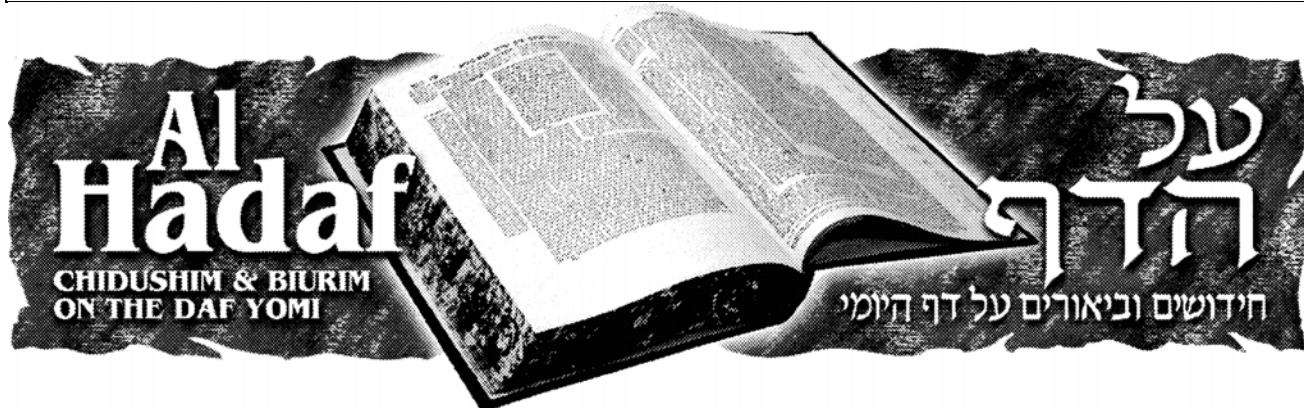


This issue has been dedicated by Debbie & Elliot Gibber & Family

In memory of our dear mother KATE ETLINGER GOLDNER

הוקדש לז"נ מינדל בת משולם ע"ה (יום היא"צ כ"א תמוז) תנצב"ה



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• Edited by Rabbi Zev Dickstein•

שבת דף פיז-קה/ כא תמוז תשס"ה

דף פיז.

משה הוסיף יום אחד מדעתו

The Gemara (86b) cites a dispute between R' Yosi and the Rabbanan regarding the date of *Matan Torah* (the giving of the Torah at Mount Sinai). All agree that the Torah was given on the first Shabbos in Sivan but they disagree as to when Rosh Chodesh Sivan occurred that year. According to R' Yosi, Rosh Chodesh Sivan fell on Sunday and thus Shabbos, when the Torah was given, was the seventh of Sivan. According to the Rabbanan, Rosh Chodesh Sivan fell on Monday and the Torah was given on the sixth of Sivan.

The Gemara says that both opinions agree that Klal Yisrael were commanded to separate from their wives (see previous daf) on the fourth day of the month. According to R' Yosi (who says that Rosh Chodesh fell on Sunday) the commandment for "*prisha*" (separation) was given on Wednesday, three days prior to *Matan Torah*, whereas according to the Rabbanan the commandment was given on Thursday - only two days before *Matan Torah*. [As mentioned on the previous daf, the Tanna of the Mishna on 86a who says that a discharge of זרע renders a woman *tamei* for three days after תשמשי, is in agreement with R' Yosi who says that the commandment to abstain was given on Wednesday, three days before *Matan Torah*.]¹

The Gemara remarks that the posuk in Sh'mos 19:10 which states וקדשתם היום ומחר - [Hashem told Moshe, go tell the people to] separate from their wives today and tomorrow - seems to contradict the opinion of R' Yosi who says that Klal Yisrael were told to separate from their wives on Wednesday, three days prior to *Matan Torah*.

In answer, R' Yosi explains that although Hashem commanded Klal Yisrael to abstain for two days (i.e., Wednesday and Thursday) and He planned to give the Torah on the following day, Friday, Moshe on his own initiative added a third day of abstinence and suggested that *Matan Torah* be delayed until Shabbos. Hashem agreed to Moshe's suggestion and *Matan Torah* was indeed delayed until Shabbos.²

The Chasam Sofer explains why Hashem considered two days of abstinence sufficient without concern about a possible discharge of זרע on the third day which would have rendered a woman *tamei* on the day of *Matan Torah*.

As cited on the previous daf, the Chasam Sofer theorizes that Klal Yisrael's anticipation and enthusiasm for *Matan Torah* affected their body temperature. Theorizing further, the Chasam Sofer suggests that Hashem in His infinite wisdom knew that Klal Yisrael's

enthusiasm and fervor were so great that they experienced a sharp increase in their body temperature. As a result of this phenomenon, all שכבת זרע (remaining in a woman's womb) rotted before the third day.

Moshe Rabbeinu, while not challenging Hashem's wisdom, Heaven forbid, suggested a third day of abstinence to accommodate the ערב רב (Egyptian converts) who lacked Klal Yisrael's enthusiasm and commitment to Torah. The Midrash³ relates that during the exodus from Mitzraim, Moshe Rabbeinu welcomed these converts into Klal Yisrael against Hashem's advice. Hashem ordered only two days of abstinence because this number of days was sufficient for the main body of Klal Yisrael and He was not interested in the ערב רב. Moshe, however, was sympathetic to the ערב רב who required an extra day (due to their low level of enthusiasm) because he felt that they had the potential to eventually improve themselves. [The Midrash relates that, sadly, Moshe was ultimately proven wrong when the ערב רב eventually caused Klal Yisrael to sin with the Golden Calf, at which time Hashem reprimanded Moshe for accepting them into Klal Yisrael, see Rashi, Sh'mos 32:7.]⁴

דף פח. כפה עליהם הר כגיגית

The posuk (Sh'mos 19:17) describes Klal Yisrael's assembly at the foot of Mount Sinai as הר כגיגית (literally, they stood beneath the mountain). Rav Avdimi infers from these words that Hashem lifted the mountain over Klal Yisrael and forced them to accept the Torah by threatening to bury them there if they were to refuse the Torah.

Tosfos asks, since Klal Yisrael had already declared נעשה ונשמע ("Whatever Hashem has said, we will do and we will listen," Sh'mos 24:7) why was it necessary to coerce them?

Tosfos answers that Hashem was concerned that Klal Yisrael would subsequently retract their commitment because of the frightening visions that they witnessed during *Matan Torah*

which caused their souls to depart from their bodies.

The Sefas Emes explains that although they were willing to accept the Torah, they were not ready to sacrifice their lives for Torah. The fact that their souls departed during *Matan Torah* signified that a Jew is obligated to sacrifice his life for Torah, meaning that one is obligated to forfeit his life rather than violate the three cardinal sins of idolatry, adultery and murder. Klal Yisrael were not prepared to accept the Torah under such extreme conditions and thus it was with regard to this aspect of Kabbolas HaTorah that they had to be forced.⁵ [Based on this, the Sefas Emes explains the Rambam's ruling⁶ that one who violates one of the three cardinal sins under the threat of death is not subject to a court imposed penalty, even though he committed a sin. Since Klal Yisrael did not accept this condition of the Torah willingly, one cannot be punished for his failure to comply - מודעה רבה לאורייתא.⁷]

Alternatively, the Midrash Tanchuma⁸ answers that Klal Yisrael only expressed willingness to accept תורה שבכתב - the written Torah - which is relatively easy to fulfill. However, they had to be forced to accept תורה שבעל פה - the oral law - because it is much more difficult than תורה שבכתב and they were reluctant to accept it.

The Chasam Sofer explains that they were confident that Hashem would order them to do only that which is feasible and therefore they willingly declared נעשה ונשמע - we will do and we will hear. However, they were reluctant to accept תורה שבעל פה before hearing exactly what it entailed. This is because תורה שבעל פה consists of the rabbis' interpretation of the written law, and they were not ready to unconditionally commit themselves to all the rabbinic interpretations and decrees.

The Chasam Sofer notes that this is alluded to in the posuk in Devarim 5:24 where Klal Yisrael told Moshe, ושמענו ועשינו - report to us whatever Hashem tells you and we will listen and (then) we will do. This was a reversal of

their previous declaration of נעשה ונשמע (whereby they expressed their readiness to fulfill the [written] Torah, even before hearing exactly what it entailed). This posuk in Devarim indicates that they wanted to hear exactly what the oral law involved before agreeing to accept it. Hashem, however, rejected their partial consent and forced them to accept the תורה שבעל פה unconditionally, because תורה שבעל פה is an integral part of the Torah and one is required to have complete trust in the sages' rendition of Torah law.

דף פט.

מאי סיני שירדה שנהא לעכו"ם עליו

R' Yosi ben Chaninah says the original name of Mount Sinai was הר חורב and it was renamed Sinai at the time of *Matan Torah* because hatred ("sinah") of עכו"ם (idolaters) descended on it. Rashi explains that idolaters became the object of Hashem's hatred at that time because they refused the Torah.

The Iyun Yaakov interprets the Gemara differently. At the time of *Matan Torah*, Klal Yisrael became the target of the hatred of idolaters. The source of anti-semitism is the fact that B'nai Yisrael observe the laws of Torah which distinguishes them from other nations (see Rashi to Eicha 1:21).

The posuk in Shir Hashirim (1:2), in metaphorically describing Klal Yisrael's love and loyalty to Hashem, states דרך מיין כי טובים - my beloved (Hashem) is better than wine. The Midrash explains that the *gematria* (numerical value) of יין is seventy, alluding to the seventy nations of the world. Klal Yisrael declares that Hashem is more beloved to them than are the seventy nations of the world.

