

[כז: - ה"ו ה"ז]

א מ"י פ"ה מהלכות ממנות עניים הלכה ח: ב מ"י פ"ה מהלכות ממנות עניים הלכה ג: ג ד ה מ"י פ"ה מהלכות ממנות עניים הלכה י: יג:

שינויי נוסחאות

א] ולבוסמות. בדיא ולבוסמות וכו' בומי כסויר ובריא:

הגהות הגר"א

א] לבוסמות ר' יונה אמר כע"ל:

ליקוט משנות אליהו

החרדה. הוא כמו עיגול: דאעבריה. לעשות כמנה עמרים קטנים עומד אחד גדול אינו שמה מפני שאינו נמר מלאכה:

היה בולו מחופה בקש. דממתי קמני העומר שחפיהו בקש וממתי כן שכחו אינו שכה, ובעי הש"ס אם היה כל עומרי השדה מחופה בקש מהו: נשמעינה מן הדא. דמנין סוף פרקין דלקמן (ה"ח) וכן הסומא יש לו שכה ובי סומא לא כמי שכולו

בקש מחופה הוא לפניו וקמני דיש לו שכה, וה"י אם כל השדה מחופה בקש ושכה עומר אחד יש כאן תורת שכה: בזוכר את הקשים. הא דקמני דממתי דעומר אחד שחפיהו בקש ושכה אינו שכה וזוכר את הקש שעליו, והלכך מה דקמני העומר שהוא תחת הקש אינו שכה: אתיא. הא דר' יונה כר' זעירא כמה דלמר ר"ז דפרק דלקמן (ה"ג) גבי העומר שנטלו להוליכו לעיר ומתו ע"ג מצירו דקאמר ר"ש התם שניהן אינן שכה, התחמון מפני שהוא מוכסה והעליון מפני שזכה בו, וא"ר זעירא בזוכר את העליון ולפיכך התחמון אינו שכה וכן ר' יונה אומר בזוכר את הקשים שעל העומר ולפיכך העומר שחתם הקש אינו שכה: ברתנ'י' המעמר דבובעות. המנהג הוא לקצור העמין ולעשות אותן אלומות

אלומות במקומות הרבה עד שימאספו כולן אח"כ למקום אחד ומן המקום הזה נושאים אותן למקום הדישה והוא הנקרא גורן ששם דשן התבואה, ויש שמשימין אותם אלומות אלומות ע"ג קרקע ויש נקרא כובעות שהן למעלה על הארץ כדמות כובע שמשימין בראש, ויש שמשימין אותן בחפירה בארץ והן נקראו כומקאות מלשון כמוס עמדי, ויש שמגדישין אותן צעגולה כדמות אבן הרמים וזה נקרא חררה שהוא גלגול כעגולה כחררה: דאעבריה. זה עשויה עמרים עמרים קטנים ולעשות מהן עמרים גדולים משנים ומשגל אחד זהו נקרא לעמרים: אין לו שכה. מה שכה בשעה שמוליך לאחד מן המקומות הללו אינו שכה, כדריש בגמרא דכתיב כי תקצור קצירך ושכתת עומר צדעה מה קציר שאין אחריו קציר חף עומר שאין אחריו עומר יא לאו שיש אחריו עומר: במינו דאגורן. המוליך מאחת מהמקומות הללו לגורן ושכת עומר צדעת מאלו המקומות: יש לו שכה. לפי שאין אחר זה עומר: המעמר דאגורן. הוא המקום ששם מאקספין כל העמרים כאחד וכגון שאינו רוצה להוליכן משם לגורן אלא שישארו במקום הזה ושם ידוש אותם והוי מקום גמר מלאכה, יש לו שכה: במינו דאגורן. ואם נמלך אח"כ ומוליכן למקום אחר ולדוש אותם אין לו שכה, זה הכלל וכו': גב' רבי יונה אמר מן דע"י וכו'. לפרש כובעות קאמר שהוא למעלה על גבי קרקע: ולבוסמות. מפרש ר' אבינא מן לרע למטה בחפירה: ודחררה. הוא הגלג עגול בגלגל וכחררה זו כמו שזכר דממתי:

היה בולו מחופה בקש. בעיא היא, אם כל השדה מחופה בקש ושכה עומר אחד מהו, מי אמרינן הואיל וכולו מחופה ושקיל לכולו ושקיל להאי ה"ל שכה כאלו אינו מחופה דהא אמרינא שקיל ממתי הדיפו, או נימא אפ"ה חופת הקש גרמו לו ואינה

[או שחפיהו בקש וכו']: היה בולו מחופה בקש. נשמעינה מן הדא א"י וכן הסומא ששכה יש לו שכה וסומא לא כמו שכולו בקש מחופה הוא. ר' יונה אמר דבזוכר את הקשים. אתא דר' יונה כר' זעירא כמה דר' זעירא אמר בזוכר את העליון כן ר' יונה אמר בזוכר את הקשים: [מ"ח] הלכה ז מתנ'י' המעמר לבובעות ולבוסמות לחררה ולעומרין אין לו שכה. ממנו ולגורן יש לו שכה. המעמר לגדיש יש לו שכה. זה הכלל הכל המעמר למקום שהוא גמר מלאכה יש לו שכה ממנו ולגורן אין לו שכה. למקום שאינו גמר מלאכה אין לו שכה ממנו ולגורן יש לו שכה: גב' [לבובעות]: ר' יונה אמר מן לעיל כמה דתימר (א) וכובע נחושת על ראשו: לבוסמות. ר' אבינא אמר מן לרע כמה דתימר (ב) הלא הוא כבוס עמדי: לחררה. גלגל:

עמרות שיצילן (ע"ז פ"ד ה"ג): דבוסמות. למטה מן הראש שאין נראה כלל כדבר הכמוס. ויש מפרשים כובעות ראשי שיצילן וכוסמות מחתיהן של שיצילן: דחררה. לעוגה קטנה. כמו חררה על גבי גחלין (שבת י"ז): ודעוברין. לא עמירין להגדיש אלא עמרים קטנים לעשות מהן עוד עמרים אחרים להוליכן לגדיש. וכל הני דממתי דע"י עוד (ש) קופן לעמר לעשות משנים אחד (ר"ש), ועמא מפרש בגמ' דבעינן דומיא דקציר מה קציר אין אחריו קציר חף עימור שאין אחריו עוד עימור: במינו דאגורן. מאותו מקום שהולך אלו לשם שזכר מוליכן משם לגורן, ומלא שאין להם מו עימור אחר שהרי לגורן מוליכן משם [ומשור'] אם שכה אחד צדעתו המקום שלא הוליכו עמו ג"כ לגורן הוא שכה: המעמר דאגורן. כשיעמר הכל רוצה לעשות מהן גדיש יש לו שכה, שאין להם שזכר עימור אחר: במינו דאגורן. אכל אם אח"כ רצה לעשות מן הגדיש גורן: אין לו שכה. אם שכה מן הגדיש להוליכו לגורן, שכה היה כל העימור במקום גמר מלאכת העימור, ויין שהיה פעם אחת בגמר מלאכת העימור לא היה מו שכה אח"כ: גב' מדרש. מלמטה: גג' לשון גלגול עישה עוגה קטנה: הדרן ע"ך גדיש

הוא הגלג עגול בגלגל וכחררה זו כמו שזכר דממתי:

ר"ש סיריליאן

היה בולו מחופה בקש. בעיא היא, דממתי מן חפיהו עניים בקש אין לו שכה דהן גרמו השכה אבל [אם] העומר מחופה מאליו בין הקשין שנתכסה כולו מן העין, ושכחו מהו: ופשיט לה מהא דמתן לקמן בסוף פרק בית שמאי (פ"ו ה"ח) סומא יש לו שכה, ומה לי כסוי צעין ומה לי כסוי דעומר: ובזהו את הקשין. שזכר אותו מקום שהיה שם קש גבוה וחפס לם, ומשום הכי מן חפיהו וכו' אין לו שכה, וכן פסק הרמב"ם ז"ל צ"ב (ה"א): בזוכר את העליון. לקמן בפרק ד"ש (פ"ו ה"א) דמניא התם (לר' שמעון התחמון אינו שכה שהוא טמון) [דלרבנן העליון אינו שכה] ומפרש ר' זעירא דבעינן זכר את העליון קודם שיפגע בו ומשום הכי [משכיח תחמון עמו לר' שמעון] [ואפילו תחמון לא היו שכה]. והכל נמי משום דזוכר את הקש שהוא על גבי זכה דעומר שהוא תחמון: דבובעות ולבוסמות דאעבריה. בגמרא מפרש להו: דאגורן יש לו שכה. דמעמר הכל רוצה לעשות מהן גדיש, דהאי עימור אין אחריו עימור, וכי הדר ושכת מגדיש לגורן שהוא במקום דישה אין לו שכה דכבר נתקיימה המזוה, אבל גדישא דלא הוי עימור לגדיש כשחור ועומר קצות השבלים הגומרין ממלאכתו

היה בולו מחופה בקש. בעיא היא, דממתי מן חפיהו עניים בקש אין לו שכה דהן גרמו השכה אבל [אם] העומר מחופה מאליו בין הקשין שנתכסה כולו מן העין, ושכחו מהו: ופשיט לה מהא דמתן לקמן בסוף פרק בית שמאי (פ"ו ה"ח) סומא יש לו שכה, ומה לי כסוי צעין ומה לי כסוי דעומר: ובזהו את הקשין. שזכר אותו מקום שהיה שם קש גבוה וחפס לם, ומשום הכי מן חפיהו וכו' אין לו שכה, וכן פסק הרמב"ם ז"ל צ"ב (ה"א): בזוכר את העליון. לקמן בפרק ד"ש (פ"ו ה"א) דמניא התם (לר' שמעון התחמון אינו שכה שהוא טמון) [דלרבנן העליון אינו שכה] ומפרש ר' זעירא דבעינן זכר את העליון קודם שיפגע בו ומשום הכי [משכיח תחמון עמו לר' שמעון] [ואפילו תחמון לא היו שכה]. והכל נמי משום דזוכר את הקש שהוא על גבי זכה דעומר שהוא תחמון: דבובעות ולבוסמות דאעבריה. בגמרא מפרש להו: דאגורן יש לו שכה. דמעמר הכל רוצה לעשות מהן גדיש, דהאי עימור אין אחריו עימור, וכי הדר ושכת מגדיש לגורן שהוא במקום דישה אין לו שכה דכבר נתקיימה המזוה, אבל גדישא דלא הוי עימור לגדיש כשחור ועומר קצות השבלים הגומרין ממלאכתו

בת"א

הגר"א

ביאור

בת"ב

בזוכר את הקשים. המפסיס את העומר או אינו שכה דהקשים זכו אומי: דבובעות ר"א מן דע"י. שמעמיד אותו על הקרקע ככובע: דבוסמות מדרש. פי' שמעמיד אותו על הקרקע ככובע: דבוסמות מדרש. פי' שמעמיד אותו בחפירה:

בזוכר את הקשים. המפסיס את העומר או אינו שכה דהקשים זכו אומי: דבובעות ר"א מן דע"י. שמעמיד אותו על הקרקע ככובע: דבוסמות מדרש. פי' שמעמיד אותו בחפירה: החררה גג' הוא כמו עיגול*:

א לקמן פ"ו ה"ח (ג) לקמן פ"ו ה"ג

תורה אור השלם

א) וזכובע נחשת על ראשו ושריון קשקשים הוא לביש וימשקל השריון חמשת אלפים שקלים נחשת: (שטואל-א יז ה)

ב) הלא הוא קפס עקדי חתום באוצרתי: (בריש יב' ד')

בית שמאי פרק ששי פאה

[כח: כט. - ה"א ע"ב]

6 עינים פ"ד מ"ה, [לקמן ה"ה, מנחות פ"ח ה"ח] 8 [לקמן פ"ז מ"ח]

יריב"ז

וקשיא על דביש בגפה ובגדיש וכו'. הריש דיל מהפך הגירסא וכן צ"ל וקשיא על דבית שמאי בבקר ובכ"ים דבר שאינו כסויה ואינו אמרין אינו שכהה וקשיא על דבית ה"ה בגפה ובגדיש דבר שאינו כסויה (והם אומרים) ואינו אמרין (ואינו שכהה) וקשיא על דבית ה"ה בגפה ובגדיש דבר שאינו כסויה (והם אומרים) ואינו אמרין שכהה. ומקשה הש"ס לית שמאי מסיפא, צקר וכלים הם דברים שאינם מסויימין ואינם לן למימר נמי כל הסמון להם שכהה, וצ"ל [לית הלל] מה סמון לדבר חסוד ומסויים [אינו לן למימר] ללא ליהו שכהה, וכן משמע

ר' יונה בעי וכו'. כלומר, כמו אל כל עומרים של קצ קב מיניע לית שמאי אחד של ארבעה, הוא הדין אם כל השדה של שמי קצין מיניע להו אחד של שמונה קצין דעטס אחד לן: מותני' גפה. אצנים שכן סדורות זו על גבי זו צלל טיט: ודבקר. צית הצקר: גדיש. יצור גדול של ערימות הרבה: א"כ. כלי הצקר, והם הממטקה עם כל השייכים לה: גב' הכי גרס הר"ש ז"ל [כאן] וקשיא על דבית שמאי בבקר ובכ"ים דבר שאינו כסויה (והם אומרים) ואינו אמרין (ואינו שכהה) וקשיא על דבית ה"ה בגפה ובגדיש דבר שאינו כסויה (והם אומרים) ואינו אמרין שכהה. ומקשה הש"ס לית שמאי מסיפא, צקר וכלים הם דברים שאינם מסויימין ואינם לן למימר נמי כל הסמון להם שכהה, וצ"ל [לית הלל] מה סמון לדבר חסוד ומסויים [אינו לן למימר] ללא ליהו שכהה, וכן משמע

רבי יונה (והוא) בעי [והוא] שעורא [א"כ] כל עומרי השדה של קב קב ואחד של ארבעת קבין ושכחו. כל עומרי השדה של שני קבין ואחד של שמונת קבין: ה"ה ב' מתני' העומר שהוא סמוך לגפה ולגדיש ולבקר ולכלים ושכחו בית שמאי אומרים אינו שכהה ובית הלל אומרים שכהה: גב' וקשיא על דבית שמאי בגפה ובגדיש דבר שאינו כסויה [ואינו אמרין] אינו שכהה, וקשיא על דבית הלל בבקר ובכ"ים דבר שאינו כסויה [ואינו אמרין] אינו שכהה. [במקומו הוא עומד בצד הגת או בצד הפירצה, מתניתא דבית שמאי דבית שמאי אומרים אינו שכהה.

לאו לחלקו לשים ולעשות ממנו שורה, שכן דרך הרובה לעשות עמרים קטנים ממקום שיש צו הרבה צידד חולקו צמחלה לחלוקין ואח"כ חולק כל אחד מהן לעמרים קטנים, כמו שטעשו שאר עומרי השדה הלכך צפומה מארבעה קצין לא מלין צבורה: ר' יונה בעי והוא שיעורה וכו'. כ"ל יוספרי הדפוס נחלפו המצוות, כלומר דר' יונה שאל אליבא דב"ש אם זה הוא שיעורה לעולם לפי ערך של שאר עומרי השדה, וכמו דלמרו אם כל עומרי השדה של קצ קב ואחד של ארבעה קצין ושכחו אינו שכהה, כך אם כל עומרי השדה של שני קצין הן ואחד של שמונת קצין ושכחו דג"כ אינו שכהה מהאי טעמא גופיה, וצ"ש חושבנא קמימא הוא דנקטי וה"ה לאיך או לא, ולא איפשטא ליה אליבא דב"ש: מתני' העומר שהוא סמוך לגפה. גפה הוא גדר אצנים סדורות זו על גבי זו צלל טיט: ודב"ה. כלי הממטקה: בית

א מ"ה פ"ה מהלכות מנחות עינים הלכה ז: ב מ"ה פ"ה מהלכות מנחות עינים הלכה ג: שינויי נוסחאות [א] רבי יונה בעי והוא שיעורא. כ"ה בכ"י וכן הגיה הפנימי. וברש"י א"ר יונה והוא שיעורא. ובר"א ובכ"י ר' יונה בעי כל. ובכ"י ר"ד ר' יונה והוא בעי שיעורה: [ב] כ"ל ברש"י הוא כ"ל: [ג] וקשיא וכו'. ברש"י כ' דמתוך הסברה היה נראה איפא. דבר שהוא מסויים קשיא לבית הלל וכו' ודבר שאינו מסויים קשיא לב"ש וכו'. וטעם טעם סופר יש בירושלמי עיי"ש. וכן שמו"ט שאין פירוט פ"ד מ"ה) ששע"ג דגוס להיפך. עיי"ש: [ד] בפקודי. הוא. ברש"י: תפן תנינן במקומו שדורא:

הנהרות הגר"א

[א] כל עומרי השדה של חצי קב ואחד של שני קבין כצ"ל. * ומתוך חיבתו של קב קב ואחד של איבעה קבין. והנהרות הגר"א ז"ל הנהיג ע"י הדר"ל דיל איתא הכי ר' יונה בעי כל עומרי שדה של שני קבין וכו' וחסאר מיהו: [ב] וקשיא על דב"ה כצ"ל. ומתוך חיבתו דב"ש: [ג] ואינו אמרין שכהה וקשיא על דב"ש כצ"ל. וחיבתו אינו וחיבת דב"ה נמחקת: [ד] ואינו אמרין שאינו שכהה כצ"ל. וחיבתו שהוא נמחק: *

ליקוט משנות אליהו

מתני' העומר שהוא סמוך לגפה ב"ה. לצקר ולכלים אשמעין רבותא ליה"ש שפ"ט שאלים ממוגרים ס"ל דהו שכהה, וגפה וגדיש רבותא לבי"ש דלף סתן ממוגרים ס"ל דהו שכהה. וכל דהו שכהה. וכל אחד ואחד רבותא לבי"ש ולבי"ה. גנפא אשמעין רבותא לבי"ש חף שהוא ממוגרי ויתר מגדיש אפ"כ אינו שכהה, וגדיש רבותא לבי"ה חף שאינו קבוע כ"כ כגפה אפ"כ הו שכהה. וצקר רבותא לבי"ה אע"ג דלידיו ואינם קבועים כלל אפ"כ הו שכהה, וכלים רבותא לבי"ש דהם קבועים ויתר מנצק:

להדיא בסמוך דלמך אי משום דבר מסויים וכו' אי משום שורה וכו'. ואין מירון לקושית הש"ס: במקומו וכו'. ממני' היא ריש פרק שביעי דמכילתין (ה"ה) כל זית שיש לו שם צדה בשמו וצמעשו וצמקומו אינו שכהה, ומפרש התם לכל אחד ואחד: במקומו כ"ל, היה עומד בצד הגת ובצד הפרצה כיון שהוא מסויים אפילו שכחו אינו שכהה, ואמר הש"ס מתני' דהתם בית שמאי דהכא הוא, כמה דלמרי(קן) הכא היכי שהם צדד הגפה והגדיש דלינו שכהה הואיל והם דברים מסויימים, הכי נמי התם מטעם זה אינו שכהה, א"כ בית שמאי היא, לבי"ה הלל כמו דמשווי להו הכא לשכהה אף שהם אכל דברים מסויימין, הכי נמי התם:

אכל צקר וכלים לא מיקרו דבר מסויים, דהא יידי ממקום למקום לצ"ש על דקדמרי אינו שכהה צעומר שהוא סמוך לכל אלו דחשיב צמתי' ומאי טעמייהו, ורהטת הקושיא הכי מתפרשא בגפה ובגדיש דבר שהוא מסויים וכו', כלומר אי דעעמייהו צהני משום שהוא דבר מסויים, והרי אינו אמרין אינו שכהה אף בצקר וכלים ואמאי הא הני לא הוו דבר מסויים, וקיר' הש"ס משום דסמין על הא דלקמיה: וקשיא על דב"ה בבקר ובכ"ים וכו'. כלומר וכה"ג קשיא איפכא על הא דב"ה, דאי בצקר וכלים היינו טעמייהו משום דהו דבר שאינו מסויים, א"כ אמאי אינו אמרין דהו שכהה צכולו דמני צמתי' ואף בגפה וגדיש, ואמאי, והא אינהו מייחשבו דבר מסויים לגבי צקר וכלים, ומאי טעמא דנקט התנא לכולהו צדדא מתחא אליבא דב"ש ודב"ה. ולא משני מידי על האי קושיא, משום דסמין על הא דלקמן דכל הא דלמרין אליבא דר' יהושע בתוספתא היא דס"ל דפליגי צהא כהן פשטא דמתני', אכל לא קיימא המסקנא הכי, אלא כר' אליעזר וכו' אלעזר בן עזריה ודלקמן: במקומו הוא עומד בצד הגת וכו'. השתא מדייק הש"ס לך טעמא דצדית למימר דב"ש סברי דכל שהוא אכל דבר מסויים, אחד לא, הו שכהה, א"כ הא דמתן צריש פרק דלקמן כל זית שיש לו שם צדה וכו' דצ"ל בשמו וצמעשו וצמקומו, ומפרש התם צמקומו, כגון שהוא עומד צדד הגת או צדד הפרצה, לימא חך ממני' דב"ש היא דקסברי הכא אינו שכהה משום האי טעמא ודלא כב"ה:

ר"ש סוריליאו

כ" עומרי השדה ש"ש שני קבין ואחד ש"ש שמונה קבין. [לבי"ה שמאי אמרין רואין, ופשטא דלף צו בית הלל פליגי], דהא לית ליה ליה רואין, ואפילו אית ציה שמונה קצין ועוד, הו שכהה כל זמן דלית ציה סתמים [דדיינו טעם עשר קצין], וצרי דלא אמרין רואין [אפילו בן שמונה קצין], ולהיערך כמן דבית שמאי תני [מתא] ארבעה. שאל כדעת הרמב"ם ז"ל שכתב פ"ה (ה"ה) ואם היו של שני קבין ואחד יתר על שמונה קצין אינו שכהה: מתני' שהוא סמוך וכו'. וכשלא נטלו להחזיק בו להוליכו לעיר או למקום שיש לו גורן מיירי, אלא צמקומו ממלאה שם נפל צעת הקצירה, אכל אם החזיק בו להוליכו צעיר ושכחו אכל הפסח וכו', וכשמלאו זכר שכן ארבע לו הענין, קמני סופא דמודים שאינו שכהה: גפה. גדר של אצנים סדורות זו על גבי זו צלל טיט: צקר. בית שעומדות בו הצקר הארוכות, צקר גרסינן, והוא בית צקרות: ודב"ה. לית הכלים שצריכין לעצומה שעה. בית שמאי סברי דמקום מסויים הו כל חד מגני, ועמיד לווכה, ולא הו שכהה. דמי לזד הגת, דמן לקמן צפרק כל זית (פ"ז מ"ה)

שמאי אומרים אינו שכהה. דהואיל והניחו אכל דבר לזכור: ובית והיינו גפה וגדיש שהן עומדין צמקוס קבוע עמיד לזכור: ובית ה"ה אומרים שכהה. דכל זמן שלא החזיק בו להוליכו לגיב לעולם הו שכהה, אכל אם החזיק בו להוליכו לעיר והניחו צדה ואפי' אינו סמוך לדבר המסויים ושכחו לא הו שכהה, כדמתן צמתי' דלקמן ומודים צהעומר שחזיק בו להוליכו אל העיר ושכחו שאינה שכהה: גב' וקשיא על דב"ש בגפה ובגדיש דבר שהוא מסויים ואינו אמרי אינו שכהה. הכי פירושא, דולאי נמקצבדא היא דכל שהניחו אכל דבר מסויים לא ליהו שכהה לפי טעמיד לזכור וכדפרישית צמתי', ומאי דקשיא לה"ס הכי קשיא ליה, דנקט גפה וגדיש צקר וכלים צדדא צהא משמע דמדא טעמא אית להו אליבא דב"ש, והרי גפה וגדיש הו דבר מסויים, וצ"ש על דקדמרי לקמיה צקר וכלים דבר שאינו מסויים, וא"כ קשיא לבי"ה שכהה צעומר שהוא סמוך לכל אלו דחשיב צמתי' ומאי טעמייהו, ורהטת הקושיא הכי מתפרשא בגפה ובגדיש דבר שהוא מסויים, והרי אינו אמרין אינו שכהה אף בצקר וכלים ואמאי הא הני לא הוו דבר מסויים, וקיר' הש"ס משום דסמין על הא דלקמיה: וקשיא על דב"ה בבקר ובכ"ים וכו'. כלומר וכה"ג קשיא איפכא על הא דב"ה, דאי בצקר וכלים היינו טעמייהו משום דהו דבר שאינו מסויים, א"כ אמאי אינו אמרין דהו שכהה צכולו דמני צמתי' ואף בגפה וגדיש, ואמאי, והא אינהו מייחשבו דבר מסויים לגבי צקר וכלים, ומאי טעמא דנקט התנא לכולהו צדדא מתחא אליבא דב"ש ודב"ה. ולא משני מידי על האי קושיא, משום דסמין על הא דלקמן דכל הא דלמרין אליבא דר' יהושע בתוספתא היא דס"ל דפליגי צהא כהן פשטא דמתני', אכל לא קיימא המסקנא הכי, אלא כר' אליעזר וכו' אלעזר בן עזריה ודלקמן: במקומו הוא עומד בצד הגת וכו'. השתא מדייק הש"ס לך טעמא דצדית למימר דב"ש סברי דכל שהוא אכל דבר מסויים, אחד לא, הו שכהה, א"כ הא דמתן צריש פרק דלקמן כל זית שיש לו שם צדה וכו' דצ"ל בשמו וצמעשו וצמקומו, ומפרש התם צמקומו, כגון שהוא עומד צדד הגת או צדד הפרצה, לימא חך ממני' דב"ש היא דקסברי הכא אינו שכהה משום האי טעמא ודלא כב"ה:

כל זית שיש לו שם, כגון צמקומו שהוא עומד צדד הגת או צדד הפרצה, לא הו שכהה. וצמקומו מיימי לה: גב' ה"ה וקשיא על דבית שמאי בגפה ובגדיש דבר שהוא מסויים, ואינו אמרין אינו שכהה, וקשיא על דבית ה"ה בבקר ובכ"ים דבר שאינו מסויים, ואינו אמרין שכהה. וכן הוא הגירסא בכל הספרים, והכי פירוש, דלקשין לית שמאי דשלמנא בית הצקר וצית הכלים חשיב להו דבר מסויים, דהא דבר הממקיים הוא, ולעולם צריק אל השדה, דמי לגת או לפרצה דלקמן, אלא גפה וגדיש דבר שאין ממקיים הוא, דהו אלא לפי טעם, והכי חשיב ליה בית שמאי דבר מסויים ואמרי דלא הו שכהה, ולית הלל קשיא איפכא. ורבינו שמשון ז"ל דנמה לו דעוות סופר הוא, ונראה לי שפירשתיו כהוגן, וטעמא דבית הלל דלקמיה דלא חשיב מסויים אלא מחובר צדד מחובר: תפן תנינן. לקמן צפרק כל זית (פ"ז מ"ה): שהוא עומד צדד הגת. אילו זית שעצר ממנו ולא לקטו, והוא עומד צדד הגת. [וינימו מתני' בבית שמאי] דבית שמאי אמרי אינו שכהה לזד דבר מסויים:

ביאור הגר"א

במקומו היה עומד בצד הגת כו'. פי' דמפרש ממני' [דלקמן פרק ז'] דיש לו שם צדה וקמני בשמו וצמעשו וצמקומו, ומפרש צמקומו, היה עומד צדד הגת. ומפרש מתני' דב"ש. פי' דמדמי הכא לגפה וגדיש דסברי הכא צ"ה שכהה.

ה"ג כ" עומרי השדה ש"ש חצי קב וא' ש"ש ב' קבין כ" עומרי השדה ש"ש ב' קבין וא' ש"ש ח' קבין. פי' דמנענא ליה אי הוה לבי"ה שכהה כה"ג אי לא: ה"ה וקשיא על דב"ה בגפה ובגדיש כו' ואינו אמרין שכהה וקשיא על דב"ש בבקר ובכ"ים כו' ואינו אמרין שאינו שכהה:

[כ:ט. ל. - ה"ג]

א ממי פ"ה מהלכות
מתנות עניים ה"ה ל:ו
ב ממי פ"ה מהלכות מתנות
עניים הל"ה ו:

שינויי נוסחאות

- [א] כמן דאמר גומ"א דהחמישי בריש ויא פליגי מין דאמר אב נפיל את החמישי:
- [ב] נפ"ה כיה בריש בבירי ורשיש ולעיל (פ"ה ה"ב) בבירי ואחריו ברפוסים גומ"א:
- [ג] אב עדי בריש ועוד:
- [ד] את יתת בריש בבירי ורשיש לילית הגמ' אב וכה"ב ברי:
- [ה] בצד בריש בבל הסוגיה צד:

הגהות הגר"א

[א] ושכתה את השלישי ואת הרביעי. ומנה ואת השלישי ושכתה את הרביעי. כ"ל. (לפי רבנו הגר"א צ"ל היה הני ושכתה את השלישי ע"כ הגיה שצ"ל ו"שכתה אצל הרביעי ולא אצל השלישי. אכן ברפוסים חדשים נתקן הגרסא כמנ הגרסא של רבינו זצ"ל.) ע"כ ברפוס אומנם העמיק ברפוס אמסטרדם (שבו למד רבינו) ויאה שגורסתו כמו שלפניו. לפיכך נראה שנפלה ט"ס בהגהת זו וצ"ל להסיק: ושכתה את השלישי ואת הרביעי. כ"ל. ומנה את השלישי ושכתה את הרביעי. וכה"ב בהגהות הגר"א שעל הרי"ש:

הגהות וצייונים

א. המוסרס נוסף מכ"ש:

נשמעינה מן הדא עימר את הראשון וכו'. וגרסינן להא בצרכי לעיל (ה"ג) דצעי תסם נמי צכה"ג דצר שהוא ראוי להליל ושכתו מהו שיעשה שכתה, וכדפרישימ עס דהצעה היא הואלי וכתיב כי תקלוז וגו' ושכתה עומר משמע דצעת העומר מליא מילתא, אס שכתה שכקצרת או כשעשית את העומרין לא תשוב לקחמו, אכל אס צעת העומר איכא למתלי דלא שכתו שזב אין שכתה שלאחר מיכן שכתה ואס חזר וזוכר אס"כ יכול הוא ליטלו, או דילמא מתינן ששכתו ואפי' אחר העומר תורת שכתה עליו ואפי' חזר וזוכר אס"כ קיינן ציה לא תשוב לקחמו. והאי ממש כעין הצעה דהכא, ופשיט לה לעיל מהני צרימות עימר את הראשון וכו', ומפרש תסם ר' בון צ"י חייא ללא פליגי, אלא מ"ד דצעינן נטול את החמישי צישע עס ששי וכו' וכדמפרש עס צאר היטב וע"ס. והכא נמי פשטינן לה כמו דאמ' דאמר דלפ"ה הוה שכתה צדצ"ה שהיה ראוי צתמלה לידון צשורה, וה"ה הכא דצכתה שלאחר מכלן הוה שכתה: היה עומר אחד גדול. זה העומר אחד שהניחו ציינהן אס היה גדול ועימר צד החילון צבו שהוא כלפי חוץ השדה והצד הפנימי שהוא כלפי העומר שנגדו לא עימר ושאר כן: בצד הפנימי נידון בשורה. כלומר צהא לא קמיבעיא לן דואי אמרינן צצמד הפנימי של עומר הזה הוא נידון צשורה עס העומר שנגדו צעדנין ראוי להצטרפו לשורה ממורת למערב. כ' קא מיבעיא לן אס עימר צד הפנימי צבו ולא צד החילון מהו שידון צשורה צמד החילון צבו ששאר, מי אמרינן דהואלי וצד הפנימי לית ציה הוה כהפסק ואינו נידון צשורה עס העומר שנגדו, או דילמא צמתינן שעדיין צד החילון צבו קיים ראוי הוא לידון צשורה. וכן צעי עוד צעימר צד החילון צבו דצוה צד התחמון ששאר וואי נידון צשורה, ואיפכא מאי אס עימר הצד התחמון צבו ולא החילון כגון צסמכו לצד החילון צצן וצאלין וכיוצא צו והניחו קך צמד החילון צבו מהו שידון צשורה, ואלא איפשטו הני צציות: רב צד נחת א'תמן. לצבל: היה אומר אבן צבן עזאי צצוקי עבריאל, וגרסי' להא צב' עגלה ערופה (ה"ג):

עימר. עומר ראשון ושני ושלישי ושכתה לרביעי, איכא צרייתא דמני צהא דרביעיית אס דילג את הרביעיית ונטול את החמישיית הרי הרביעיית שכתה, ואיכא צרייתא דמני צה אס שהיה לנטול את החמישיית אחר שכתה הרביעיית, הרי הרביעיית שכתה, אע"ג דעדנין לא דילג מן הרביעיית ונטול את החמישיית, ואמר רבי בון בר חייה דלא פליגי הני צרתי צרייתות, ה' דמני דווקא נטול את החמישיית מיירי בשיש שם ששי ג"כ, והרי הרביעיית ראוי להצטרף עס החמישי עשוי להני צשלה וחס שורה, וכל שורה אינה שכתה, ולפיכך לא הוה שכתה אלא צנטול החמישיית [פירות דאז נתצטלה השורה], ודאי צשיה אינה שכתה אלא אדרבה מצטרפת עס החמישיית והששית להיות שורה, ומאן דאמר דסגיא ליה צשהה מיירי שאין כאן ששית וצלאו הכי אין כאן צירוף לשורה והוה שכתה. ועשוי פושט הש"ס צציייתיו, אב עד ש"א נפ"ה. קודם צנטול החמישיית הרי הימה הרביעיית נצאות לידון כשורה ולהצטרף עס החמישיית והששית, ולמה צו צנטול החמישיית מחזור לאיסורא ליהוה שכתה, שמתין מינה אע"פ שהיה ראוי פעס אחת להליל חזר אס"כ לאיסורא, הכא נמי [צציייתיו הוה שכתה: היה עומר אחד גדול. ועימר צצידו החילון והצד הפנימי הניח ולא עימר, ג"כ פשטו לן דעדנין צד הפנימי הפונה אל העומרים מצטרף אל שני עומרים שכתה לעמרו ונידון כשורה שהרי עומד עמהם כשורה ואין מפסיק צייניהם, אכל צהיפק הו"ל הפסק או נימא הואלי והכל עומר אחד אינו מפסיק, ועל דרך זה ממפרש נמי צד החילון צמד התחמון: א'תמן. לצבל: אבן הוא צבן עזאי. כלומר דעמי צלולה להשיצ לשואל כצן עזאי צצוקא עבריאל, וצפרק עגלה ערופה (סוטה מה). אימא להא מילתא צצס אציי: חד צב. וכן אחד:

העומר אחד שהניחו צייניהן אס היה גדול ועימר צד החילון צבו שהוא כלפי חוץ השדה והצד הפנימי שהוא כלפי העומר שנגדו לא עימר ושאר כן: בצד הפנימי נידון בשורה. כלומר צהא לא קמיבעיא לן דואי אמרינן צצמד הפנימי של עומר הזה הוא נידון צשורה עס העומר שנגדו צעדנין ראוי להצטרפו לשורה ממורת למערב. כ' קא מיבעיא לן אס עימר צד הפנימי צבו ולא צד החילון מהו שידון צשורה צמד החילון צבו ששאר, מי אמרינן דהואלי וצד הפנימי לית ציה הוה כהפסק ואינו נידון צשורה עס העומר שנגדו, או דילמא צמתינן שעדיין צד החילון צבו קיים ראוי הוא לידון צשורה. וכן צעי עוד צעימר צד החילון צבו דצוה צד התחמון ששאר וואי נידון צשורה, ואיפכא מאי אס עימר הצד התחמון צבו ולא החילון כגון צסמכו לצד החילון צצן וצאלין וכיוצא צו והניחו קך צמד החילון צבו מהו שידון צשורה, ואלא איפשטו הני צציות: רב צד נחת א'תמן. לצבל: היה אומר אבן צבן עזאי צצוקי עבריאל, וגרסי' להא צב' עגלה ערופה (ה"ג):

ר"ש סוריליא

כשהנא מצפון לדרום, גם כשהלך עכשיו מן מורה למערב חזר ושכתה, ונמלא נטול כל צדיכו, מהו שכתה צו שכתה כיון דצכר פקעא מנייה: אב נפ"ה את החמישי הרי זו שכתה. הרביעי, וכדמפרש ר' בון צ"י חייא: מ"ד אב נפ"ה וכו', בשיש שם ששי. דכנטול את השלישי נטול את החמישי מ"ד, שלא שהה צין נטילה שלשי לחמישי, דצבחי לא חל ש צורה על השלשה ששאר, הוה רביעי שכתה, אכל אס שהה ליטול החמישי, ככר חל על השלשה עס שורה, ולא הוה שכתה: ומ"ד אב שדה איש"ו החמישי, בשארין שם ששי. כלומר אפילו אס שהה הוה רביעי שכתה, כיון דאין עס ששי, דכשעימר השלישי לא נשמייכו כ' אס שנים, דאע"ג דשהה קודם שעימר החמישי, לא אכנייה ליה שחיה ולא מ"ד, דליכא שורה, דאין שורה פחותה משלשה [ובדליתא צב' צתרא דיומא (פ"ה)]. והא הכא דכי איכא ששי כל זמן שלא נטול החמישי איכא שלשה, ונראה הרביעי רגע אחד ראוי לידון צשורה, ואת אמר דכשלם שהה וחזר ונטול לחמישי הוה שכתה, אלמא אע"ג דליטול הדר הוה שכתה, והכא נמי, אע"ג דליטול שעה אחת הדר הוה שכתה: היה עומר אחד גדול. בשהה מיירי, כשנטול את הגדול דהיינו החמישי שנטול היה צו כדי שנים צרביעי ששכת, וכשעימר צד החילון של החמישי שלא היה עס ששי עימר אותו לצד הפנימי דהיינו לצד הרביעי

ביאור הגר"א

[א] אית תנא תנא אב נפ"ה את החמישיית וי. פ"י דוקא שנטול תיפק את החמישיית ודילג את הרביעיית אז הוה שכתה, אכל כששהה ליטול את החמישיית, שאלף החמישיית לא נטול תיפק לא הוה שכתה כמו שאפרש: ואית

תנא תנא כששהה איש"ו את החמישיית. פ"י דהיינו אף כששהה ליטול את החמישיית. והער מפרש מן דאמורן [בשנת"ף את החמישיית פ"י דלצ"ק דוקא שיטול את החמישיית תיפק, איירי בשיש שם ששית או הוה אותם השלשה דהיינו רביעיית חמישיית וששית, וא"כ כששהה אכל הרביעיית ולא נטול החמישיית תיפק, הוה אותו השלשה שורה צפני עומד, ואס"כ כשנטול החמישיית ודילג הרביעיית הוה כמו ששכת בתחלת השורה דלא הוה שכתה דצקתימ צמתימ ראשי שורות עומר שנגדו נטול ונתיב. ועיקר שכתה הרביעיית היינו צצעה שנטול החמישיית ודילגה. אכל כשאין עס ששית אפי' שהה ליטול אינו [נשכח] [נמצא] כשורה. ומה דייק לעיל (פ"ה ה"ג) מכלן אצבד שהוא ראוי להליל שהוא שכתה, היינו משום דמיפק צשהלך ליטול את החמישיית, קודם שנטול, אף שצבד שכתה את הרביעיית, אפי' הכי לא הוה שכתה [שהחמישיית] [שהששית] מנייה מפני שעל ידה היה נראה כשורה שלימה ולא ניכר ששכתה, אפי' אס"כ כשנטלו הוה שכתה דיוקן: עימר צד החילון: פ"י מה שמן מן כנגד הקטן: בצד הפנימי. פ"י מה שהוא שוה לקטן קרוי צד הפנימי:

היינו מה שהוא שוה לקטן:

א לעיל פ"ה ה"ב
ב [ציצורס פ"ב ה"ב,
סוטה פ"ב ה"ג, ערוכות
כט, סוטה מה, קידושין כ,
ערכין ל, ילקו"ש צהר
מפרש

בית שמאי פרק ששי פאה

א) סוטה פ"ט ה"ב, סוטה מה. ג) לעיל פ"ב ה"ג כ"ח א) תוספתא פ"ג ה"א, סוטה מה. [מה:] ד) לעיל פ"ה ה"ו

[ג' - ה']

שני הרוגים וכו'. שנתאלו מונחין זה ע"ג זה מהו: סבר רב שהן עורפין. סבור היה רב למימר דהדין הוא שעורפין את העגלה עליון אלא דהספק הוא מהיכן מודדין אס מהעליון או מהתחתון, והיה רוהה לפשוט לו דין המדידה. א"ל ההוא סבא דאין עורפין

לכל שהיא גוגא: התחתון משום טמון. דקסבר מין במינו הוא טמון ואין עורפין על הטמון, קדמתו התם (פ"ט מ"ג) צאלמה (דברים כא א) ולא טמון. והעליון משום דלף הוא על התחתון ולא צבדה היא, כדריש התם צבדה (שס) ולא קפ: כד פלג ר' אבהו. כשחזר רב לאר"י ותמא לגבי רצי ואמר זה משמיה דהאי סב: א"ל רבי יואת אמר ר' דאין עורפין בשני הרוגין, אכל לא מטעמיה אלא מדכתיב (שס) כי ימצא חלל ודרשינן אחד דלון עורפין על גוגא המטוב הוא דלון עורפין על שני הרוגים שנתאלו זה על זה: היה שם אמת המים עוברת. על פני כל השדה ומתקמקט צין העומד לאחרי, אס היא גדולה כ"כ שרתי לעקור את הממרישה מלך זה וליתנה צלד זה, אין העומר צלד האחד נידון בשורה והי שכתה, ואס לאו לא היו הפסק וידיון בשורה: ה"ג קצר חצי שורה ישב צבדול ישב חישן קרא לו

