on the following words of the T'zalach. The T'zalach (Berachos 19b) submits that the rule of ספק טומאה ברה"ר is not applicable to a *Kohen* who is already *tamei*. With regard to such a *Kohen* the question of contact with a corpse is not a *tumah*-related question (since he is *tamei* in any case), but is rather an ordinary *issur*-related question.<sup>5</sup> [Note: Even a *Kohen tamei* is forbidden to come in contact with a corpse.] Consequently, he says that the *Kohen* in such an instance must conduct himself stringently, as he must do for questions concerning ordinary Torah laws, such as eating non-kosher food, or *melacha* on Shabbos. Based on this, the She'arim Metzuyanim B'halacha says that the question of *Kohanim* entering a hospital must be treated under the category of ספק איסור ספק טומאה (since *Kohanim* today are assumed to be *tamei*) and the rule of ספק טומאה ברה"ר ספקו טהור cannot be applied.<sup>6</sup>

#### דף כ.

##### כגון שהיתה פרה של זבחי שלמים והעבירה בנהר

- As explained above on דף טז, food is not susceptible to *tumah* unless it received הכשר (preparation for *tumah*) through its being washed with one of the seven beverages (listed *ibid.*).
- Produce must be wetted *after* it is detached from the ground in order to be מוכשר לקבל טומאה - susceptible to *tumah*. Likewise, meat must be washed after *shechitah*.

The Mishna in Eduyos 2:3 (cited above) says that if a [*tamei*] needle was found in the flesh of a *korbon*, the flesh is *tamei*. Rav Yehuda says in the name of Shmuel that the Mishna is referring to a *korbon shelamim* that was taken through a river before its slaughter. The reason the animal's flesh was capable of

contracting *tumah* from the needle is that the flesh got wet from the dripping skin (after the *korbon* was slaughtered).<sup>7</sup>

Rashi, citing a Gemara in Beitzah 40a, explains that giving an animal to drink before its slaughter facilitates the skinning process. Therefore, it was common for an owner of a *korbon* to take his *korbon* to the river, so that it would drink before its slaughter.<sup>8</sup>

Rashi explains that Shmuel speaks specifically of a *korbon shelamim*, rather than an *olah* or another *korbon*, because the meat and the hide of a *korbon shelamim* belong to the owner, whereas the meat and hide of other *korbonos* are given to the *Kohanim* (or are burnt on the *mizbeach* as in the case of an *olah*). Therefore, it was usual for the owner to take his *korbon shelamim* through the river since he keeps the meat and skins for himself.<sup>9</sup>

The Rambam<sup>10</sup> and the Kol Bo<sup>11</sup> understand the Gemara in Beitzah (which advises giving an animal to drink before *shechitah*) differently than Rashi. It was not done merely for practical purposes, to facilitate skinning, but rather for halachic reasons, in that it aids in smoothing out and removing סירכות - adhesions and imperfections - in the lungs. [An animal with a defective lung is a *treifah* and is an invalid *korbon*.]

The T'zalach remarks that according to the Kol Bo (and the Rambam) an explanation is required as to why Shmuel speaks specifically of a *shelamim*. All *korbonos*, according to the Kol Bo and the Rambam, should be given to drink, because any *korbon* with a defective lung is *posul*.

The Chasam Sofer<sup>12</sup> suggests a p'shat based on the following Rambam. The Mishna in Machshirin (ch. 3) says that liquids that fall on food make it susceptible to *tumah* only if they fall מדעת - with knowledge or consent. However, produce that *mistakenly* gets wet does not become susceptible to *tumah* unless the owner, upon hearing about it, is pleased. The Rambam<sup>13</sup> says that the law of הכשר is dependent solely on the will and consent of the owner of the produce. If produce is moistened without the consent of the owner, the Rambam

says that it does not become susceptible to *tumah*.

R' Yosi Haglili (*Kiddushin* 52b) asserts that while *kodshei kodashim* (category of *korbonos* with a greater degree of holiness, such as *chattos* and *olah*) are considered as *ממון גבוה* (Divine property), *kodshei kalim* (*korbonos* with a lesser degree of holiness, such as *shelamim*) are considered *ממון הדיוט* (property of its owner) [prior to *shechitah*<sup>14</sup>]. The K'tzos Hachoshen<sup>15</sup> asserts that according to the Rambam, if the owner of a *korbon olah* washes his animal, it does not become susceptible to *tumah*, because a *korbon olah* is *kodshei kodashim* and is considered as Divine property rather than the property of its owner. Since he is not the legal owner he lacks the capacity to render it *מוכשר לקבל טומאה* (based on the rule, *אין אדם אוסר דבר שאינו שלו* - an individual lacks the power to prohibit an item that is not his own).

Accordingly, the Chasam Sofer suggests the reason Shmuel speaks specifically of a *korbon shelamim* is that it is *kodshei kalim*, and its owner therefore is able to make it susceptible to *tumah* when he wets it. However, *kodshei kodashim* do not become susceptible to *tumah* even if the owner wets them since they are *ממון גבוה* - as the K'tzos Hachoshen says.<sup>16</sup>

#### דף כא.

##### וחכמים אומרים אין מפרר וזורה לרוח

R' Yehuda says that the Torah obligation of *תשביתו* (to destroy one's *chametz* on Erev Pesach) can be fulfilled only through burning (*אין ביעור חמץ אלא שריפה*).<sup>17</sup>

The Chachamim disagree and maintain that one may dispose of his *chametz* through other means [as well], such as by crumbling it and casting it to the wind or into the sea.

The Mishna in Temurah (33b) groups various *איסורי הנאה* (items forbidden for benefit by the Torah) into two categories, (a) *נשרפין* (items subject to burning) and (b) *נקברין* (those subject to burying but need not be destroyed via burning). One example of *נקברין* is *בשר בחלב* (meat cooked with milk). Although *בשר בחלב* is forbidden for benefit, the Torah does not require

one to burn or destroy it. The sages, however, decreed that *בשר בחלב* must be disposed of lest one mistakenly benefit from it.<sup>18</sup>

The Gemara (*ibid.*) states that the ashes of *נשרפין* are *מותר בהנאה* - permitted for benefit, whereas the ashes derived from *נקברין* are *אסור* - forbidden.

The Mishna (*ibid.*) says that those items classified as *נקברין* should be destroyed by means other than burning. They should not be burned because we are concerned that one might mistakenly derive benefit from their ashes, and, as stated above, it is forbidden to derive benefit from the ashes of *נקברין*.

The Rambam,<sup>19</sup> in codifying the Chachamim's position, writes that one should dispose of his *chametz* by burning it, crumbling it and throwing it to the wind, or casting it into the sea.

The Magen Avraham<sup>20</sup> asks why the Rambam permits one to burn his *chametz*. Since (according to the Chachamim) *chametz* may be disposed of in any manner, it should be categorized as *נקברין* and the Mishna in Temurah says that it is forbidden to burn *נקברין* (lest one derive benefit from their ashes).<sup>21</sup>

In answer to this question the Avnei Meluim<sup>22</sup> explains that *chametz* is different from the *נקברין* listed by the Mishna *ibid.* Tosfos (Temurah *ibid.*) explains the reason ashes of *נשרפין* are *מותר בהנאה* is based on the principle of *נעשה מצותן* ("their obligation was fulfilled"). When the Torah requires burning an object which is forbidden for benefit, the assumption is that the Torah only forbids benefitting from the item until the mitzvah [to burn it] is fulfilled. Once the object is burned we apply the rule of *נעשה מצותו* which states that the prohibition to benefit from it is lifted once its obligation is fulfilled. The principle of *נעשה מצותן* does not apply to *נקברין* because there is no mitzvah (*min haTorah*) to burn such items. There is no reason to lift the ban against benefitting from them when they are burned since burning them is not a mitzvah.

Based on this Tosfos, the Avnei Meluim explains that *chametz* is similar to *נשרפין*, not to

נקברין. Even though there is no mitzvah to specifically burn *chametz*, there is a mitzvah which calls for its destruction (תשביתו). Therefore when one burns his *chametz* in fulfillment of the mitzvah, we apply the rule of נעשה מצותו and its ashes are permitted for benefit.<sup>23</sup>

#### דף כב.

#### אין בגידין בנותן טעם

1] • The Torah, Bereishis 32:33, forbids the consumption of the *gid hanasheh* (a certain sinew in the thigh of an animal).

R' Yehuda says that one who eats the *gid hanasheh* of a non-kosher animal is subject to two sets of *malkus* (lashes). One for the violation of the *issur gid hanasheh* and another for the violation of טמאה - eating a non-kosher animal.

R' Shimon disagrees with R' Yehuda on both counts and maintains that such an individual is exempt from *malkus*, for he is not in violation of any *issurim (min haTorah)*. R' Shimon is of the opinion that the Torah's prohibition of *gid hanasheh* refers only to the *gid* of kosher animals. Therefore, one who eats the *gid* of a non-kosher animal is not in violation of the *issur* of *gid*. Secondly, the *issur* of eating non-kosher animals pertains only to the edible parts of the animal (i.e., its meat). R' Shimon is of the opinion that the *gid hanasheh* is a tough sinew which does not have any flavor (בגידין בנותן טעם אֵין) and is similar to a piece of inedible wood (עץ בעלמא). Therefore, eating *gid* of a non-kosher animal is not the same as eating meat of a non-kosher animal. [Despite the fact that *gid* has no flavor, one who eats the *gid* of a kosher animal is punishable by *malkus* by scriptural decree (גזירת הכתוב), see Chullin 92b - עולא אמר עץ הוא והתורה חייבה עליו.]

R' Yehuda who subjects one who eats the *gid* of a non-kosher animal to *malkus* for eating meat of a non-kosher animal is apparently of the opinion that יש בגידין בנותן טעם - the *gid hanasheh* does impart flavor - and is considered as meat.