The Bais Halevi⁹ explains this Midrash based on our Gemara. Klal Yisrael declared that they cherish Hashem and His Torah more than they love and respect the nations. They expressed their willingness to accept the Torah and observe it - well aware that they thereby forfeited the amity of the nations.

The Midrash¹⁰ relates that at the time of *Matan Torah*, Moshe was taught the entire

Torah, written and oral, and he wanted to commit all of it to writing. However, Hashem instructed him not to record the oral law so that when Klal Yisrael is exiled their persecutors should not lay their hands on it. Even though the written Torah is accessible to all nations the oral law is known only to Klal Yisrael.

The Bais Halevi citing the Midrash explains that it is the oral law that primarily distinguishes Klal Yisrael from the nations and it is our exclusive knowledge of the oral law that causes us to be the target of jealousy.¹¹

דף צ:

המוציא חגב חי

- As stated above, one who carries something into the *reshus horabbim* (the street) on Shabbos is not חייב (obligated to bring a *chattos*) unless he carries something of significance.

- The Mishna in Chullin 59a enumerates eight species of kosher locusts. These locusts may be eaten even without *shechitah* (similar to fish, see Al Hadaf, Chullin דף כו). [In almost all communities today locusts are not eaten since we cannot positively identify which ones are kosher.]

The Tanna Kamma (90b) says that one who carries out a live kosher locust is חייב regardless of its size.¹² Even though anything less than a כגורגרת of food is generally not considered significant (Mishna 76b), a living locust is often kept as a pet for young children and therefore it is considered significant even if it is very small.

A tiny non-kosher locust, however, is not considered significant (according to the Tanna Kamma) since people do not use non-kosher locusts as a child's pet because of a concern that the child might eat it.

The halacha¹³ follows the opinion cited in *Yevamos* 114a that קטן אוכל נבילות אין בית דין מצווין להפרישו - bais din is not obligated to restrain a young child from eating non-kosher food (or violating other *issurim*). Even the child's father need not restrain him, for although the father is obligated to train his children in the performance of mitzvos ("*chinuch*"), this

obligation only applies to an older child שהגיע לחינוך - who has reached the age when he can be properly trained.

Rashi asks, why, then, is it wrong to give a young child a non-kosher locust to play with? In answer, Rashi cites the Gemara in *Yevamos* (ibid.) which says that although there is no obligation to restrain a child from eating non-kosher food on his own, it is forbidden to give a child non-kosher food to eat.

The Magen Avraham¹⁴ cites the Hagoas Ashri who deduces from our Gemara that not only is one prohibited from directly feeding a young child non-kosher food, he is also prohibited from indirectly causing the child to eat non-kosher food, such as by giving him a non-kosher locust to play with.¹⁵

The Melo Haro'im and the Chasam Sofer, however, reject the idea that allowing a child to play with a pet locust is tantamount to feeding it to him. The Melo Haro'im cites the Gemara in *Yevamos* 113b which relates that R' Yitzchak bar Bisnah once lost his keys in the street and needed them on Shabbos. Rav Pedas advised him to bring children to play in the proximity of the lost keys in the hope that they would find the keys and bring them home. This proves, says the Melo Haro'im, that while directly feeding a child is prohibited, it is permitted to indirectly cause the child to commit an *issur*.

In explanation of our Gemara which prohibits one from allowing his child to play with the non-kosher locust, the Melo Haro'im cites the position of some authorities¹⁶ that a father is different from a stranger and is obligated to restrain his child from sinning even at a very young age (i.e., below the age of chinuch). Accordingly, one may not give his children a non-kosher locust to play with. Therefore, the Mishna says that a person would generally not store a non-kosher locust for use as a pet.

Alternatively, the Melo Haro'im suggests that the Gemara does not mean that one is prohibited from giving his son a non-kosher locust as a pet. The Gemara only means that it is unlikely that one would do so because people

generally do not want their children to eat non-kosher foods, regardless of their age (see Al Hadaf Avodah Zorah (דף כו) ¹⁷). Since it is uncommon to give children a non-kosher locust to play with, it is considered an insignificant item.¹⁸

דף צא.

אבא שאול אומר שתי הלחם בכרוגרת

Abba Shaul says that the minimum of *sh'tei halechem* (sanctified loaves of bread that accompany the Shavuos offering) one must carry on Shabbos to be חייב is a כרוגרת - the same shiur as all foods.

The Rashba says that the minimum shiur for *terumah* is only a *k'zayis* - olive's volume - (which is smaller than a כרוגרת). He explains that since Kohanim fulfill a mitzvah when they eat a *k'zayis* of *terumah*, a *k'zayis* is considered significant.¹⁹

[Similarly, the Yerushalmi²⁰ indicates that if one carries a *k'zayis* of matzah on the first night of Pesach which falls on Shabbos he is חייב. Since one fulfills the mitzvah of matzah ("תאכלו מצות") with a *k'zayis* of matzah, a *k'zayis* is considered significant with regard to carrying on Shabbos as well.]

Question: According to the Rashba it is difficult to understand why the shiur for *sh'tei halechem* is a כרוגרת rather than a *k'zayis* since a mitzvah is fulfilled by eating a *k'zayis* of *sh'tei halechem*.²¹

Answer: In order to violate the *melacha* of *hotza'ah*, one must carry the *sh'tei halechem* to a *reshus horabbim* outside the confines of the Bais Hamikdash. However, as soon as the *sh'tei halechem* are removed from the *azarah* they become פסול ביוצא (disqualified by virtue of leaving the Bais Hamikdash) and they must be burned (see Gemara 91b). Therefore, a *k'zayis* of *sh'tei halechem* which is carried outside the Bais Hamikdash is not significant since the *sh'tei halechem* is disqualified when removed from the Bais Hamikdash.²²

- The Tosfos Rid asks why a כרוגרת of *sh'tei halechem* is considered significant. Since the *sh'tei halechem* becomes disqualified when

removed from the Bais Hamikdash and may not be eaten, one should be פטור even if he carries a כגרוגרת. The Mishna above says that one who carries wood of an *asheira* (tree used for idol worship) is פטור since such wood is אסור בהנאה (prohibited for benefit) and has no significance. So too, one who carries a כגרוגרת of disqualified *sh'tei halechem* should be פטור.

The Tosfos Rid answers that since there is a mitzvah to burn sacrificial food that has become *posul*, such food is considered significant even though it may not be eaten.²³

דף צב: הוציאוהו שנים פטורין

1] The Tanna Kamma of the Mishna (92b) says that if two people carry an item together (in a *reshus horabbim*) they are exempt from a penalty.

The Gemara explains that this law, called הוציאוהו שנים פטורין - two who perform a *melacha* together are exempt - is derived from the scriptural term "בעשותה" stated with regard to korbon *chattos* (Vayikra 4:27) which indicates ה-עושה כולה ולא מקצתה - one who performs the entire sin [is liable], but not one who performs part.

All opinions agree that while there is no penalty in the case of שעשאוהו שנים, it is forbidden to participate in such a *melacha*. The authorities are in disagreement, however, as to the source of this prohibition.

The Rambam²⁴ seems to be of the opinion that שעשאוהו שנים is permissible *min haTorah* and is forbidden only by rabbinic decree.

The Rashba,²⁵ however, maintains that שנים is forbidden *min haTorah* because he says the Torah excludes it only from the penalty of kares and korbon.

The Ohr Somayach²⁶ in support of this latter opinion cites the posuk את שבתותי תשמורו - My Shabbosos you shall heed (Vayikra 26:2). He says [it was revealed to him in a dream] that the plural term "תשמורו" teaches that it is forbidden *min haTorah* to perform a *melacha* even in the context of שעשאוהו שנים (meaning, even in conjunction with another person).

2] It emerges from the Gemara that the Tanna of the Mishna is R' Yehuda who says that the exemption of שעשאוהו שנים applies only in a case of זה יכול וזה יכול - each of the two individuals [who jointly performed the *melacha*] are capable of performing the *melacha* on their own. However, in a case in which זה אינו יכול וזה אינו יכול - each individual cannot perform the *melacha* on his own - then they are both חייב.

Rashi (92b, ד"ה זה אינו יכול and 93a, ד"ה וחד) explains the difference between the two cases is that the latter case is אורחיה (normal) whereas the former is not. Two people who jointly carry out a lightweight object are פטור because that is an unusual manner of carrying [and the Mishna above on 92a states that if one carries an object in an unusual manner, such as - כלאחר יד - on the back of his hand or clutched in his teeth - he is פטור].²⁷ However, if the item is very heavy and cannot be carried by one person, then both people who carry it are חייב because it is usual for two people to carry a heavy item together.

Alternatively, the Ritva explains that in the latter case of זה אינו יכול וזה אינו יכול (where each cannot perform the *melacha* on their own) each individual is considered to have performed the entire *melacha* on his own since the *melacha* could not have been completed without him. In contrast, in the first case of זה יכול וזה יכול since each individual is dispensable (in that the *melacha* could have been completed without his participation), each one is exempt (because they are viewed merely as a non-essential assistant).²⁸

דף צג: עוד בענין שנים שעשאוהו

As mentioned above, R' Yehuda (i.e., the Tanna Kamma of the Mishna 92b) maintains that the exemption of שעשאוהו שנים applies only to a case where זה יכול וזה יכול - each participant was capable of performing the *melacha* on his own without his friend's assistance. However, if, for example, two people carry a heavy object

which cannot be carried by a single person alone (זה אינו יכול וזה אינו יכול), both participants are חייב.

Tosfos (93a, ד"ה אמר מר) and the Ramban assert that when two people carry an object together the critical factor in determining whether they are חייב is the manner in which they carry it. They say that even if each individual is strong enough to carry the object with his own two hands, if they elect to carry the object together using only one hand or one finger each, it is considered a case of זה אינו יכול and they are חייב since presently, in the manner they are carrying it, they cannot carry it alone without the other person's assistance.

