

A בס"ד
Intro
Today we will learn בע"ה of דף י of ביצה.
Some of the topics we will learn about today include:

A discussion of the opinion of ב"ה regarding whether they are מקיל or מחמיר regarding simchas Yom Tov in halachic decisions -

A Mishna which brings a מחלוקת between ב"ש and ב"ה as to how one actually designates birds for use of Yom Tov -

A

The opinion of בית הלל whether they are מחמיר or מקיל regarding simchas יום טוב

בית שמאי *מחמיר* בית הלל
How one designates birds for use of יום טוב

B And a second mishna, which will discuss the halachic ramifications of various cases where one designates birds for use on Yom Tov, and subsequently finds different birds in the coops.

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

בנין וסתירה בכלים

בנין, building, and סתירה, dismantling, are two of the thirty-nine אבות מלאכות that are prohibited on Shabbos.

It is a Machlokes between Bais Shamai and Bais Hillel whether בנין and סתירה apply only to structures attached to the ground, or to movable utensils as well.

B

...Halachic ramifications... where one DESIGNATES birds for use on יום טוב, and subsequently finds DIFFERENT birds in the coops

בנין וסתירה
בכלים

C ברירה
Bereirah 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. It is a Machlokes in the Gemara and in Halacha as well, יש ברירה, which would retroactively validate such a conditional action, or אין ברירה, and such an action, is invalid.

טומאת פתחים

If a corpse or part of a corpse is in a house, it causes all people and vessels in the house to become Tamei, which is called טומאת אהל. Additionally, it is also Metamei those vessels that are positioned under the doorway, because, since it will be removed through the doorway it is considered as if it is already in the doorway. If the house has several doorways, כלים in all of them become טמא, unless one designates one of them as the actual window or doorway through which the corpse will be removed from the house.

C

ברירה
טומאת פתחים

D רוב וקרוב, הלך אחר הרוב and קרוב are two halachic concepts, used to render halachic decisions in various situations. The pasuk אחר רבים להטות teaches us that we may follow the רוב, the majority. The law of קרוב, following the closest point of origin, is learned out from the law of Eglā Arufa, where the closest city to the deceased is required to bring the Eglā Arufa for atonement. רבי חנינא in our gemara teaches, that if there is a case where there is רוב and קרוב in the same situation, רוב overrides קרוב, and we follow the majority in rendering a halachic decision.

מעשר שני

Maaser Sheni is separated from produce after Terumah and Maaser Rishon is taken, during the first, second, fourth and fifth years of the seven-year שמיטה cycle.

Ma'aser Sheni must be brought to Yerushalayim and eaten there while one is in a state of purity. If it is impractical to bring the actual food to Yerushalayim, מעשר שני produce may be redeemed with money, which acquires the status of מעשר שני, and then must be brought to Yerushalayim.

D רוב וקרוב
הלך אחר הרוב
מעשר שני

1 So let's review.....

The gemara continues the discussion of the previous daf:
 אלא אי קשיא הא קשיא
 If there is a case which might support Rebbe Yochanan's statement מוחלפת השיטה - to reverse the opinions of ב"ה and ב"ש, it would be the following:

1

אלא אי קשיא
 הא קשיא

Which might support
 Rebbe Yochanan answers. . .

מוחלפת השיטה

2 The Mishna on the next Daf states:

ב"ש אומרים אין נוטלין את העלי לקצב עליו בשר
 וב"ה מתירין
 Bais Shamai holds that one may not take an עלי - a thick board used to chop and crush items that are forbidden on Yom Tov - even to cut meat, which is permissible, because the board is a יאיסור מוקצה and therefore שמלאכתו לאיסור.
 ב"ה permits using the board, apparently because he is מקיל in the face of Simchas Yom Tov. This again seems to contradict the first mishna of the mesechte;
 השוחט חיה ועוף ביום טוב
 ב"ש אומרים יחפור בדקר ויכסה
 וב"ה אומרים לא ישחוט אלא אם כן היה לו עפר מוכן מבעוד יום
 The ב"ה seem to be machmir in the face of Simchas Yom Tov,

2

בית שמאי אומרים
 אין נוטלין את העלי
 לקצב עליו בשר

מתיירין

מקיל

משנה
 השוחט חיה ועוף ביום טוב

ב"ש אומרים
 יחפור בדקר
 ויכסה

וב"ה אומרים
 לא ישחוט אלא אם כן
 היה לו עפר
 מוכן מבעוד יום

מחמיר

מקיל

3 The gemara answers;

The בית שמאי forbid the עלי because it's מוקצה -
 But permit כיסוי הדם because they hold that there is no יאיסור דרבנן.
 The בית הלל permit using the עלי, because it's a כלי, and therefore is not מוקצה מחמת גופו, but merely מוקצה as a יאיסור כלי שמלאכתו לאיסור -
 מותר לצורך גופו -
 But forbid כיסוי הדם, because they hold there IS an יאיסור דרבנן.