The following is another ramification of this dispute: The Mishna in Chullin 96b says that if the entire thigh of an animal was cooked with

the *gid* intact, the thigh may not be eaten because during the cooking it presumably absorbed flavor from the *gid*. The Gemara *ibid.* 99b remarks that the Tanna of the Mishna apparently is of the opinion that יש בגידין בנותן טעם - the *gid* does indeed have flavor. According to the view that אין בגידין בנותן טעם אֵין - a *gid* does not have flavor - the thigh cooked with the *gid* is not forbidden because it could not have absorbed any flavor from the flavorless *gid*.<sup>24</sup>

The Rashba (Chullin 92b) questions the grounds for such a dispute. He asks why we don't have a קפילא (non-Jewish chef) taste the *gid hanasheh* and evaluate whether it has a flavor.

The Rashba answers that the *gid*'s flavor, if there is one at all, is very dull. Therefore, the sages did not rely on the judgment of a non-Jewish chef.

Alternatively, the Maharam Chalavah suggests that all agree that the *gid* itself is flavorless. The dispute hinges on whether the *issur* to eat *gid* includes the flavorful קנוקנות (thin sinews that branch out from the main part of the *gid*), see Chullin 92b. The opinion that says that the *gid* has flavor means that the קנוקנות are forbidden and the קנוקנות are flavored.<sup>25</sup>

2] The Rambam<sup>26</sup> rules that if one eats the *gid hanasheh* of a *neveilah* (the carcass of a kosher animal that died without a proper *shechitah*) he is subject to two sets of *malkus*, one for eating *gid* and for eating *neveilah*.

The Shaar Hamelech<sup>27</sup> asks why he is subject to *malkus* for eating *neveilah*. Since the Rambam<sup>28</sup> rules in accordance with R' Shimon that one who eats the *gid* of a non-kosher animal is not subject to *malkus* because the *gid* is inedible and is not included in the *issur* of eating non-kosher meat, so too, it should not be included in the *issur* of eating *neveilah*.

In answer, the Shaar HaMelech distinguishes between the *gid* of a non-kosher animal and the *gid* of a *neveilah* (carcass of a kosher animal). Even though the *gid* is flavorless and is comparable to wood, when the

Torah decrees that the *gid* (of a kosher animal) may not be eaten, the Torah thereby invests *gid* with a measure of significance and tells us to view it as edible meat - at least with respect to this *issur*. Therefore, one who eats the *gid* of a *neveilah*, not only violates the *issur* of *gid hanasheh*, he also violates the *issur* to eat *neveilah* since the Torah tells us to view the *gid* as edible meat.

Since the *issur* of *gid* does not apply to non-kosher animals (according to R' Shimon), the Torah never invested the *gid* of a non-Kosher animal with any special significance and did not grant it the status of meat. Therefore, the *gid* of a non-kosher animal is viewed as inedible wood and one who eats it is not in violation of any *issurim*.<sup>29</sup>

#### דף כג. והרי תרומה

R' Avahu (21b) asserts that wherever the Torah forbids eating a forbidden food, whether it uses the term לא תאכלו or לא יאכל, לא תאכל (one shall not eat or you shall not eat), the *issur* includes a prohibition against deriving benefit as well as a prohibition against eating, unless the Torah specifies otherwise. [Chizkiya disagrees and maintains that these terms imply a prohibition only against eating, except where the Torah uses the term לא יאכל ("lo yai'ochail" - it shall not be eaten), as in Sh'mos 13:3 with regard to *chametz*.]

The Gemara challenges R' Avahu from many *issurim* which are מותר בהנאה (permitted for benefit) despite the fact that the Torah uses the term לא יאכל or לא תאכל. One such challenge (23a) is from the *issur* of *terumah* to a זר (non-Kohen), regarding which the Torah states לא יאכל קודש - a non-Kohen may not eat *terumah*. According to R' Avahu this posuk should be construed as a prohibition against הנאה as well as אכילה. However, apparently this is not so for the Mishna in *Eruvin* 26b states that a Yisrael (non-Kohen) is permitted to use *terumah* for his *eruv* (even though he thereby derives benefit from it). In response, the Gemara explains that the Torah specifically permits *terumah* for benefit for the posuk states כַּסְתְּרֹמֶת (your *terumah*, Bamidbar

18:7). This terminology implies that *terumah* is yours to use, meaning it is permitted for benefit.

The Achiezer<sup>30</sup> asks why the posuk מותר בהנאה is necessary to teach that *terumah* is מותר בהנאה. If the Torah would have forbade deriving benefit from *terumah*, it would be forbidden for a Yisrael, not only to sell *terumah*, but even to grant it [to a Kohen] as a gift. The Gemara on 22a indicates that if a *gid hanasheh* is אסור בהנאה one must remove the *gid* from the thigh of the animal before giving it as a gift to a non-Jew. The reason for this is that one who receives a gift feels beholden to the giver and eventually repays the favor. Therefore, gifting an item that is אסור בהנאה is tantamount to selling it, and is forbidden since one expects a favor in return.<sup>31</sup> Consequently, asks the Achiezer, the fact that the Torah instructs a Yisrael to give his *terumah* to a Kohen should be sufficient proof that *terumah* is מותר בהנאה (for a Yisrael).

In answer, the Dvar Shmuel explains that one who receives a gift feels beholden to the giver only if the giver has a choice in the matter and is not compelled to give the gift. However, in the case of *terumah*, where the Torah requires one to give it to a Kohen, the Kohen does not feel beholden to the Yisrael giving him the *terumah*. Therefore, the Yisrael does not derive any benefit from giving the gift. Thus, if not for the posuk of תְּרוֹמַתְכֶם we would not know that *terumah* is מותר בהנאה (according to R' Avahu).<sup>32</sup>

#### דף כד:

כל איסורין שבתורה אין לוקין עליהם אלא דרך הנאתן

R' Avahu states in the name of R' Yochanan (איכא דאמרי - second version) that one who benefits from a food that is אסור בהנאה does not incur the penalty of *malkus* unless he does so in the normal manner. R' Simi bar Ashi explains that R' Avahu means to exclude a case in which one uses fats of a שור הנסקל as a salve for his wound. [A שור הנסקל is an ox condemned to death for killing a human, and it is אסור בהנאה - forbidden for benefit.] Rashi explains that fats are normally used as fuel or to smear on animal hides; it is not usually used for treating wounds. When the Torah forbids benefitting from a שור

הנסקל, it refers only to usual types of pleasure; benefitting in an unusual manner is only rabbinically forbidden.<sup>33</sup> Therefore, R' Avahu says that one does not incur *malkus* unless he eats forbidden foods in their normal manner of eating or he benefits from forbidden items in their normal manner of enjoyment.

The Rambam,<sup>34</sup> in codifying this halacha regarding foods which are אסור בהנאה, writes that if one derives pleasure from them in any manner other than eating, such as by selling them or by feeding them to his dog,<sup>35</sup> he does not incur the penalty of *malkus*.

The Rambam apparently interprets R' Avahu's halacha differently than Rashi. According to the Rambam, R' Avahu excludes any type of non-eating benefit from *malkus* culpability, not just unusual types of benefits. According to the Rambam even if one uses fats of a שור הנסקל as fuel, he does not incur *malkus* even though such a use is typical.

The Maggid Mishna<sup>36</sup> explains that the Rambam is of the opinion that the only [normal] manner of deriving pleasure from an edible food is by eating it; any other type of benefit is deemed שלא כדרך הנאתן (not the normal manner of enjoyment), even if it is actually a typical use.<sup>37</sup>

According to the Rambam, an explanation is required as to why R' Yochanan exempts all non-eating uses from *malkus*. Since the Torah teaches that שור הנסקל and *chametz*, for example, are not only forbidden for consumption, but are also בהנאה אסורן, using them for non-eating pleasures is clearly a Torah *issur*. Why then, do they not carry a *malkus* penalty?

The Maggid Mishna likens using a food for non-eating pleasures to eating a חצי שיעור - half the required amount for *malkus* culpability (i.e., half-*k'zayis*). According to R' Yochanan (Yoma 73b), חצי שיעור אסור מן התורה, eating a half-*shiur* is forbidden by the Torah - but, nevertheless, does not carry a penalty of *malkus*. Similarly, the Rambam is of the opinion that using a food for a non-eating type benefit, though forbidden by the Torah, is not subject to *malkus* because it is a qualitative (rather than

quantitative) half-*shiur*.

Alternatively, the Mishna Lamelech suggests that the Rambam is of the opinion that only an *issur* that is explicitly spelled out in the Torah is subject to *malkus*. Since the *issur* to benefit from איסורי הנאה, such as from שור הנסקל and *chametz*, is not stated openly in the Torah, but is derived by means of a derasha, they do not carry the penalty of *malkus*.

The T'zlach<sup>38</sup> asserts that according to the Maggid Mishna if one takes rotten fats of a שור הנסקל and uses them to treat a wound, he would indeed incur the *malkus* penalty. Since it is not normal to eat rotten fats, their normal manner of usage is smearing. Thus, it emerges that one who smears edible fats (of a שור הנסקל) on his wound is exempt from *malkus*, but one who smears his wound with inedible fats (of a שור הנסקל) is subject to *malkus*.

However, according to the Mishna Lamelech's explanation of the Rambam (cited above), even if one uses inedible fats of a שור הנסקל to smear his wound he is exempt from *malkus*, since the *issur* to derive non-eating means of benefit is not explicit in the Torah. [Two exceptions to the rule of this Gemara are בשר בחלב and כלאי הכרם. The Gemara says that since the Torah does not use the term אכילה when prohibiting these items, they carry the penalty of *malkus* even if eaten in an unusual manner.<sup>39</sup>]

#### דף כה:

#### רבינא שייף לברתיה בגוהרקי דערלה

The Gemara relates that Ravina rubbed his sick daughter with olive oil of *orlah* in spite of the fact that *orlah* is אסור בהנאה. [*Orlah* is the fruit produced by a tree during its first three years.]

Ravina explained that his daughter was suffering from a life-threatening illness. Therefore, he was permitted to use oil of *orlah* to save her life.