א) מ"י פ"ט מהלכות זרע הלכה י' ובהשגות ובכ"מ: ב) מ"י פ"ה מהלכות מתנות עמים הלכה ד': א) אינו נידון בשורה ואם לאו נידון בשורה. ב) רש"י ב) ה"ב ח"ב וברפ"י ליתא. ברש"י חשבתי לו: ג) שנפלו, כ"ה גם ברש"י. ב) ר"א וברפ"י שנפלו. ג) תוספתא (פ"ג ה"ד) ובבבלי סוטה (מ"ב) שהחוקי בו: ד) ה"א ר"ב, כ"ה בתי תוספתא (שס) ובבבלי (שס) וברפ"י ב"ה גם ח"ו ר' שמעון. כ"ה גם בתוספתא (שס) בבבלי (שס) וברפ"י ר' שמעון בן יהודה אומר משום ר' שמעון: ו) מבורה. כ"ה גם בתוספתא (שס). בבבלי (שס) פ"מ: ז) שוכה בו. כ"ה גם בתוספתא (שס), ובבבלי (שס) שרואה פ"ג: ח) את העליון. נושא פ"י כ"ד רש"י ד"א רפ"י. ו"ה ליעל (פ"ה ה"ח):

למרוויחו מודדין ועורפין להו עגלה ערופה לעליון משום דמין במינו לא חולך ולתחתון משום דמין במינו לא הוה טמון, וא"ל ההוא סבא למרוויחו אין עורפין, דמין במינו קרינא צהו טמון וקפ, וממון וקפ מנעטינן התם מקראי דלא עורפין להו, ומיית לה הכא דוויאל דעליון ותחתון דלעיל, אי נקרא קפ אפי' ליכא משום שורה אינו שכחה דלא קרינן ציה צבדה, ואפשז שטיקר מקומו מאמתימא דלקמן והיא פלוגמא דר' שמעון ורצין [דבסמוך]: אם עוקר וכו'. אם צריך אמה לעקור הממרישה מלך זה וליתנו לצד זה שאינו עובר כאחת צלי עיקור, אין העומרים צבדה השני נמשצים לצד זה לדון צשורה, דה"ל הפסק ציה: קצר חצי שורה. ומשכה לו ובא צמחר וממרה, פשיטא לן דמיון צשורה, אלא הא מיעבי לן ישב צאלמנע השורה צבדול או חישן או קרא צו חבירו מהו: חבירו. עומר אחר: בווכר את העליון. וה"ק ר' שמעון והעליון לעולם אינו שכחה מפני שזכה בו, [ו]אפילו שכמו ג"כ אינו שכחה, אכל התחתון אינו שכחה כשהוא זוכר העליון:

תורה אור השלב א) פי ימצא קהל בצבורה אשר יחולו אלהיו נהן קד קרשתה גפיל בשורה לא נודע מי הקריו: (דברים כא א)

העומר צלד האחד נידון בשורה והי שכתה, ואס לאו לא היו הפסק וידיון בשורה: ה"ג קצר חצי שורה ישב צבדול ישב חישן קרא לו חבירו שכתה אומר שניהן אינן שכתה התחתון מפני שהוא מבורה והעליון מפני שזכה בו. ר' ועירא אומר צבווכר [את העליון] [ו]אפילו שכמו ג"כ אינו שכחה, אכל התחתון אינו שכחה כשהוא זוכר העליון: חבירו חשיבה ובא צמחר נידון בשורה. ובספרי הדפוס נסתרו המינות צעוטו. וקמ"ל דמה שהפסקי מתמתן שימצד לו לאכול או לשון או קרא לו חבירו לצד עמו או שהשכה לו לא היו הפסק, ומה שהניחו לחי שורה הנשארת צבדה למחר לקזור או לעומר נידון בשורה עם מה שיש עוד ולצרף אותו לשורה. אי נמי אפי' אין כאן עוד כלום לא היו שכחה מה שהיני מלקזור או מלעומר מתמתן זה לחשיבו הכא, והא דקאמר נידון צשורה כלומר הרי הדין צבזותה חצי שורה הנשארת כמו שהימה ראויה להיות נידון בשורה: עומר שנפלו דהי"ז יש ר' וצירא אמר צבווכר. הא דקאמר התחתון אינו שכחה מפני שהוא מבורה, לאו צבזירה ליה לר"ש דטמון אינו שכחה, אלא היינו טעמא דהכא צבווכר את העליון צמתלה מיירי ואח"כ שכחו, והלכך התחתון אין שם שכחה עליו מפני שנתכסה מתמת העליון וצבזותה שעה היה זוכר את העליון:

ר"ש סיריליאו

מפרש לה: התחתון בשום מבורה. דס"ל לר' שמעון כ' יהודה דמעט טמון גצי שכחה לקמן: והעליון בפני שוכה בו. דפרק עגלה ערופה (מה) תני משום שהוא קפ. ואיכא מאן דמרשז לה הכי, מפני שהוא קפ כף צדה, כלומר דוכה צו. ומקשינן אי הכי מאי שגא על גב חביר דנקט, ומשני משום חתון, לאמשעינן דמין במינו חשיב טמון, והיינו גירסא דהכא: בווכר את העליון. מפרש הרמב"ם ז"ל נראה דר' ועירא [ישא ליה למיתלה דמא קמא, דיתמי התחתון שכחה וכו' לא, אמאי תני והעליון וכו', ומאוס הכי ר' ועירא] מפרש למיתלה דח"כ הכי, אס זוכר את העליון קודם שיפגע בו, [אפילו שכחו בכסף, קפ התחתון] אין כאן שכחה, [ועירא היינו דלם] אינו זוכר את העליון אף התחתון שכחה משום דמריבין טמון, וצרייתם הכי קמי, אס שכח את שניהם התחתון דוקא שכחה דמריבין טמון, והעליון אינו שכחה היינו דלם זוכר את העליון אין שום אחד מהם שכחה, דלא גרע [מכשואו מבורה] [מחטופה ענינים] צקס חוכר הקש, ח"ל צברק ה' (ה"ד) נטל עומר להוליו לעיר והניחו על גבי חכרו, אס זוכר העליון קודם שיפגע בו אין התחתון שכחה, ואס לאו התחתון שכחה, והשגו עליו הראצ"ד ז"ל ואמר, אמר אברהם הסוגיא שאמרה צבווכר לעליון, לא כלמרה אלא לר' שמעון דאמר התחתון אינו שכחה משום דהיו מבורה, וקאמר ר' ועירא דוקא צבווכר לעליון [דמיון דהו זוכר וזהו אינו זוכר] היו כמבורה צבגדים או צבצנים דאין עליו תורת שכחה והיו טמון, אכל אס אינו זוכר, אע"פ שהוא עלמו אינו שכחה שכבר החזיק צו להוליו לעיר וכה צו, אע"פ אי התחתון שכחה, מפני שהוא מין במינו [דשניהם שכוחים], ולא היו טמון ע"כ. ותימה על פירוש, דא"כ לר' שמעון לא חשיב טמון מין במינו אלא צבווכר את העליון, וצרייתם קמי שניהן אינן שכחה התחתון וכו', דאפילו דשכת העליון התחתון חשיב טמון. ועוד קשה מאי שגא דבי וצרו חשיב אכן או צבד, וכי וכה צו מעיקרא נמי דאינו שכחה חשיב מין במינו, סוף סוף לא היו שכחה. ומכל מקום דברי הרמב"ם ז"ל נושאן אלא, [דמתמי לה לשעמיה דר' יונה, וכי היכי צווכר את הקס הלכה, הכי נמי זוכר את העליון אליכא דהלכתא]:

שני הרוגים זה על גב זה. והאחד משוך להלן מחברו מעט, ואס תמדות מזה יקרב לגוי אחת, ואס תמדות מחברו יקרב לעיר אחרת. ומפרש דפרק עגלה ערופה (סוטה מה) מי אמרינן מין במינו הוא טמון ומין במינו לא היו קפ, ומעליון מודד, או דלמא מין במינו הוא קפ ומין במינו לא היו טמון, ומתחתון מודד, או מין במינו הוא טמון ומין במינו הוא קפ: התחתון משום טמון. והסך נפקא לן דטמון לא מייתו, [לכולי עלמא], מדכתיב צלדמה פירט לטמון, וס"ל דמין במינו הוא טמון, ואע"ג דס"ל לקמן (ה"ו) [לרצין] גצי שכחה דמריבין טמון, צבמרה משני לה לקמן, והסך נמי משני לה: והעליון משום צפ. דבעינן צבדה נופל ממנו, והרי הוא כפץ על המיס, והסך לפינן לה מקרא דלף לא מייתו, וס"ל דמין במינו הוא קפ: יואת אמר ר' ימצא חלל כתיב ולא כי ימצאו, ולא משום קפ וטמון: אמת הדברים וכו'. וכך עומד [אחד או שנים] צווק שדה זו [של מעלה או אחד] או שנים צבדה האחר: אם עוקר וכו'. דמיון דאין נמרשין כאחת מל מטרטרי, ולא היו שכחה: נדון בשורה. כלומר דחשיב ראש שורה או סוף שורה ואפילו לא ששה, דשדה צבצפי נשעה היא ולא מטרטרי, ואס נמרש כאחת מטרטרי, ואינו נדון בשורה. ורצאו דמטרטרי כי נמרשין כאחת, ואפילו שמושך מיס לעולם צקין וצחוק: קצר חצי שורה ובא צמחר. והיני עומר אחד או שני עמרים אמרי ודלגן, הוו כשנים שהחלו מאלמנע שורה והניחו לאחריהן, דלא היו שכחה כותח צממני. והן שהייה רבתי פשיטא דחשיבא שהייה, דלאמר לגוי דלם יש שם ששי אס שדה אינו שכחה, כי מיעבי לן אס ישב לאכול, או ישב לישן, או קרא לו חבירו, או שחכה לו והוליו נר, וחזר וקצר, ותן לקמן (מ"ח) דאפילו הקוצר צלילה יש לו שכחה, וכשחזר היני שני עומרין אמרי ודלגן, צבולה מייעביא ולא חיפשיטא: ונתנו ע"ג גבי חבירו. על גב עומר אחר: התחתון שכחה. רצין לטעמיהו דמרצו טמון גצי שכחה לקמן (ה"ו): ר' אומר בווכר את העליון. השתא משמע דהו משום דוכה צו מעיקרא, דלא היו ששון מעיקרו, דמתן צמתני דוכה צו להוליו לעיר אצ"פ שהניחו צלד הגדיש לא היו שכחה וכו' יהושע, או משום קפ, ולקמיה העליון, ולכן אינו שכחה משום דמיון

ב) כה"ב

הגרא"א

התחתון משום טמון והעליון משום צפ. וצבגלה ערופה כתיב צבדה מנעטינן שהיא צוקא צבגלי ועל הארץ ממש: צמריורו גרס ובא צמחר אינו נדון בשורה. דהיו הפסק אכל ישב לאכול וישן מצעני ליה: והעליון אינו גריסין ובא צמחר אינו נדון בשורה. פי' דהוה הפסק: ישב צבדול ישב חישן וכו'. צהא מצעני ליה: והעליון אינו שכחה. פי' מפני שזכה צו: ר"י אומר בווכר את העליון. הא דלאמר ר"ש שכחה את העליון וכוין דהו"ל זכות צעליון וכה אף התחתון:

ביאור

ב) כה"ב א) פי' שאינו על הארץ וגבי עגלה ערופה כתיב (דברים כא א) צבדה היינו שהיא צבגלי ויהא על הארץ: אינו נדון בשורה. פי' אין מטרטרי צבדה להיות שורה, דהיינו אס שכת שניס מלך אחד וכו' מלך השני הוא שכחה: הכי גריסין ובא צמחר אינו נדון בשורה. פי' דהוה הפסק: ישב צבדול ישב חישן וכו'. צהא מצעני ליה: והעליון אינו שכחה. פי' מפני שזכה צו: ר"י אומר בווכר את העליון. פי' הא דלר"ש שניהם אינן שכחה היינו פעמים שניהם אינן שכחה היינו כשכתה את התחתון אחר שכבר זכר את העליון, ולכן אינו שכחה משום דמיון

[ג. ה"ג ה"ד]

- א מ"י פ"ה מהלכות מתנות עניים הלכה ג:
- ב מ"י פ"ה מהלכות מתנות עניים הלכה ז:
- ג מ"י פ"ה מהלכות מתנות עניים הלכה ט:
- ד ה"ה מ"י פ"ה מהלכות מתנות עניים הלכה טו:
- ו מ"י פ"ד מהלכות מתנות עניים הלכה טז:
- ז מ"י פ"ד מהלכות מתנות עניים הלכה טז:
- ח ה"ה מ"י פ"ד מהלכות מתנות עניים הלכה טז:
- י מ"י פ"ד מהלכות מתנות עניים הלכה טז:

שינויי נוסחאות

- [א] ד"ר ברש"י במא ד"ר רעיון לעיל (פ"ה ה"ו):
- [ב] כן. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ג] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ד] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ה] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ו] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ז] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ח] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ט] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [י] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):

עדות הגר"א

- [א] ע"ד ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ב] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ג] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ד] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ה] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ו] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ז] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ח] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [ט] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):
- [י] ש"י. כ"ה ברש"י ד"א רפ"י ורעיון לעיל (פ"ה ה"ו):

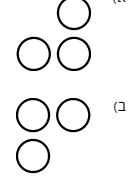
אתיא דר' ועירא. דס"ל דכסוי העלין שזכרו הוא גורם שלא להא מה שתחמיו שכתה: בר' יונה. דלמנר צפרק דלעיל (ה"ו) גבי העומר שמיפיה בקש דמתן דלמינו שכתה, וזכור את הקש שעליו וכלן נמי כדלמנר ר"ז צוכר את העלין: שדה שעומריה מעורבבין זה עם זה ושכה אחד מהן אינו שכהה. דמתמת ערצונן לא היה נראה לו עד שיטול מה שהוא סביבומיו ונראה ויכיר הוא, ואם אס"כ שכחו היו שכתה ומתפתח היא סס: מתנ' שני עומרים שכהה. והס אינס מעורבצין דקתלמנר גנמ': שני צבורי זתים והחרובין. דוקא לצורין שהן גמר מלאכה: שני הוצני פשתן. שנעקר הפשתן מן השדה נקרא הוצני עשומד כמו הוצני דקל: שני גרגרים. של ענבים פרט: אלו כדברי ב"ה. דמפרש טעמיהו גנמ' דכתיב לעני ולגר תעזוב, אחד לעני ואחד לגר, וצ"ש דרשי קרא דלגר ליטוס ולאמנה יהיה הרי כאן שלשה, ובגמ' מפרש לה מאי ענדי צ"ה צקרא דצ"ש: גמ' עשואן כמין גמ. כלומר דמפרש להא דמנין שני עומרים שכהה, דוקא שיהא יוכיר שהן מוצלגין זה מזה והיינו שעשואן כמין גמ יונית מה' א, דאי לאו הכי הא אמריין לעיל (פ"ג מ"א) שדה שעומריה מעורבצין ושכה אחד מהן אינו שכהה: א"א אמר א"א צבורין. דוקא, הא זמיס ואינן לצורין לאו הוי שכהה דמפרש ואזיל מה צין וכו' דבעינן גמר מלאכה דמסיקת התיס ללא גמר מלאכה הוי: רומס הייתי זתים וכו'. מפרש צפרק דלעיל (ה"ב): ר' א"א עירא קאלמר בשם ר' חייא רבא. אפי' חצי אשכול הוא פרט, ואשכחן דבעינן דמני ר' חייא חצי אשכול או אשכול שלם הוי פרט ולעניי: והתני. דמתני: שני גרגרים פרט. ולא יומר: ומשני ר' אימי בשם ר' חייא בקוצר ומניח תחת הגפן כמין שיהא חותבן בשוה: קורא אותן הוצני: והוא שיהא חותבן בשוה. כלומר שיהא חותבן בשוה. כלומר שיהא חותבן בשוה. כלומר שיהא חותבן בשוה. כלומר שיהא חותבן בשוה.

מבורבבים. ולא עימר זה כסדר שורות: עד שיטול כ"ב כביבותיו. דבעינן לא תשוב (דפרסי דכ"ט), וכיון שאינן כסדר השורות לא שייך לומר לא תשוב: כמתנ' הוצני [פשתן]. קייס של פשתן: כדברי בית הלל. כל הני שלשה דלינן לקטו ושכתה ופרט הוא כדברי בית הלל: גמ' עשואן כמין גמ. מה' א, ובעירא היא א"י הוה שכהה כהאי גוונא, מי נימא דדוקא צבורה צבורה או לא. וזכמ"י של הגאון מהר"ס ז"ל ראינו דקאי אעומר שמוכח כנגדו, ור"ל שעומר מורח ומערב אחר שעומר כפון ודרוס והיינו כמין גמ. ולפי זה אין כאן מקומו ללא צריך לגרסו אממני' דלעיל (ה"ג): א"א אמר א"א צבורין. אממני' קאי הא דמני צבורי זתים, דוקא צבורין נקט: הא שני זתים א"א הוה שכהה, וכדמסיק דלענין שכהה צענין גמר מלאכה וכדליתא דפירקא דלעיל (ה"ו), וזמיס אין גמר מלאכה ללא צעירין: רומס. ענין לקיטה הוא: מכיון שעבר ע"יו. צמיס צבאלין פליגי: חצי אשכול. הוה נמי פרט: והתני. דמתני' דוקא שני גרגרים, אבל לא חצי אשכול [ש]יש צו כמה גרגרים ומכל שכן אשכול שלם: בקוצר ומניח תחת הגפן. וזמי שז ולקחו משם, אפילו אשכול שלם הנפרט שם הוה פרט. אממני' ז"ל (ה"ג) מהמט עמיס פ"ד ה"ט"ו). ומתני' דפרט צעירתו מיירי: כמין סינפון. כוה שאין צבורה צבורה ללא האמנעי נמשך מעט לחון: והוא שיהא חותבן בשוה. האמנעי נמשך לחון צענין שיהא חותבן להשיגם צבורה צבורה ללא מוכון צבורה או הא נידון כשורה:

ר"ש סוריליא

בזכר את הקשין. צפרק גדיש (פ"ה ה"ו) מפרש לממני' דמפיהו בקש דלמנין לא הוי שכהה, דעממא צוכר את הקשין דפרשיטנא תס: בזכר את העלין. ומסוס הכי אין המתחון שכהה: שעומריה מעורבבין. שאין לומר צין דלין ללפון ולדרוס גילה דעמו שיהיה הולכת מלפון לדרוס, דלין להן סדר, אלא עד שיטול כ"ב כביבותיו. דהשתא אין לנו ללפון אל האחרים, או הוי שכהה: כמתנ' שני עומרים. דתוספתא (פ"ג ה"ו) קמני המוצלגין זה מזה, וכן פסק הרמב"ם ז"ל (פ"ה ה"ו), ובגמרא (ד"ה שעשויין) אפרשנה כ"ס: ש"ש אינן שכהה. דמתנא יליף לה מקרא: שני צבורי זתים. דמתנא מפרש אמאי מני צבורי: שני הוצני פשתן. כשעוקרין הפשתן מן הקרקע הוא כהוצני דקל, ולכן קרי להו הוצני פשתן. וכגון כתיב גבי קציר, וקציר אכול הוא כדליתא ברש מילתין (פ"א ה"ו): שתי שד"ין קצב. דתוספתא (פ"ג ה"ו) קמני המוצלגין כדרכן: גמ' שעשויין כמין גמ. כוה"א או כוה"ב, ונראה בעיני דקאי אשלשה שאינן שכהה, והיינו מוצלגין זה מזה דקמני דתוספתא. ומסוס שלשה מני ליה, דלס הן מעורבצין הוו להו כמרי ומד, והוו להו שכהה: א"א אמרו א"א צבורין הא זתים א"א הוי

בזכר את הקשין. צפרק גדיש (פ"ה ה"ו) מפרש לממני' דמפיהו בקש דלמנין לא הוי שכהה, דעממא צוכר את הקשין דפרשיטנא תס: בזכר את העלין. ומסוס הכי אין המתחון שכהה: שעומריה מעורבבין. שאין לומר צין דלין ללפון ולדרוס גילה דעמו שיהיה הולכת מלפון לדרוס, דלין להן סדר, אלא עד שיטול כ"ב כביבותיו. דהשתא אין לנו ללפון אל האחרים, או הוי שכהה: כמתנ' שני עומרים. דתוספתא (פ"ג ה"ו) קמני המוצלגין זה מזה, וכן פסק הרמב"ם ז"ל (פ"ה ה"ו), ובגמרא (ד"ה שעשויין) אפרשנה כ"ס: ש"ש אינן שכהה. דמתנא יליף לה מקרא: שני צבורי זתים. דמתנא מפרש אמאי מני צבורי: שני הוצני פשתן. כשעוקרין הפשתן מן הקרקע הוא כהוצני דקל, ולכן קרי להו הוצני פשתן. וכגון כתיב גבי קציר, וקציר אכול הוא כדליתא ברש מילתין (פ"א ה"ו): שתי שד"ין קצב. דתוספתא (פ"ג ה"ו) קמני המוצלגין כדרכן: גמ' שעשויין כמין גמ. כוה"א או כוה"ב, ונראה בעיני דקאי אשלשה שאינן שכהה, והיינו מוצלגין זה מזה דקמני דתוספתא. ומסוס שלשה מני ליה, דלס הן מעורבצין הוו להו כמרי ומד, והוו להו שכהה: א"א אמרו א"א צבורין הא זתים א"א הוי



במין גמ. שקלר משני דקדין ושכחו הוי שכהה: בבוצר גרגרים. לכן אינו (שכהה) [פרט] אלא צ' גרגרים, ברם הבא בעשויין סינפון, היינו שחוקן חמיכות כמו חלצין אשכולות לכן חצי אשכול נמי הוי (שכהה) [פרט]: והוא שיהא חותבן בשוה. אבל כשחוקן א' גדול הרבה והשאר קטנים, הגדול הרבה אינו (שכהה) [פרט]:

6 ב"צ ע"ב: [ספרי דברים רפג, מדרש מלואים דברים כד יט, פסוקה וטרחה טלה מג, יק"ש טלה טחלק]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

א [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

[ל - ה"ד ה"ה]

שינויי נוסחאות

- [א] ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו: [ב] ה"א י"ב במשניות בר"א ובר"י כ"ד הל"ה א"א: [ג] ע"ב פ"ה מהלכות מטות ע"ש הלכה טו: [ד] י"ב ע"ב פ"ה מהלכות מטות ע"ש הלכה טו: [ה] י"ב ע"ב פ"ה מהלכות מטות ע"ש הלכה טו: [ו] י"ב ע"ב פ"ה מהלכות מטות ע"ש הלכה טו: [ז] י"ב ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:

הגהות הגר"א

[א] לגר ליתום ולא למנה... [ב] ד"א אמר ר' אבהו... [ג] ד"א אמר ר' אבהו... [ד] ד"א אמר ר' אבהו... [ה] ד"א אמר ר' אבהו... [ו] ד"א אמר ר' אבהו... [ז] ד"א אמר ר' אבהו...