3

בית הלל

PERMIT
 the עלי

because it's merely מוקצה
 as a כלי שמלאכתו לאיסור
 which is מותר לצורך גופו

FORBID
 כיסוי הדם

because they hold
 there IS an יאיסור דרבנן

בית שמאי

FORBID
 the עלי

because of the
 יאיסור דרבנן
 מוקצה of

PERMIT
 כיסוי הדם

because they hold
 there is NO יאיסור דרבנן

- 4 Another case -
 ב"ש אומרים אין נותנין את העור לפני הדורסן ולא יגביהנו
 אלא אם כן יש עליו כזית בשר
 וב"ה מתירין
 According to ב"ש, the hide of an animal that was slaughtered on
 Yom Tov, may not be placed where people will trample upon it,
 nor may it be moved.
 וב"ה permits both.

4

Another case...

בית שמאי אומרים
 אין נותנין את העור
 לפני הדורסן ולא יגביהנו
 אלא אם כן יש עליו
 כזית בשר

ובית הלל
 מתירין

מחמיר ← ? → מקיל

- 5 Here too, the Gemara explains;
 The בית שמאי forbid setting down the hide, or handling it,
 because it appears like מעבד, and it's מוקצה -
 But permit כיסוי הדם because they hold that there is no איסור
 דרבנן.
 The בזי למזגא עלויה - it is useable to sit on, it does not appear like מעבד, and it's not
 מוקצה -
 But forbid כיסוי הדם, because they hold there IS an איסור דרבנן.

5

בית הלל	בית שמאי
PERMIT	FORBID
Setting down the hide or Handling it	Setting down the hide or Handling it
חזי למזגא עלויה it's NOT like מעבד and NOT מוקצה	because it appears like מעבד and it's מוקצה
FORBID	PERMIT
כיסוי הדם	כיסוי הדם
because they hold there IS an איסור דרבנן	because they hold there is NO איסור דרבנן

- 6 Another case:
 ב"ש אומרים אין מסלקין את התריסין ביום טוב
 וב"ה מתירין אף להחזיר
 Bais Shamai forbids removing shutters and doors of closets on
 Yom Tov, because of סתירה - disassembling.
 ב"ה permits removing them, and even allows one to replace the
 doors, all in order to provide צרכי אוכל נפש, food and other needs
 for Yom Tov. This case also seems to show that ב"ה is מקיל in
 cases involving Simchas Yom Tov.

6

Another case...

בית שמאי אומרים
 אין מסלקין
 את התריסין
 ביום טוב

ובית הלל
 מתירין אף להחזיר
 to provide
 צרכי אוכל נפש,
 for יום טוב טוב,
 As long as financial matters
 are NOT discussed

מחמיר ← ? → מקיל

As Rashi explains, one is allowed to take goods from a
 storekeeper who knows him, even on Yom Tov, as long as
 financial matters are not discussed.

7 The gemara again refutes this,
 The gemara forbid it because they hold יש בנין וסתירה בכלים -
 But permit כיסוי הדם because they hold that there is no איסור
 דרבנן.
 The gemara permit it, because they hold אין בנין וסתירה בכלים -
 But forbid כיסוי הדם, because they hold there IS an איסור דרבנן.

7

<p>בית הלל</p> <p>PERMIT</p> <p>even replacing shutters & doors</p> <p>because</p> <p>אין בנין וסתירה בכלים</p>	<p>בית שמאי</p> <p>FORBID</p> <p>removing shutters & doors of closets</p> <p>because</p> <p>יש בנין וסתירה בכלים</p>
<p>FORBID</p> <p>כיסוי הדם</p> <p>because they hold there IS an איסור דרבנן</p>	<p>PERMIT</p> <p>כיסוי הדם</p> <p>because they hold there is NO איסור דרבנן</p>

8 In summation, the gemara could not prove that ב"ה is lenient as a
 general rule regarding cases of Simchas Yom Tov, and
 therefore there is no contradiction between the mishnayos, and
 thus there is no need to reverse the opinions in the first mishna
 of our Mesechta.
 =====

8

*In summation,
 There is NO contradiction
 between the mishnayos,
 and thus there is NO NEED
 to REVERSE the opinions*

9 The next Mishnah continues to discuss taking doves from the
 dovecote for the Yom Tov meals:
 Zugt the Mishna:
 ב"ש אומרים לא יטול אא"כ נענע מבעוד יום
 Bais Shamai holds that he may take the birds only if he handled
 those birds before Yom Tov. Only with physical handling do
 they become designated for use on Yom Tov, and the מוקצה
 status removed.
 וב"ה אומרים עומד ואומר זה וזה אני נוטל
 וב"ה holds that verbal designation is sufficient to remove the
 מוקצה status.

9

מלאכה:

<p>ובית הלל אומרים עומד ואומר זה וזה אני נוטל</p> <p>Even VERBAL designation is sufficient to remove מוקצה status</p>		<p>בית שמאי אומרים לא יטול אא"כ נענע מבעוד יום</p> <p>Only with PHYSICAL handling they become designated for use on טוב יום</p>
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10 The gemara further clarifies in the opinion of ב"ה, that the reason that he must specify the actual birds - זה וזה אני נוטל - and it is not sufficient to specify the coop or bird house from which he will be taking the birds - מכאן אני נוטל למחר - is because ב"ה does not hold of ברירה. If one held of ברירה, they would be allowed to choose birds on Yom Tov, which would then retroactively indicate that these were the birds that he had intended to use from before Yom Tov.