Alternatively, (in another version of Ravina's explanation) Ravina explained that even though his daughter's life was not in danger he was permitted to rub her with oil of *orlah* because he was using the oil שלא כדרך הנאה - in an unusual manner of enjoyment.

Rashi explains that Ravina used oil of unripe olives and therefore it was considered שלא כדרך (unusual usage).<sup>40</sup>

The Ran explains that benefitting from *orlah* (and other איסורי הנאה) in an unusual manner is only a rabbinically forbidden act (as stated above), and the rabbis lifted the *issur* in cases of illness (even in non-life-threatening situations).

The Maggid Mishna (cited above) likens an unusual means of pleasure to eating a חצי שיעור - half required amount for *malkus* liability (see above). Accordingly, rubbing someone with unripe *orlah* oil, although not subject to *malkus*, is an *issur min haTorah*, just as eating a half-*k'zayis* of a forbidden food [while exempt from *malkus*] is an *issur min haTorah*.

According to the Maggid Mishna it appears that treating a sick person, even if he is only mildly ill, takes precedence over the *issur* to benefit from איסורי הנאה in an usual manner, or for that matter over the *issur* of eating a חצי שיעור of a forbidden food, even though these are *issurim min haTorah*. Indeed, this appears to be the position of the Sefer Hachinuch as well, for the Sefer Hachinuch<sup>41</sup> writes that if a sick person feels weak on Yom Kippur, even if he is not in serious danger, he should be fed in increments of פחות מכשיעור - less than the *shiur*.

The Minchas Chinuch,<sup>42</sup> however, maintains that this is not the intent of the Sefer Hachinuch and he forcefully rejects such a position for he says that we never override a Torah *issur* for a sick person unless it is a situation of pikuach nefesh - life endangerment.

The Rosh in Yoma 82a, citing a Gemara in Kreisos 13a, says that when a בו סכנה שיש חולה eats on Yom Kippur he should be fed פחות פחות (unless his condition requires that he eat in larger increments). The Mishna Lamelech points out that this clearly indicates that only a בו סכנה שיש is permitted to eat חולה שיש בו סכנה on Yom Kippur, but a mildly sick person is forbidden to eat anything on Yom Kippur, because even a חצי שיעור is forbidden *min haTorah*.

The Mishna Lamelech,<sup>43</sup> in defense of the

Maggid Mishna, suggests that the halacha is more lenient regarding a qualitative חצי שיעור (i.e. שלא כדרך הנאה) than with a quantitative חצי שיעור (i.e., eating less than the *shiur*) because the latter is חזי לאצטרופי (subject to be combined to form a full *shiur*) whereas the former is not. One חצי שיעור could possibly be combined with another חצי שיעור to form a full *shiur* and therefore the halacha is stringent. However, a qualitative חצי שיעור, such as benefitting from *orlah* oil in an unusual manner can never combine with another act to complete the full measure of required pleasure. Therefore the halacha is perhaps more lenient and permits such an act for the sake of a סכנה בו.

#### דף כו.

#### קול ומראה אין בהן מעילה לפי שאין בהן ממש

• The *issur* of *me'ilah b'hekdesh* is the prohibition against using objects consecrated for the Bais Hamikdash for one's personal use. The penalty for [an inadvertent violation of] *me'ilah* is קרן חומש ואשם - in addition to the worth of the object, the transgressor is penalized an additional fifth<sup>44</sup> and he must bring a *korbon asham me'ilah* to atone for his sin.

Bar Kapparah says that one who derives personal benefit from קול ומראה - the sights and sounds of *hekdesh* (i.e., he gazes at the beauty of the Bais Hamikdash<sup>45</sup> or listens to the music played there by the Levi'im) - does not transgress the *issur* of *me'ilah* because אין בהן ממש - sight and sound are intangible pleasures.

The Gemara says that although deriving pleasure from the sights and sounds of *hekdesh* does not involve the sin of *me'ilah*, however, איסורא איכא - there is still a rabbinic *issur* involved.

Tosfos cites a braysoh in Succah 53a which says that the lights of the שמחת בית השואבה (celebration of the drawing of the water on Succos) in the Bais Hamikdash were so radiant that women in Yerushalaim were able to examine and sift flour by their light. Tosfos asks why this was permitted in view of the fact that our Gemara says that benefitting from the sights of the Bais Hamikdash, though not subject to *me'ilah*, is rabbinically forbidden.

Tosfos in Succah (*ibid.*) answers that the braysoh does not mean that women would actually examine wheat by the light of the *simchas bais hasho'eivah*, it means only to illustrate that its light was so bright that it was theoretically possible to do so (if not for the rabbinic prohibition against benefitting from the light of the Bais Hamikdash).

Tosfos notes, however, that the Yerushalmi indicates that the women would actually sift wheat by the light of the *simchas bais hasho'eivah*. [The Yerushalmi explains that doing so did not involve *me'ilah* because Bar Kapparah says that קול ומראה אין בהן משום מעילה.] Apparently, the braysoh in Succah as explained by the Yerushalmi is at odds with our Gemara. The Yerushalmi is of the opinion that it is permitted to benefit from the sight and sound of *hekdesh*, whereas our Gemara is of the opinion that it is forbidden *miderabbanan* to derive pleasure from the sights and sounds of *hekdesh*.<sup>46</sup>

The Sefas Emes distinguishes between one who takes a lamp of *hekdesh* and uses its light, and one who benefits from an existing light in the Bais Hamikdash without touching or taking it. Perhaps our Gemara only forbids the former case, but everyone agrees that it is permitted to derive pleasure from an existing light of *hekdesh* without taking it, as was the case with the light of the *simchas bais hasho'eivah*.<sup>47</sup>

The Radvaz<sup>48</sup> and Ohr Somayach<sup>49</sup> have an opposite opinion on the matter. They say that in the former case of one who takes a lamp of *hekdesh* and uses it for personal use, he has not merely violated a rabbinic *issur* but rather is subject to the penalty of *me'ilah*.<sup>50</sup> Bar Kapparah was not referring to such a case. Bar Kapparah exempted one from *me'ilah* only if he derived spontaneous pleasure from the sights or sounds of *hekdesh*.

The Dvar Shmuel adduces proof to the Radvaz's and Ohr Somayach's position from a Gemara in Rosh Hashana 28 which indicates that if one takes a musical instrument from *hekdesh* and plays it for his personal pleasure, he is subject to the penalty of *me'ilah*.

דף כז:

לא מצא עצים לשורפו יהא יושב ובטל

As mentioned above, R' Yehuda (Mishna 21a) is of the opinion that the mitzvah of *תשביתו* requires one to dispose of his *chametz* by burning, whereas the Chachamim are of the opinion that one fulfills the mitzvah through other methods of disposal as well.

Although, generally speaking, R' Yehuda's position on this matter is a *chumrah* - stringency, for he requires one specific method of *chametz* disposal, the Gemara says that sometimes it results in a קולא - leniency. If an individual cannot find wood with which to burn his *chametz*, according to the Chachamim he is required to seek other methods of disposal, whereas according to R' Yehuda this individual just sits idly by [and is not required to do anything].

The Kol Bo<sup>51</sup> asks why should one sit idly by just because he cannot find wood. He should be required to perform *bitul* (nullification of his *chametz*), for Rashi states above on 4b (ד"ה (בביטול בעלמא) that the act of *bitul chametz* is a fulfillment of the mitzvah of *תשביתו*.

The Tzlach answers that *bitul* is a fulfillment of *תשביתו* only according to the Chachamim who maintain that all means of disposal are included in the mitzvah of *תשביתו*. However, according to R' Yehuda who limits *תשביתו* to burning, *bitul* is not a fulfillment of *תשביתו*.

The Tzlach adds, though, that R' Yehuda agrees that if one has no wood with which to burn his *chametz* he should, nevertheless, perform *bitul* (or cast it into the sea) so as to avert a violation of *בל יראה ובל ימצא* (i.e., the *issur* of having *chametz* in one's possession on Pesach). He explains that the Gemara does not mean that one who lacks wood should actually sit idly by and do nothing at all. Rather, the Gemara means that such a person, although required to nullify his *chametz* (or use other methods of disposal) to avert a violation of *בל יראה*, is deprived of the mitzvah of *תשביתו* according to R' Yehuda, whereas according to the Chachamim he is able to fulfill *תשביתו*.<sup>52</sup> [According to this explanation, the Gemara does



not mean that R' Yehuda's position results in a halachic leniency, but rather that it results in situations in which one is deprived of the mitzvah of תשביתו.<sup>53]</sup>

Horav Elchanan Wasserman,<sup>54</sup> in a somewhat similar approach, explains that if one does not have wood (according to R' Yehuda) he must, nevertheless, act to prevent a violation of בל יראה by removing the *chametz* from his possession. However, simply removing one's *chametz* from his possession, without destroying it, is not a fulfillment of the mitzvah of תשביתו, even according to the Chachamim - it only prevents a violation of בל יראה. Hence, according to the Chachamim, one who lacks wood is required to destroy his *chametz* through other means (e.g., crumbling it and casting it into the sea) in order to properly fulfill the mitzvah of תשביתו. However, according to R' Yehuda it is pointless to destroy the *chametz* through non-burning methods since one does not fulfill תשביתו by doing so. The only sensible course of action is for him to remove the *chametz* from his possession in order to prevent a בל יראה violation. Hence, according to R' Yehuda a leniency results, because one who cannot find wood is required only to remove the *chametz* from his possession, but he need not seek other (non-burning) methods to destroy it.<sup>55</sup>

#### דף כח.

#### וחכמים אומרים מפרר וזורה לרוח

The Chachamim maintain that one can dispose of his *chametz* by crumbling it and throwing it to the wind, or by casting it into the sea.