ליקוט משנת אליהו

אמר ר' אבהו... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

תורה אור השלם

א פ"י תקצ"ד... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

אמר ר' אבהו, כל אחד ואחד מהן... [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

[הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

[הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:] מטות ע"ש הלכה יז: ז [הגהות: ז' ע"ב פ"ה מהלכות מטות ע"ש הלכה טו:]

[ל. ז. - ה"ה ה"ו]

א מ"י פ"ה מהלכות ממונת
עניים הלכה יז:
ב ג מ"י פ"ה מהלכות
ממונת עניים הלכה יט:
ד ה מ"י פ"ה מהלכות
ממונת עניים הלכה כא:

שינויי נוסחאות

א] שיבלין. ב"ש שיבלין
שבולות:
ב] שבכחה. ב"ש
שבכחה:

ליקוט משנות אלהיו

אפי' היא שי' טופח וכו'
פירוש הכתובת ע"ה שדלמה
מלה פטורו כלל ממש וכן
מפטו ואף אם יקרו לא
יהיה סתמי ולא יהיה משא
כד כלל אפי"כ אינו שכחה
דרואין אותה וכו': מרתנ'
הקמה מצד את העומר
ואת הקמה. פי' הקמה שלא
שכחה מלל את הקמה
שכחה את העומר ששכחו
ובענין שהיה נקל' עם
הקמה שלא שכחה דלעיל
פ"ה ה"ה שנותל עכ"ל
וכו' :

תורה אור השלם

א] כי תקצר קצירך
קצירך ושבך
בשדה לא תשוב לקחתו
לפי' לתום ולאתקנת
יתרה למען פרךך ויתר
אלתריך בכל מעשה ידך:
(דברים טז ע)

אין תעבדינה עומר. כלומר מי אמרין ללא דיינין ליה כגדש
אלא לענין שכחה גופו לית זיה שכחה, אבל לענין העומר
שגדו מיתעב הוא כשאר עומרי שדה, והשמח' אס הוא כעומר
ולא כגדש לענין זה אי"כ אס שכח העומר שגדו לדברי הכל
הוא שכחה: ואין תעבדינה גדיש.
כלומר לא לילמח' דלענין זה נמי
כגדיש מתעבדין ליה, והשמח' אס
שכח העומר שגדו תליא
צמחוקת ג"ש וצית הלל דפליגי
לעיל בעומר שהוא סמוך לגפה
וגדיש, לז"ש אינו שכחה ולז"ה
שכח עומר שגדיש שגדיש עומרי שדה.
כלומר וכן אס שכח עומרי
צד זה העומר שיש צו סתמי
ושכח ג"כ אותו, הוא עכ"מ
פשיטא לן שאינו שכחה, אלא
לענין העומרים שגדו תליא זהאי
בעילא גופא, דאס תעבדינה עומר
לענין זה וכדאמרן, אי"כ תליא
צמחוקת צמחתי' דלעיל, לז"ש
שלשה לענינ', דנאי הוא עכ"מ
אינו שכחה מ"מ השני עומרי
שגדו לעולם שכחה הן לז"ש,
דאס אף דאמרין דלענין
העומרים שגדו עומר דיינין ליה,

אין תעבדינה עומר. נידון כשורה ואינו שכחה לזית הלל שהרי
שלשה הם, ולזית שמאי שכחה בשלשה. ולטעמא צמח' שהוא
נקרא גדיש ולא עומר אינו נידון כשורה, שאין הגדיש נידון
עם העומר כשורה, ולזית שמאי הגדיש מזיל עומר אחד,
ועומר אחד שכחה שהרי אינו
סמוך לגדיש, שעומר הסמוך
לגדיש מפקיק זניו לגדיש, ולפיכך
לא אמר גדיש כן מתחוקת צית
שמאי וצית הלל, דעומר השני
דקאי זיה השמח' שוין הס. אבל
ליתשח' קמח' מתחוקת צית שמאי
וצית הלל הואיל הוא סמוך
לגדיש: אמר רבי יונה וכו'. כל
לפרש שכחה קמה דמצינין להו
כשכחה עומרים: ובבבד שיבלין.
וצלנד שהיו עבלין, אבל כי ליכא
שיבלין משום שקיין לא נמשך
קמה לשמים. אבל צבילין אפילו
הן דקות ושדופות רואין אותן
ארוכות ומלאות, ואס אז יהיה
סתמי אפי"כ, דהשמח' הן דקות
ושדופות ואין סתמי אפילו הכי
נמשדין לשמים: מרתנ' קמה
מצד את העומר ואת הקמה.

אין תעבדינה עומר דברי הכל שכחה וואין
תעבדינה גדיש מחלוקת בית שמאי ובית
הלל. שכח שני עומרין בצדו אין תעבדינה
עומר מחלוקת בית שמאי ובית הלל. אין
תעבדינה גדיש אינו נידון כשורה: [קמה
שיש בה סתמים וכו']: אמר ר' יונה כ"כ
תקצר קצירך בשדך ושכחת עומר בשדה
עומר שיש בו סתמים ושכחה אינו שכחה
קמה שיש בה סתמים ושכחה אינה שכחה:
[אפילו היא של טופח וכו']: אמר ר' יוסי
ובבבד שיבלין. זהו דקות רואין אותן
כאילו הן ארוכות. שדופות רואין אותן כאילו
הן מליאות: [מ"ח הלכה ו מרתנ' קמה
מצלת את העומר ואת הקמה והעומר
אינו מציל לא את העומר ולא את הקמה.
אי זו היא קמה שהיא מצלת את העומר
יכל שאינה כ"כ שכחה אפילו קלה אחד:
קמה שלא שכחה מלל את העומר צדדה שלא יהא שכחה
וגם את הקמה שצדדה שלא יהא שכחה:

הרי לז"ש שלשה היו
שכחה וזה שיש צו סתמי הוא דאינו שכחה, ושני עומרים
שגדו ממה נפשך היו שכחה, אבל לז"ה אס עומר דיינין
ליה מנטרף הוא עם העומרים שגדו, וא"כ יש כן שכחה שלשה, ולז"ה שלשה לבעב"צ ואף אלו שגדו לא הוו שכחה: אין
תעבדינה גדיש אינו נידון בשורה. אבל אי אמרין דגם לענין העומרים שגדו כגדיש דיינין ליה, אי"כ אף לז"ה אינו נידון
זה העומר עממס כשורה דליהו שכחה שלשה, אלא שכח' שני העומרים הסמוכים אלל הגדיש והוו שכחה. ולא איפשטא בעב"צ
הכא: אמר רבי יונה בתיב וכו'. כלומר דר' יונה מפרש טעמא דמתינ' דאף קמה שיש בה סתמים אינה שכחה, דהואיל ומחד קרא
נפקא לן לשכחה שניה ילפינן קמה מעומר, כמו העומר שיש צו סתמי אינו שכחה דליפלין בהלכה דלעיל עומר ולא גדיש
אף קמה כן: ובבבד שיבלין. כלומר דלא מימח' דבשל מין טופח קאמר דרואין אותו כאילו הוא שערין, אלא על שצלין קאמר
דאס היו גרועות ודקות כמו מין הטופח כדמסיים ואילו היו דקות וכו' דפרישית צמחתי': מרתנ' קמה מצד את העומר
ואת הקמה. אס יש כן קמה שלא שכחה צד העומר ששכחו מלל את הקמה על העומר דלא ליהו שכחה, שדחה צמח' דכתיב
כי תקצר ושכחת עומר בשדה, עומר שצביומו קציר ולא עומר שצביומו קמה וכן מלל את הקמה שהינה שכחה את הקמה
השכחה שגדו כדאמרין לעיל דליפלין שכחה קמה משכחת עומר, הלכך כל שמלל את העומר מזיל ג"כ את הקמה: והעומר.
אלא העומר שאינו שכות, אינו מזיל לא את העומר השכות ולא את הקמה השכחה שגדו: איזו היא קמה. שאמרנו שהיא
מלל את העומר, כל שאינה שכות ואפי' קלה אחד שבה. והי"ה בהלל את הקמה שגדין שהקמה המלל לא יהא זה שכחה
כלל ואפי' קלה אחד, ומתא חדא מייניה נקט והי"ה לאידך:

ר"ש סיריליא
אין תעבדינה עומר דברי הבב' שבכחה. דעומר צד עומר כולי עלמא
מודו דהו שכחה: ואין תעבדינה גדיש מחלוקת בית שמאי ובית הלל.
דמתן צריש פירקין העומר שהוא סמוך לגדיש צית שמאי אומרים אינו
שכחה, וצית הלל אומרים שכחה, וכיון דשכח עומר קטן כהדי עומר גדול
שיש בו סתמים דקרוי גדיש, לזית שמאי לא הו שכחה ולזית הלל הו
שכחה: שכח שני עומרים בצדו. כלומר עוד איכא צינייהו, דלמאן דאמר
גדיש ללל וצית שמאי אינו נידון כשורה, [אלא] לזית הלל שני
עומרים [צדו] [היו] שכחה, [משום] דהעומר גדול שיש בו סתמים אין
משלים השורה לומר שלשה הן, דאין קרוין שלשה עומרים, [ולזית שמאי
לא הו שכחה] [משום] דלגדיש סמוך. אבל מטעם שורה הו שכחה, ואי
מקרי עומר לא הו שכחה לז"ה דהא שלשה הם, ולזית שמאי הו שכחה
עד שיהו ארבעה דמתן לעיל, ופסק הרמב"ם שפ"ה (ה"ח) כמאן דאמר
דגדיש מוקרי, ושמח' משום דליתשח' דמתני' דייקא הכי, דמתן אס אמרו
עומר אחד שהוא כגדיש, וממנה עליו דבפרק המוכר את הבית (ג"כ
עכ'): קבר רב הונא דלית זיה מורח עומר ומנטרף כהדי שיש ולא הו
שכחה, דרספין התם אמר רב הונא עומר שיש צו סתמים מורח עומר
עליו ומורח גדיש עליו, מורח עומר עליו דשי עומרים שכחה, שיש והו
אין שכחה, מורח גדיש עליו דמתן עומר שיש צו סתמים ושכחו אינו
שכחה, וכיון דגמרא דילן נקיטו הכי, ולא פליגי עליה דרב הונא שוס
אמורא, שמשנין דהכי היא הלכתא: כי תקצר קצירך בשדך ושכחת עומר
עומר בשדה. כלומר דמבדיה נפקא לן שיש שכחה בקמה, וכיון דליקטש

ביאור ב
כת"ב
א"ר יונה כי תקצור בו. מפרש טעמא מפני מה קמה שיש בה סתמים
אינו שכחה. ומפרש דמקשין לעומר*: ובבבד שיבלין. אלא אס הי' מקוס
פניו אין רואין כאלו הוא שצלין*:

בר"א
א"ר יונה בתיב כי תקצור בו. פי' דמפרש טעמא מפני מה קמה שיש
בה סתמים אינו שכחה ומפרש דמקשין לעומר: ובבבד שיבלין. פי' שרין
שהיא שצלין אין רואין אותן כדמפרש אס היו דקות אין רואין אותן כאלו הן

א] [ספרי דברים רפג,
ליק"ש מלח' מקל']

ריב"ז

אמר ר' יוסי ובבבד שיבלין
וכו'. אחא דאמרין כמתני'
אפילו הוא של טופח רואין
אותה וכו' על זה קאמר
שצריך שיהיו שיבלין או
אמרין רואין, דאס הו
דקות רואין אותן כאילו הן
ארוכות שדופות רואין
אותן כאילו הן מלאות,
אבל אם לא היו שיבלין
כלל אלא מקום פני לא
אמרין רואין כאילו היו
שיבלין. כן פי' מוה"א דל'
בשנות אליהו ועי"ש:
הדרן עלך בית שמאי

בית שמאי פרק ששי פאה

[ל' - ה']

לעיל פ"ה ה"ב
מסופתא פ"ג ה"ה
[מסופתא סג]

עקורה. מלושה: שאינה עקורה. מחוברת: אינן מצטרפין לפאתים. ללא ליהוי שכה, אלא אם שכן [הוין] שכה. ודוקא אם שכן שטיה, אלא אם לא שכן, שאינה עקורה מלל עקורה שצדדה: וכן באי"ן. סאה פירות מלושים אלא סאה פירות מחוברת אין מצטרפין והוה שכה: הישום והבצ"ים. סאה שום וסאה צללים אין מצטרף והוה שכה: רשות העני באמצע. כגון [שיש] לקט זין סאה לסאה, וכן פרט צכס זין סאה לסאה אין מצטרפין: ואם פ"א. כגון צאלין שאין שם לקט ולא פרט מצטרפין: גב' עומר שסביבותיו קציר. הוה שכה מה שאין כן כסציבותיו קמה מללל הקמה לעומר: ודמה. צלמת הקמה מללל ולא העומר: מה שתחתיו שדה. כלומר נמשך לדה שדה הכל נקצר, ונקרא כמיז צדה, אלא כסציבותיו קמה מה שתחתיו קשים ולא שדה ומשנין הכל קמה. [פירוש שהכל ממשך אחר סצינו, אם סצינו קמה אף הקשים שהם אינו שדה כמו שאמרין צלם כן סצינו קשין]: שיפה בה בה העני. שנוטל ממנה פילה ולקט מה שאין כן צעומר: ה"ג הרי היא מצלת את השכחה:

א ב מ"י פ"ה מהלכות
ממנו עניי הלכה כ:
ג מ"י פ"ה מהלכות ממנו
עניי הלכה כ:
ד ה מ"י פ"ה מהלכות
ממנו עניי הלכה
כ:

שינויי נוסחאות

- [א] אינן מצטרפין. במשניות אין מצטרפין. לפאתים אינן ש" עניים הם.
- [ב] לעני. במשניות ובריש וברז"ל העני:
- [ג] רבי. ברש"י ר' אימא:
- [ד] רבי. ברש"י ובתוספתא (פ"ג ה"א) "מאיר":
- [ה] אינה. ברש"י ואינה:
- [ו] אוסר. נוסף עפ"י כ"ד ר"ש ותוספתא (סג):
- [ז] ושכחה. ליחא ברש"י וברש"י:
- [ח] מצלת. ברש"י מצלת את העומר:
- [ט] שיציל. ברש"י שיציל את הקמה:

הגהות הגר"א

[א] בה העני הרי מצלת כב"ל. ומוחק וכתב ושכחה:

ליקוט משנות אליהו

כאה תבואה עקורה. פ"ה סאה תבואה מלושה וסאה שאינה מלושה וכן צאלין סאה פירות מלושין וסאה שאינן מלושין. והשום גם כן כ"ל. וצאלין גם כן כ"ל. ר"י אוסר אם באת רשות לעני באמצע וכו'. פ"ה שאלו לכה וכן הוה גירסא שלימי והביאו ר"ש ע"ש. וגם צענין ששכה הקמה תמלה דלי לא תמלה הכי הוה הקמה מללל דאפילו קת אחד מלל:

תורה אור השלם

[א] כי תקצר קצירך בשדה ושכחת עמר בשדה לא תשוב לקחתו לצר ליתום ולאלמנה יתנה לפעון וברך יתנה אלמנה בכל מעשה ידך: (דברים כ"ד)

כאה תבואה עקורה. מלושה: וסאה שאינה עקורה. ומחוברת לקרקע אינן מצטרפין לפאתים ללא ליהו שכה, אלא אם שכן הוה שכה. ודוקא ששכה שמייה, שאם שכן את העקורה ולא שכה את שאינה עקורה, הימה מללל את העקורה שצדדה. כדמנן לעיל הקמה מללל את העומר: וכן באי"ן הישום והבצ"ים. אם שכה צאלין סאה פירות מלושין אלא סאה פירות מחוברת, וכן צכס ששכה מקלמו צמלוש ומקלמו צממוזר, וכן צצללים, ולומר זין תבואה וזין צפירות האילן וזין צירק, צולין הדין כן שאין המלוש והמחובר מצטרפין לפאתים אלא שיהן שכה: ר' יוסי אוסר אם באת רשות לעני באמצע אין מצטרפין. כדמפרש לה בתוספתא פ"ג (ה"ה) כל שצלת רשות לעני צלמנע כגון התבואה והכרם אין מצטרפין, וכל שלא צלת רשות לעני צלמנע כגון פירות האילן הרי אלו מצטרפין, כלומר דצמחוה וצכרס מן הסתם צלת רשות לעני צלמנע, שהרי כשקצר המקלת יש כאל לקט הנושר צעמ הקצירה וצכרס פרט הנושר צעמ צצירה והרי הן של עניים, וכיון דרשות העני זין המלוש והמחובר אין מצטרפין לפאתים והוה שכה, אלא חייב צכמה ופאה. מ"מ הואיל דעל הרוב אין רשות העני צלמנע צפירות האילן, דאין לקט ופרט צאלין, וכן לא יתחייב שישכה, וכן פאה דינה לכתולה שומנין אותה צסוף, וא"כ מן הסתם אין כאלן רשות העני צלמנע ואו מצטרפין המלוש והמחובר לפאתים. ואין הלכה כר' יוסי: גב' כתיב כי תקצור וכו'. כדפרשיה צמחני: ודמה עומר שסביבותיו עומרין ופ"ה שסביבותיו קמה. כלומר דפרץ ולמה עומר אינו מללל העומר שצדדו כדמנן צמחני, ואמאי ולימא נמי ססציבותיו קציר ולא ססציבותיו עומרין כדאמרין צקמה, ומאי חוית מרצית עומר ססציבותיו עומרין לשכה ולא מרצית עומר ססציבותיו קמה: עומר וכו'. כלומר דלא דמי שהרי עומר ססציבותיו עומרין מה שתחתיו שדה, דהעומרין על פני השדה הן קרינן ציה ושכחת עומר צדה, לפיכך העומרין שאינן שכוזין אינן מללל את העומר השכוח צדדן, אלא עומר ססציבותיו קמה מה שתחתיו קשין, דאע"פ שראש השבילים מללל תבואה מ"מ החלק התחתון הוה קש והראשין עומדין על הקשין ולא קרינן ציה עומר צדה, ולפיכך קמה שאינה שכוה מללל את העומר השכוח שצדדה: תנא. צתוספתא פ"ג (ה"ה): קמת הבריו. שאינה שכוה מללל על שלו השכוחה שצדדה, וכן של עכו"ם וכו' דלא שייך ציה שכה וכאינה שכוה לעולם היא: א"א ש"ו. על שלו ומין על מינו: תני. צתוספתא (סג): ודין הוה. שצילל דמה אם קמה שיפה צו כח העני שיש לו צה שלש ממנות לקט שכה ופאה, אפ"ה אם שכה קמה שצדדה, מללל אותה הקמה שאינה שכוה, וכן את העומר השכוח, עומר שהורע צו כח העני שאין לו חלק צו אלא שכה, אינו דין שצילל העומר שאינו שכוה את העומר או את הקמה השכוחין:

ר"ש סיריליא

עקורה. מלושה, ושכה: וסאה עקורה. אלא מחוברת ושכה: אינן מצטרפות. לפאתים ללא ליהו שכה. וצמחא מפרס דמיירי צשכה את הקמה תמלה: וכן באי"ן. למעוטי דר' יוסי קלמר הכי, דצאלין סאה פירות מלושין אלא מחוברת אין מצטרפין והוה שכה: והישום והבצ"ים אינן מצטרפין. סאה קמה של שום, וסאה קמה של צללים, אין מצטרפין והוה שכה, דאע"ג דכולהו צאלין לקצירה ומשיצי מין אחד כדמנן צמסכת ערלה (פ"ג מ"ה), אפילו הכי לא מצטרפי לפאתים והוה שכה: אם באה רשות עני באמצע. כגון שיש שם לקט או פרט שיש זכות לעני צו: באמצע. זין שמי סאין, צהאי הוה דמודינא לכו דאין מצטרפין, אלא אי לכה פרט או לקט מצטרפין, ולא הוה שכה. וכל שכן דצאלין דלית ציה פרט, וצשומין וצצללים דלית צהו לקט, דמצטרפין (אבל) [והסין] מניא צתוספתא (פ"ג ה"ה) כל שצלת רשות עני לאמנע כגון תבואה וכרם [אין מצטרפין], וכל שלא צלת רשות עני לאמנע כגון פירות האילן, הרי אלו מצטרפין ע"כ. [וצמחא מיימיה לה:] גב' ופ"ה עומר שסביבותיו קמה.