The Sefas Emes maintains that according to Rashi's logic (cited above) the determining factor should be the strength of the individuals, not the manner in which they happen to carry the object. He argues that if two strong individuals carry a light object which could be carried by one person then they should both be exempt because it is לא אורחיה - unusual - for two such people to carry such an object together. The fact that they decided to use only one hand and carry it together does not make it more common.²⁹

Tosfos and the Ramban are consistent with the logic of the Ritva (cited above). Since the item is being carried in a manner in which the effort of both individuals are essential, each one is viewed as though he performed the entire *melacha* on his own.³⁰

דף צד:

ההוא שכבא שרא רב נחמן לאפוקיה לכרמלית

The Gemara above on 43b says that even though a corpse is *muktzah* it may be moved under certain conditions. If a corpse is in the sun and is in danger of decaying, the sages granted special permission to move the corpse for the sake of כבוד המת - dignity of the deceased - provided it is moved via the method of "ככר או תינוק" (loaf of bread or child). This means that the sages permitted moving the *muktzah* corpse provided it is moved together

with a non-*muktzah* item, such as a loaf of bread or child, which is placed on the corpse (see Al Hadaf ibid.).

- A *karmelis* is an open area which is neither a *reshus hayachid* (because it is not enclosed) nor a *reshus horabbim* (because it is not a public thoroughfare), such as a field or a private or little-traveled road. Carrying between a *karmelis* and other domains is [only] rabbinically prohibited.

The Gemara on 94b relates of a case of a corpse that was in danger of decaying and Rav Nachman bar Yitzchak permitted carrying it out of the house to a *karmelis* because the sages lifted the rabbinic *issur* of carrying to a *karmelis* for the sake of כבוד המת.³¹

Rashi comments that carrying a corpse to a *karmelis* is permitted only if a ככר או תינוק is placed on the corpse in order to avoid or minimize the *issur* of *muktzah* - as the Gemara says on 43b. [Tosfos 94a, ד"ה גדול, explains that even though the sages lifted the *issur* of carrying to a *karmelis*, they did not lift more *issurim* than necessary. They did not lift the *issur* of *muktzah* because it is possible to avoid the *issur* of *muktzah* via the method of ככר או תינוק.]

The Ramban³² takes issue with Rashi, arguing that placing a ככר או תינוק on the corpse when carrying it to a *karmelis* is prohibited because that results in carrying additional, unnecessary, items. He asserts that the sages only granted permission to carry the corpse itself to a *karmelis* on Shabbos without additional items.³³

Several explanations are offered in defense of Rashi:

(a) The Ran explains that even though placing a ככר או תינוק increases the burden, it is preferable for one to perform a little extra of one *melacha* (i.e., *hotza'ah* - carrying) rather than perform two different *issurim* (i.e., *hotza'ah* and *muktzah*).

(b) Alternatively, the Ran suggests that since the loaf is necessary in order to permit the handling of the corpse (while it is still inside the house),

the loaf becomes **טפל** (ancillary) to the corpse and it is not considered an additional burden.³⁴

(c) The Rashba explains that if one would have to place a loaf on the corpse when handling it inside the house and then remove the loaf before entering the *karmelis*, it would appear **כחוכא** - as a nonsensical activity. An observer who knows that a loaf is necessary to permit the handling of the corpse would wonder why the loaf is being removed in mid-journey. Therefore, the sages said that once a loaf is placed on the corpse to permit its handling, the loaf should remain there until it reaches its destination.³⁵

(d) The Sefas Emes suggests that Rashi agrees with the Ramban that one may not carry a loaf with the corpse into the *karmelis*. Rashi only means that initially, when the corpse is being moved through the house, a loaf should be placed on it. However, before exiting the house and entering the *karmelis*, the loaf should be removed. Even after the loaf is removed, one may continue handling the corpse because the Shulchan Aruch³⁶ rules that a person holding a *muktzah* item is not obligated to immediately drop the item. Rather, once *muktzah* is in one's hand he is permitted to deposit it wherever he wishes.³⁷ Thus, once the corpse was lifted (via the method of **ככר או תינוק**), one may continue to handle the corpse even if the loaf was removed.³⁸

[Note: This rule does not apply to all categories of *muktzah*. The Mishna Berurah³⁹ rules that certain *muktzah* items, such as stones and branches, must be dropped immediately if one happens to be holding them.]⁴⁰

דף צה.

מגבן חייב משום בונה

The Gemara explains that **מגבן** - making cheese - on Shabbos is prohibited under the *melacha* of **בונה** - building. [The Rambam⁴¹ explains that pressing the individual pieces of cheese together into one piece is considered building.]

• All forbidden *melachos* of Shabbos are prohibited on Yom Tov too except for *melachos*

pertaining to **אוכל נפש** - food preparation (such as kneading and cooking).

• Bais Hillel (Beitzah 12a) says that those *melachos* which are permitted for the sake of **אוכל נפש**, are permitted for other Yom Tov purposes as well. This is based on the rule of **שהותרה לצורך [אוכל נפש] הותרה נמי שלא מתוך** - "since" a *melacha* was permitted for food preparation it was also permitted for other [Yom Tov] purposes. For example, since the *melacha* of *hotza'ah* was permitted for the sake of preparing one's Yom Tov meal, *hotza'ah* is also permitted for other purposes as well, such as to bring one's lulav to shul. However, a *melacha* such as sewing which is never needed for **אוכל נפש** is not permitted for any purpose on Yom Tov.

Tosfos (**סוף ד"ה והרודה**) raises an interesting question. Presumably, one who wants to eat cheese on Yom Tov is permitted to make the cheese because *melacha* is permitted for the sake of **אוכל נפש**. Since cheese-making involves the *melacha* of **בונה** - building - (as our Gemara says), it follows that one should be permitted to perform **בונה** on Yom Tov for the sake of any Yom Tov need (based on Bais Hillel's principle of **'מתוך שהותרה וכו'**). Consequently, Tosfos argues that if someone's house collapses on Yom Tov, he should be permitted to rebuild it to provide himself a dwelling place for Yom Tov. Since making cheese, which involves **בונה** (building), is permitted on Yom Tov for the sake of **אוכל נפש**, building should also be permitted for other Yom Tov needs.

Tosfos answers that, indeed, there is no *issur min haTorah* for one to rebuild his house on Yom Tov. However, it is rabbinically prohibited because it involves excessive exertion and it is considered an **עובדא דחול** - a weekday-type chore.⁴²

The Ba'er Yitzchak⁴³ considers the halachic options of one whose succah collapses on Yom Tov (and lacks access to another succah). He argues that according to Tosfos who says that building on Yom Tov is only an *issur midrabbanan*, this individual is permitted to ask a non-Jew to rebuild his succah. As a rule,

one may ask a non-Jew on Shabbos and Yom Tov to perform a rabbinic *issur* if needed for mitzvah purposes. The fact that the succah is needed for a mitzvah coupled with the fact that building (for Yom Tov purposes) is only an *issur* *miderabbanan* is sufficient grounds to permit asking a non-Jew to rebuild one's succah on Yom Tov.⁴⁴

דף צו.

המושׂיט חייב שכך היתה עבודת הלויים

The Chachamim in the Mishna (96a) say that הזורק - one who throws - an object from *reshus horabbim* to *reshus hayachid* (or vice versa) is חייב (obligated to bring a *chattos* offering), just as one who carries from one domain to another. If one throws an object from one *reshus hayachid* to another *reshus hayachid*, he is פטור (exempt from bringing a *chattos*) even if the item was thrown through the airspace of *reshus horabbim*.

- As explained on ב' דף', the *melacha* of *hotza'ah* (carrying/transferring) involves carrying an item from a רשות היחיד - private domain - to a רשות הרבים - public domain (or vice versa, הכנסה), or carrying an item in a *reshus horabbim* a distance of four *amos* (four ells, which is 6-8 feet). As a general rule, *hotza'ah* consists of two parts: (a) עקירה - lifting - the item from its original place, and (b) הנחה - setting the item down - in another domain (or at a distance of four *amos* in the *reshus horabbim*).

The Mishna says that there is a *toldah* (subcategory) of the *melacha* of *hotza'ah* called הושטה (passing objects). This *melacha* is unique in that one could be liable for הושטה even without performing an act of עקירה (lifting) or הנחה (depositing) in the *reshus horabbim*. If someone standing on a porch protruding over a street hands an object through the airspace above the street to another porch (on the same side of the street), he is חייב. The Mishna explains that such an act is considered a *melacha* because the Levi'im who carried the *mishkan* in the midbar would pass the קרשים - boards - from one wagon to another wagon,

passing them over the airspace of the *reshus horabbim*.⁴⁵ Throwing in such a manner is not a *melacha* because the Levi'im did not throw the boards.^{46 47}

The Gemara on 96b (הוצאה היכא כתיבא) seeks a scriptural source for the *melacha* of carrying, thus indicating that only those acts of carrying that are specifically prohibited by the Torah are included in the *av melacha* of הוצאה; the fact that a particular type of carrying was performed in the *mishkan* is not sufficient to render it an *av melacha*.⁴⁸

Tosfos (2a, פ"ט ד"ה and 96b, ד"ה הוצאה וד"ה הכנסה) points out that this is in contrast to all other *melachos* whereby the type of activity that was performed in the *mishkan* is classified as the *אב מלאכה* even if the Torah does not specifically prohibit that particular activity.