Rav Yosef explains that crumbling *chametz* is required only when throwing *chametz* to the wind, but not before casting it to the sea. One may throw a whole loaf of bread into the sea (without crumbling it) because the loaf will become saturated and will dissolve in the water. [The Gemara says that Rav Yosef refers to *chametz* which easily dissolves in water, such as a loaf of bread, but not to a sack of wheat kernels. One who wishes to dispose of a sack of wheat kernels must open the sack and scatter the kernels into the sea.]

Rashi explains that one must crumble his

*chametz* before casting it to the wind because of a concern that if one throws away a complete loaf of bread, someone else might chance upon the loaf of bread on Pesach and inadvertently eat it. However, when throwing bread into the sea we are not concerned that someone will eat it, because bread becomes soggy in water [and it dissolves there].

Rabba disagrees and maintains that even if one casts his *chametz* into the sea, he must first crumble it. Rabba agrees, however, that *chametz* need not be crumbled if it is thrown into the Dead Sea. This is because the Dead Sea is not a navigable body of water and we are not concerned that someone will chance upon the *chametz* on Pesach.

According to Rabba one is even permitted to cast a [complete] sack of wheat kernels into the Dead Sea, even though the kernels will not dissolve. The reason is, as explained above, since ships do not travel there, we are not concerned that someone will chance upon the *chametz*.

Many Rishonim<sup>56</sup> say that according to Rav Yosef, since wheat kernels do not dissolve, one must scatter them before casting them into the Dead Sea. They say that according to Rav Yosef the fact that ships do not travel the Dead Sea is not sufficient grounds to permit casting an intact sack of wheat there.

The Mekor Chaim<sup>57</sup> finds difficulty with Rashi's explanation. He argues that the concern that someone might find the *chametz* and unsuspectingly eat it (thinking that it is not *chametz*) seems remote. Furthermore, he asks why should there be an obligation to scatter wheat kernels in the sea? How is it possible for one to mistakenly think that wheat kernels that he finds in the sea are not *chametz*? Wheat soaked in water for an extended period of time automatically becomes *chametz*.<sup>58</sup> Moreover, he asks what could possibly be the reasoning for Rav Yosef's position of not allowing one to cast an entire sack of wheat into the Dead Sea. Since the Dead Sea is not a navigable body of water, why should Rav Yosef suspect that someone might find wheat there on Pesach?<sup>59</sup>

In answer, the Mekor Chaim suggests that

the Gemara's discussion regarding this matter centers on the definition of תשביתו (the Torah's requirement to dispose of *chametz*). According to Rabba, תשביתו does not require one to entirely destroy his *chametz* but rather removing it from civilization is sufficient. One may cast a sack of wheat kernels into the Dead Sea since it is a place where no one travels. On the other hand, casting a loaf of bread into an ordinary sea is insufficient, even though it eventually dissolves there, because Rabba is of the opinion that תשביתו entails immediate disposal of the *chametz*.

Rav Yosef, on the other hand, is of the opinion that תשביתו means bringing about the destruction or elimination of one's *chametz* (i.e., one must act to destroy the *chametz* entirely but the destruction need not occur immediately). Casting bread into the sea is a fulfillment of תשביתו because the bread eventually dissolves there. However, casting wheat kernels into the Dead Sea does not accomplish תשביתו (according to Rav Yosef), for although the kernels are removed from society they do not dissolve in water and thus the *chametz* is not destroyed. Thus, R' Yosef is of the opinion that a sack of wheat is not considered destroyed (even when cast into the Dead Sea) unless the kernels are scattered.<sup>60</sup>

#### דף כט.

#### בדין הוא דאפילו תוך זמנו מותר

R' Yehuda (end of 28a) maintains that not only does the Torah forbid eating *chametz* on Pesach, it even forbids eating *chametz* after Pesach (if the *chametz* was in existence on Pesach). R' Shimon disagrees and maintains that there is no *issur min haTorah* to eat *chametz* after Pesach.

[The halacha follows Rava (29a) who explains that *chametz* that remained in a Jew's possession on Pesach may not be eaten after Pesach because of a rabbinic penalty, but *min haTorah* there is no such prohibition as R' Shimon says.]

R' Acha bar Yaakov, in an attempt to reconcile R' Yehuda with the Mishna on 28a which says that after Pesach it is permitted to eat *chametz* of a non-Jew (which remained over

Pesach), submits that the Torah's prohibition against eating *chametz* pertains only to *chametz* which is subject to the *issur* of בל יראה. Since having *chametz* of a non-Jew on Pesach is not a violation of בל יראה (provided the Jew is not monetarily responsible for the *chametz*), there is no *issur* to eat such *chametz*.

Rashi says that according to R' Acha, not only may one eat a non-Jew's *chametz* after Pesach, but it is even permitted (*min haTorah*) to eat a non-Jew's *chametz* on Pesach.

Tosfos (די"ה בדין) takes issue with Rashi and says that even if eating *chametz* of a non-Jew is not forbidden by the Torah, it is technically impossible to eat *chametz* of a non-Jew on Pesach. Tosfos argues that as soon as the Jew takes the *chametz* which the non-Jew has given to him to eat, he legally acquires possession of it, and it is no longer the non-Jew's *chametz*. Consequently, even according to R' Acha bar Yaakov, one should be forbidden to eat a non-Jew's *chametz* on Pesach by virtue of the fact that the *chametz* legally belongs to the Jew when he places it in his mouth.<sup>61</sup>

In defense of Rashi, the Dvar Shmuel cites the opinion of the Ran in Nedarim (end of 34b) that when a person serves food to his guests, the host merely gives the guests permission to partake in his food without transmitting legal ownership of the food to the guests. Rashi apparently concurs with the Ran's opinion that guests do not acquire legal possession of the food served to them. Thus, food served to a Jew on Pesach by a non-Jew, legally remains in the possession of the non-Jew even when the Jew eats it.

In contrast, Tosfos appears to be of the opinion that a guest does indeed acquire legal possession of the portion of food served to him. This corresponds with the opinion of the Ramoh<sup>62</sup> who rules that if a guest takes his portion of food and gives it to a woman for the purpose of *kiddushin* (marriage), the *kiddushin* is valid because a guest acquires legal ownership of the food served to him.

[The Chachmas Shlomo<sup>63</sup> remarks that a guest only acquires ownership of the amount of food needed to satisfy his appetite. However, if

a guest, after eating his fill, takes some more food from the table and gives it to a woman for *kiddushin*, the *kiddushin* is not valid because he had no right to that additional food.

The Maharit<sup>64</sup> expresses uncertainty as to whether a guest acquires legal possession of his portion when the host gives it to him, or when he places it in his mouth. According to the Maharit, once a Jew *eats* the non-Jew's *chametz*, the food certainly belongs to the Jew.]

#### דף ל.

#### קדרות בפסח, שמואל אמר לא ישברו

Rav rules in accordance with R' Yehuda (mentioned above on כט דף) that after Pesach there is an *issur min haTorah* to eat *chametz* which remained over Pesach. Therefore, he says (29b) that if such *chametz* is mixed into a permitted food after Pesach, the entire mixture is forbidden. Furthermore, according to Rav, one's pots that were used for cooking *chametz* during the year may not be used after Pesach until they are *kashered* (e.g., purged in boiling water) to remove any trace of *chametz* flavor absorbed in the walls of the pot. Rav says that since earthenware pots cannot be *kashered* (because the flavor absorbed in the walls of earthenware pots cannot be removed), one must break and destroy all of his earthenware pots before Pesach. Since they cannot be used after Pesach, due to the *chametz* flavor they will impart into the food during cooking, one has no choice but to break the pots.

The halacha follows Shmuel who disagrees with Rav and rules in accordance with R' Shimon who says that *chametz* remaining after Pesach is not forbidden by the Torah, but only by rabbinic decree. [The rabbis imposed a penalty and forbade the use of such *chametz* after Pesach in order to discourage one from keeping his *chametz* over Pesach in violation of בל יראה.] Shmuel maintains that the sages only forbade *chametz* after Pesach if it is in a pure and unmixed form but not if it is in a mixture.

Shmuel therefore maintains that one need not *kasher* or destroy his *chametz* pots before Pesach, because food cooked in them after Pesach does not become prohibited since such

food will invariably contain only a mixture of leftover *chametz*, not pure *chametz*.<sup>65</sup>

The dispute between Rav and Shmuel centers on whether food cooked in *chametz* pots after Pesach is forbidden due to the *chametz* flavor discharged from the walls of the pots. It is apparent that according to both opinions, merely keeping the pots in one's home on Pesach does not present a problem. An explanation for this is required. Why should it be permitted to maintain *chametz* pots in one's possession on Pesach? Why doesn't maintaining *chametz* pots involve an *issur* of בל יראה since the walls of the pots contain *chametz* flavor?

The Ri Migash<sup>66</sup> explains that permitted food that absorbed flavor from a forbidden food is only rabbinically forbidden. However, *min haTorah*, food containing forbidden flavor is not regarded as a forbidden food (טעם כעיקר לאו) (דאורייתא, see Rashi Chullin 98b, and Tosfos *ibid.* (ד"ה רבא)). Although the sages forbade eating food containing forbidden flavor, they did not say that it is subject to the *issur* of בל יראה.

Alternatively, the Kehillos Yaakov<sup>67</sup> explains that even if a food that absorbed forbidden flavor is forbidden *min haTorah*, it is not the *flavor* per se that is forbidden, but rather the [permitted] *food* which contains the forbidden flavor is considered forbidden. If, for example, a potato absorbed flavor from a piece of bread before Pesach, the potato is deemed *chametz* and is subject to בל יראה. Indeed, in such a case the potato must be disposed of before Pesach. However, in the case of a pot which absorbed *chametz* flavor we do not regard the pot as a piece of *chametz* since the pot itself is inedible. One need not dispose of the pot merely on account of the *chametz* flavor contained therein (since the pot does not contain a *k'zayis* of actual *chametz*).<sup>68</sup>

• The Rosh<sup>69</sup> writes that although it is permitted to retain *chametz* pots in one's possession on Pesach (provided they are thoroughly cleansed of actual *chametz*), one must relegate them to an obscure location seldom visited, lest he

mistakenly use the pots on Pesach.