כת"א

מלכות. אלא אם היה מקום פנו אין רואין אומו כאלו היה צנלן: פ"ה עומר שסביבותיו עומרין. פ"ה הוה שכה, ולא אמרין עומר ססציבותיו קציר ולא עומר ססציבותיו עומרין. וגבי קמה אמרין כן עומר ססציבותיו קציר ולא עומר ססציבותיו קמה: ומשני עומר שסביבותיו עומרין מה שתחתיו שדה כו'. פ"ה ופסיר קרינן ושכחת עומר צדה: שיפה בה בה העני. פ"ה שהרי יש לה לקט שכה ופאה: מצלת. פ"ה אם שכה עומר או קמה צדדו: עומר שהורע צו כח העני. שהרי אין צו לא לקט ולא פאה: אינו דין שיציל. פ"ה אם שכה קמה צדדו. פ"ה דהשחא הוה ק"ו מה אם קמה מללל את הקמה כ"ש העומר שיפה מללל את הקמה:

ביאור

כת"ב

דמה מלללו: ודמה עומר שסביבותיו עומרין. דהיינו קציר דקרא: ופ"ה עומר שסביבותיו קמה. דהא כל שכן הוה, כדפרץ רש"י לקמן, דלס קמה שיפה כמו של עני צה וכו'. ומפרס דעעמא דעומר ססציבותיו קציר מה שתחתיו שדה שמשנין אותן אל מקום פנו, ומגדישין אותן שם. ועומר שסביבותיו קמה מה שתחתיו קשין. וקרא כמיז עומר צדה: קשין קש קרוי מה ששכר מהצנלן מחובר לארץ, לשון מוקש, כן הסמימו התוספות צפרק כירה (שם לו: ד"ה מיה), והכי מוכח הכא: קמת הבריו מצלת את ש"ו. כיון דעעמא משום דתחתיו קשין, דלא מיקרי שדה, מה לי שלו מה לי של צברו, מה לי של תמים מה לי של עשורים. ורצנן סצרי דקרא צדדן מיייר, ופסק הרמב"ם ז"ל צפ"ה (ה"ה) כרצנן: אם הקמה שייפה בה העני בה. שיש לו צה לכה שכה ופאה, אפילו הכי מללל לעומר: עומר שהורע בה העני בו. שאין לו צו פאה ולא לקט, אלא שכה צדדה, וזה דבר שאינו מללל, אינו דין שצילל קמה:

[ל' - 171]

א"ל רבי מה דקמה וכו'. כ"ל. כלומר מה לקמה שמלל את העומר, שכן אם יפה כח העני זה הורע כמו צעומה, לפיכך אם שכת העומר מללל הקמה שאינה שכותה את העומר שהרי זו הורע כח העני. תאמר (העומר) [בעומר] שהורע כח העני [בן] אינו בדין שיצ"ל. כ"ל. כלומר תאמר צעומה שהורע כח העני זו שילל את הקמה שיפה כמו זה צממיה, ולפיכך אינו דין שיצ"ל: מדברי שניהם נלמד מצ"ל עומר מעומר. כלומר דהש"ס פריך דהשתא מדברי שניהן נלמד על העומר שהיא מלילל את העומר הצירו, וזה אכחו למדין מק"ו מעומר, מה עומר שניטול הוא מן הקמה, ואע"פ שבקמה יפה כח העני אפ"ה הואיל והורע כמו צעומה הקמה מללל את העומר, מכל שכן שהעומר ילל את העומר הצירו שהורע כח העני בשניהן, והואיל ושניהן דין הוא שילל זה את זה: ואין מצ"ל קמה מקמה. כלומר הא ודאי ינחא דאין אנו יכולין להיות מלילל את הקמה מהעומר, והיינו שנלמד שהעומר ילל את הקמה מה הקמה שהיא מללל את הקמה, דהא ודאי ליחא, דמה לנו לקמה שמללל את הקמה שהיא שמהן שות וכה העני יפה כח הצו כן, והלכך אמרינן כשם שהקמה מללל את העומר דילפינן מקרא כן היא מללל את הקמה כדאמרינן צממיה, תאמר בקמה שהיא ניטולת מן העומר שכן העומר הורע כח העני [בן] והיאך ילל את הקמה שיפה כח העני זה, אלא העומר שילל את העומר שפיר נולד ללמוד כדאמרן, וזה נלמד מדברי שניהן, מהקל וחומר דרבן גמליאל ומהתשובה שהשיב לו רבי, וקשיא על מה דתנן העומר אינו מליל את העומר: הא אם שכת שבחה. צממיה,

ה"ג רבי ה"ש (כאן מ"ח) אמר לו רבי מה דקמה שהורע כח העני אצ"ל העומר, תאמר בעומר שיפה כוחו אצ"ל הקמה. [פי], הא דקמה מליל העומר לפי שהורע כח העני אלל העומר, והיאך ילל העומר לקמה שיפה כח העני זה, נמלא רש"ג עשה ק"ו מן המלל ורבי השיב לו והקב"ה הפוכה מכת הנילל: מדברי שניהם אנו למדין מצ"ל עומר מעומר. לרש"ג הרי המללל הורע כח העני [בן], ולרבי הנילל הורע כח העני זו: ואין מצ"ל קמה מקמה. לרש"ג הרי המללל יפה כח העני זה [פי] וליכא ק"ו וגם הנילל לרבי, והקמה שמללל העומר לרבי לפי שהורע כח העני צנינו: הא אם שכת שבחה. ממני דקמי' כל שאינה שכתה משמע אם שכת שכתה הוא, [ו]הרי קודם ששכת הקמה תליל הקמה לעומר ושוב לא (יהו) [מחא] שכתה העומר שכתה, שמאחר שהותרה פעם אחת לא תחזור מו לאיסורא, ובפרק שלפני זה (ה"ג) מיבעי לן דבר שהורע אם אח"כ שכת גם הממיר, אי (תחזור) [יחזור] המותר עם הממיר לאיסורו או לא, ותפשוט מהכא שחור לאיסורו: תיפתר ששכת הקמה תחילה. ולא הותר הממיר בעצורה מעולם, ואין לפשוט צממיה מהכא: ומתני' ברבן גמליאל. דס"ל (עמ"ל) שני עומרים ובהן סלמיה אינו שכתה: ותצ"ל עקורה שאינה עקורה. כלומר [מליל] לעקורה [ה]שאינה עקורה כדן קמה מללל העומרים, ואי משום ששכת ג"כ את שאינה עקורה, מ"מ קודם ששכתה לשאינה עקורה הרי היליה ושוב לא תחזור המותר עם הממיר לאיסורו, וזה ג"כ כמו היא קשיא דלעיל הא אם שכת שכתה וכן המירון דלעיל:

כלומר דהש"ס מדייק דקמי' סאה שאינה עקורה אינה מטטרפת עם העקורה, ומשמע דאומה סאה העקורה לעולם שכתה אפי' שכת אומה לנדה, ואמאי, נהי דאין כן סלמיה מ"מ תליל הקמה שאינה עקורה את העקורה, שהרי הקמה מללל את העומר ומשני תפתר בשבחה את הקמה תחילה. כלומר ששכת את שמהן ואין כן קמה מללל את העומר, וקמ"ל דאין מטטרפין לסלמיה וכדפרישית צממיה: הא אם היו שתייהן עקורות א"בשה"ב. השתא מדייק הש"ס דקמי' עקורה ושאינה עקורה אין מטטרפין לסלמיה ומיפוק ליה אפי' היו שמהן עקורות הרי שנינו צממיה דהלכה ה' שני עומרים ובהם סלמיה דקצרי חכמים לעניים, אלא לאו ש"מ דקצרי האי תנא לבעל הבית וכר"ג דסבירא ליה התם כן: ותצ"ל עקורה שאינה עקורה. האי מילתא גרסינן לה לעיל בפ"ה (ה"ג) דבני הש"ס שם דבר שהוא ראוי להליל ושכתו מהו שיעשה שכתה, וכדפרישית התם כגון הקמה שהיא מללל את העומר וא"כ הקמה דבר שהוא ראוי להליל מיקריא, ובעינא היא בששכת בתחילה העומר שאלל הקמה ונמלא הקמה שלא היתה שכותה היתה ראיה להליל את העומר, ואם אח"כ שכת גם את הקמה מהו שיעשה שכתה, מי אמרינן הואיל ובתחלה היליה קמה את העומר א"כ מן לא הוה העומר כשכות, והשתא א"ע דבעלמא אין העומר מליל את הקמה דתנן לעיל מ"מ כאן כל אחד מליל את חבירו הוא, והקמה שהיא היליה את העומר תהא עכשיו ניטולת מן העומר, והמשום טעמא נמי דדבר הראוי להליל היא הקמה אינה נעשית שכתה, או דילמא מכיון דהשתא שכת את הקמה אין העומר מליל אותה ותעשה שכתה. וצ"ע למיפשט התם ממתני' דהכא וקאמר נשמעיה מן הדא סאה תצוה עקורה וסאה שאינה עקורה אין מטטרפין לסלמיה ובששכת את שמהן מיירי דלעיל. וקס"ד דקצרי ששנו כן היתה השכתה, שבחלה שכת את העקורה והיינו העומרים, ואח"כ שכת את הקמה שאינה עקורה: ותצ"ל עקורה שאינה עקורה. כלומר אי דאמרינן דדבר הראוי להליל והיינו הקמה אינה עושה שכתה, אם שכת אותה אחר היתה ראיה להליל את העומר ומשום דחור העומר אח"כ ומליל את הקמה, אם כן ה"ג נהי דאין מטטרפין לסלמיה, הא צלוא הוא תהא גם הקמה ניטולת עכשיו, וסאה עקורה תליל את הקמה שאינה עקורה: אלא ודאי הוה אמרה. דלף דבר שהוא ראוי להליל אם שכתו אח"כ הוה שכתה. והיינו דקאמר לה הכא והש"ס קי"ר דצדכר שהוא כצד שנוי דכרכו בכל מקום:

הנהרות הגר"א

[א] ושכתה הרי ניצולת כ"ל. ומוחק תיבת מצלת. [ב] וסם כמאמר רבי גרס הגר"א דצ"ל תיבת ושכתה אף גרס כמאמר זה הרי ניצולת וגם להלן גרס אנו דין שניצולת: [ג] דאין דין שניצולת. מוחק התיבת שניצולת:

[ד] מדברי שניהם נלמד אין מצ"ל עומר את עומר: כל שאין שכתה: הא אם שכת שבחה. הרי אמרה דבר שהוא ראוי להציל ושכת הרי זה שכתה. תיפתר וכו' כ"ל. ואין מצ"ל קמה מקמה. הא אם שכת שבחה. כולו מוחק. ובהנחת גרס"ל ע"י התקף ר"ל. ודאי אמא מדברי שניהם נלמד אין מצ"ל עומר מעומר ומצ"ל קמה מקמה: [ו] ותצ"ל שאינה עקורה את העקורה כ"ל:

ר"ש ביריליא

ה"ג אמר לו רבי בנו, אם קמה שיפה כח העני בה מצ"ל לעומר שהורע כח העני בו, יצ"ל עומר שהורע כח העני בו לקמה שיפה כח העני בה. והכי פירוש דמיה ליה רבי צנו של רש"ג לאצ"ל פירכא אסוף דינא, וקא עבד הכנסת פירכא, דטעמא דמללל הקמה את העומר, משום ייפוי כח דעומר הוא, דהורע כח העני זו כדפרישית, אע"ג דקמה גרועה היא, אכל אין עומר מליל קמה מיד עני, שהרי ייפה הכתוב כח העני אלל קמה. ורש"ג אול בתר מצ"ל, ורבי אול בתר ניטול. ומשום הכי קאמר תלמודא מדברי שניהם דלמוד מצ"ל עומר מעומר. דצ"ל מליל צ"ל ייפוי כח לבעל הבית, והורע כמו של עני צנו, ופלגי אממיה דתנן דאין העומר מליל עומר.

ואין מצ"ל קמה מקמה. דצ"ל מליל צ"ל ייפוי כח לבעל הבית, וכל זה אינו כהלכה אלא כדמתן צממיה, וטעמא דכאמא לעיל דעומר צדעה צעין ולא עומר בקשין: הא אם שכתה. לעקורה הוה שבחה. ואפילו אם לא שכת עדיין שאינה עקורה, היא קמה מלילל: ומשני מלילל: ומשני עומרים ובהן סלמיה (דלם לא כן קמה מליללו): מתני' ברבן גמליאל. דלמר לעיל דשני עומרים ובהן סלמיה מטטרפין, דבדולא הוא הדין נמי דפלגי רבנן בשתי קמות ובהן סלמיה דאין מטטרפין. והשתא לייקא ממני, טעמא דסאה עקורה וסאה שאינה עקורה, הא סאה וסאה שניהן מלושין או שאינן ממוכנין מטטרפין: ותיצ"ל עקורה משום שאינה עקורה. צפוק גרס"ל (ה"ג) פירשתי:

ב"ב א הגר"א ב"ב א

א"ל רבי מה אם קמה בו. כלומר לדברין ילף צ"ל סאה עומר מליל את העומר אלל ע"כ דלא ילפינן ק"ו כה"ג: מדברי שניהם נלמד אין מצ"ל עומר את עומר. מדדתי לי רבי דא"כ יליל עומר את עומר ש"מ דפשיטא להו לשנייהם דאין מליל: ותבואה ע"א אחר הוא. צממיה וכו' על אחר כל רשות העני בנפשה הרי מנינו ששכת מיד עני שלל אי' שם לקט כלל צממיה ולא כל רשות העני בצממיה אלא ודאי אף שיעדין לא כל אלא דלוי לצווא אין מטטרפין ולכך קאמר כגון תצוה וכו' דלרואין לצווא המה:

א"ל רבי מה אם קמה שיפה כח העני בה כח העני ניצולת, עומר שהורע בו כח העני אינו דין שניצ"ל. פי' דה"ק ליה, לדברין הרי יכול לעשות ק"ו סאה עומר מליל אפי' את העומר, דמה אם מליל את הקמה דבקמה יפה כח העני זה, אפי"ה אם שכת כלל העומר העומר מליל, העומר שכותה זו כח העני אינו דין שיהא ניטול אם שכת כלל עומר אחר, וזה ודאי אי אפשר, אלא ודאי אין למדין צ"ל כה"ג: ה"ג מדברי שניהם צ"ל עומר שאין מצ"ל עומר את עומר. פי' מדדתי ליה צוה דל"כ יליל אפי' את העומר. משמע דפשיטא ליה שאין מליל: כח העני ושכתה מיבת ושכתה מיותר: הרי מצ"ל. צ"ל הרי ניצולת: אינו דין שניצ"ל. צ"ל אינו דין שניצולת. מצ"ל עומר מעומר. צ"ל שאין מצ"ל עומר את העומר ומיבת אין מצ"ל עומר מקמה מיותר: ה"ג כ" שאינה שכתה, הא אם שכת פי' אח"כ, שכתה. הרי אמרה דבר שהוא ראוי להציל ושכתה הרי זו שבחה. תיפתר וכו': ותצ"ל עקורה את שאינה עקורה. צ"ל להיפך עקורה את העקורה:

בית שמאי פרק ששי פאה

[ל"א - ה"ו ה"ז]

6 [מוספתא פ"ו ה"א]
7 [ולק"ש כי תאמרת]
8 [מוספתא ב"ק פ"ו ה"א]
9 [מינחה דכ"ט כ"ב]

מה עד שתבוא. הא דאמר רבי יוסי אס צאת רשות עני בצלמנע,
עד שצבוא ממש קאמר, או אפילו ראו לצא לאחר זמן נמי:
תבואה וברם. מוספתא היא (פ"ג ה"ג) למפרסת דברי ר' יוסי
דומניו דממוקמה בצבואה שיש זה לקט וכרס שיש זה פרט

אמר ר' יונתן. ועל גרם ר' יונה, דלא היא ומהלא ליכא למשמע
מיד, דהכא לא דקס"ד ששכח צמחלה העומר והיתה הקמה
ראויה להליל, אלא תיפתר בקוצר שורה ומעמר אותה השורה
ושכח מה שהניח מלקצור ואח"כ שכח את מה שעימר, והשתא
כבר שכח את הקמה עד שלא ישכח
את העומרים ולא היה כלן שעה
שהיתה הקמה ראויה להליל את
העומר ולפיכך שתייהן ששכח,
ולעולם אימנא לך צעלמנע דכר
הראוי להליל והיה שעה שחלה
הללה ואח"כ שכח זה הדבר צעלמו
אפשר דלא היה ששכח: מה. בע"א
היא, הא דקאמר ר' יוסי אס צאת
רשות העני בצלמנע, אס עד שצבוא
ממש, כלומר שהיתה השכחה אחר
שצדוע הוא שכבר צאת רשות
העני בצלמנע, שיש צנייהן מה
שהוא חלק של עניים: או אפי"
נראית צבוא. רשות עני בצלמנע,
כלומר דשכח הוא שצבוא צנייהן
רשות העני ואפי" שיעדיין לא
צאה: נשמעינה מן הדא כגון
תבואה והכרי. כ"ל, וכמו ששני

שינויי נוסחאות

- א) יונתן, בכ"ד ברוש"ס
ב) שורה, בכ"ד ברוש"ס
ג) והביא, ברוש"ס וברוש"ס
ד) כגון, כ"ה בתוספתא
ה) ובר"ש ברוש"ס וברוש"ס
ו) והכרי, כ"ה בתוספתא
ז) וכ"ר, וברוש"ס וברוש"ס
ח) ובר"ש ברוש"ס
ט) ובר"ש ברוש"ס
י) ובר"ש ברוש"ס
יא) ובר"ש ברוש"ס
יב) ובר"ש ברוש"ס
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כא) ובר"ש ברוש"ס
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לא) ובר"ש ברוש"ס
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לך) ובר"ש ברוש"ס
לם) ובר"ש ברוש"ס
לנ) ובר"ש ברוש"ס
לו) ובר"ש ברוש"ס
לז) ובר"ש ברוש"ס
לח) ובר"ש ברוש"ס
לט) ובר"ש ברוש"ס

הנהרות הגר"א

א) ותבואה על אתר הוא.
ב) כ"ל, ומוחק המאמר וברם
ל על אתר הוא:

ליקוט משנות אליהו

תבואה שנתנה ששחת. פי
להליל לבהמתו: או
צ"ל, פירות לאסור זו
עומרים: וכן באגודת
השום, וכן שלקטו לאגוד
זה שומין ואגודת השום
והכללים אין להם ששחה:
וכ"ה הטבוים בארץ. פי
שקולו אותם ועומן כלן
כגון הנוף:

אמר ר' יונתן תיפתר בקוצר שורה ומעמר
שורה וכבר שכח את הקמה עד שלא שכח
את העומרים: [אם באת רשות לעני וכו'] מה
עד שתבוא ממש או אפילו נראית להביא.
נשמעינה מן הדא [כגון תבואה] והכרי.
[וכרם] לא על אתר הוא הדא אמרה אפילו
נראית לבוא: [מ"ו] הלכה ז מתני'
תבואה שניתנה לשחת או לאלומה וכן
באיגודי השום ואגודת השום והבצלים אין
להן ששחה. [וכל הטמונין בארץ כגון הלוף
והשום והבצלים ר' יהודה אומר אין להן
ששחה והכמים אומרים יש להן ששחה: גב']
אמר ר' יונה לא סוף דבר ניתנה אלא
דאפילו נוטלה על מנת ליתנה: [וכל הטמונין
וכו'] תמן תנינן [המדליק את הגדיש והיו בו
כלים ר' יהודה אומר משלם כל מה שבתוכו.