Also, the Gemara indicates that the *toldos* of *hotza'ah* include only those carrying-type activities **which were performed in the *mishkan*** (as the Mishna explains with regard to הושטה). A carrying-type activity which was not performed in the *mishkan* is not considered a *toldah* even though it is similar to one of the forbidden *melachos*. For example, throwing from one *reshus hayachid* to another (over the airspace of a *reshus horabbim*) is not a *melacha* since it was not done in the *mishkan*, even though it is similar to the act of הושטה - handing from one *reshus hayachid* to another.

Tosfos (ibid.) notes that this is also in contrast to other *melachos* whereby any activity bearing a similarity to the *av melacha* that was performed in the *mishkan* is classified as a *toldah* and is prohibited - even though that activity was not performed in the *mishkan*. Thus, we find a difference between the *melacha* of *hotza'ah* and other *melachos* with respect to the classification of the *אב מלאכה* - primary *melacha* - and also with respect to the classification of the *toldos* - subcategories of *melacha*.

Tosfos attributes these differences to the fact that *hotza'ah* is a "מלאכה גרועה" - "inferior *melacha*" (since carrying does not effect a physical change in the object being carried).

Since carrying is a מלאכה גרועה its application is more limited than other *melachos*. Only those acts of carrying stated in the Torah are called avos, and only those acts that were performed in the *mishkan* are called *toldos*.⁴⁹

2] • As mentioned above (92b and 93a), if two people perform a *melacha* together (שנים) (שעשאוה) they are both פטור. For example, if two people lift an object together and carry it from a private domain to a public domain they are פטור. Also if one person lifts the item (i.e., performs an עקירה) and another person performs the הנחה, both are פטור.

Tosfos (3a ד"ה בעשותה) asks why the act of הושטה is not excluded from a *chattos* on grounds of שנים שעשאוה, since the act is performed by two people. Tosfos answers that one is חייב for הושטה only if the individual who performs the עקירה performs the הנחה as well by depositing the object in his friend's hand, rather than have his friend take it from him. According to Tosfos, the person who receives the item (that was passed to him) is not חייב, since he did neither the עקירה nor the הנחה.

The Meiri, however, citing the Yerushalmi, maintains that the *melacha* of הושטה is unique. Even though it is performed jointly by two people, they are both חייב - since by definition it is an act that requires the participation of two people.⁵⁰ Since הושטה was performed in the *mishkan* with two people, it is deemed a *melacha* even though one person performs the עקירה and another performs the הנחה.

דף צז.

מרשות היחיד לרשות ורה"ר באמצע

As cited above, the Chachamim in the Mishna (96a) assert that if one throws an object from one *reshus hayachid* to another *reshus hayachid* he is פטור (exempt from bringing a *chattos*) even if the item passes over a *reshus horabbim*. R' Akiva disagrees and maintains that if one throws an item from one *reshus hayachid* to another through an intervening *reshus horabbim*, he is חייב.

The Chachamim exempt such a person because he performed neither the עקירה nor the הנחה in the *reshus horabbim*, and the *melacha* of *hotza'ah* requires that one perform an עקירה in one domain and a הנחה in the second domain.

The Gemara concludes that R' Akiva obligates such a person because he subscribes to the novel principle of קלוטה כמי שהונחה which states that an item flying through the airspace of a domain is considered halachically as though it has come to rest there (i.e., as though an act of הנחה was performed in that domain).

• In addition to the *melacha* of הוצאה מרשות לרשות (carrying from one domain to another) there is another category of carrying called העברה די אמות ברה"ר - carrying four *amos* in the *reshus horabbim*.

The Gemara cites R' Elazar who says that if a person carries something a distance of four *amos* in the *reshus horabbim* he is חייב even if while carrying it he holds the item ten tefachim above the ground (even though the domain of the *reshus horabbim* extends only to the height of ten tefachim).⁵¹

The Ramban asserts that one who carries four *amos* in the *reshus horabbim* is not חייב unless he performs an עקירה and הנחה in the *reshus horabbim* (i.e., the item must initially be taken from the *reshus horabbim* and after being carried four *amos* it must be deposited in the *reshus horabbim*).⁵² However, if one takes an item from a *reshus hayachid*, carries it through a *reshus horabbim*, and then deposits it in another *reshus hayachid*, he is פטור.

Tosfos (above 2a, ד"ה שבעות, and *Eruvin* 33a), however, takes R' Elazar's statement in our Gemara to mean that if one takes an item from a *reshus hayachid* and carries it to another *reshus hayachid* through an intervening *reshus horabbim* he is חייב (even if he carried it above ten tefachim). Thus, Tosfos maintains that carrying four *amos* in the *reshus horabbim* is called העברה even if the עקירה and הנחה were not performed in the *reshus horabbim*.⁵³

• The Mishna, Succah 42b, says that the lulav (and esrog) should not be taken on Shabbos during the festival of Succos. Rava explains that the sages suspended the mitzvah of lulav on Shabbos because of a concern that one might inadvertently carry his lulav four amos in the reshus horabbim (on his way to his teacher's house to receive instructions regarding proper performance of the mitzvah).

Rashi (ibid.) wonders why Rava expresses concern specifically about the possible violation of העברה as opposed to a possible violation of הוצאה מרשות לרשות. Why didn't Rava say there is a concern one might carry his lulav from a *reshus hayachid* to a *reshus horabbim* (i.e., from his house to the street)?

The Meiri (ibid.) answers that the sages were not concerned about carrying from a *reshus hayachid* to a *reshus horabbim*, because one who carries his lulav directly from his house to the Rabbi's house without stopping to rest in the street is not in violation of *hotza'ah* (since he did not perform a הנחה in the *reshus horabbim*). Nevertheless, such an individual would be liable for the act of העברה די אמות עקירה even though he did not perform an הנחה in the *reshus horabbim*.⁵⁴

דף צח:

הבריח התיכון בנס היה עומד

As described in Sh'mos 26, the walls of the *mishkan* were made from many קרשים - boards - held together by means of rings and braces. On the wall's exterior there were rings through which rods were inserted to brace the wall and hold the boards together. The posuk says that in addition to these rods there was a בריח התיכון - a center rod - running through the thickness of the boards.

The Gemara cites a braysoh that says that the בריח התיכון was a miraculous phenomenon. Rashi explains that a long solid rod was inserted through the wall at one end of the *mishkan* and it miraculously curled around the corners and ran through all three walls.

Tosfos cites a braysoh which states that three different בריחות were used, one for each

wall. Tosfos comments that according to this braysoh there does not appear to be anything miraculous about בריח התיכון. This braysoh evidently disagrees with the braysoh cited by our Gemara which says that the בריח התיכון was miraculous.

The Chasam Sofer reconciles the two braysos, suggesting that it was not the insertion of the בריח התיכון which was considered miraculous (since different rods were used for each wall). Rather, the miracle the braysoh refers to was the fact that the walls stood securely despite the lack of a common בריח התיכון to brace their corners and join them.⁵⁵

The Chasam Sofer attaches allegorical significance to the *mishkan* being constructed without sufficient support at its corners. The fact that the walls were not fastened to each other signified that the Jewish nation consists of several different groups serving Hashem in their own individual manner. On the other hand, the fact that each board was securely fastened to the next signified that there must be harmony among all Jews, even among those from different groups.

דף צט:

אגוז על גבי מים

A pit which is ten tefachim deep and is four tefachim square is classified as a *reshus hayachid*, and one who carries from it to a *reshus horabbim* is חייב.

• As stated above, one who carries from a *reshus hayachid* to a *reshus horabbim* is not חייב unless he performed a halachically recognized act of עקירה when taking the item from the *reshus hayachid* (and a הנחה in the *reshus horabbim*).

• A proper act of עקירה requires an item to be lifted from a fixed or resting state. If one picks up an item which is in a mobile state, it is not classified as an עקירה and he will not be liable for *hotza'ah* upon depositing the item in another domain (Gemara below 153b⁵⁶).

Rava considers whether lifting an item from a ten-tefach pit of water is classified as an עקירה because it is questionable whether an item

resting on water is considered to be in the state of נח - resting. Rava concludes that if one removes some water from a pit, it is considered an עקירה, but if one plucks a nut out of the water it is not called an עקירה.

There are several ways to explain Rava's halacha:

(a) Rashi (above on 5b) indicates that a nut laying in water is not considered to be in a state of rest (נח) because it moves about in the water and lifting a moving nut is not a proper עקירה.

[Removing water is different from a nut because the entire body of water is considered as one entity (which is in a state of rest in the pit). We do not view the top layer of water to be moving about on the bottom layer of the water.⁵⁷]

(b) The Rambam⁵⁸ is of the opinion that a proper עקירה requires that the item be taken from prominent מקום (place), one whose surface measures at least ד' על ד' - four by four tefachim. Removing an item from a narrow post is not classified as an עקירה (Gemara 4a, בעינן עקירה והנחה מעיג מקום ד' על ד').⁵⁹ The Rambam says the surface of the water is also not considered a significant place (since it is not solid). Lifting a nut that is floating in the water is viewed as lifting an object from an insignificant place, and it is therefore not considered an עקירה.⁶⁰

(c) The Raavad⁶¹ explains that an item floating on the water is viewed as though it is suspended in mid-air. Even if there is no requirement that an עקירה be performed from a significant place such as from a ד' על ד' מקום, there is certainly a requirement for the item to be resting on something as opposed to taking an item from mid-air. Therefore, lifting an item from the water is not considered a valid עקירה. [Lifting water from a pit, however, is considered an עקירה, because the entire body of water is resting on the floor of the pit, as explained above.]

