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בס"ד Intro

Today we will בע"ה learn מסכת ביצה of דף לט. Some of the topics we will learn about today include:

A continuation of the discussion of תחומין on Yom Tov and how we determine the proper תחום boundaries on Yom Tov for jointly owned items.

Some of the key topics and concepts that we will learn about include:

מעילה

מעילה is misappropriation of property belonging to the בהמ"ק. A special בהמ"ק is brought by anyone who uses בהמ"ק property for personal benefit.

הפקר

הפקר refers to an item which is ownerless, and can be acquired by anyone.

В

ברירה

ברירה is the concept of making something contingent upon events that have not yet taken place. For example, making a sale conditional on something that will happen only tomorrow. ברירה retroactively validates such a conditional action, whereas opinions who hold אין ברירה would hold that such an action would be rendered invalid.

קלבון

The Kalbon is a transaction fee that was assessed on to the Machtzis HaShekel donation to the Bais HaMikdash, as explained in the Mishna in Shekalim.

מעשר בהמה

The mitzva of מעשר בהמה is that one designates every tenth Kosher animal born into his herd over the course of the previous year, and separates it as מעשר בהמה.

If the מעשר בהמח מישטר animal has no מום, it is offered as a Korban on the מזבח and eaten by its owner in Yerushalayim. If it has a Mum, the owner may slaughter and eat it anywhere.

A continuation of the discussion of your Tov and the proper תחום boundaries for jointly owned items

מעילה









1 So let's review.....

Our Daf continues the discussion about מחום יום טוב, specifically as it relates to possessions which are shared by various people.

Zugt the Mishna:

הגחלת כרגלי הבעלים ושלהבת בכל מקום

Coals follow the חחום of the owner, whereas a flame can be carried anywhere, as a flame is not considered an item of substance, and therefore does not follow anyone's חחום.

גחלת של הקדש מועלין בה ושלהבת לא נהנין ולא מועלין

One can be הקדש in a coal of הקדש, whereas one cannot be מועל in a flame. Once again, since a flame is not considered an item of substance, there is no מעילה regarding a flame. However, it is forbidden to be used.

המוציא גחלת לרה"ר חייב ושלהבת פטור

One who carries coals from ה"י סח כה" on Shabbos is חייב for מוציא מרשות לרשות, whereas one who carries a flame is פטור, as a flame is not considered an item of substance to be הוצאה on Shabbos.



המוציא גחלת לרה"ר חייב
ושלהבת פמור

A flame is not considered an item of substance
to be מיב for אל מיב on Shabbos

3 The Gemara adds:

חמשה דברים נאמרו בגחלת

There were five Halachic statements made regarding coals as opposed to flames:

The three items mentioned in the Mishnah And the Gemara adds two more items.

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גחלת של ע"ז אסורה ושלהבת מותרת

Coals of ""b become forbidden, whereas a flame that has been used for ""b is permitted, since a flame is not considered an item of substance in Halachah.

-2-

המודר הנאה מחבירו אסור בגחלתו ומותר בשלהבתו

One who has taken an oath forbidding him from benefiting from his friend, may not use his friend's coals, but may use his friend's flame.









The Gemara asks;

מאי שנא שלהבת ע"ז דשריא ומאי שנא דהקדש דאסירא

Why does the Braisa permit the use of a flame of י"ט, but forbids a flame of הקדש?

The Gemara answers:

ע"ז דמאיסה ובדילי אינשי מינה לא גזרו בה רבנן

הקדש דלא מאיס ולא בדילי אינשי מיניה גזרו ביה רבנן

Any item of v"v is repulsive to people, and they would distance themselves from it. Therefore, the Chachamim did not feel a need to forbid it.

However, הקדש, since it is of course not repulsive, and people do not distance themselves from it as much, the חכמים instituted a הקדש to forbid the use of a flame of הקדש, lest he come to use coal of מעילה מן, for which there is מעילה מן התורה.

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The Mishnah taught;

המוציא שלהבת לרשות הרבים פטור:

The Gemara cites an apparently contradicting Braisa; והא תניא המוציא שלהבת כל שהוא חייב

Someone who carries out a flame of even the smallest size is on Shabbos.

The Gemara answers that the Braisa is referring to either כגון שהוציאו בקיסם

A flame on a small toothpick - or -

- כגון דשייפיה מנא משחא ואתלי ביה נורא

A flame on a broken shard which was smeared with oil -

He is not חייב for הוצאה of the toothpick or the shard, because it did not have a חייב to be חייב for הוצאה. However, he IS חייב for הוצאה of the flame, because the flame IS considered significant when it is attached to something solid.

Our Mishnah however, is speaking of carrying the flame by itself -

How is this done?

כגון דאדייה אדויי לרה"ר

If he blows with his mouth or hand, a flame which is at the edge of a פטור, into the ה"השיה, he is פטור, because a flame alone is not considered an item of substance to be הוצאה on Shabbos.

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Zugt the Mishna;

בור של יחיד כרגלי היחיד

A well or reservoir of water belonging to a private person follows the punn of that individual.

ושל אנשי אותה העיר כרגלי אנשי אותה העיר

The water of a reservoir belonging to the city may only be carried within the תחום of the city.

ושל עולי בבל כרגלי הממלא

Whereas a well that was dug for עולי בבל - for travelers who go up from עולי מייה לרגל - are considered הפקר, and the waters drawn from these wells follow the תחום of the person who drew the water.