במוספתא לר' יוסי והצמיה צמתי: וברם ע"א אתר ששני
צמתי, כלומר מדמחלק התם לר' יוסי צין תבואה והכרם שהן
דברים שצאת רשות העני בצלמנע וצין פירות האילן דלא צאת
רשות העני בצלמנע, והשתא אי סלקא דעתך עד שצבוא ממש,
כגון ששכח מקצת צנייהן או שהניח מקצת לפאה, אלא ודאי
הוא ששכח מקצת לפאה, והשתא שפיר נמי הא דמחלק הכי, משום
שצבואה וצכרם שיש בהן לקט ופטי ורשתי ונראין שס
לצוא לרשות העני בצלמנע משא"כ צניין וכדפרישית צמתי. והיינו
נמי דקאמר הכא בלשון תמיה, ונקט כרם משום דיותר שכיח
פרט לצוא מיד צעעת צנייה שהגררים מיד הן נופלין כשמתחילין
לצזור, ולקט דצבואה אף דשכיח הוא אפי"ה פרט יותר שכיח
הוא ונראה לצוא מיד, וכלומר הא על כרחך וכי לאו טעמא
הוי אלא משום דפרט צכרם על אתר הוא, והי"ה לקט
צבואה וכדפרישית, ואס כן ש"מ דאפי" נצראית לצוא קאמר ר'
יוסי, ולא צני עד שצבוא ממש וכדאמרן: [מתני' תבואה
שניתנה ששחת.
כדי לעשות ממנה אלומות אלומות קטנות, ואח"כ עושין
מהרבה עומר אחד
או איגודי השום. או צ"ל, הוא השום המחובר שדרכו
לצאת משורש אחד שרשים רבים ואח"כ אורגין הרבה צידה:
ואגודת השום והבצלים. הן אגודות אגודות קטנות ואח"כ
עושים מהרבה אגודה אחת לכל אלו אין להם ששחה, משום
דהוי כמעמר למקום שאינו גמר מלאכה כדאמרין לעיל
סוף פ"ה (מ"ח): וכ"ה הטבוים בארץ וכו' ר"י אומר אין
צ"ה ששחה. דריש
שדה בגלוי פרט לעומן: א"ה. ממיני הצללים הוא:
והכמים אומרים יש צ"ה ששחה. כלמפרש בגמרא
לעומייהו דכתיב שך משמע גלוי וכתיב קצירך משמע
נמי גלוי, והוי מיעוט אחר מיעוט ואין מיעוט אחר
מיעוט אלא לרבות. והלכה כחכמים: גב'] צ"ה
סוף דבר ניתנה. הא דקמי שניתנה לשחת לא
תימנא דרוקא שניתנה ומרעה צמחלה צביל כן:
א"א אפי" נוטלה. עכשיו וקוצרה על מנת
לימנה למחלל בהמה אין לה ששחה: תמן תנינן.
פרק הכונס (ב"ק פ"ו מ"ה) וגרסינן נמי להסוגיא
סם (ה"ו): ר' יהודה אומר
מוש"ם כ"ה מה שבתוכו. דמחייב על זוקי טמון
צאש:

ר"ש סיריליא

מה עד שבאת ממש. לשון צע"א היא, כלומר
הא דקאמר ר' יוסי אס צאת רשות העני בצלמנע,
צאה ממש קאמר, שיש צין סאה לסאה לקט או
פרט, וחס אין שן לקט או פרט, אפי" דמין
תבואה או כרם הוי בצלמנע לא ושא היה צין
הוא דקפיד ר' יוסי דראוי לצוא אפי" דלא
צא, ופשיט לה דמתיבא בתוספתא (פ"ג ה"ג)
היכי דמי רשות העני בצלמנע, כגון תבואה
וכרם. וכרם אין דרך פרט לצוא לאתח,
שמע מיה צנין הוא דקפיד שמעת מיה.
ופי"ה הר"ש ז"ל וכגון דתבואה דצלמנע
צנין הסאין היא רחוקה, ואינה יכולה
להליל כדמין לעיל (פ"ה ה"ג) [ששחיה
מגעת לקמה: [מתני' ששחת.
להליל לבהמתו, ואפילו הצאה שלש
אין זה ששחה, דאינה צאה לרדי
עומר, ועומר כתיב: או צ"ל,
העומרים, אין זה ששחה, דאינה
צאה לאוכל כי אס לשימוש, אין
כאן גמר מלאכה, כדמין לעיל (פ"ה מ"ו)
ועומרים: וכן באגודי השום.
שדה של שומין וכללים שהניח כדי
לאגוד צנין שומין וכללים [אחרים],
ושכח צנין, נמי לא הוי ששחה,
וקא משמע לן משום דסלקא דעתך
דחבלין לקדמה הוי ולא צנו גורן,
קמ"ל: וכן באגודת השום והבצלים.
לפעמים היקבין להוליכין למקום
הגורן וליבשן, ואח"כ חזרין ומחלקין
אותן לכריכות קטנות כדי
המשקל הידוע להן, ומוליכין לשוק
למכור או ליתב להקמים, ואם
ששחה אגודה גדולה מהם
שקופו לחזור לחלקה ולאגוד
ממנה כריכות קטנות, אין להן
ששחה, כדאמרין לעיל (פ"ה ה"ו)
מה קציר שאין אחריו

ביאור הגר"א

בית"א
צ"ה ע"א אתר. מיצת צ"ה מיותר
ה"ג ותבואה וברם ע"א אתר הוא. פי
צמתי, וכי על אתר צא רשות העני
בצלמנע, הרי אפשר לאשכוחי ששכח
מיקף עד שלא היה לקט כלל
צנימים, וא"כ מקרי לא צא רשות
העני בצלמנע. אלא ודאי דראוי
לצוא קאמר אף שעדיין לא צא,
אין מצטרפין, ולכן קאמר שפיר
תבואה וכרם שהן ראויין לצוא:

א ב ג מ"י פ"ה מהלכות
מתנות עמים הלכה כג:
ד מ"י פ"ה מהלכות
מתנות עמים הלכה כה
ה מהלכות ע"מ"ק:
ז מ"י פ"ה מהלכות
מתנות עמים הלכה טו
והלכה כג:

שינויי נוסחאות

- [א] שפ"ו בריש"ס ליתא:
ג עד. בריש"ס פאה מבשתי
ד הבריה ער:
ז וזכחה. בריש"ס ושכחו
זכ"ר:
ח סביון. כ"ה כביד
בריש"ס ברי"א ובפ"י. כביד
וברי"ו ובפ"ו:
ח אינו שכחה. שיה בריק
ולעיל פ"ו ה"ב. כביד ובד"ו
הבקר ע"גים הבקר וכע"ז
ברי"א ובפ"י. בריש"ס עומד
שהוא סמוך ג"פ ולגדיש
אינו שכחה:

הגהות מהר"א

- [א] והתנן נטופה אלא
שפכני שהוא עושה הרבה
כצ"ל. ומחק תיבת שפון.
ובהגהות הרד"ל הנה אלא
שהוא עושה [הרבה]
והתנין נטופה אלא
שופכני שהוא עושה הרבה
והתנן במעשיו וכו' *:
[ב] דב"ש אומרים אינו
שכחה ע"גים. ומחק התיבות
הפקר ע"גים הפקר,
ובהגהות הרד"ל הניסא
מת"י דב"ש הוא אמר ר'
יוסי דב"ש הכל והשאר
מיתרי:
[ג] יש להם שכחה ר' יונה
בני הדין וזה נטופה ורואל
הוא מסויס על דעתיה
דר"י כצ"ל:

ליקוט משנות אלוהו

אית דבני מימר דמבעית
ד'הבריה. וז"ל ה"ש"ס פי'
שמבייש שאר אילנות מגודל
זימס עששה כצ"ל. וט"ס
יש (בירושלמי) [בר"ש]
במקום רוב זימס ז"ל גדול
זימס דל"כ היינו נעששו
ע"י"ש כ"ש. אית דבני
מימר ביישני מבש. שמבייש
מומיס אחריס
מתנת שאינו עושה זימס
כמו שאר אילנות. ויש לו
ג"כ שם מתנת רעמו:

תורה אור השלם

- א) פי תהבט ויתך לא
תפאר אחרך לפר ליתום
ולאלמנה יהיה:
(דברים כ ב)
ב) פי תבצר פרךך לא
תעולל אחרך לפר
ליתום ולאלמנה יהיה:
(דברים כ ב)

שפכני. שהוא נוטף שמן: ופרך והתנין נטופה כרישא דמתי,
ועלה קאמר דז"א וכו' בשמו שהיה שפכני וכו' אלמא כולן פירושא
דנטופה הו', והיינו דנטופה נוטף שמן ופרך שהיה או שפכני או
בישני וכו', וז"ל שפכני לאו היינו נוטף שמן לחד: והתנין
במעשה שהוא עושה הרבה.
וקס"ד עושה שמן הרבה
וז"ל היינו שפכני דקאמרת וכלל
הוא צמחוקה דשמו: אלא כך הוא
שפכני וכו'. ובמעשיו וכו'. היינו
שהוא עושה זימס הרבה, וכשהוא
עושה הרבה זימס שיקן ג"כ
צמחוקה דהני חלוקות על נטופה.
דזהו שהוא נוטף שמן דהא מיהא
נוטף הוא שמן, אלא דבעין שהיה
מקום צדכר אחר ציומר: ביישני
אית דבני מימר ביישני ממש. אילן
זית שהוצא ממקום ציקן ונטען
בשדה, ולפי שהזימס שלהן עושין
שמן הרבה: אית דבני מימר דהוא
מבעית ד'הבריה. ולשון נטופה היא
שעשש לאילני זימס אחריס שאינן
עושין הרבה: עד דעביד ארבעה
כיפליסין. צניא היא, אי צעין עד
שעשה ארבעה פעמים ככל יומר
מהאחרים: וכי הוה דתנין תמן.
כריש פרק דלעיל: ב"ה העומד שדה
ש' קב וכו' ואחד ש' ארבעה קבין
ושכחו. דקאמרי צ"ש אינו שכחה,
אלמא דלמניו דארבעה ככפל דצר
חשוב הוא, ואי נימא דהכא נמי כן:
מכיון. ופשיט לה דהכא לא צעין כל
קב, אלא מכיון שהוא עושה יומר
מחזירו כמי שהוא מקום ציניס:

שפכני: נוטף שמן. [ה] והתנין *נטופה. אלא
שהיה עושה [ה] שמן הרבה. והתנין *במעשיו
שהוא עושה הרבה. אלא שפכני שהוא
עושה שמן הרבה נטופה נוטף שמן מעשיו
שהוא עושה הרבה שהוא עושה זימס
הרבה: ביישני: אית דבני מימר ביישני ממש
אית דבני מימר דהוא מבעית ד'הבריה. [ז] עד
דעביד ארבעה כיפליסין כי ההיא דתנין
תמן [ב] כל עומדי השדה של קב וכו' ואחד של
ארבעת קבין [ז] ושכחו. מכיון שהוא עושה
יותר מחזירו כמי שהוא מסויים. עד דיעביד
כל שנה ושנה. [ח] (ו) מכיון שהוא עושה רובן
של שנים כמי שהוא *מסויים: במקומו שהוא
עומד בצד הגת או בצד הפירצה: מתני'
דבית שמאי [ז] דבית שמאי אומרים [ז] (הבקר
עניים הבקר) [ח] [אינו שכחה]. אמר ר' יוסי
דברי הכל היא תמן דבר תלוש בצד דבר
מחובר ברם הכא דבר מחובר בצד דבר
מחובר: ר' יוסי אומר אין שכחה לזיתים:
אמר ר' שמעון בן יקים לא אמר ר' יוסי אלא
בראשונה שלא היו הזיתים מצויין שבה
אדריינים הרשע והחריב את כל הארץ אבל
עכשיו שהזיתים מצויין [ה] יש להן שכחה.
אמר ר' יוסי לא חייב אדם שכחה לזיתים
אלא ר' עקיבה [ז] דרש [ז] אחרך [ז] אחרך
מחזירו כמי שהוא מקום ציניס:

עד דיעביד. אי צעין עד שיעשה הרבה כלל שנה ושנה, וקאמר
דמכיון שהוא עושה רובן של שנים כמי שמקום הוא: מתני' דבית
שמאי דבש"א אינו שכחה. כצ"ל. וכמו דגרסין בפרק דלעיל (יש
ה"צ) צעומר שהוא סמוך לגפיה ולגדיש דקסרי צ"ש אינו שכחה

מפני שהוא צד דצר המסויס, ולמאן דמתי' דהכל דקמני שהוא עומד צד הגת והפירצה כצ"ש היא ודלא כצ"ש: א"ר יוסי. ללא היא
אלא מתני' דברי הכל היא: דתמן דבר תלוש בצד המחובר. העומר אלל הגפה, וכיון דהעומר תלוש הוא ואין לו קצימת מקום לא מהני
מה שהוא צד המחובר, אלא הכל דצר המחובר צד המחובר ואפי' צ"ה מודו שנתן עיניו צו ועמד לווכרו וכדפירשית לעיל שם: א"ר
חייב אדם שכחה לזיתים אלא ר"ע דהוא דריש אחרך אחרך. דכתיב (דברים כ ב) כי תחטבו זיתך
לא תפאר אחרך, מלמד שיש לו שכחה. אחרך, מלמד שיש לו פאה. והכי דריש לה התם נמי אחרך דכתיב גבי כי תצורו כרמך וגו'.
וקא"ר יוסי, אמורא, ללא מנינו שמחייב אחי תנא דכריימא לזימס בשכחה אלא ר"ע דאיירי התם, ומתני' כר"ע:

ר"ש סיריליאן
נטופה שפון. שהזימס שמניס ונטופין שמן צמחין: אלא שהוא עושה הרבה.
וקס"ד דפירוש שפכני עושה הרבה שזימיו מרוצין: והתנן במעשיו שהוא
עושה הרבה. ופשיטא דפירוש עושה הרבה היינו עושה זימס הרבה: ומסק
אלא שפכני שהוא עושה שמן הרבה. אע"ג שזימס שלו אינן כלל כן
[הרבה]: נטופה נוטף שמן. צמחין: במעשיו שהוא עושה הרבה. היינו
שהוא עושה זימס הרבה, אלא שמן הזימס הוא כדרך שאר זימס: בשני
ממש. פירש רבנו שמשון ז"ל יבשש שאין עושין שמן. ואינו נכון, דשם רע
הוא זה ולא דמי לשפכני. ויומר נראה לפרש מתרגום רע (בגאש"ו ה) ציש,
שעושה אותו רעס לנגוד, שאינן מצורכין כמורה. וכן פירש הר"ש ז"ל:
דהוא מבעית ד'הבריה. שהוא מבייש לחזרו, והוא מלשון נטופה: עד די
עביד ארבע כיפליסין. צניא היא, הא דמתן שהוא עושה זימס הרבה כמה
צריך שיעשה יומר מחזירו, שמה צריך שהיה ארבע כפלות כגון שמחזירו עושין
קב זימס והוא עושה ארבע קבין: כי ההיא דתנין וכו'. דלית שמאי
אמרין רואין ומשיב ארבע עומרין והכא נמי משיב לית שמאי ארבע אילנות:

ביאור מהר"א בתי"א
ה"ג והתנין נטופה, אלא שפכני שהוא עושה הרבה. והתנן במעשיו כו': ה"ג דבש"א אינו שכחה. פי' גבי גפה וגדיש כו':

והתנין נטופה. ומשמעותו נוטף שמן: אלא שפכני פירושו
שהוא עושה שמן הרבה: אלא שופכני שנושה שמן הרבה.
אע"פ שאין לו זימס יומר משאר אילני זית, מ"מ אלו זימס
עושים שמן יומר משאר זימס. ובמעשיו אע"פ שאין זימיו עושים
שמן יומר משאר זימס כפי חשבון
מניינס השה מ"מ יש לו יומר
זימס בחשבון ומחך כך הוא עושה
שמן הרבה משאר אילני זימס:
בישני ממש. זימיו יבשש שאין
עושים שמן הרבה, הר"ש. כלומר
ומחך כך הוא זוכר אותו אחר זמן
שהכי ניכר הוא צמחו משאל
זימס: דהוא מבעית ד'הבריו.
מבייש לשאר אילן. הר"ש: עד די
יעבד ארבעה כיפליסין. צני היא
אי צעין ארבעה כפליס, שהיה
עושה שמן ארבעה כפליס יומר
משאר זימס כמו ששנינו לענין
עומרים (פ"ו ה"ב) כל עומדי השדה
של קב וכו' ואחד של ארבעה קבין
דלמתי' לעיל צמחין דלית שמאי
אינו שכחה, הכי נמי צעין הכא כן
ומתני' זית שמאי היא, או לא
צעין כל קב וזימס מודים כו"ע:
מכיון וכו'. כלומר לא צעין כל כך:
עד די עבד ב"ה שנה. צני היא
ג"כ, כריך הוא שיעשה כן כל שנה
או לא: מתני' בית שמאי היא.
דקמני התם צניסא עושה שהוא
סמוך לגפא ולגדיש זית שמאי
אומרים אינו שכחה והכא נמי צד
הגת אינו שכחה: א"ר (מחייב
אדם. צעולס לזימס שכחה: אלא

ר' עקיבה. שהוא דרש אחרך אחרך לגזייה שיה, חד אחרך
כתיב צימס (דברים כ ב) וחד צעננים (שם ה) מה צעננים יש
שכחה הוא הדין צימס, אלא ר' יוסי דרש אחרך לפיאה:
לזית הלל לית להו רואין הוי שכחה עד שהיה צו סתמים. ומסק דטעמא
משום דהוי מסויס, וציומר מחזרו כל דהו סגרי, וטעמא דלעיל דזכור
ועומד הוא צללו: עד די עביד ב"ה שנה ושנה. צניא היא, אס כריך שיעשה
כל שנה ושנה כן ובהכי הוא דלא הוי שכחה. ומסק דכתיב רוב שנים צמחין.
ומן התמיה על הרמז"ס ז"ל שלא כתב זה, ורבינו שמשון ז"ל כתב: מתני'
דבית שמאי. דחשיב צפירקין דלעיל (ה"צ) בית צקר וכלס מקום מסויס:
דבר תלוש. כגון עומר: בצד דבר קבוע. כגון גפה: ברם הכא דבר קבוע
בצד דבר קבוע. ומודו זה בית הלל: דהוא דריש אחרך אחרך. אחרך
זית מאחרך דכרס, [ידגני כרס כולי עלמא דרשי ליה דכתיב (דברים כ ב)
לא תעולל אחרך ועוללות לא איצטריך דהא כתיבי עוללות כפרשת קדושים
(ש"ס), אלא לשכחה הוא דלתי, ולא תעולל לא מדקדק הוא דקאמרי, אלא
אחרך דזית לגופיה איצטריך לענין פאה דהיא כסוף]. וס"ל לר' יוסי צד
וצדא דלר' יוסי דמתני' דלעיל לית להו שכחה לזימס, ואפילו עכשו
שהזימס מצויין, ודלא כר' שמעון בן קיס:

רדב"ז

בישני אית דבני מימר
בישני מבש. שמכויש
מזימס אחריס שאינו
עושה זימס כמו שאר
אילנות ויש לו ג"כ שם
מתנת רעמו: אית דבני
מימר דהוא מבעית
ד'הבריה. שמבייש שאר
אילנות מגודל זימס
שעושה. כן פ"ה השנת
אליהו ז"ל. ומה שמגיה
מגודל' במקום מרוב'
הוא בריש ז"ל ולא
בירושלמי דלא כגליון
הש"ס כאן דריוק: עד די
יעבד ארבעה כיפליסין.
מיביע אם בעינן ארבעה
פעמים כפל יותר מזימס
אחרים ואז נקרא יש לו
שם דהוא מסויס ככל
הזימס: כי ההיא דתנין
תמן וכו' ואחד ש' ארבעת
קבין ושכחו. דלכתי הלל
הוה שכחה משום דכל
שאינו אלא ארבעה פעמים
נגד עומדי השדה הוא
נידון משום מסויס דלא
מהני לירדהו בתלוש,
אלימא דרבר מסויס הוא
ארבעה פעמים כפל והכא
נמי בעינן הכי. ומסק
מכיון שהוא עושה יותר
מחזירו וכו'. דאפילו אם
רק עושה יותר מחזירו
ג"כ דומה למסויס ויש לו
שם בשדה ולא הוה
שכחה: מתני' דבית שמאי
היא דבית שמאי אומרים
הפקר וכו'. כונתו להקשות
מסיפא מהעומד שהוא
סמוך לגפה ולגדיש וכן
דרך הירושלמי דמתחיל
מרישא והכונה על
הסיפא: אמר ריש בן יקים
אלא אמר ר' יוסי וכו' אלא
עכשיו שהזיתים מצויין יש
להם שכחה ר' יונה בני
הדין וזה נטופה ורואל
הוא מסויס וכו'.