• The commentators⁶² point out that there is a practical difference between Rashi and the other commentaries. According to Rashi, it seems that Rava is addressing a moving body of water. However, if the nut was resting in a pit of

stationary, motionless water, it would be considered to be in a state of rest, and picking it up should constitute a valid עקירה. [Tosfos on 5b, ד"ה אגוז, likewise indicates that Rava is referring to a moving body of water.]

On the other hand, according to the Rambam and Ravad, even lifting a nut from a body of motionless water is not considered an עקירה since water is not considered a significant מקום.

דף ק.

מים לא מבטלי מחיצתא

Abaya says that a pit (four tefachim square and ten tefachim deep) is classified as a *reshus hayachid* even if it is filled with water. However, if the pit is filled with fruit, it loses its status of *reshus hayachid*.⁶³

Two explanations are given for the distinction between water and fruit:

(a) The Ramban explains that the walls of a *reshus hayachid* must be visible. Therefore, filling a ten-tefach-deep pit with fruit cancels its *reshus hayachid* status because the fruit obscures the view of the pit's walls.⁶⁴ In contrast, water does not nullify the pit's *reshus hayachid* status, since water is transparent and does not obstruct the view of the pit's walls.

(b) The Meiri explains that a fruit-filled pit loses its status of a *reshus hayachid* because the fruit hinders the use of the pit,⁶⁵ and therefore such a pit is not viewed as though it is ten tefachim deep. In contrast, water does not hinder the pit's use (to the same extent as fruit does) because water is not solid. Things can be placed in the pit despite the presence of the water since they will displace the water (and sink to the bottom).⁶⁶

The Magen Avraham⁶⁷ and the Sefas Emes comment that according to the Ramban's explanation, if the pit is filled with types of objects which do not obstruct the wall's view, such as glassware, the pit will retain the status of *reshus hayachid*. However, according to the Meiri, such a pit is not considered a *reshus*

hayachid since the glassware hinders one's use of the pit to the same extent as fruit.

Conversely, the Pri Megadim⁶⁸ says that if the pit is filled with murky water (or wine) then the pit loses its status of *reshus hayachid* according to the Ramban, since the view of its walls is obstructed. However, according to the Meiri it does not make a difference whether or not the water is transparent since things could theoretically be placed in the pit even if the pit is filled with murky water.

דף קא:

ספינות קשורות זו בזו מערבין ומטלטלין מזו לזו

- As explained above, a *karmelis* is an unenclosed area which is neither a *reshus hayachid* nor a *reshus horabbim* (because it is not a public thoroughfare), such as a field or a private road. Carrying between a *karmelis* and other domains is rabbinically prohibited.
- Although a ten-tefach deep pit which is full of water is classified as a *reshus hayachid* - as we just learned - the Mishna on 100b says that a large body of water, such as the sea and ocean, is classified as a *karmelis*.⁶⁹

One may not throw something from a boat into the sea on Shabbos because a boat [which is four tefachim square and ten tefachim high] is a *reshus hayachid* and the sea is classified as a *karmelis* (see Mishna 100b).⁷⁰ Moreover, says the Mishna, one may not carry from one boat to another unless the boats are tied together.

The Gemara (101b) says that even if the boats are tied together, if they belong to different owners, carrying between them is prohibited unless there is an *eruv chatzeiros*.

- The sages prohibited carrying between two individually-owned properties unless they are joined together by means of an *eruv chatzeiros*. The *eruv* consists of food contributed by each of the homeowners. The *eruv* is then placed in one of the homes to signify that all the domains are unified, as it were.

Rashi (100b, אין מטלטלין) explains the reason one may not carry between boats which are not tied together is that there is a concern that the boats will drift apart and the *eruv*

chatzeiros that they made will be rendered invalid. [This is because an *eruv chatzeiros* cannot join two properties which are divided by an intervening *reshus horabbim* or *karmelis*.]⁷¹

Rashi indicates that hitching the boats is required only for the purpose of the *eruv*. However, if both boats are owned by the same person, it would be permitted to carry from one boat to the other even if they are not hitched together since an *eruv* is not required when both boats belong to the same owner.⁷²

Tosfos (ד"ה פשיטא) says that carrying an object between unattached boats is prohibited because of a concern that one might drop the item into the sea and then he might mistakenly retrieve the object from the sea and carry it into to the boat (which is prohibited, as mentioned above).⁷³

The Mordechai⁷⁴ says that if the exterior walls of the boat extend more than ten tefachim above the sea, then throwing from one boat to the other is permitted because the airspace ten tefachim above a *karmelis* [and a *reshus horabbim*] is called a מקום פטור (an exempt area) and carrying from one *reshus hayachid* to another via a מקום פטור is permitted.⁷⁵ [According to Tosfos, however, even if the exterior walls of the boat extend more than ten tefachim above the water level, throwing from one boat to the other is prohibited due to the concern that the item might fall into the sea and one might carry it from the sea to the boat.⁷⁶]

The Mordechai indicates that the reason the sages prohibited carrying between unattached boats (when the exterior walls are less than ten tefachim above the water) is that the boats might come apart and there is a concern that one may throw something from one boat to another. This is forbidden because the airspace over the sea is considered a *karmelis* and throwing from one *reshus hayachid* to another through a *karmelis* is prohibited.⁷⁷ [Note: Even if the exterior walls extend less than ten tefachim above the water, the inside of the boat is still a *reshus hayachid*, provided the walls on the inside are ten tefachim high.]

According to Tosfos and the Mordechai, carrying between untied boats is prohibited even if the boats are owned by the same person, because the Mishna is concerned about a possible violation of *hotza'ah* (rather than *eruv*).

**דף קב:
זה הכלל כל העושה מלאכה
ומלאכתו מתקיימת בשבת חייב**

The Mishna says, one who builds כל שהוא (any amount) is חייב. The Mishna further states: Anyone who performs a *melacha* which endures on Shabbos is חייב. Rashi explains that one who performs even a minuscule act of בונה - building - on Shabbos is חייב, provided he creates something that will endure and does not require improvement. According to Rashi, the Mishna means to say, anyone who performs an enduring *melacha* on Shabbos is חייב.^{78 79}

The Rambam,⁸⁰ however, appears to have understood that the Mishna's term "on Shabbos" comes to define the period of time for which the *melacha* must endure.

According to the Rambam, the Mishna teaches that a *melacha* that will endure for at least one day is considered significant,⁸¹ whereas according to Rashi one is not חייב unless he performs a *melacha* that will endure for a long period of time.⁸²

The Yerushalmi⁸³ cites a dispute regarding building a structure with the intent to dismantle it shortly afterwards.

R' Yosi bar Bun adduces proof from the fact that the *mishkan* was constantly assembled and dismantled that a בנין לשעה - temporary building - is considered an act of בונה (because the *melachos* of Shabbos are derived from the construction of the *mishkan*).

R' Yosah maintains that בנין לשעה is not an act of בונה.⁸⁴ He explains that the construction of the *mishkan* was considered a permanent building because Klal Yisrael traveled על פי הדיבור - according to Hashem's instructions (i.e., they remained camped at a given location until Hashem signaled that they should travel further, cf., Gemara above 31b). Since the length of time of their stopover at any given

location was unknown to them, it was considered a permanent stop and the *mishkan* was considered a permanent structure.⁸⁵

The Noda B'Yehuda⁸⁶ asserts that opening an umbrella on Shabbos is prohibited because it involves עשיית אהל - making a tent - which is prohibited as a *toldah* of בונה (see Gemara below 125b).

The Chasam Sofer,⁸⁷ citing the Yerushalmi, writes that opening an umbrella is not a *melacha min haTorah* because it is a בנין לשעה - temporary act of building.⁸⁸ Since one who opens an umbrella does so with the intent of shutting it after a short period of time, it is not a בנין. Therefore he asserts that opening an umbrella on Shabbos is, at most, a rabbinic prohibition.⁸⁹

**דף קג.
שכך כותבין על קרשי המשכן לידע איזו בן זוגו**

The Tanna Kamma of the Mishna says that one who writes ב' אותיות - two letters - on Shabbos is חייב for the *melacha* of כותב - writing. R' Yosi maintains that one is חייב if he makes two marks of any sort, even if they are not letters. R' Yosi reasons that marking is prohibited because during the construction of the *mishkan* they would mark each board so that they could maintain the original sequence of the boards when reassembling the *mishkan*.

The Yerushalmi⁹⁰ derives from a posuk that a board that was originally placed on the north side of the *mishkan* should not be switched with a board from the south side because each board has its own specific designated place.

The Tiferes Yisrael⁹¹ explains that the boards placed on the western side of the *mishkan* near the aron had more *kedusha* - sanctity - than the boards placed further from the aron. Also, the boards on the south side of the *mishkan* contained more *kedusha* than those on the north since the menorah was situated on the south side. It was important to reassemble the boards in their original order because of the principle מעלן בקודש ואין מורידין - a sanctified item should not be degraded to a lower level of *kedusha*. Therefore, it is wrong to demote a

board from a holy position to a less holy position.⁹²

The She'lah⁹³ applies this concept to the positioning of one's talis. He advises that a strip of linen be sewn to the top of one's talis, to ensure that one does not reverse his talis. Just as the Yerushalmi says that the boards of the *mishkan* should be kept in their original sequence, so too, the tzitzis that were originally worn in front, should not be switched to the back (because this would diminish their *kedusha*).⁹⁴

דף קד:

כתב אות אחת בטבריא ואחת בצפורי חייב

The Mishna says one is not חייב for the *melacha* of כתיבה (writing) unless he writes two letters which can be read together as a unit. If one writes two letters on two different walls of a house he is פטור because they cannot be read together.

The Gemara cites Rav Ami who says, in an apparent contradiction to the Mishna, that one who writes two letters is חייב even if they were written in two different towns on two separate scrolls.