10

In the opinion of בית הלל

 **SPECIFY**
זה וזה אני נוטל

 **INSUFFICIENT**
מכאן אני נוטל למחר



Because בית הלל does NOT hold of ברירה

11 Rabbah explains that perhaps ב"ה does hold of ברירה, however in our case we cannot permit a general designation, because when the person actually takes the birds on Yom Tov, he might not be happy with some specific birds, and he would end up handling muktze unnecessarily. Alternately, he might find all of the birds unsatisfactory, ושביק להו ואתי לאמנועי משמחת יום טוב - In which case he will end up refraining from Simchas Yom Tov - If he actually chooses the birds before Yom Tov, he will use them on Yom Tov.
=====

11

רבה
Perhaps בית הלל
does hold of ברירה

However in our case, we cannot permit a GENERAL designation

He might not be happy with SOME birds, and end up handling מוקצה unnecessarily

He might find ALL of the birds unsatisfactory, ושביק להו ואתי לאמנועי משמחת יום טוב
He will refrain from שמחת יום טוב

12 Zugt the Mishna:
זמן שחורים ומצא לבנים לבנים ומצא שחורים
If a person designated black birds for use on Yom Tov, and then found white birds in their stead, or vice versa, the birds are forbidden, as these are obviously not the birds that he had originally designated.

12

מלך

ומצא לבנים **זמן שחורים**




ומצא שחורים **לבנים**




13 The gemara explains that this is speaking of a case where he prepared both black and white birds, but they were found in different positions from where they were previously. The mishna teaches that we cannot assume that these are the same birds – they may be new birds, and therefore muktze.

The Gemara explains;
This is a case where he prepared both BLACK & WHITE birds, but they were found in different POSITIONS
 We cannot assume that these are the same birds, and they're therefore מוקצה

14 שנים ומצא שלשה אסורים
 If one designated two birds and then found three birds, they are similarly forbidden. Either, because all three birds are new birds, or an extra bird got mixed with the original two. In either case, all three birds are now forbidden.

14
 ומצא שלשה שנים

 אסורים
 ALL THREE are NEW birds an EXTRA bird mixed with the original two

15 שלשה ומצא שנים מותרים
 If he set aside 3 birds and on Yom Tov found only two, they are permissible, as we assume that one flew away, and the remaining two are from the original batch.

15
 ומצא שנים שלשה

 מותרים
 We assume one flew away, the remaining two are from the ORIGINAL batch

16 בתוך הקן ומצא לפני הקן אסורין
If he left them inside their nest and there are now birds outside the nest, the birds are forbidden, as we cannot be sure that these are the original birds.

16

ומצא לפני הקן בתוך הקן

אסורים

We CANNOT be sure these are the original birds

17 ואם אין שם אלא הם הרי אלו מותרים
If however there are no other birds near the nest before Yom Tov except for these birds, they are permissible, as it is reasonable to assume that these are the same birds.

17

ואם אין שם אלא הם הרי אלו מותרים

If there are NO other birds near the nest before Yom טוב, it is reasonable to assume these ARE the same birds

18 The gemara compares the case of שלשה ומצא שנים מותרין To a similar case of Maaser Sheni funds, described in a Braisa: הניח מנה ומצא מאתים A person left 100 Zuz of Maaser Sheni, and later found 200 Zuz in that spot. חולין ומעשר שני מעורבין זה בזה דברי רבי Rebbe holds that we assume that these are the original 100 zuz of Maaser Sheni funds, with another 100 zuz of chulin mixed in. The chachamim hold הכל חולין. We assume that he had removed the original 100 zuz, and all 200 zuz here are new chulin funds. Similarly, הניח מאתים ומצא מנה מנה מונח ומנה מוטל דברי רבי If he left 200 zuz and subsequently found only 100, we assume that he took 100, and left 100 of the original Maaser Sheni וחכ"א הכל חולין The chachamim again hold that the 100 zuz are not from the original monies and can be regarded as chulin. The gemara suggests that our mishna שלשה ומצאו שנים, must follow רבי who holds that we assume that only a part was removed. According to the chachamim, we assume that all three birds left, and what we find are new birds. The gemara, however refutes this, saying: שאני גוזלות הואיל ועשוין לדדות Birds, unlike money, have a habit of wandering, and therefore it is plausible to say that one of the three birds wandered off, leaving 2 of the original 3 birds. However in the case of Maaser Sheni, it is highly unlikely that someone would only take some of the money, and leave some of it behind.

18

הניח מנה ומצא מאתים שלשה ומצא שנים

מותרים

We assume only PART was removed

! שאני גוזלות פואל וצלוין ארדות

מנעשר שני BIRDS

Unlikely one would only take some of the money *Plausible that 1 bird wandered off*