כל זית פרק שביעי פאה

[לא: לב. ח"א ה"ב]

6 [ע"י] תוספתא פ"ג
ה"ד [א] וספרי דברים רפ"ג
כ. מדרש תנאים דברים כ. כ.
ליקו"ט כ. חלה תתקנן
8 [ע"י] תוספתא פ"ג ה"ד

רדב"י

התיבון הרי עומר שבחה
הרי לא כתיב אחריו כפיו
שכתוב לא תשוב וקחתו
כמו שכתוב אחריו שבחה
אין שבחה לזיתים כרי ויסי
גירא דרש אחריו. כן
יורדת הגר"א ולי ככתוב
קדשו, וכונתו הקדושה
דר' יונה בעי רק אליבא
דר"ש בין יקום דמפריש
טעמא דר' יוסי משום
שאמנם מצויין ולא משום
הדאן שבחה לזיתים כלל,
מחו ביות נטופה
כשהתחיל בו דר"ס
להח"ק במתני' דהליל
פליג ר' יוסי על זה אי לא,
מי אמרינן כיון דלר' יוסי
אפילו אנו נטופה לא הוה
שבחה משום דאינו מצויין
א"כ בנטופה דחשוב
הרבה אפילו התחיל בו
אין שבחה, ופליג על רבנן
בתתני חדא וישל דבכל
הזיתים אין שבחה ועוד
דברטופה אפילו התחיל בו
אין שבחה, או דילמא
כשהתחיל מודה ר' יוסי
לרבנן דאף בנטופה הוה
שבחה ולא נפשוה, אבל
לר' יוסי האמורא לדוריה
מטיק הירושלמי דטעמא
דר' יוסי דמתני' משום
דלא דרש אחריו וזן
שבחה לזיתים כלל ליכא
למיבעי בעי דר' יונה,
דברדאי פליג ר' יוסי גם
בשפתא ואין נפשי' בין
התחיל בו ללא התחיל בו
כיון דאין בפיו הזיתים בין
שבחה:

מעשה וכו'. כלומר מעשיו אין אלו לרבינו לדר' שמעון בן יקוס,
אלא טעמא דרבי יוסי דמתני' כרבי יוסי אמורא דלמר ללא דרש
אדם בעולם שבחה לזיתים אלא ר' עקיבא ור' יוסי לא דרש:
התיבון. הרי בני עומר נמי ק"ל לר' עקיבא שבחה ולא כתיב
אחריו: כמו שכתוב אחריו. להכי
קאמר לא משו ללאחריו לקחמו:
בעי. לזה לומר: ההן. הא"י: ע"י
דעתיה דרבי יוסי. אמורא דלמר
ללא דרש ר' יוסי שבחה לזיתים אין
חילוק בין המליל ללא המליל, דכל
המילוק שבין נטופה לשאנו נטופה
הוא כלל המליל אבל בהמליל לא
כדלקמן במתני', וכיון דכלל זיתים
לא דרש שבחה כלל א"כ אפילו
המליל אין לו שבחה כמו לא המליל
אליקים אליבא דר' יוסי יש שבחה
לזיתים אלא בתשעים ונטופים אין
שבחה, א"כ אחר שהמליל זה אף
לר' יוסי יש שבחה: מתני' זית

שנמצא עומד בין שיש שורות. שיש כאן שלש שורות של שלש
שלש וזין כל שורה יש מלצן אחד, והיא ערוגה מרובעת, ושכה
זית האמנעי צורה האמנעית אינו שבחה: במה דברים אמורים. ושכה
קאי אמתני' דזית הנטופה וכמו שמפרש: כ"ז זמן שיש לו
תחתיו. שלא לקט כל הזיתים שחתה האילן אין אותן שזכאש
האילן ועשין שבחה:

לזמנין קסומן דגם זית נטופה יש לו שבחה. ואשמעין הכא דניש
אחד למעליהו דאין לו שבחה כלל: במה דברים אמורים. אמתני'
קאמר ד"א זמן שלא המליל צו למסוק הזיתים, אבל אם המליל צו אפי'
קאחיס זמנה שנשאר דאין לו שבחה ואפי' המליל צו וכדאמתני': כ"ז זמן שיש לו
תחתיו. שלא שבחה: זית אפי' שבחה אינם שבחה, וכלצד שיהא נזכר קודם שיעול התחמונים:

ר"ש סיריליא

זוה האילן צמקוס אחד ששמו נודיאן היו מזויין הזיתים להיות חלוקין נופן
כן וקריו זית של שני מלצנים. והכא צמקוסינו שאנו שזין שנמצא עומד' הכי
פירושו שכת זית אחד של שני מלצנים שנמצא עומד בין שלש שורות, דהיינו
תשעה אילנות, שלשה אילנות בכל שורה שהיו עשויין של שני מלצנים, וזית
השבות אחד מהם שהיה חלוק נופו לשנים כו"ה: אינו שבחה. בגמרא מפרש
טעמא: שיש בו פאתים. ואפילו אינו נטופה ולא שפכני, וגמרינן לה מעומר
דלעיל פ"ו ה"ה: במה דברים אמורים וכו'. בגמרא מפרש דלרשיא קאי
מ"ה, והכי קאמר זמנה דזרים אמורים דנטופה חשיב או שפכני חשיב ואפילו
לית זיה סאחיס, זמן שלא המליל צו ושכחו, הוא דלא הוה שבחה, אבל המליל
צו ושכחו הוה שבחה, דכיון דהיה עוקק צו חזו מדעתו לא חשיב ליה: ואפי' צו
היה נטופה בשעתו. והוא הדין בזמננו [הוה שבחה], ואפילו הוה שפכני: כ"ז
זמן שיש לו תחתיו וכו'. אמא לפרושי כמה הוא שליקט דהוא המליל דמהוה
שבחה אפילו בנטופה, וקאמר דהיינו כשליקט [כל] הענפים שחתמו, דבהוה
הוא דחשיב המליל, אבל אם יש לו לאילן זיתים צמקוסים שחתמו, שזו, הן
עיקר האילן, ששם רובב הענפים, ולא אשם דעמיה, [ויש לו זכות בראשון],
וכלא המליל צו דמי. וכי מנן דהמליל צו הוה שבחה, היינו כשאין לו עוד
תחתיו, שכבר ליקט הענפים שחתמו. ובגמרא מפרש לו מיירי מנא קמא אחר
שהכלה המחזוא, אי קודם:

מעשה אין שבחה לזיתים כרי יוסי. וקאמר הש"ס דמעשה
נאמר דר' יוסי דמתני' ק"ל דאין שבחה לזיתים כלל ללא דרש
אחריו כר"ע, וללא כר"ש בן יקוס דקאמר לא א"ר יוסי אלא
בראשונה: התיבון. על האי דרש ר"ע, הרי שבחה עומר ללא
כתיב זיה אחריו ואפי' כן יש לו
שבחה. ומשני מכיון דכתיב זיה לא
משו לקחמו הרי הוא כמי שכתבו
צו אחריו, ללא משו אחריו
לקחמו: ההן זית נטופה הוואי'
והוא מסוים. אם נאמר דלע
דעתיה דר' יוסי פליג במתני',
ולקמן במתני' דמרינן על זית
נטופה זמנה דזרים אמורים בזמן
שלא המליל צו אבל אם המליל צו
יש לו שבחה, והשפתא אי פליג ר'
יוסי אפי' בהמליל צו דקסבר אין
שבחה כלל לזיתים וכדאי ר' יוסי
אמורא או לא: ברתנ' בין שיש
שורות ש"ש שני מלצנים. שלש
שורות של אילני זיתים וזין שורה

לראשונה לשניה ערוגה מרובעת כדמות מלצנוה, כהאי דמתנין
לעיל ריש פ"ג מלצנות המבואה שבין הזיתים, וכן יש בין שורה
שניה לשלישית ושכה אילן האמנעי שזכורה האמנעית: אינו
שבחה. לפי שהאילנות שסביביו הסמירוהו ודמי לחיפהו צקק
או עמדו עניים כנגדו דתנן לעיל פ"ה ה"ו) דאינו שבחה:
זית שיש בו פאתים. איזית נטופה קאי כדמפרש בגמ', וכלומר
דלא יש צו סאחיס לעולם אין לו שבחה, ואפי' אם המליל צו
דלעיל ריש פ"ג מלצנות האילן וזלאו הכי מסוים הוא, ויש צו עוד כ"ז
שניה לשלישית ושכה אילן האמנעי שזכורה האמנעית: אינו
שבחה. לפי שהאילנות שסביביו הסמירוהו ודמי לחיפהו צקק
או עמדו עניים כנגדו דתנן לעיל פ"ה ה"ו) דאינו שבחה:
זית שיש בו פאתים. איזית נטופה קאי כדמפרש בגמ', וכלומר
דלא יש צו סאחיס לעולם אין לו שבחה, ואפי' אם המליל צו
דלעיל ריש פ"ג מלצנות האילן וזלאו הכי מסוים הוא, ויש צו עוד כ"ז

זוה האילן צמקוס אחד ששמו נודיאן היו מזויין הזיתים להיות חלוקין נופן
כן וקריו זית של שני מלצנים. והכא צמקוסינו שאנו שזין שנמצא עומד' הכי
פירושו שכת זית אחד של שני מלצנים שנמצא עומד בין שלש שורות, דהיינו
תשעה אילנות, שלשה אילנות בכל שורה שהיו עשויין של שני מלצנים, וזית
השבות אחד מהם שהיה חלוק נופו לשנים כו"ה: אינו שבחה. בגמרא מפרש
טעמא: שיש בו פאתים. ואפילו אינו נטופה ולא שפכני, וגמרינן לה מעומר
דלעיל פ"ו ה"ה: במה דברים אמורים וכו'. בגמרא מפרש דלרשיא קאי
מ"ה, והכי קאמר זמנה דזרים אמורים דנטופה חשיב או שפכני חשיב ואפילו
לית זיה סאחיס, זמן שלא המליל צו ושכחו, הוא דלא הוה שבחה, אבל המליל
צו ושכחו הוה שבחה, דכיון דהיה עוקק צו חזו מדעתו לא חשיב ליה: ואפי' צו
היה נטופה בשעתו. והוא הדין בזמננו [הוה שבחה], ואפילו הוה שפכני: כ"ז
זמן שיש לו תחתיו וכו'. אמא לפרושי כמה הוא שליקט דהוא המליל דמהוה
שבחה אפילו בנטופה, וקאמר דהיינו כשליקט [כל] הענפים שחתמו, דבהוה
הוא דחשיב המליל, אבל אם יש לו לאילן זיתים צמקוסים שחתמו, שזו, הן
עיקר האילן, ששם רובב הענפים, ולא אשם דעמיה, [ויש לו זכות בראשון],
וכלא המליל צו דמי. וכי מנן דהמליל צו הוה שבחה, היינו כשאין לו עוד
תחתיו, שכבר ליקט הענפים שחתמו. ובגמרא מפרש לו מיירי מנא קמא אחר
שהכלה המחזוא, אי קודם:

הדיון זית נטופה הוואי' והוא מסוים. הא נטופה אין לו שבחה אינו אלא
משום חשיבותו הוא מסוים: ע"ד דר"י אפי' התחיי' בו כו'. הא דלר"י אין
שבחה לזיתים משמע לעולם אין לו שבחה בין המליל וזין לא המליל ותשיבות
הזיתים לר"י הוה כמסוים דנטופה אלמא לר"י אין חילוק בין המליל אפילו
בנטופה ופליג אמתני' דמתלן בין המליל:

המליל ללא המליל צו חילוק בין המליל ללא המליל פליג אמתני' דלקמן דמתלן
בין המליל ללא המליל:

א מ"י פ"ה מהלכות ממונות
עניים הלכה טה:
ב מ"י פ"ה מהלכות
ממונות עניים הלכה טו
וכתובות וכו':
ד מ"י פ"ה מהלכות ממונות
עניים הלכה טו וכתובות
וכו':

ליקוט משנות אליהו

מתני' זית שנמצא עומד
וכו'. דאין זית אחד בין ג'
שורות של כ"ז מלצנים סה
כל שורה וזוהו אינו שבחה
דהו כמו שיש לו ש"ס:
בר"א בזמן שאם התחיל.
זו קאי אזית הנטופה
דמתני' דלעיל ואזית
שנמצא עומד. וזו אשכח
לפרש דקאי גם אזית שיש
צו סאחיס דלא יש צו
סאחיס לא הוה שבחה אף
אם המליל ואלא אין צו
סאחיס אפילו לא המליל צו
שבחה: כ"ז זמן שיש לו
תחתיו. כ"ז פ"ג שלש
לקט מחמו כל הזיתים
השפיל מהאילן. פי' דקאי
על זיתים נקוף דכתיב לא
תפאר אחריו. וסמכים
הנאמרים היו חזונין פטם
אחז והשאר נקראים זמני
נקוף (ש"ס פס"ב ח"י פ"ה
פסקא רפ"ו) דבזיתים מלוא
לאחר שהנפשו פטם אחז הוה
הנשאר לעניים ונקרא זית
נקוף. הוה המלוא לא שזין
נקוף. בזיתים ולא בשאר
אילנות. ופי' זה מתורין
בגמרא במסכת גיטין (פ"ה)
עיי' המנפק בראש הוה זית
שחתמו גזל מפני דברי
שלוט. מנא אש ליקט ונשא
ונקן זית הרי זה גזל גמור.
כ"ז הכנא אילן וכו' וקא
מתני' מתני' אילן קא מתקן
ואכל אמר ליה חזי מני דלי
שמיתבו וכו' והקשו מהוסי'
(ש"ס ד"ה ש"י) הכי קא מתקן
ואכל הרי זה כאלן גזל מפני
דכ"ז שלט. ופי' זה מתורין
דליבא גזל אלא דוקא זית
נקוף וזכא הוה מתני' ולא
הוה גזל אפילו מפני דברי
שלוט כ"ז שלט לקט זית
אבל כשאמר לו שלקט זית
ונמלא שקתה והוה גזל גמור
ואפילו משאר אילנות,
והשפתא אשמעין מתני' דמתני'
דכל זמן שלא לקט תחתיו
מה שהיה מן האילן הרי
הוא מומר:

תורה אור השלם

א פי תקצר תקצר
בשדך ושבתה עמר
בשדך לא תשוב לקחתו
לר' ליהוה וקאמריה
ויהי לשען ויבדק יהוה
אילןך בכל מעשה ידך:
(רברים כו"ט)

שָׁכַחוּ בַעַל הַבַּיִת וְלֹא שָׁכַחוּהוּ פּוֹעֲלִים אִינוּ שָׁכַחַה — Likewise, if THE OWNER FORGOT [THE SHEAF] BUT THE WORKERS DID NOT FORGET IT, IT IS NOT *SHICH'CHAH*, „בִּי־תִקְצֵר . . . וְשָׁכַחְתָּ” — FOR IT IS WRITTEN: “WHEN YOU REAP” . . . AND YOU FORGET a sheaf etc.^[1]

The Baraisa presents a dissenting view, which holds that the owner's forgetting is not necessarily a prerequisite for *shich'chah*:^[2]

רַבִּי שִׁמּוֹן בֶּן יְהוּדָה אָמַר מִשֵּׁם רַבִּי שְׁמַעוֹן בֶּן יְהוּדָה אָמַר מִשֵּׁם רַבִּי שְׁמַעוֹן אָפִילוּ חֲמַרִּין שְׁהוּן — R' SHIMON BEN YEHUDAH SAYS IN THE NAME OF R' SHIMON: אָפִילוּ חֲמַרִּין שְׁהוּן — EVEN IF DONKEY DRIVERS WERE PASSING ON THE ROAD וְרָאוּ עוֹמֵר אֶחָד שֶׁשָׁכַחוּהוּ פּוֹעֲלִים וְלֹא שָׁכַחוּ בַעַל הַבַּיִת — AND SAW A SHEAF THAT WAS FORGOTTEN BY THE WORKERS BUT WAS NOT FORGOTTEN BY THE OWNER, אִינוּ שָׁכַחַה — IT IS NOT *SHICH'CHAH*; עַד שֶׁשָׁכַחוּהוּ כָּל אֶרֶם — a sheaf that the owner is aware of does not become *shich'chah* UNLESS IT IS FORGOTTEN BY

ALL other PEOPLE [but when all other people have forgotten it, it does become *shich'chah*].^[3]

An additional teaching of R' Shimon:

הָיָה עוֹמֵר בְּעִיר — If [THE OWNER] WAS STANDING IN THE CITY וְאָמַר יוֹדֵעַ אֲנִי שֶׁהַפּוֹעֲלִין שָׁכִיחוּ עוֹמְרִין שְׁבָמְקוֹם פְּלוֹנִי — AND WAS DECLARING, “I KNOW THAT THE WORKERS ARE FORGETTING THE SHEAVES THAT ARE IN SUCH AND SUCH A PLACE,” וְשָׁכַחוּהוּ — AND THEY IN FACT DID FORGET [A SHEAF], אִינוּ שָׁכַחַה — IT IS NOT *SHICH'CHAH*.^[4] הָיָה עוֹמֵר בַּשָּׂדֶה — If, however, [THE OWNER] WAS STANDING IN THE FIELD וְאָמַר יוֹדֵעַ אֲנִי שֶׁהַפּוֹעֲלִין שָׁכִיחוּ עוֹמְרִין שְׁבָמְקוֹם פְּלוֹנִי — AND WAS DECLARING, “I KNOW THAT THE WORKERS ARE FORGETTING THE SHEAVES THAT ARE IN SUCH AND SUCH A PLACE,” and they in fact did forget a sheaf, הָרִי זֶה שָׁכַחַה — IT IS *SHICH'CHAH*, despite the owner's awareness of the sheaf.^[5] שְׁנֵאמַר — FOR IT IS STATED:^[6] . . . and you forget a sheaf “in the

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1. The verse begins with the phrase *כי תקצר*, when you reap, which identifies the “forgetter” as the worker who does the actual reaping (*Mahara Fulda*, from *Rash*; see *Rash Sirilio*). Thus, we learn that a sheaf is not rendered *shich'chah* unless it is forgotten by both the owner of the field and his workers.

⚡ When is the owner's forgetting necessary?

Rash, *Rosh*, *Rav* and *Shenos Eliyahu* (*Peirush HaKatzar*) assert that our Mishnah's initial ruling — that a sheaf forgotten by the workers does not become *shich'chah* unless it had been forgotten by the owner as well — applies only when the owner is standing in [or next to] the field. If the owner is elsewhere (in the city, for example) when his workers forget a sheaf, the fact that he still remembers it is irrelevant and does not prevent the sheaf from becoming *shich'chah*. Similar statements are advanced by *Rash Sirilio*, *Mahara Fulda* and *Pnei Moshe*.

The source for this distinction is a discussion in *Bavli Bava Metzia* 11a, which, on the basis of a Scriptural exposition, differentiates between instances where the owner is “in the field” and instances where he is “in the city.” In the former case (which, as explained, is the subject of our Mishnah's ruling), the sheaves forgotten by the workers do not become *shich'chah* if the owner still remembers them, because the field is being “guarded” by its owner and thus has the power to acquire the sheaves for him, thereby preventing them from becoming *shich'chah* (see *Rashi* ad loc. אִי דִּיהַ אִי and *Chidushei HaRan* there אִלֵּא אֵלֵּא). [An open field is normally classified as a *שְׂדֵה מִשְׁתַּמְרָת* for its owner as a *guarded courtyard*, which does not acquire objects for its owner as a *guarded courtyard* would, unless he is physically present to guard it (see notes 10 and 15 below).] In the latter case — where the owner is away from the field (“in the city”) and hence the field cannot acquire objects on his behalf — *shich'chah* takes effect as soon as the workers forget a sheaf, regardless of whether the owner too has forgotten it. [Some explain that the reason sheaves are prevented from becoming *shich'chah* when the owner “acquires” them through his field is that the sheaves are then considered as if he has actually taken them (see *Chazon Yechezkel* to *Tosefta* 3:4).]

[The implication of the above approach is that *shich'chah* operates solely as a function of the workers' forgetting, with the owner's forgetting being only a *technical* necessity when he is standing in the field so that the field will not acquire the sheaf for him and prevent *shich'chah* from taking effect. At first glance, this seems incompatible with the exposition cited here in *Yerushalmi*, which apparently does consider the forgetting of the owner to be an essential component in a sheaf's classification as *shich'chah* (see *Shaarei Emunah* דִּיהַ בְּרֵאשִׁי; *Derech Emunah*, *Tziyun HaHalachah* 5:27). But it is possible that *Yerushalmi*'s exposition, as well, means only that the forgetting of the owner is required when he is standing near the field, so that the field should not acquire for him those sheaves that are forgotten by the workers, but it does not mean that the forgetting of the owner is *intrinsically* required in order for *shich'chah* to take effect (see *Dibros Moshe*, *Bava Metzia* 11:1 עֵד דִּיהַ עוֹד).]

Note, however, that many Rishonim (including *Tosafos*, *Ramban*, *Ritva*, and *Chidushei HaRan* to *Bava Metzia* *ibid.*) interpret the discussion in *Bavli* differently. They maintain that the owner's forgetting of the sheaf is *always* an integral prerequisite for *shich'chah*, even when he is not standing near the field [as is indeed implied by the simple understanding of the *Yerushalmi* here]. The issue in *Bavli* is

whether the owner's *initial* awareness of a sheaf (i.e. at the moment the workers forgot it) prevents the sheaf from becoming *shich'chah* even if he, too, should eventually forget it. What *Bavli* means is that when the owner is standing near the field (and thus “guarding” it), he is able to acquire a sheaf forgotten by the workers, thereby permanently preventing it from ever becoming *shich'chah*; but when the owner is standing in the city, his field cannot acquire a forgotten sheaf for him even if he remains mindful of it, and it will indeed become *shich'chah* if he too subsequently forgets it. According to this approach, *shich'chah* indeed means that the sheaf is forgotten by both the reapers and the owner. However, the forgetting of the reapers *begins* the *shich'chah* process, and at this incomplete stage the owner's field can acquire the semi-forgotten sheaf for him and prevent it from ever becoming *shich'chah* (see *Tos. R' Akiva Eiger* here §57; see also *Beurim of R' Moshe Feinstein* §114).

2. Our elucidation of the remainder of this passage follows the printed version of the text, as explained by *Rash*. An alternative version will be presented in the Variants section at the end of the *sugya*.

3. In disagreement with the previous opinion in the Baraisa (and the Tanna of our Mishnah), R' Shimon holds that a sheaf that was forgotten by the workers can become *shich'chah* even if it was *not* forgotten by the owner. [R' Shimon in fact states this explicitly at the end of the Baraisa.] He teaches, however, that as long as a sheaf is noticed by others — even if only by passing donkey drivers — the workers' forgetting of the sheaf will not render it *shich'chah*.

From the fact that R' Shimon speaks of a case where the sheaf was forgotten solely by the workers and not by the owner, it can be inferred that a sheaf that was forgotten by both the workers and the owner will be rendered *shich'chah* even if there are others who are still aware of it (*Rash*; see *Mahara Fulda*).

It emerges that according to R' Shimon, a sheaf becomes *shich'chah* if either (a) it was forgotten by both the workers and the owner, even if others are aware of it, or (b) it was forgotten by the workers and all others, even if the owner is still aware of it. [See *Shaarei Emunah* for a possible explanation of R' Shimon's reasoning.]