The Gemara, in reconciling Rav Ami with the Mishna, explains that in Rav Ami's case the two letters were written at the edge of their respective pages and they can easily be adjoined.⁹⁵ Therefore they are considered as a single two-letter unit. In contrast, in the Mishna's case, adjoining the letters from the two different walls would require breaking the wall and therefore they are viewed as two isolated letters.

The Levush⁹⁶ prohibits opening and closing a book that has words written on the edge of its pages. He argues that when one opens the book and divides the words he is, in effect, erasing, and when one closes the book he is, in effect, rewriting the words.

The Taz⁹⁷ disagrees and adduces proof from our Gemara that the act of uniting letters that were written on two different pages is not considered an act of כותב - writing - and separating such letters is not considered to be מוחק - erasing. He argues that if a word which

is divided into two parts is considered as though it is erased, then one who writes two letters in two separate places should not be חייב for כותב. The fact that Rav Ami says that one who writes two letters in separate places is חייב indicates that he views those two letters as a single two-letter unit ("מחוסר קריבה לאו כמחוסר מעשה") even though they are not currently adjoined. This proves that the act of separating or combining letters is not a significant act and should not be considered as an act of כותב or מוחק.⁹⁸

The Maamar Mordechai⁹⁹ refutes the Taz's proof, arguing there is a distinction between joining complete letters and joining fragments of a letter. He argues that although adjoining two letters from two pages is not considered כותב (as indicated by our Gemara), creating a letter by combining several fragments of a letter is considered a significant act of writing.¹⁰⁰ Therefore, opening and closing a book which has letters written on its edges is considered מוחק and כותב since one thereby divides letters into several pieces (and reunites them).¹⁰¹

דף קה:

הקורע על מנתו אע"פ שמחלל את השבת יצא ידי קריעה

One of the thirty-nine *melachos* is קורע - tearing. One is not חייב unless he tears for constructive purposes, such as for the purposes of re-sewing a garment that was initially not sewn properly (Mishna 105a).

- Upon learning of the death of a close relative one is obligated to perform קריעה - rend his garment.

The Gemara cites a braysoh which says that if a mourner tore his garment on Shabbos, he has desecrated Shabbos (because rending a garment in mourning is considered a constructive act). Nonetheless, the mourner has fulfilled the mitzvah of *kriyah* and need not perform another act of *kriyah* after Shabbos. [The Gemara explains that the Mishna which says that one who rends his garment for a deceased person is פטור, is dealing with a non-relative who is not obligated to rend his

garments, and whose act of tearing is therefore considered destructive.]¹⁰²

The Gemara in Succah 30a says that one cannot perform a mitzvah with an item acquired through sin (מצוה הבאה בעבירה) and therefore if one uses a stolen lulav he does not fulfill the mitzvah. Similarly, one who eats stolen matzah at the seder does not fulfill the mitzvah of matzah because it is a מצוה הבאה בעבירה - mitzvah facilitated by a sin.¹⁰³

The Yerushalmi¹⁰⁴ asks why a mourner who performs *kriyah* on Shabbos fulfills the mitzvah. Since the act of *kriyah* is a Shabbos desecration, the mitzvah should be invalid based on the principle of מצוה הבאה בעבירה.

The Yerushalmi's answer, "תמן גופה עבירה" "ברם הכא הוא עבר עבירה" being somewhat ambiguous, lends itself to three interpretations.

(a) Tosfos in Succah (30a) explains that the principle of מצוה הבאה בעבירה applies when a mitzvah was made possible through the execution of a sin. For example, eating stolen matzah is considered a מצוה הבאה בעבירה because if this person would not have stolen the matzah, he would not have been able to eat that matzah. In contrast, tearing a garment on Shabbos does not disqualify the mitzvah of *kriyah* because the mitzvah could have just as well been performed after Shabbos and thus it was not the sin of tearing on Shabbos that made the mitzvah possible.¹⁰⁵

(b) The Bais Yosef¹⁰⁶ explains that the principle of מצוה הבאה בעבירה states that an aveirah item

cannot be used for a mitzvah. A stolen item is classified as an "aveirah item" and therefore may not be used for the performance of the mitzvah of lulav or matzah. However, a garment that was torn on Shabbos is not classified as an "aveirah item" and therefore it is not considered a מצוה הבאה בעבירה.¹⁰⁷

(c) The Sefas Emes asserts that if one performs a mitzvah at the moment he commits a sin, the mitzvah is invalid (even if the mitzvah was not facilitated by the sin). He suggests that the Yerushalmi means to say that the mitzvah of *kriyah* does not occur at the moment one tears his garment, for the mitzvah of *kriyah* is not the act of tearing the garment, but rather the act of wearing the torn garment.¹⁰⁸ Therefore, even if the garment was torn on Shabbos, it is not a מצוה הבאה בעבירה since the mitzvah is not performed at the time of the tearing.¹⁰⁹

- The Yerushalmi adds that if the first night of Pesach falls on Shabbos and one violates Shabbos by carrying matzah from the street to his house, he can still fulfill the mitzvah with that matzah. The fact that the matzah was carried through the street on Shabbos does not disqualify it for the mitzvah.

- The Ramban¹¹⁰ rules that if one performs *kriyah* by tearing a stolen garment, it is considered a מצוה הבאה בעבירה and the mitzvah is invalid because this case is comparable to one who eats stolen matzah. ■

Corrections: Shabbos 5 (Vol. 10):

1. Page 3 (ע 7ד.), par. 4, should read: The concept of חילוק מלאכות regarding Shabbos teaches that one is /~~not~~/ subject to multiple *chatta'os*...(the word "not" should be deleted).

2. Page 3, par. 7, second sentence (9 lines from the bottom of column 1) should read: We could derive from Shabbos that just as an inadvertent offender who violated multiple *melachos* on Shabbos brings /~~only one korban~~/ **multiple *chatta'os***, so too, one who....on Yom Kippur should be subject to /~~only one *chattos*~~/ **multiple *chatta'os***.

3. Page 10 (ע 7ד:), par. 1, should read: Alternatively, says Tosfos, the case is where the *parsha* of ויהי is written on top of a column and one wishes to write the *parsha* of /~~ויהי אם שמע~~/ **Shema Yisrael** on the blank margin above it.

כו: שהוסף על דברי הרמב"ם הגי' וז"ל - אף דמתנדדין חשובי מחוברין וחיבור נולד עכ"ל, וז"ל.

(58) פרק הי"ג הלכה ד'.

(59) ועיי' בתוס' דף ד' ד"ה באליל שהק' מר' חסדא דאמר בסוף דף ז. נעץ קנה ברשות היחיד ועי' קה"ל סי"ד.

(60) וצ"ל לפי"ז האביעא על רבא בענין אגוז על גבי כלי איירי דוקא בכלי שהוא ד' על ד', ודווקא וחקשה החזון יחוקשל עמס' שבת דף ה' ודף ק' מהא דמדוקי בהרמב"ם פי"ד הל' כ"ג. הדחת חפץ ע"ג מים שפיר מיקרי הנחה, ועיי' ובמרומי שדה כאן ובקה"ל סימן ח' שמחלקים בין עקירה להנחה, ואע"פ שצריך עקירה במקום ד' לא בעינן הנחה על מקום ד'.

(61) מובא בשיטה מקובצת בבא מציעא ט' ט: (ד"ה וז"ל הרמב"ד), וכעין זה כתב הרש"ש דף ה: "סוד"ה בסה"ד אבל.

(62) עי' רש"ש הגי'ל, ועיי' בקה"ל סימן ח' ד"ה וחשבתי דמבואר דלפי טעם רש"י צ"ל דרבא איירי דוקא במים דנייד כוון נהר, משא"כ להרמב"ם ולהראב"ד איירי אפי' במים בבור [וכבר העירו האחרונים הגי'ל דכן הוא משמעות הגמ' בדף ה: דאיירי במים בבור ולא במים דנייד, ועיי' במרומי שדה כאן].

דף ק

(63) עי' רש"י שכי' (בשם תוס') דעסקין דוקא בפירות טבל שא"ה להוציאם בשבת משום דמקצין הם, אבל שאר פירות אינו מטבילין ומטבילין מחציתא, ועי' כאן בתוד"ה פירות שחולק.

(64) וסבא כעין זה נזכר בריטב"א עירובין כב שכי' שם דמחיצות הרחוקות זו מזו לא הוי מחיצה כיון שאדם העומד בתוכן אינו רואה המחיצות (ויש לעיין אי' ב' סברות הללו שייכי להדדו).

(65) התניח אדם במטל שם הפירות, אבל אם הניחן שם רק לזמן מועט צ"ע האך שייך לומר שהם מביאים המחיצות הברז לכאן והתח פירות זהו גופא השתמשות הבור, עיי' במארי וז"ל.

(66) וז"ל המארי - ומים מיהא הרי רוב דברים משתקעין ויוודין עד קרקעיתם עכ"ל, אולם צ"ב שהרי השתלט הצניע לתוך בור מלאה מים גורם שיפסק המים מן הבור, וא"כ צ"ב האך אפשר להשתלט בהבור כ"ז שרוצה להצניע שם מים, ועוד צ"ע מה"ש שאדם רוצה להצניע חפציו לתוך המים, ואולי צ"ל דאין כוונת המארי שיכול אדם להשתמש בבור מלא מים אלא ר"ל דמים לא חשוב אלא כאור בעלמא ולא מבטל מחיצות הבור משא"כ כשיש פירות בבור חשוב כבור מלא עפר וכו' לית תיה מקום ד' או מחיצות י' (אולם ש"ס דמבא"ז לא שייך אלא כשמבטל שם הפירות, ובמארי משמע דאיירי אפי' בלא ביטל, וצ"ע).