The Tur<sup>70</sup> writes that as an added precaution, one should lock up his *chametz* pots and hide the key. The time it takes an individual to find the key and open the lock will provide him with sufficient time to remind himself that he may not use the pots on Pesach.

#### דף לא:

#### חמץ שנפלה עליו מפולת הרי הוא כמבוער

The Mishna states that *chametz* which is buried under a collapsed wall is considered destroyed. Rabban Shimon ben Gamliel explains that this halacha applies only to *chametz* buried at least three *tefachim* deep. However, *chametz* buried less than three *tefachim* deep is not considered destroyed because it is possible for a dog to smell it and dig it up. Therefore, such *chametz* must be dug up before Pesach and destroyed by its owner.

The Ran, citing the Mechiltah (Shmos 12:19), explains that *chametz* buried [three *tefachim*] under a ruin is not subject to *בל יראה* and therefore it need not be destroyed.<sup>71</sup>

Rav Chisda comments that although *chametz* buried [three *tefachim*] under a collapsed wall is considered destroyed, the owner must, nevertheless, perform *bitul* on such *chametz*.

Rashi explains that even though the buried *chametz* is considered destroyed (and not subject to *בל יראה*, as the Ran says), the sages required the owner to nullify his *chametz* - lest it somehow become uncovered on Pesach (at which point the owner will be in violation of *בל יראה*).

The Ramban<sup>72</sup> and Smak,<sup>73</sup> in contrast to Rashi and the Ran, suggest that Rav Chisda's requirement of *bitul* is not merely a rabbinic decree (based on a concern that the *chametz* might become uncovered) but is a Torah obligation. They say that the Mechiltah exempts buried *chametz* from *בל יראה* only if it is buried under a huge pile of stones and the like, making it impossible for the owner to unearth it. However, if *chametz* is buried under a mere three-tefach-deep pile of rubble, it is still considered in the owner's possession and it is

subject to *בל יראה*, unless the owner performs *bitul* and nullifies his *chametz*. [As mentioned above on ב דף' and ד דף', *min haTorah* one is not required to destroy his *chametz* once he performs *bitul*; it is only because of a rabbinic enactment that one is generally required to destroy his *chametz* in addition to nullifying it. In the case of a collapsed wall where it is difficult to unearth the *chametz*, the rabbis were lenient and allowed the owner to rely on *bitul* alone.]

The Magen Avraham<sup>74</sup> considers a situation where the owner neglected to nullify his buried *chametz* before noon on Erev Pesach (i.e., the deadline for performing *bitul*, see above יא דף'). He reasons that according to the Smak (and the Ramban) the owner would be required to excavate the *chametz*, or hire workers to do so - to prevent a biblical violation of *בל יראה*. This is because the Smak is of the opinion that buried *chametz* is subject to *בל יראה* if the owner failed to perform *bitul*.

On the other hand, according to the Ran and Rashi, *chametz* buried three *tefachim* under a ruin is considered destroyed, and performing *bitul* is only a rabbinic requirement. Consequently, if one neglected to fulfill this rabbinic requirement the halacha is lenient *בדיעבד* (after the fact) and we do not burden him with a requirement to unearth the *chametz*.<sup>75</sup>

The Mishna Berurah<sup>76</sup> adds that perhaps, according to Rashi and the Ran, not only is one *exempt* from excavating the *chametz* in such a case, it is *preferable* for him *not* to do so. By exposing the *chametz*, one risks possibly violating *בל יראה* because he might fail to dispose of it immediately. Therefore, even if one forgot to nullify the *chametz*, it is advisable to leave it in its buried state where the Torah considers it as destroyed.

#### דף לב.

#### חמץ בפסח בר דמים הוא

The Torah (Vayikra 22:14) says that a Yisrael (non-Kohen) who inadvertently eats *terumah* must compensate the Kohen and pay *קרן וחומש* - the principal and an additional fifth - as a penalty.

The Mishna (end of 31b) says that one is subject to this penalty of קרן וחומש even if the *terumah* was *chametz* and it was eaten on Pesach. The Gemara points out that *chametz* on Pesach is אסור בהנאה (forbidden for benefit) and has no monetary value. Why, then, is one obligated to pay for eating *terumah* of *chametz* on Pesach since it is valueless?

The Gemara considers two solutions:

(a) The קרן וחומש payment is appraised לפי מדה - according to volume, and not לפי דמים - according to value. Therefore, one who eats a loaf of *terumah* is obligated to replace the loaf plus a fifth (after Pesach), even if the loaf of *terumah* was eaten on Pesach when it has no value.

(b) The Tanna of the Mishna is R' Yosi Haglili who holds that *chametz* on Pesach is permitted for benefit (and is forbidden only for eating). Therefore, even if *terumah* is appraised according to its value, one who eats *terumah* of *chametz* on Pesach must pay קרן וחומש because *chametz* on Pesach has some value (e.g., it can be used as firewood).

The Rambam<sup>77</sup> rules that payment for *terumah* is appraised according to its monetary value (not by volume as the Gemara initially suggested).<sup>78</sup> The Rambam also rules, contrary to R' Yosi Haglili, that *chametz* on Pesach is אסור בהנאה and is worthless. Consequently, both solutions offered by the Gemara (as to why the Mishna requires one who inadvertently eats *chametz-terumah* to pay קרן וחומש) are halachically untenable according to the Rambam. Therefore, the Rambam rules, contrary to our Mishna, that a Yisrael who eats *chametz-terumah* on Pesach is exempt from making restitution since the *chametz* is worthless.

The Oneg Yom Tov<sup>79</sup> presents the following, halachically viable, solution for the Mishna: A *Kohen* spends Pesach at a distant location to the east of the location of *terumah*, and the Yisrael eats the *terumah* on the afternoon of the last day of Pesach, when it is no longer Pesach at the *Kohen's* location. For example, the Yisrael eats the *chametz terumah* in New York City at 5:00 p.m. on the last day of

Pesach, while the *Kohen* who owns the *terumah* is staying in London where it is already nighttime and is no longer Pesach.

The Oneg Yom Tov asks why such a solution (which is consistent with halacha) was not offered by the Gemara. The Gemara should have said that the Mishna is referring to this type of situation, where, although the *chametz* was eaten by the Yisrael on Pesach, it had value to its owner who was at another location at the time where Pesach had already ended. [Note: In order to avoid a בל יראה violation we can say that the *Kohen* sold his *chametz* to a non-Jew before Pesach and repurchased it immediately after Pesach.<sup>80</sup>]

The Oneg Yom Tov concludes that apparently the permissibility of benefitting from *chametz* depends on the location of the *chametz*, not the location of its owner. Evidently, one who is in London on *Motzoei Pesach* (the night after Pesach) may not own or purchase *chametz* which is in New York until Pesach is over in New York.

The Oneg Yom Tov points out that this halacha has ramifications in the reverse case as well. If a Londoner is in New York on Erev Pesach he must make sure to dispose of, or sell, his *chametz* (which is located in London at the time) before 11:00 a.m. London time, which is 6:00 a.m. New York time.

#### דף לג.

#### כגון דאחמיץ במחובר

1] Rav Nachman bar Yitzchak deduces from the posuk (Devarim 18:4) לַתְּתֶנּוּ - you should give *terumah* to him (the *Kohen*) - that *terumah* must be given for the *Kohen's* consumption, not for other uses (ולא לאורו). This teaches that only produce that is fit to be eaten by the *Kohen* is subject to הפרשת תרומה - separating *terumah*. Produce that is *tamei* or produce that is *chametz* (on Pesach) are not subject to הפרשת תרומה since *terumah* separated from such produce may not be eaten. [If one separates *terumah* from such produce, it does not take effect, meaning the produce declared as *terumah* is not *terumah*.]

The Gemara qualifies this exemption,

saying that it applies only to produce that was never fit (for the *Kohen's* consumption as *terumah*), meaning, it was *initially unfit* from the moment it was detached from the ground.<sup>81</sup> Produce that was initially fit to be eaten (as *terumah*) at the time of harvest, and then became *tamei* or leavened at a later time, remains subject to הפרשת תרומה even after it becomes *tamei*. [Once produce is harvested and becomes subject to הפרשת תרומה, its status remains unchanged even if the produce later becomes unfit for eating.<sup>82</sup>]

The Gemara explains that in the case of *chametz*, too, it is possible for the produce to be in a leavened state (*chametz*) at the time of harvest (and to never have been fit for the *Kohen's* consumption) because grain can become *chametz* even while attached to the ground.

The Rashba<sup>83</sup> explains that this Gemara is referring to fully-ripened grain. However, unripe grain drawing nourishment from the ground does not ferment and cannot become *chametz*. [Otherwise, all grain would be *chametz* since presumably all grain was soaked by the rain while growing in the field.] Fully matured grain, which is no longer receiving nourishment from the ground, is equivalent to detached grain lying in a container, and is susceptible to *chimutz* (leavening) if it becomes wet.<sup>84</sup>

The Shulchan Aruch<sup>85</sup> rules that *matzos-mitzvah* (i.e., *matzos* used for the mitzvah at the Pesach *sefer*) should be made from wheat that was guarded (לשם מצות מצה) from contact with water from the time of reaping (שמורה משעת) (קצירה), see below דף מ.

The Chayai Odam<sup>86</sup> adds, based on our Gemara, that it is not sufficient to begin guarding the wheat right after the harvest. Rather, the wheat should be inspected before or during the harvest to ensure that it is still moist and is not overripe. One should not bake *matzos* from overripe wheat because of a concern that they might have become wet while still attached to the ground and they could have become *chametz*.

The Me'il Tzedakah<sup>87</sup> asserts that attached

wheat generally does not become *chametz* upon getting wet, even if it is fully matured - unless it is thoroughly soaked and saturated with water for a long period of time. He rules that if it rained on attached ripened wheat for a short period of time, one may still use the wheat for matzoh, unless the kernels appear to be cracked (because that is a sign that *chimutz* has already begun).