The Gemara clarifies further that our Mishah is speaking of Collected water - which is קונה שביתה where its owners are. However, if one drew water on Yom Tov from flowing rivers and streams,

הרי הן כרגלי כל אדם

There is a Machlokes in the meaning of

כרגלי כל אדם

Tosfos in מסכת עירובין says that it is the same as כרגלי המטלא

The water acquires the חחום of the first person who drew the water. If he then gives it to another person, it remains restricted to the חחום of the first person.

However, Rashi here explains;

אין להם שום שביתה

לא במקומן

ולא כרגלי הבעלים

ולא כרגלי הממלא

אלא כל אדם מוליכן ברגליו

The water has no שביתה at all, and is not restricted at all. The second person – and a third or fourth person as well – may take it with him to wherever he may go.

דכל מידי דנייד לית ליה שביתה

As there is no concept of קנין שביתה for something that is not stationary

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The Gemara examines the following case:

מילא ונתן לחבירו

Rashi explains that the Gemara actually means; שמילא לצורך חבירו

One person drew water from a well of עולי בבל for his friend; רב נחמן אמר כרגלי מי שנתמלאו לו

The water follows the person for whom the water was drawn. רב ששת אמר כרגלי הממלא

The water follows the person who drew the water.

The Gemara explains:

מר סבר בירא דהפקרא הוא

Rav Sheshes holds that the well of עולי בבל נולי כמלי נולי בל עולי בבל wis considered אפקר, in which case one cannot Halachically be זוכה for his friend. As Rashi explains according to the Gemara; because he is תופס לאחרים - by him being קונה for his friend, he is preventing another person from potentially being אחרים the same water. Therefore, we must say that he - the one who drew it - עכולי הממלא, hence, כרגלי הממלא pithe water, hence, כרגלי הממלא.

Whereas עולי בבל holds that בירא דשותפי הוא, the waters of עולי בבל, the waters of כלל ישראל, in which case one may act as a שליח to be קונה the water for his friend, hence, כרגלי שנתמלאו לו.

The Gemara clarifies... COLLECTED **FLOWING** WATER **RIVERS** שאית קונה לביתה where פני פן its owners are כדולי כל אדם The second person it acquires the תחום third or fourth person etc. of the first person may take it with him to who drew the water wherever he may go דבל אנידי דנייד אית איד לביתר









Rava challenges Rav Nachman's opinion that a בור של עולי בבל is a בור של עולי בבל from the Halachos of נדר:

הריני עליך חרם

If someone makes a נדר stating that my possessions are forbidden to you as הקדש,

המודר אסור

The subject of the נדר is forbidden to use the possessions of the נדר, the one making the נדר

הרי אתה עלי חרם הנודר אסור

Your possessions are forbidden to me, the גודר, the one making the נודר is forbidden to use the possessions of his friend.

הריני עליך ואתה עלי שניהם אסורים זה בזה

Both the מודר and the מודר are each forbidden to benefit from the other's possessions.

ומותרין בשל עולי בבל

They may benefit from items made for עולי בבל, as these are considered הפקר,

ואסורין בשל אותה העיר

They are prohibited from using items under the auspices of the city, as all people are considered שותפין, partners in these services.

The gemara elaborates: ואלו הן דברים של עולי בבל הר הבית - הלשכות- והעזרות ובור של אמצע הדרך

ואלו הן של אותה העיר הרחוב - ובית הכנסת - ובית המרחץ

ואי אמרת בירא דשותפי הוא אמאי מותר If, according to Rav Nachman the wells of עולי בבל are considered as belonging to שותפין, why are they מותר?

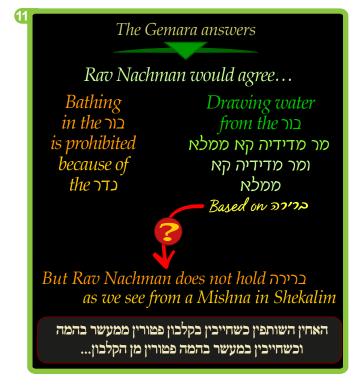
The Gemara answers, that Rav Nachman would agree that bathing in the בוד would be prohibited because of the נדר, however, drawing water from the בור מר מדידיה קא ממלא ומר מדידיה קא ממלא

Each one takes from their respective share in the בור. Based on ברירה, we say that the water drawn belonged to each individual retroactively from before the נדר and the עדר was not יש on this water.

The Gemara challenges this explanation, as we see in the Mishna in Shekalim that Rav Nachman does not hold ברירה: האחין השותפין

9 Rava challenges Rav Nachman's opinion
that a בירא דשותפי is a בור של עולי בבל
הריני עליך חרם הרי אתה עלי חרם
המודר אסור











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The Gemara therefore concludes that we cannot explain the בור of שותי as being a case of שותפין, but rather all hold that the waters of a well of עולי בבל?

And the Machlokes between Rav Nachman and Rav Sheshes where one draws water for his friend is based on המגביה מציאה לחבירו

All agree that one cannot be קונה the water from הפקר for someone else. However, since he is drawing the water מר סבר הנה

Rav Sheshes holds that he is קונה the water for himself, and therefore the water is

כרגלי הממלא.

Whereas Rav Nachman holds לא קנה

He is not קונה the water for himself, since that was not his intention, and it remains הפקר until his friend takes possession of the water, and therefore the water is ברגלי מי שנתמלאו לו.



So let's review...



חסידים ואנשי מעשה היו מרקדין בפניהם באבוקות של אור שבידיהן באבוקות של אור שבידיהן ואומרים לפניהם דברי שירות ותושבחות Pious men, and men of good deeds, would dance before them with flaming torches in their hands, and they would recite words of song and praise to Hashem.