דף קא

(67) סימן שמי"ה סק"י.

(68) שם בא"ה סק"י י"א (חקר שם חלקך בין מים צלולים לעכורים).

דף קב

(69) וכן מבואר לעיל דף ו. דים הוי כרמלית, וכתב המג"א בסימן שמי"ה הטעם משום דסתם ים אינו משופע כ"כ בשפתו ואינו מתלקט י' בתוך ד', ולפי"ז ביש ששפתו משופע הרבה ומתלקט י' טפחים ד' אמות אז שפיר הוי רה"י, וצ"ע לכאן מנמי. עירובין דף כב: דקאמר הגמ' "כולו עלמא מקוף ליה אוקיינוס" דמשמע להדיא דשפת אוקיינוס שפיר הוי מחיצה גמורה שהשתלט י' תוך ד' ומימ' לא חשיבנן ליה מחיצתא לשווי כל העולם להרי"ה, ועי' ראשונים שם שנתנו טעמים לזה (אז משום דהוי מחיצות בידי שמים דבקעי ביה רבים אי משום דהוי הקיפין גדולות כימ' עד שאין ניכר שעומד בתוך מחיצות, עיי' בתוס' ותוס' הרא"ש וריטב"א) ולכאן הוסיף טעמים אלו גם הים לא חשיב רה"י אע"פ שיש לה מחיצות כשרות בשפתו, ודווקא.

(70) תנן מבוואר מסיפיה ליל פטור, משמע דפטור אבל אסור, דאף דמבואר לעיל דאגוז ע"ג מים לא מיקרי הנחה וא"כ צ"ע למה אסור לזרוק להים לכאן צ"ל דמימ' אסור חז"ל להעביר חפץ מרה"י דרך כרמלית אפי' בלי הנחה בהכרמלית (עי' בית מאיר סימן שניה שדן בזה אי ש' אסור לטלטל מרה"י לרה"י דרך כרמלית, ובאתי רק להעיר).

(71) רש"י דף ק: (במשנה) כתב נכד מופיעי ומפסקה כרמלית בטל העירוב עכ"ל, משמע דבדבריו דלא בטל העירוב עד דמפסקה ספינתה, אולם במשנ"ב סימן שניה סק"י י"ז כתב דבדבריו דעשוין לנדו ולהתרחק זו מזו לא מהני עירוב וכי מדוקי דבדבריו דבטל העירוב אפי' קודם דמפסקה (וצע"ק, ועיי' בתוד"ה פשיטא דסד"א דלא מהני עירוב בין ב' ספינות אי"פ שקשורות כיון שאינן קבועות להיות ביחד).

(72) משמע דבדבריו רש"י במתני' דאם הספינות של אדם אחד לוכא למיחש למדיד ולא חיישינן דילמא אתי לטלטל אתי לספינה וכן לא חיישינן לטלטל דרך אור כרמלית [אולם עי' רש"י דף קא: ד"ה לא נצרכא שכי' - ולא חיישינן דילמא מיתקלא מבינייהו וקא מטלטל "דרך אור כרמלית" עכ"ל, עי' שפת אמת במתני' דף ק: שהרגיש בזה, עיי'.

(73) וז"ל תוס' - גזירה שמה פיהל החפץ אל המים ומטלטל מרה"י לכרמלית ואתי לאתויי, עכ"ל, וצ"ע בכוונתו דבתחילת דבריו משמע דהעיקר גזירה הוא שיבא לטלטל מרה"י לכרמלית עיי' שפול לתוך הים, וזה צ"ע שהרי אינו מתכוין לזה שיפול הדבר מימד וא"כ הוי מלאכה שאינה מתכוין ואין מקום לגזור ע"ז, וצ"ל דעיקר גזירה שיבא לתוך הים מן הים אחר שיפול מימד ואתי לאתויי אלא מהספינה (וגם על זה יש להעיר דאגוז ע"ג לא מיקרי הנחה וא"כ מה"ש שגזור שמה יבא לטלטל מן הים אל הספינה), והא דלא כתב תוס' דחיישינן לטלטל דרך אור כרמלית משמע דליכא איסור בזה, וי"ל דדוקא כאן לענין ספינה

ליכא איסור לטלטל דרך אור כרמלית משום דמן הסתם הוי למעלה מעשרה וכדלקמן. (74) ס"י שעיד' (רש"י פרק הורוק), מובא ברמ"א ס"י שניה סו"ס א'.

(75) כמבואר בסימן שני"ג סעיף א' ע"ש, ואם הספינות הם של ב' בני"א עי' משנ"ב סימן שניה ס"ק ד"ה שהביא ב' דעות אם מהני עירוב (בספינות שאינן קשורות כשהם למעלה מים), ועי' בה"ל

שם ד"ה עירובים שהביא המג"א דס"ל דמותר אפי' בלי עירוב. (76) כן מבואר בן ק: דכשממלא מים מן הים לספינה אפי' אם הוא דרך מקום פטור מ"מ היכר יזו בעינן (וכן קיי"ל בס"י שניה ס"א), וממילא נקטנו דלפי תוס' אפי' אם כותלי הספינה גבוהים י' מן הים מ"מ האיסור במקומו עומד כיון שעדיין שייך הגזירה שפול לים יובא לטלטלו מן הים לספינה באיסור, אולם יש לזון בזה דאולי לא גזרינן ככה"ג כיון שטלטלו בלי חיוב כן אינו אלא איסור קל.

(77) עי' מארי שכתב להדיא דהטעם שאסור לזרוק מספינה לספינה כשהן מרוחקות זו מזו הוא משום דחש לטלטל דרך אור כרמלית (אבל לא כתב להדיא דהטעם דבעינן קשורות זה לזה משום דאשר שיבא לידן כן), ועי' בית מאיר סימן שניה.

דף קכ

(78) עי' ה"ה ר"מ הורו"ף כאן שהק' מאי קמ"ל פשיטא דצריך לעשות המלאכה בשבת דוקא. (79) באמת משמע ברש"י שיש תנאי במלאכה דאינו חייב על בנין כל שהוא אפי' י"ש מתקיימת וניצא בו ואין מוסרין עליה עכ"ל, ר"ל שיהא דאף שהוא בנין כל שהוא צריך להיות חשובה כבנין בעצמו דאין תיקון אחר (כע"פ לקצת בני"א), עי' אגלי טל מלאכה אפ"ה סק"ט אות י' ובשנת אדם כלל כ"ד סק"א, ובשבת השבת כלל מלאכה שבת "דיני מלאכה שאינה לקיט"א אות א'.

(80) כן מדויק השער הציון סימן ש"ג סק"ט ס"ה מלשון הרמב"ם הל' שבת פרק ט' סוף הלכה י"ג.

(81) ויש לחקור אם שבת דוקא או דילמא צריך שיתקיים כ"ד שעות (וכן מצאנו שיעור כעין זה בענין קשר של קיימא ברמ"א סימן ש"ג ש"ה שהביא שם דעה א' דס"ל דכל קשר שאינו עשוי להחריב באותו יום מיקרי של קיימא, וכ' שם הפרמ"ג דאותו יום היינו תוך כ"ד שעות), ונפ"מ אם עשה מלאכה בסוף שבת קודם שקיה"ח אם חייב אע"פ שמלאכתו אינו מתקיים אלא לחצי שעה.

(82) עי' סימן ש"ז ס"א שהביא הרמ"א ב' דעות בענין קשר של קיימא, דלדעה א' כל קשר שאינו עשוי להחריב באותו יום מיקרי של קיימא, ולדעה ב' עד ז' ימים לא מיקרי של קיימא, ועי' ח"י הרשב"א דף קט: ד"ה הא דאמרינן שכתב דאע"פ דאינו במתני' דף קד: דאינו חייב משום כותב אפי' כתב דבר המתקיים מ"מ לא בעינן שיתקיים לעולם אלא עד זמן שדרכן לבני אדם לכתוב בהן דברים שאינן עשויין לקיימן לעולם (ועי' ביה"ל סימן ש"מ ס"ד ש"כ עפ"י אם כתב בכלי עופרת חייב כיון שדרך סוחרים לכתוב בהם חשבונותיהם ע"ש), ולכאן יש ללמוד מזה לשאר מלאכות, אולם עי' סימן ש"ז ס"ה ב' שהביא הרמ"א פלוגתא בענין תפירה כיון שיש קיימא שיש אומרים דאין חילוק בתפירה בין של קיימא לאינה של קיימא (לכאן לפי דעה זו ה"ה בשאר מלאכות אין צריך של קיימא, ועדיין צ"ע ב"כ), ועי' שו"ת מנחת יצחק ח"ז סימן י"ג, ועי' בימנחת אריאל".

(83) כאן בריש פרק הבונה וכן בכלל גדול סוף הלכה ב' (דף נב:) ושם בכלל גדול מסיים הירושלמי "הדא אמרה בנין לשעה בנין" (משמע דזהו המסקנא).

(84) מבואר דאע"פ שהבנין ראוי להתקיים מ"מ אם דעתו לסותרו מיקרי בנין לשעה ולא הוי בנין, וכן באור הלכה שם ריש סימן ש"ז שהביא דעת הט"ז שכי' בענין קשר שאינו שייך דהכל תלוי בדעת הקושר, אולם המשנ"ב מסיק כהבית מאיר שאם הוא מין קשר שרוב העולם עושין אותה ועל קיימא תו לא מהני דעתו (ובכוונת הירושלמי יש לומר דמשכך לא היה בנין קבוע שהרי נעשה באופן ששייך להתפרק ולהורו לבנותו תמיד ולכן נקט ר' יוסה דלולי זאת שהיו נוסעים על פי ר' היה מיקרי בנין לשעה, ועי' מנחת יצחק ל"ב (מוסד השבת) מלאכה זו"ע דמדוקי שהבנין דעת הירושלמי שהכל תלוי בדעת הבונה אפי' בבנין גמור).