דף לד.

#### מחמין לו חמין בחיטין של תרומה טמאה

- A Yisrael is forbidden on the pain of מיתה - בידי שמים - death by the hand of Heaven - from eating *terumah*.
- The Mishna in *Eruvin* 26b says that a Yisrael may use *terumah* for establishing an *eruv*. The Gemara above on 23a proves from this Mishna that a Yisrael is permitted to derive benefit (other than eating) from *terumah*.
- The Mishna in *Terumos* 11:9 states that an animal belonging to a Yisrael may not be fed grains of *terumah*. Tosfos (ד"ה מחמין) explains that although a Yisrael is permitted to derive benefit from *terumah*, he may not benefit in a manner that destroys the *terumah* (הנאה של כילוי). Although he may use *terumah* for an *eruv*, he may not feed it to his animal or use it as fuel for his lamp, because the *terumah* is consumed during these uses.

The Gemara (34a) relates that in the house of Rebbi they would use *tamei* wheat kernels of *terumah* as fuel to heat water to knead [*tahor*] dough.

Since kernels get destroyed when used as fuel, the Rishonim ask why the members of Rebbi's household were permitted to derive this type of benefit from *terumah*.

Several answers are suggested:

- Tosfos asserts that the *terumah* kernels were used as fuel only for the *Kohanim* in Rebbi's household. Other non-*Kohen* members of the house would not use the water heated by *terumah* kernels.
- R' Moshe of Pontisia<sup>88</sup> submits that the prohibition to feed a Yisrael's animal kernels of *terumah* is *not* based on the fact that הנאת כילוי is forbidden, as Tosfos says. Rather, the prohibition to feed a Yisrael's animal kernels of

*terumah* is derived from the posuk (Vayikra 22:11) which states וכהן כי יקנה נפש...הוא יאכל - and a *Kohen* who purchases a nefesh (soul).. he may eat *terumah* etc. The posuk teaches that an עבד כנעני (slave of non-Jewish origin) owned by a *Kohen* may eat *terumah*, but not a slave owned by a Yisrael. R' Moshe of Pontisia asserts that the term נפש pertains to animals too, not only slaves. Consequently, we deduce from this posuk that only the slaves *and animals* belonging to a *Kohen* may eat *terumah*, but not the slaves and animals belonging to a Yisrael. Accordingly, he submits that although a Yisrael is forbidden to feed his animals *terumah*, he is permitted to use *terumah* as fuel (even though that is הנאת כילוי - benefit that depletes the *terumah*).<sup>89</sup>

(c) The Rash (*Terumos* 11:9), while agreeing with Tosfos that a Yisrael may not use *terumah* for הנאת כילוי, maintains that this is only a rabbinical prohibition; *min haTorah* all types of benefits are permitted. He says that the rabbis lifted the *issur* when necessary for mitzvah purposes or לצורך רבים - when needed for public use. The bread baked in Rebbi's house was used to feed many Yeshiva students and therefore it was permitted for them to use kernels of *terumah* to heat the water.<sup>90</sup>

#### דף לה:

#### בטבל הטבול מדרבנן, שזרעו בעציץ שאינו נקוב

The Torah commands (Sh'mos 12:18) בערב - on the first night of Pesach you shall eat *matzos*. The Mishna says that one does not fulfill this obligation if he eats *matzos* that are made from tevel. [Produce from which *terumos* and *ma'asros* has not been separated is called tevel, which may not be eaten even by *Kohanim*.]

The Gemara (35b) adds that not only is tevel *min haTorah* (i.e., grain subject to tithing by Torah law) disqualified for *matzos*-mitzvah, but even rabbinically decreed tevel is disqualified. An example of such tevel, says the Gemara, is grain that grew in a flowerpot (whose bottom is not punctured). *Min haTorah* such grain is not subject to הפרשת תרומה ומעשר - the separation of *terumah* or maaser - since it

did not grow from the ground, but it is subject to הפרשת תרומה by rabbinic decree. If one eats *matzoh* made from such grain without separating the rabbinically-required *terumos* and *ma'asros*, he does not fulfill the mitzvah of eating *matzah*.

[Rashi (35b, ד"ה טבול) explains that one does not fulfill the mitzvah by eating such *matzos* because it is a מצוה הבאה בעבירה - a mitzvah brought about through the violation of a sin - and as a rule, such a mitzvah is disqualified, see next daf.]

R' Yosi (cited in the Yerushalmi, Kilayim 7:6) poses an interesting question. Since produce grown in a flowerpot is exempt from maaser *min haTorah*, R' Yosi questioned whether it is appropriate to recite the *bracha* הארץ המוציא לחם מן Hashem...who extracts bread from the land - over bread made from such grain. Indeed, the Chayai Odam<sup>91</sup> rules that the appropriate *bracha* for such bread is *mezonos*, rather than *hamotzi*.

The Iglei Tal<sup>92</sup> adduces proof from our Gemara that something growing in a flowerpot is considered as growing from the ארץ - ground - despite the fact that it is biblically exempt from *terumos* and *ma'asros*. The Gemara disqualifies *matzah* made from flowerpot grain only if it was never tithed. This indicates that if *terumos* and *ma'asros* were properly separated, then the *matzos* made from such grain would be valid for the mitzvah. The Iglei Tal concludes that the *bracha* of *hamotzi* is recited on bread made from flowerpot grain, for if the proper *bracha* for such bread/*matzah* is *mezonos*, it would not be valid for *matzos*-mitzvah.<sup>93</sup>

- The Chayai Odam,<sup>94</sup> in keeping with his position regarding the *bracha* for produce grown in a flowerpot, suggests that a *lulav* grown in a flowerpot is not valid for the mitzvah of *lulav* on Succos.

The Aruch Hashulchan<sup>95</sup> disagrees and maintains that there is no requirement that a *lulav* must grow from the ground. He therefore validates a *lulav* grown in a flowerpot.<sup>96</sup> ■

## דף יט

1) ע' בעל המאור דס"ל דעסקין במחט שהוא ספק טמא מת שאבדה בבשר והבשר ודאי נגעו, וע' דבר שמואל שמבאר ע"פ דברי הרמב"ן ריש חולין דבקדשים אין אומרים הכלל של "ספק טומאה ברה"ר טהור" דחסר בדין משמרת כיון שלא שמרן מליגע בספק טמאה.

2) הלכות אבות הטומאה פ"כ סוף ה"ג, וע' בחזו"א טהרות סימן ה' ס"ק כ"ג שמארך בהגדרת הענין (ובסופו שם מסתפק בטעמא דמילתא למה באמת יש לעורה דין רה"ר).

3) וע' בתפארת ישראל שם בטהרות אות ל"ז דמבאר דכשיש ג' בני"א בשעת שנתהוה הספק אז חשוב כרה"ר אפי' אם הוא בבית, ואם אירע הספק במקום שרבים מצוים אז חשוב כרה"ר אפי' אם בשעת מעשה לא היה שם ג' בני"א, וכן מבואר ברמב"ם בפ"י המשני עדיית ב-ג, וע' בחזו"א הנ"ל.

4) על קצור ש"ע סימן ר"ב סק"ו בקונטרס אחרון.

5) וע"ש שהביא דמבואר מתוך שו"ת חת"ס יו"ד סי' של"ז שלא הצליח.

6) וע"ע מנח"ם רס"ג אות י"ג ובאחיז עזר סימן ס"ה, וע"ע בשמ"ב שם שמארך ומציין הרבה תשובות בענין זה.

**דף כ 3** כ"כ רש"י דא"א שלא יפול מן המשקה על הבשר, וע' תוס' ד"ה ובשעת שכי' דע"י הכשר העור הוכשר גם הבשר (וע' בדבר שמואל שמדייק מסוף דברי תוס' דצריך הכשר על כולו ולא סגי במקצת, וכ' דרש"י משמע דסגי גם במקצת (אולם לענ"ד לא משמע דפליג תוס' על רש"י בענין זה שהרי תוס' לא הקשה על פירוש רש"י מכח הא דלא הוכשר כל הבשר במים), וע' ברמב"ם בפ"י המשני שם בעדיות ב-ג שכי' דכשכנסה הפרה במים המים נכנסין לתוך גופה, וע' בחי' ר' דוד.

8) נסתפקתי אם כוונת רש"י להעבירה בנהר כדי שתשתה או דילמא ר"ל דכמו שגמני שתייה ג"כ מהני רחיצה שתהא נוחה להפשיט, ובצ"ל"ח משמע כפי האשון (ע"ש דו"ק).

9) אולם נתן בתמיד פ"ג מ"ד - השקו את התמיד בכוס של זהב וכו' ופי' שם המפרש והרא"ש (תמיד דף כט.) וכן רש"י בחולין דף צ: כ"ד שתהא נוח להפשיט וכן פי' הרע"ב, וא"כ מבואר דהיו משקין אפי' תמיד שהוא קרבן עולה (ואגב, ע"ש בגר"א שפי' משום שתהא הסירכות ממשכין כדי שלא תהא ח"ו בספק טריפה, ואין ספק שזהו ע"פ הגמ' סוף ביצה על פי הבנת הרמב"ם והכל בו).

10) בפ"י המשני שם בסוף ביצה.

11) ע' שו"ע יו"ד סימן ל"ט סעיף י"ב ובש"ך שם ס"ק ל"ב (ובביאור הגר"א שם בשם הרמב"ם).

12) יו"ד סימן ל"ט ד"ה ויעינן פסחים.

13) פ"א מהל' טומאת אוכלין ה"ב, וכן בפ"י שם ה"א (וע"ש בכסף משנה בפ"ב).

14) גרסינן שם בגמ' - כי קאמר ריה"ק (דקדק"ל ממון הדיוט) מחיים אבל לאחר שחיטה לא, ומבאר הקצות דלאחר שחיטה לאו דוקא אלא ר"ל לאחר ד' עבודות וממילא כשהעביר הקרבן בנהר חל ההכשר והטומאה מיד אחר השחיטה].

15) סימן ת"י.

16) ע' בדבר שמואל כאן מה שהאריך בדברי הקצות.

**דף כא**

17) גמ' לעיל דף יב: א"ר יהודה אימתי שלא בשעת ביעורו וכו' וע"ש פלוגת רש"י ותוס' (ד"ה אימתי שלא בשעת ביעורו) וע"ע ברא"ש פרק שני סו"ס ג' ובקרי"נ סק"ח], וע' צ"ל"ח לקמן כז: שכי' דלר"י אין אדם מקיים מצות תשבתו ע"י ביטול (וכך נקט הקהל"י ס"א סק"ב).

18) ע' לעיל בהערות על דף ב' שהבאנו קושיית האחרונים שהק' ממשנה זו בסוף תמורה על תוס' ריש דף ב'. שכי' דחמץ חלוק משאר איסורי הנאה כגון בשר בחלב דליכא בהו מצות ביעור והרי בתמורה מבואר דבשר בחלב טעון קבורה שלא יבא לידי מכשול, ע"ש וע' ברכת אברהם לעיל בדף ב' ס"ק י"ד).

19) פ"ג מהל' חמץ ומצה הי"א (וע' תוס' דף כז: ד"ה אין ביעור שחולק על הרמב"ם ופסק כר' יהודה).

20) סימן תמ"ה סק"א (וע"ש שהביא בדגמ' דידן גרסינן וחק"א אף מפרר וכו' ומשמע כהרמב"ם דלדברי חכמים שריפה נמי שפיר דמי (ולא עוד אלא שעדיף משאר מיני השבתה), והביא שם דבר"י וברא"ש משמע דלא גרסינן "אף").

21) ע"ש שבגמ' מה שתיירך בדעת הרמב"ם דהא דנתן בסוף תמורה כל הנקברין "לא שרופו" ר"ל לא ינהג בהם דין נשרפין ליהנות מאפרן, אבל מותר לשורפן ע"מ שלא ליהנות מאפרן, וע"ע בחק יעקב שם [ע"ש בגמ"א שהביא בשם הרמב"ם דפסק שאפרו אסור (ולא מצאתי בדברי הרמב"ם דאפרו על חמץ אסור, ולב עוד שיש אחרונים שכתבו בדעת הרמב"ם דאפרו שלא חמץ מותר, ודבריהם מובאים לקמ', ואולי כוונת המג"א דרמב"ם פסק דאפרן של נקברין אסורין)].

22) תשובה י"ט (נדפס בסוף ספר אבני"מ), וע"ע בסיומן פ"ז מה שתיירך לשיתר רש"י דזמן שריפה קודם זמן איסורו לקי"מ מדין חרכו קודם וזמן מותר ליהנות, וע"ע במקור חיים ריש סימן תמ"ה דכיון דחמץ ודם אפרו אינו אסור אלא לז' ימים לא חיישינן לתקלה בזמן קצר ולכך מותר



42) שם, וע"ע משי"כ בחי' מרן ר"יז הלוי על הרמב"ם בהל' שביתת העשור בכוונת החינוך.  
43) פ"ה מהל' יסודי התורה.

#### דף כו

44) קיי"ל חומש מלבר דהיינו רביעיית מלגיו.  
45) הרמב"ם כתב בהל' ביהב"ח פ"ז הכ"ג דגם האומנין הנכנסין להיכל היו נכנסין בתביתו שלא יזונו עיניהם, ועי' בדבר שמואל שמעורר דלכאוי ג"כ אסור ליהנות מהעזרה והק' דלשיטת רבא דקיי"ל כוותי' (שלא אפשר וקא מיכוון אסור) צ"ע למה אין אנו חוששין שכל אדם הנכנס לעזרה דדילמא יזון ועיניו שלא כדין.  
46) כן מבאר היפה מראה שם בסוכה דף נה: בכוונת תוס' (דצ"ל ירושלמי חולק על תלמוד דידן).

47) ועי' בשעה"מ פ"ה מהל' יו"ט ה"ט"ז שג"כ נגע בסברא זו אבל לא כתבו אלא לבאר דעת הירושלמי, ולכאוי בשיטת הבבלי קשה להלום פשט זה, וצ"ע בכוונת השפ"א דלכאוי בכוונת דלכאוי בכוונת רבנן ליהנות ממראה של הקדש אפי' בדליכא שום מעשה (עי' רש"י ד"ה אין עומדים וד"ה העומדים וד"ה לאותן).  
48) ח"א סימן רצ"ז.

49) פ"א מהל' שבת ה"ח ד"ה וזוהו (וע"ש ביאור הדברים).  
50) וכן מצדד היום תרועה על מסי' ר"ה (לבעל כפות תמרים) דף כח., ובאמת גם במל"מ פ"ח מהל' כלי המקדש ה"ו מבואר דמי שמדליק נר של הקדש יש בו משום מעילה, אולם במל"מ אינו מבואר כן אלא באופן דמכליא קרנא של הקדש, ובאוי"ש מבואר דאפי' כשלא מכליא קרנא כגון שהיה כבר נר של הקדש דלוק מ"מ אי נטלו בידים ומשתמש בו יש בו משום מעילה (עי' ביאור הדבר).  
51) דף מ"ז ע"ד (מובא בצ"ח כ"א) (והכל בו מוכיח מכח זה דביטול לא מהני על חמץ ידוע).

52) וכעין זה כתב הפנ"י כאן וכן לעיל דף ד: ד"ה ובעיקר (אלא דהפנ"י אינו מחלק בין ר"י לרבנן ומשמע דלכו"ע לא הוי ביטול קיום בעיקר מצות תשביתו בחמץ ידוע).

53) וזהו כוונת הגמ' "והתורה אמרה תשביתו שאור מבתיכם בכל דבר וכו", כלו' לשיטת חכמים שייך לקיים תשביתו משא"כ לר"י א"א לו לקיים תשביתו (והנה לשון הגמ' משמע דהקושיא מכח משמעות הפסוק דמחויב לתשביתו בכל דבר, ולא משום דאתי לידו קולא, וצ"ב).  
54) אות קבי"ג (ובא לתרץ שם קושיית השני"א בסימן פ"ג על דברי הרמב"ן דס"ל דאפי' תוך ימי החג יכול להפקיע איסור ב"י ע"י הוצאה מרשותו, ולכאוי דבריו שייכים גם בשיטת רש"י דס"ל דאירי קודם זמן איסור ולכאוי אז לכו"ע מועיל הוצאה מרשותו שלא לעבור על ב"י).

55) אולם אינו מבואר שם למה לדעת רש"י אינו מקיים מצות תשביתו ע"י ביטול (אלא שיי"ל ע"פ הכל בו והפנ"י דאינו מקיים מצות תשביתו ע"י ביטול בחמץ ידוע), אולם צ"ע לפי שיטת רש"י לקמן בדף כח. ד"ה או דילמא דמבואר דצ"ע לפרך החמץ אלא משום חשש תקלה (ולא משום חיוב תשביתו כדעת המקו"ח) וא"כ קשה לחלק בין ר"י לחכמים בענין חיוב זה).

#### דף כח

56) מבואר במהר"ם חלאוה ורבנן דוד ובחי' ה"ר"ן דר' יוסף פליג על רב וס"ל דע"י אפי' כשמטילו לים המלח בעי שחיקה, ולפ"י לכאוי ה"ה חמץ קשה כחטיבין בעי פיזור בים המלח, אולם דעת תוס' ד"ה ע"ז דר' יוסף מודה לרבה דלא בעי שחיקה בים המלח.

57) הקדמה לסימן תל"א ד"ה אמנם לולי.  
58) לכאוי י"ל דכוונת רש"י שחוששין שיבא אדם לאוכלו בשגגת פסח, ולא משום שיסבור שהוא מצה, כמשי"כ תוס' בדף ב. דכיון דלא בדילי מיני חוששין שיבא לאכול חמץ בפסח.

59) [נקט השפ"א כשיטת ה"ר"ן ומהר"ם חלאוה דר' יוסף פליג על רב ומצטרך שחיקה אפי' לים המלח, וק"ל למה לא הביא שיטת תוס' דלא ס"ל כן], ועוד צ"ב לפי שיטת רש"י מהו סברת רבא דמצטרף פירור קודם הטלת ככר לים (שאינו ים המלח) כיון דס"ל לרב יוסף דלחם נמאס ונימק מאליו שם, ואינו מבואר מהו סברת המחלוקת.

60) היוצא לפ"י דרבה ור"י פליגי בתרתי, פליגי אי צריך השבתה מיד או סגי אפי' בהשבתה לאחר זמן, וגם פליגי אם השבתה היינו מן העולם או מן הישוב, ועי' במגן האלף סימן תמ"ה סק"ב משי"כ בענין הטלת חמץ לבית הכסא דאם אינו נאבד מן העולם אולי לא סגי אע"פ דנמאס שם ודאי לא יבא אדם לאוכלו.

#### דף כט

61) וכי' תוס' דאם גזל מהנכרי הרי חייב באחריותו (דחייב בהשבה) ולא גרע חמץ שחייב באחריותו דהוי כשלו (וכי' הדבר שמואל דאולי רש"י ס"ל כהנתיבות דאפי' אי גזל עכו"ם אסור מ"מ אין חייב בהשבה, ע"ש).

62) אבה"ע סימן כ"ח סו"ס י"ז בשם הגי' אלפסי.  
63) שם בגליון שו"ע.