(85) ומבאר הירושלמי דסברת ר' יוסי בר הון הוא דכיון שהבטיח להם הקב"ה שיהיו כנסתין לארץ א"כ ודאי מיקרי בנין רק לשעה.

(86) נב"ה א"ח סימן ל'.

(87) א"ח סימן ע"ב.

(88) ואע"פ דבירושלמי יש פלוגתא בזה כתב החת"ס דבבלי סבר כר' יוסה שהרי לעיל בדף לא: הביא הגמ' הסברא ד"כיון דכתבי על פי ה' יחנו הוי כמקומו" שהו [כעין] סברת ר' יוסה (ועי' שו"ת מנחת חיים ח"ג א"ח סי' כ"ג שמעורר דסברת ר' יוסי בר הון [דהוי לשעה כיון שהבטיח להם הקב"ה שמכניסין לארץ] לא שייך לסנוייה בבמה מדליקין שהגמ' שם לא קאמר אלא שבמדבר חשוב כעל מנת לבנות במקומו ומה"ש שסתם הבבלי כר' יוסה, וכן מבואר באור עמח ה"ל שבת פ"ה הל' י"ב ד"ה ובירושלמי בבבלי לא סתר הירושלמי דלא שייכי ה"ב ענינים להדדי [ועיי' שם שנקט הארי"ש דמסקנת הירושלמי הוא דבנין לשעה הוי בנין ולית מאן דפליג ע"ז וכן משמע בכלל גדול שם סוף הלכה ב' שמסיק "הדא אמרה בנין לשעה בנין" ועי' מנחת יצחק השבת (מצוה לב) מלאכת זו"ע שכתב להדיא נקט דפשיטא דבונה ע"מ לסתור חייב ובמנחת הקומץ כתב דשוב הראו לו שבירושלמי יש פלוגתא בזה].

(89) עי' באור הלכה סימן שט"ו ס"ז ד"ה טפח שהביא הנו"ב ועוד מחמירים ומסיים דהשומר נפשו ירחק מזה מאד.

דף קג

(90) כאן בפרקין הלכה ג', מובא בר"ן ובמארי כאן.

(91) כאן אות כ"ז.

(92) באמת לא הביא תפירת ישראל את הירושלמי, ויש לעורר דלשון הירושלמי הוא דקשר שוכה להנתן בצפון יתן בצפון לעולם וכן בדרום יתן בדרום, משמע שיש קפיידא גם על קרשי צפון שלא יתן בדרום אע"פ שזה הוסיפת קדושה.

(93) שער האותיות מסכת חולין, מובא במג"א סימן ח' סק"י (וכתב השו"ע הגר"ז שם ס"ט דהטעם משום מעלין בקודש ואין מורדין).

(94) ועי' שם במג"א שהביא דהאר"י ז"ל לא היה מקפיד ע"ז (ועי' ספר שמי"ב כאן).

דף קד

(95) כך פירש רש"י (וכעין זה ברמב"ם פ"ה הלכה ב' מהל' שבת הלכה י"ג, עיי' במי"מ), אולם עי' רבינו חננאל וירושלמי הרשב"א כאן שפי' בע"א, ועי' שו"ת ר"י מינש סימן מ"ה שהוכיח מגמ' כאן דטבריה וצומרי קרובים להדדי בתוך תחום שבת דאל"ה א"א לקרבן להדדי (אולם צ"ע דמימ' צריך להוציאם כדי לקרבן להדדי ויש בו משום איסור הוצאה של חצי שיעור).

(96) סימן ש"מ הלכה ד', מובא שם במג"א סק"י ובט"ז סק"ב, ומסיים שם הלבוש דקרוב אני לומר שחייב עליו חטאת.

דף קה

(97) וכוון הט"ז לדעת הרמ"א בתשובתו סימן קי"ט שגיי' מיקל מכח ראייה זו (והביא שם הרמ"א שם שיש ע"ז ראיית אחרות, וכתב שם שיש עוד סברא להקל בספר כיון שעומד לפתוח ולסגור תמיד, וכ"כ הפרשה שם סק"א דהוי כמו דלת הפנתת תמיד שאין בו משום סתירה).

דף קי

(98) סימן ש"מ סק"ה. (99) והחילוק צ"ע, ועי' בשו"ת הרמ"א שמבאר דאין לחלק בין חצי אות לאות שלם דלענין חיוב שבת ב' אותיות כאות א' דמי), ועי' אג"מ יו"ד ח"ב סימן ע"ה בד"ה ובדבר דף קרוע.

(100) וגם המג"א שם סק"ו דעתו להחמיר, אולם הרבה אחרונים מקילים כה"ט והרמ"א, וכתב המשנ"ב סימן ש"מ סק"י י"ז דהנמנה להקל אבל נכון להחמיר כשיש לו ספר אחר, ועי' חזו"א סימן ס"א סק"א.

דף קיא

(101) עי' רש"י דף קה: ד"ה הא ר' יהודה שכתב דגם י"ל דתנא דמתני' ר"ש היא ואפי' אם קרע על קרוב פטור כיון שהוא מלאכה שאע"פ, ועי' תוד"ה ח"ב שהחולק וס"ל דקריעה על מתו מיקרי מלאכה שצריכה לגופה כיון דמצוה קעבד וחייב עליה אפי' לרש"י.

(102) כן מבואר בירושלמי בפרקין המובא לקמן (וכן בירושלמי חלה פ"א סה"ה, וכן פסק הרמב"ם פ"י מהל' חנוך ומצה ה"ז, אלא דשם לא נזכר הטעם דמצוה הבאה בעבירה).

(103) בפרקין ה"ג, מובא בח"י הרשב"א וריטב"א.

(104) תוס' שם לא הביא הירושלמי אבל הקרבן העדה ופני משה פ"י הירוש' על דרך זה.

(105) וי"ד סימן ש"מ ד"ה קטן, וז"ל דהתם גוף המצוה (שהיא המצה) היא עבירה שהיא גזולה אבל הכא גוף החלוק אינו עבירה (וצב"ק).

(106) והנפ"מ בין שני הטעמים הוא לולב של אשירה דלפי תוס' לא מיקרי מצה"ב כיון שלא נתאפשר המצוה ע"י מעשה עבירה (כמבואר בתוס' שם בסוכה) משא"כ להב"י לכאן לולב של אשירה שפיר מיקרי שגופו עבירה.

(107) כלי אע"פ שאין יכול לבלוש בגד שנקרע ע"י אחר מ"מ י"ל דהמצוה הוא שצריך להלך בגד שקרעו בעצמו.

(108) ס"ל להפשי"א דאילו בא העבירה והמצוה ביחד אז שפיר מיקרי מצוה הבאה בעבירה ואפי' אם לא בא המצוה ע"י העבירה (ולכאן צ"ע שהרי בלולב הגזול ג"כ יש עבירה בשעת המצוה [כמבואר בשער המלך הל' לולב פ"ח] שהרי בכל רגע הוא מחויב להשיב הגזילה, ומימ' מבואר בתוס' דלא מיקרי מצוה הבאה בעבירה אלא משום דבא המצוה ע"י העבירה), ועיי' שו"ת רע"א קמא סוף סימן קע"ד, ועי' בתוצאות חיים סימן י"ח סק"ה.

(109) בתורת האדם להרמב"ן שער הקריעה (עמוד סו דפוסו מוסד הר"ק), מובא בטור יו"ד סימן ש"מ.

פז	לז"נ מינדל בת משולם KATE ETTLINGER GOLDNER ז"ל *	כא תמוז	Thrs
פח		כב תמוז	Fri
פט		כג תמוז	Sh
צ	In honor of Dr. Moris Stein's 75th Birthday and his 3rd cycle <i>daf yomi</i>	כד תמוז	Sun
צא		כה תמוז	Mon
צב		כו תמוז	Tues
צג	לז"נ גאלדא בת חיים לעמל ז"ל * GILDA HALPERN	כז תמוז	Wed
צד	לז"נ דוד בן אלימלך ז"ל *; by Rabbi & Mrs. Eric Wilner	כח תמוז	Thrs
צה	לז"נ חיה שרה מינדל בת ר' צבי יהודה פערלשטיין ז"ל *	כט תמוז	Fri
צו	לז"נ אבי מורי דוד יהודה ב"ר משה ריממער ז"ל *	א אב	Sh
צז	לז"נ ר' משה בן הרב יואל Summer ז"ל *	ב אב	Sun
	לע"נ ר' דוב ב"ר נפתלי הערצקא טעפפער ז"ל *		Aug 7
צח	לז"נ צבי יעקב בן יצחק ז"ל *	ג אב	Mon
צט	לז"נ יוחנן בן שמואל וביילא בת אברהם Hirsch הי"ד	ד אב	Tues
ק	לז"נ הגאון הגדול הדור ר' חיים עוזר ב"ר דוד שלמה גרודזינסקי זצ"ל * 65th Yartzeit of Harav Chaim Ozer Grodzenski	ה אב	Wed
			Aug 10
קא		ו אב	Thrs
קב	לז"נ נפתלי הערץ בן זלמן ז"ל *	ז אב	Fri
קג		ח אב	Sh
קד	לז"נ חמותי זהבא בת פנחס זאב ז"ל *	ט' ב'אב	Sun
קה	לז"נ ר' ארון ליב בן שלמה דוד הלוי סגל ז"ל *	י אב	Mon

* Denotes Yartzeit

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