64) ח"א סימן ק"כ (או ק"נ?), מובא בבאר היטב שם סוף ס"ק ל"ב.  
דף ל 65) עי' רש"י (ד"ה אמר רב קדירות) שכי' דלית הלכתא כרב מתרי טעמי חדא דקיי"ל כרבא דחמץ לאחר פסח מותר ע"י תערובת והאי פחות מתערובת הוא, ועוד דקיי"ל דנותן טעם לפגם מותר עכתי"ד, וצ"ב למה צריך רש"י לכל זה, שהרי מבואר בסוגין דאינו עובר על ב"י ע"י טעם חמץ שבקדרות (אפי' לרב) וממילא ליכא שום מקום לקונסו ולאסרו לאחר

פסח (כלו', אפי' את"ל שהחמיר חכמים ואסרו חמץ שעבר עליו הפסח גם ע"י תערובת מ"מ אין זה שייך אלא במקום שעבר על כל יראה [עכ"פ מדרבנן] אבל כאן שמותר לתחילה להניח הקדרות ברשותו ודאי ליכא מקום לקונסו, וצ"ע, ואולי זהו כוונת רש"י "והאי פחות מתערובת הוא").  
66) סימן ר"ד, מובא בשו"ת מנחת ברוך סימן נ"ז ד"ה והנה מצאתי (ועי' שו"ע ריש סימן תמ"ב דקיי"ל דתערובת חמץ עוברים עליו משום כל יראה, ע"ש במשנ"ב, ועי' במנחת ברוך סימן נ"ו שהביא פלוגתא הפוסקים אי עובר על ב"י על אוכל שיש בו טעם כעיקר של חמץ), מצוין בקהל"י כאן סימן כ"א.

67) סימן כ"א.  
68) הביא שם הח"צ ושג"א שהעלה דליכא איסור ב"י על חצי שיעור, וע"ש מה שהביא בשם הרמב"ן שחולק ע"ז וס"ל דלוקן על טעם לחוד, ע"ש.  
69) סימן ו'.  
70) סימן תנ"א, מובא גם בשו"ע שם סעיף א'.

#### דף לא

71) וכן מבואר בדעת רש"י דמה"ת הרי הוא כמבוער שהרי כתב בבבא מציעא דף מב. (ד"ה הרי הוא) דא"צ לבערו דאין כאן עוד כל יראה (ומשמע אפי' בלי ביטול, וע"ש בהג' פורת יוסף), וכן מבואר ברש"י על הגמ' כאן ד"ה צריך דחיבו ביטול אינו אלא מדרבנן.

72) ריש פירקין סוד"ה ונראה לי (בפשט ראשון, ובסוף דבריו מצדד כרש"י דא"צ ביטול אלא מדרבנן).

73) מובא במג"א סימן תל"ג ס"ק י"ז וכתב דכן משמע במ"מ (ועי' במאירי כאן שג"כ כתב בפשט ראשון דצריך ביטול מן התורה דא"כ עובר בכל יטמין).

74) שם.  
75) [ועי' דבר שמואל דנקט בדעת רש"י דד"ן גי' טפחים הוא מה"ת והיכי שאינו עמוק גי' טפחים לא חשוב כמבוער מה"ת (וכן משמע בדברי מג"א סי' תל"ג ס"ק י"ז) וא"כ ודאי צריך להוציא במרא וחצינא אם שכח לבטל, אולם לכאוי אינו מוכח דאולי דין גי' טפחים אינו אלא מדרבנן משום חשש שיתגלה ע"י חפיפת הכלב אבל מדאורייתא אינו עמוק אלא טפח א' הוי כמבוער, עי' שפ"א שחקר בזה, ולפ"י אולי גם כשהחמץ פחות מגי' ושכח לבטל מ"מ א"צ להוציאו במרא וחצינא, ועי' משנ"ב סימן תל"ג ס"ק ל"ג ובשעה"צ ס"ק מ"ב בשם הפוסקים דלא נקטו כן].

76) עי' שער הציון סימן תל"ג ס"ק מ"ו.  
דף לב 77) הלכות תרומה פרק י' הלכה ב'.  
78) עי' בראב"ד שהשיג על הרמב"ם וס"ל לפי מדה משלם כיון דמתני' סתם כן.  
79) חלק או"ח סימן ל"ו.

80) דאילו היה החמץ ברשותו כל ימי הפסח היה נאסר אחר פסח משום חמץ שעבר עליו הפסח [ועי' עונג יו"ט שכי' באופן אחר קצת דאירי שביטול חמצו וכיון שהוא במקום רחוק לא היה חייב לבערו ולכן לא נאסר אחר הפסח, ועוד כתב שם דאפי' אי לא בטלו נאסר אחר הפסח מ"מ האיסור דרבנן של חמץ שעבר עליו הפסח אינו פוטרו מקו' וחומש (ועי' בר שמואל מה שמעורר ע"ז)].

#### דף לג

81) בדשעת קצירה נעשה ראוי להפרשת תרומה, ואע"פ דלא חל חיוב הפרשת תרומה עד אחר שנתמרח בכרי' (דינון) מ"מ מיקרי ראוי לתרומה בשעת קצירה כיון דאם הפריש תרומה בשעת קצירה חל ההפרשה אף קודם מירוח כדאמרינן לקמן בדף לה: מעשר ראשון שהקדימו בשבילים פטור מתרומה גדולה, עי' תוס' קדושין דף סב. ד"ה אין.

82) עי' קובץ שיעורים סוף סימן ק"ג, ועי' דבר שמואל מה שהביא בשם השג"א סימן צ"ז ובשם העונג יו"ט סימן ק"א בהגה"ה.

83) שו"ת הרשב"א מובא בבית יוסף ובשו"ע סימן תס"ז סעיף ה'.  
84) ומ"מ קריאת שם תרומה לא שייך עד שנתשל (אפי' אם נתשל ונתיבש לגמרי ואין צריך לקרקע), ועי' קובץ שיעורים סימן קנ"ד.

85) סימן תנ"ג סעיף ד'.  
86) כלל קכ"ח סק"ב וסק"ל (וכתב שם שהג"ר החמיר מאוד בזה), מובא במשנ"ב סימן תס"ז ס"ק י"ז, ובסימן תנ"ג סוף ס"ק כ"ב (ועי' שם בב"ה"ל סוד"ה טוב), וכ"כ רבינו מנוח על הרמב"ם פ"ה מהל' חור"מ הלכה ט'.  
87) סימן ס"ט, מובא בשערי תשובה סימן תס"ז ס"ק י"ב.

דף לד 88) מובא בתוס' הרא"ש כאן, ובתוס' רבנו פרץ ובתוס' שאנץ ובתוס' ישנים ביבמות דף סו: ובר"ש וברא"ש בתרומות פרק י"א מ"ט.

89) ומבואר דס"ל לר' משה דאפי' לכתחילה מותר ליהנות הנאת כילו' מתרומה (שהרי בא לתרץ האיך עשו כן בבית רבלי), אולם הקשו הראשונים מהא דמבואר שם בתרומות דהדלקה נמי אסור (עכ"פ מדרבנן).

90) תוס' הביא מהא דתנן שם בתרומות דאין מדליקין בשמן של תרומה בבית כנסת אא"כ יש שם כהן (ואמרינן נר לא נר למאה), אבל הרי"ש פי' (ע"פ הירושלמי) דמותר אפי' אם אין שם כהן כיון שהוא לצורך מצוה ולצורך רבים, וכן פסק הרמב"ם בפ"א מהל' תרומות הל' י"ח.

#### דף לה

91) כלל נ"א סעיף י"ז.  
92) מלאכת דש סוף ס"ד.

93) כ"כ הרמב"ם בפ"ו מהל' חומ"צ ה"ז זה הכלל כל שאין מברכין עליו ברכת המזון אין יוצא בה ידי חובתו (ולכאוי הטעם משום דכתבי' לחם עוני').

94) כלל קנ"ב ס"ג, וז"ל אם גדלו בעצמן שאינו נקוב צ"ע, עכ"ל.  
95) ערוה"ש סוף סימן תרמ"ה.

96) וע"ע ברש"ש לקמן סוף דף לו:.

דף	This Al Hadaf was made possible by the following daf dedications...	יום	
יט	* לז"י טובה לאה בת ר' יצחק ע"ה	ז שבת	Sun
כ	Mazel Tov to Tante "Suri Goldman" on her 90th Birthday ! עמו"ש May she live till 120 with Nachas & Gezunt - Best wishes from Freyda, Ephraim & all of the extended family	ח שבת	Mon
כא		ט שבת	Tues
כב	* לז"י משה דוד בן אברהם ז"ל Dedicated in loving memory of my father MORTON HAHN; by Dr. Edward Hahn	י שבת	Wed
כג		יא שבת	Thrs
כד		יב שבת	Fri
כה	* לז"י מרת רחל בת ר' נחום יצחק בוקמן ז"ל	יג שבת	שבת
כו	לז"י מרים בת אהרן הכהן MALVINE LOEWY ז"ל *	יד שבת	Sun
	Sponsored by the Katz family in memory of Grandparents; Spalter פנח הניא רחל בת פנח וחיים אליעזר בן אביגדר משה הכהן Katz, ופראדל בת יעקב שלום Reiss ז"ל *	טו שבת	Mon
כז		טז שבת	Tues
כח		יז שבת	Wed
כט		יח שבת	Thrs
ל	* לז"י אבינו מורינו ר' ישעיה בן ר' יעקב ניימאן ז"ל	יח שבת	Thrs
לא	לז"י יהודית סערקע בת ר' יצחק אייזק גאלדבערג ז"ל *	יט שבת	Fri
	* לז"י יהודה בן אהרן הלוי אקסלרד ז"ל		
לב		כ שבת	שבת
לג	* לז"י אסתר בת ר' חיים ז"ל לז"י הרב אריה דוב בן אברהם אליעזר הוס ז"ל * - ממשפחת עדעלשטיין	כא שבת	Sun
לד	* לז"י שעפטל יקותיאל בן חיים הלל ב'רן ז"ל	כב שבת	Mon
לה	לז"י מלכה רייזל בת יהודה ע"ה Malvian Neuman * (מאת משפחת נומאן)	כג שבת	Tue
	לז"י ישעיה משה בן חיים ז"ל *; by his wife and son Noach Kramer		

\* Denotes Yartzeit

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