4. Here R' Shimon states an additional rule [which is based on a Scriptural exposition that he presents at the conclusion of his statement]: If the field owner is in the city when the workers forget a sheaf, the sheaf does not become *shich'chah*.

This leniency applies even if the owner, too, forgets the sheaf; in R' Shimon's view, *shich'chah* never takes effect when the owner is in the city (*Rash Sirilio*; see note 7 below; but see *Shaarei Emunah* דִּיהַ רֵשִׁי). [Apparently, the Baraisa's purpose in stating that the owner remained aware of the sheaf was simply to maintain a symmetry with the next ruling, where this detail is an important factor (see *Mayim Chaim* to *Rambam*, *Hil. Matnos Aniyim* 5:1).]

5. As explained above (note 3), R' Shimon holds that a forgotten sheaf becomes *shich'chah* even if the owner did not forget it (provided that there is no one else who is aware of the sheaf).

[Here the Baraisa is specific in spelling out that the owner had not forgotten the sheaf, because it wishes to illustrate that when the owner is in the field *shich'chah* takes effect even without the owner's forgetting.]

6. *Deuteronomy* 24:19.

field.” בַּשָּׂדֶה וְשָׁכַחָהּ — This implies that the laws of *shich'chah* are applicable only if the owner is **IN THE FIELD AND YOU** [the workers] **FORGET** a sheaf, וְלֹא בְעִיר וְשָׁכַחָהּ — **BUT NOT** if the owner is **IN THE CITY AND YOU FORGET** a sheaf.^[7]

We have learned that according to R' Shimon, the laws of *shich'chah* operate only when the owner is in the field and not when he is in the city. The Rabbis, however (as cited in *Tosefta* 3:4 and in *Bavli Bava Metzia* 11a), disagree with R' Shimon's leniency, and maintain that the law is in fact more lenient when the owner is in the *field*. Specifically, the Rabbis hold that when the owner is in the field, a sheaf forgotten by the workers does not become *shich'chah* if the owner is still mindful of it, because he acquires the sheaf via his field; but when the owner is away from the field (“in the city”), so that the field is incapable of acquiring

objects on his behalf, a forgotten sheaf will be rendered *shich'chah* even if the owner still remembers it.^[8] The Gemara discusses a further ramification of this view.^[9]

רַבִּי זְעִירָא בְּשֵׁם שְׁמוּאֵל — R' Zeira said in the name of Shmuel: אַף לְעֵינַי מְצִיָּה בֶן — This distinction likewise holds true with respect to the law concerning a find (i.e. an ownerless object, such as an animal from the wild) that was discovered in one's field: If the owner of the field is present he acquires the object, but if he is away from the field he does not acquire the object.^[10]

The Gemara challenges Shmuel's assertion:

אִם יָבוּל לֵיגַע — With what are we dealing here? מַה נֶּן קִימִין בְּהָן — If we are dealing with a case where [the field owner] is able to pursue the ownerless objects and reach^[11] them before they exit the field, מַה לִּי בְּתוֹךְ הָעִיר מַה לִּי בְּתוֹךְ שָׂדֶה — what difference does it make to me whether the owner is standing in

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7. R' Shimon expounds the word בַּשָּׂדֶה, *in the field*, as limiting the application of *shich'chah* to cases where a sheaf is forgotten while the owner is in the field. In his view, therefore, it is a Scriptural decree [מִן־תּוֹרַת הַכְּתוּבָה] that there is no *shich'chah* when the owner is in the city — even for sheaves that were forgotten by the workers, the owner, and the world at large (see *Rash* and *Rash Sirilio*). [*Rash* notes that *Bavli (Bava Metzia* 11a) at one point suggests the possibility of expounding the verse in this fashion. Ultimately, though, *Bavli* expounds the verse in almost exactly the opposite manner (see note 1 above and the end of Variant A).]

Note that this exposition explains only the first part of R' Shimon's ruling, namely, that when the owner is in the city a sheaf does not become *shich'chah* even when the usual criteria are met. His latter ruling — that when the owner is in the field a sheaf can be rendered *shich'chah* even if not forgotten by the owner — has its basis elsewhere (see note 3).

To sum up, R' Shimon maintains that when the owner is in the city, there is no *shich'chah* whatsoever; but when the owner is in the field, a sheaf becomes *shich'chah* when forgotten either by the workers and the world at large (even if the owner still remembers it), or by the workers

and the owner (even if others are aware of it).

See Variant A for alternative versions of the preceding passage.

8. This was explained in note 1.

9. [See Variant B.]

10. The Mishnah in *Bava Metzia* 1:4 teaches that an ownerless object discovered in one's field is acquired by the field owner even without his taking physical possession of it, provided that it is a kind of object that remains secure within the field, such as a lame deer or newly hatched pigeons [which would not be able to escape if the owner were to attempt to catch them (see *Tosafos, Bava Metzia* 11a ד"ה הוּיָהּ and Gemara below)]. This method of acquisition is known as *kinyan chatzeir* [literally: acquisition via courtyard].

Shmuel asserts here that the ruling of this Mishnah is subject to the same limitation mentioned above regarding *shich'chah*, namely, that one's field cannot acquire an object for him unless he is standing there (*Rash Sirilio, Mahara Fulda, Pnei Moshe*) and is aware of the object (*Gra ms. 1*). [*Bavli (Bava Metzia* 11a), too, records a similar ruling in the name of Shmuel.]

11. Literally: touch.

TEXTUAL AND INTERPRETIVE VARIANTS

A. According to our version of the Baraisa's text (as interpreted by *Rash*), R' Shimon differs with the Tanna of our Mishnah on two counts — namely, whether *shich'chah* can take effect without the owner's forgetting, and whether the law of *shich'chah* is applicable at all if the owner is away from the field. Various commentators, however (most notably, *Gra*), modify a number of key words in the Baraisa, thereby changing its meaning entirely.

The first emendation pertains to R' Shimon's statement regarding the case of a sheaf that was forgotten by the workers but noticed by passersby. Whereas our version specifies בעל הבית בָּעַל הַבַּיִת, that the sheaf was *not* forgotten by the owner (see note 3), *Gra's* version reads וְשָׁכַחָהּ בְּעַל הַבַּיִת, that is, the owner too forgot the sheaf, but nevertheless it is prevented from being rendered *shich'chah*, due to the fact that others are aware of it. [The sheaf is not considered “forgotten” in this instance because there is still a possibility that the people who have seen it will remind the workers about it (*Radvaz, Hil. Matnos Aniyim* 5:1; see *Derech Emunah* 5:6 with *Tziyun HaHalachah* §12; cf. *Beurim of R' Moshe Feinstein* §114 and *Dibros Moshé, Bava Metzia* 11:1 ר"ה ע"ד).] According to this reading, R' Shimon agrees with the Tanna of our Mishnah that *shich'chah* requires the forgetting of both the workers and the owner. He merely adds one caveat: that other people's awareness of the sheaf prevents it from becoming *shich'chah*. [See *Derech Emunah, Beur HaHalachah* to 5:1 for discussion of whether this rule is unanimously held.]

Support for the above can be elicited from the text of *Tosefta* 3:4, which cites R' Shimon's statement without mentioning anything at all about the owner (see *Pnei Moshe*). Furthermore, it is evident from the words of *Rambam (Hil. Matnos Aniyim* 5:1) that in his text, as well, R' Shimon's statement referred to a case where the sheaf was forgotten by both the workers and the owner (see *Radvaz, Mahari Korkos* and *Kesef Mishneh* ad loc., and *Mahara Fulda*).

With regard to the final portion of the Baraisa (which according to our text expresses R' Shimon's view that *shich'chah* never takes effect when the owner is in the city — see notes 4 and 7), *Gra* transposes the wording so that the *first* case (in which *shich'chah* does not apply) refers to where the owner is standing in the field, and the *second* case (in which *shich'chah* does apply) refers to where the owner is standing in the city. [*Pnei Moshe* emends similarly, based on *Tosefta* ibid.; see also *Mahari Korkos, Hil. Matnos Aniyim* 5:1.] This text accords with the conclusion of *Bavli Bava Metzia* 11a (discussed at length in note 1 above), which derives from the same verse quoted here — *and you forget a sheaf “in the field”* — that the owner's forgetting is necessary when he is in the field but not when he is in the city. I.e. when the owner is in the field, a sheaf forgotten by the workers does not become *shich'chah* if the owner is still mindful of it, because he acquires the sheaf via the field; but when he is in the city, a forgotten sheaf becomes *shich'chah* even if the owner still remembers it, since his field cannot acquire the sheaf for him in that case. [As to whether it is necessary for the owner to at least forget the sheaf later, see the various opinions cited in note 1.]

Following this textual change, it emerges that the latter part of the Baraisa does not represent the view of R' Shimon alone. Rather, it is an anonymous ruling that elaborates the law according to all opinions (see *Mareh HaPanim*; cf. *Mahari Korkos* ibid.).

B. Following *Rash Sirilio, Sdeh Yehoshua* and *Mahara Fulda*, we have introduced this section by explaining that the discussion now shifts away from R' Shimon's opinion, and centers on the dissenting view of the Rabbis. This is only necessary, however, according to our version of the text. According to *Gra*, who emends the latter portion of the Baraisa so that it reflects the view of the Rabbis (see end of Variant A), the ensuing dialogue is in fact a direct continuation of the preceding Gemara. See *Mahari Korkos, Hil. Matnos Aniyim* 5:1.

the city or in his field? Since the objects are in any event secure within the field, the owner ought to acquire them even if he himself is not present!^[12] And if we are dealing with a case where the owner is *unable* to reach the objects, the field should not effect acquisition on his behalf even if he is standing there!^[13] — ? —

The Gemara rejects the challenger's assumption that one acquires an object that is secure within his field even if he is not present:

רַבִּי אֲבָא בַר כַּהֲנָא בְּרֵי יֵסָא רַבִּי יוֹחָנָן — **R' Abba bar Kahana** said in the name of **R' Yassa in the name of R' Yochanan**: וְהוּא יְהוּא שְׂכוּל לִיגַע בְּהֵן אֶפְיִלוּ^[14] בְּתוֹךְ שְׂדֵהוּ — **This law** (that a person acquires ownerless objects by virtue of their presence in his field) applies only **when [the owner] can pursue and reach them** before they exit the field; and **even so** he does not acquire them unless he is standing **in his field**.^[15]

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12. The Gemara currently presumes that for an object to be acquired via one's property, nothing more is required than that the object be secure inside (*Rash Sirilio*). As long as this condition is satisfied, we should be able to apply the principle: וְחִצְרוֹ שֶׁל אָדָם קוֹנֶה לוֹ שְׁלֵא מִדַּעְתּוֹ, *A person's courtyard acquires [objects] for him [even] without his knowledge*, irrespective of where the owner happens to be standing (see *Bavli* *ibid.*).

13. If the circumstances are such that the owner is incapable of capturing the find, it is analogous to a case involving nonsecure objects such as a healthy deer or grown pigeons, which a person's field cannot acquire for him even if he is present [see Mishnah, *Bava Metzia* *ibid.*] (*Mahara Fulda*).

14. [The text of *Yerushalmi* printed with *Rash Sirilio* reads: וְאֶפְיִלוּ הֵבִי.]

15. I.e. it is not sufficient that the objects themselves be confined to the field, because the field — being open and accessible to outsiders — is classified as an *unguarded courtyard* (חִצְרָא שְׂאִינָה מִשְׁתַּמְרָרָה), which does not effect acquisition on its owner's behalf. In order to acquire the objects, the owner must be present to personally guard the field from those who would otherwise take the objects for themselves (see *Rash Sirilio* and *Pnei Moshe*; see also *Rashi* to *Bava Metzia* 11a א"י ד"ה). [An enclosed courtyard, however, effects acquisition even without the owner being present, since it is off-limits to outsiders and thus inherently "guarded" (see *Bavli* *ibid.*.)]

See Variant C for *Gra's* version of the text.

TEXTUAL AND INTERPRETIVE VARIANTS

C. *Gra* emends the text of the Gemara's challenge to read: אִם בְּשָׂאִינוּ אִם יָכוֹל לִיגַע בְּהֵן — **If we are dealing with a case where [the field owner] is not able to pursue the ownerless objects and reach them** before they exit the field, [what difference does it make to me whether the owner is standing in the city or in his field]?

According to this version, the Gemara initially understood Shmuel to be referring to a case where the owner *cannot* capture the objects that were discovered in his field, with the point of Shmuel's statement being that the

owner's acquisition of the object in this case is contingent on whether or not he is present in the field. The Gemara therefore asks: Considering that the objects are in any event not secure within the field, the owner's presence in the field is irrelevant! In reply, the Gemara cites the statement of R' Yochanan, that even when a field owner is standing in his field, he acquires only those objects that he is capable of catching. This, then, is Shmuel's intent as well: When a person's field contains an object that he is able to capture, he acquires it if — and only if — he is present in the field.

The Mishnah teaches in its final ruling:

[או שחיפורה בקש וכר] — OR if the poor COVERED [A SHEAF] WITH STRAW, thereby causing it to be forgotten, etc. (it is not *shich'chah*).^[1]

The Gemara inquires:

היה כולו מחופה בקש — If the entire [field] was covered with straw and a single sheaf was forgotten, what is the law?^[2] Can the person's forgetting of the sheaf — even in this case — be attributed to its having been covered, thus exempting it from *shich'chah*? Or perhaps the fact that he collected all the other sheaves despite their being covered demonstrates that his overlooking of this particular sheaf was on account of simple forgetfulness, and it therefore is rendered *shich'chah*?^[3]

The Gemara answers:

נשמעינה מן הדא — Let us derive [the solution] from this following Mishnah:^[4] וכן הסומא ששכח יש לו שכחה — AND SO TOO, A BLIND PERSON WHO FORGOT a sheaf IS SUBJECT TO the law of *SHICH'CHAH*. וסומא לא כמי שכולו בקש מחופה הוא — Now, is not the case of a blind person similar to a case where the entire [field] was covered with straw? Certainly so, for with respect to a blind person all sheaves are effectively “covered.” Yet the law of *shich'chah* does apply!^[5] We may therefore conclude that if an entire field is covered with straw, those sheaves that are forgotten

do become *shich'chah*.^[6]

The Gemara qualifies the Mishnah's ruling that an individual sheaf that was covered with straw is not subject to *shich'chah*:

רבי יונה אמר — ר' יונה אמר — בוזר את הקשים — The ruling of the Mishnah pertains only where [the harvester] remembers the straw itself, in which case we can attribute his forgetting of the underlying sheaf to the fact that it was concealed from view. If, however, he overlooked the straw as well, the sheaf beneath it does become *shich'chah*, because it is then evident that he would have forgotten the sheaf even if it had not been covered.^[7]

The Gemara correlates this statement with that of another Amora in a different context:

אתא דרבי יונה רבי רבי יעריא — This statement of R' Yonah accords with R' Zeira. כמה דרבי יעריא אמר — For just as R' Zeira says (in the Gemara below, Halachah 3 [54a]) regarding the case of a sheaf covered by another sheaf בוזר את העליון — that the lower one is exempt from *shich'chah* only in an instance where [the harvester] remembers the upper one,^[8] כן רבי יונה אמר — so too does R' Yonah say with regard to a straw-covered sheaf בוזר את הקשים — that the exemption from *shich'chah* applies specifically where [the harvester] remembers the straw and forgets only the underlying sheaf.

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1. As explained above (47b note 21), this is because the sheaf was forgotten on account of an external factor rather than as a result of simple forgetfulness.

2. This interpretation of the Gemara's question follows *Mahara Fulda* and *Pnei Moshe*. See, however, the alternative understandings presented by *Rash Sirilio*, *Mareh HaPanim*, *Pe'as HaShulchan (Hil. Shich'chah 9:5)* and *Aruch HaShulchan HeAsid 9:10*.

3. *Mahara Fulda*.

4. Below, 6:8 [57b].

5. For since he was able to collect all the other sheaves in spite of his blindness, we attribute his forgetting of this particular sheaf to simple forgetfulness rather than to his inability to see.

6. See Variant A.

7. *Aruch HaShulchan HeAsid 9:10*.

[The straw itself is not subject to *shich'chah*, since it is not intended for human consumption (see Mishnah below, 6:7 [57a]). Nevertheless, the fact that the straw was overlooked despite its visibility is an indication that the sheaf, as well, would have been forgotten even if it had been exposed to view (*Mishnah Rishonah*).]

8. *Tosefta 3:7* cites a dispute regarding the case of someone who took hold of a sheaf to take it to the city, and temporarily placed it on top of another sheaf in a row of thus far, ungathered produce. When he subsequently gathered the produce in that row, both of these sheaves were overlooked. Now, all agree that the upper sheaf is not *shich'chah*, because the owner had already taken hold of it with the intention to remove it from the field (see Mishnah below, Halachah 3 [52b]). The

status of the lower sheaf, however, is a matter of contention between R' Shimon and the Rabbis. R' Shimon, following R' Yehudah's opinion in the Mishnah below (Halachah 7 [57a]) that “hidden” produce is exempt from *shich'chah*, exempts this covered lower sheaf as well. The Rabbis, on the other hand, follow the opinion of R' Yehudah's disputants in that Mishnah, who hold that even “hidden” produce is subject to *shich'chah*; accordingly, the lower sheaf is subject to *shich'chah* even though it is covered by the upper sheaf (see *Bavli Sotah 45a*).

R' Zeira (in the Gemara below, 54a) comments on this dispute that although the Rabbis hold that “hidden” produce is subject to *shich'chah*, they agree that if the visible upper sheaf was not forgotten, the lower sheaf is exempt from *shich'chah*. For in that case we presume that the forgetting of the lower sheaf was the result of an external factor — namely, the fact that it was covered by the upper sheaf. It is only when both the lower and upper sheaves are overlooked that the Rabbis declare the lower sheaf *shich'chah*, because then it is clear that the lower sheaf would have been forgotten even if it had been visible (and thus the person's forgetting of the lower sheaf cannot be blamed on the fact that it was covered). As the Gemara will conclude, this parallels R' Yonah's assertion that our Mishnah exempts a straw-covered sheaf only in a case where the straw itself was remembered (*Kesef Mishneh's* understanding of *Rambam, Hil. Matnos Aniyyim 5:4*, as explained by *Toldos Yitzchak* and *Beurim of R' Moshe Feinstein* §125; see, similarly, *Radvaz* and *Mahari Korkos* [second explanation] ad loc.; see also *Pe'as HaShulchan, Hil. Shich'chah 9:9*).

[Alternative understandings of R' Zeira's comment and its correlation with the statement of R' Yonah will be discussed on 54b Variant A.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. In our elucidation of this *sugya*, we have followed *Rambam, Mahara Fulda* and *Shenos Elyahu* in explaining that the Mishnah's reason for exempting a straw-covered sheaf from *shich'chah* is that the sheaf was forgotten on account of an external factor rather than as a result of simple forgetfulness (see 47b note 21). *Rash*, however, provides a completely different explanation. He asserts (in the name of *Sifrei*, not extant in current versions) that our Mishnah's exemption of a straw-covered sheaf reflects the view of R' Yehudah (in the Mishnah below, Halachah 7 — see note 8 below) that “hidden” produce is Scripturally excluded from the laws of *shich'chah*. In other words, the reason a covered sheaf does not become *shich'chah* has nothing to do with the fact that it was forgotten due to an external factor. Rather, it is because the Torah specifically excludes hidden produce from becoming *shich'chah*.

There are several difficulties with this approach, however. First, it appears to leave unexplained why the law of *shich'chah* does not apply if the poor obscured a sheaf by standing in front of it. [Such actions are presumably insufficient to render the sheaf “hidden.”] Second, the approach of *Rash* is difficult to reconcile with the Gemara's inquiry above as to whether *shich'chah* applies if the whole field was covered with straw, for it would seem that the exemption of “hidden” produce should apply even when all of the produce is covered. Third, the Gemara's subsequent proof from the case of a blind farmer seems completely inappropriate, as the produce involved is not hidden in any way. For further discussion, see *Shaarei Emunah* and *Derech Emunah* 5:22 with *Beur HaHalachah*, and *Mikdash David, Zeraim 62:4* ד"ה כתב ד"ה תרי"ט.

לְעוֹמְרִין — FOR SHEAVES. [רְבִיבִין — This refers to a collection of small bundles of grain for eventual consolidation into large (sheaves).]^[1]

The Gemara provides the source for the Mishnah's ruling that *shich'chah* applies only to sheaves forgotten in the course of the final gathering:

אָמַר רְבִי יוֹחָנָן — R' Yochanan said: כִּי תִקְצֵר קְצִירְךָ בְּשֶׂדֶךָ „כִּי תִקְצֵר קְצִירְךָ בְּשֶׂדֶךָ” — The verse states:^[2] *When you reap your*

harvest in your field, and you forget a sheaf in the field. By juxtaposing the gathering of the sheaves to the reaping of the grain, the verse teaches us that the two are to be compared as follows: מֵה קְצִיר שְׂאִין אֲחֲרָיו קְצִיר — **Just as the reaping** of the grain is a final, nonrecurring operation **that is not followed by** another act of **reaping** (since standing grain can be cut only once), אִף עוֹמְרֵי שְׂאִין אֲחֲרָיו עוֹמֵר^[3] — **so too** is the **gathering of sheaves** to which the verse refers a final operation **that is not followed by** another **gathering of sheaves**.^[4]

הדרן עלך גדיש

WE SHALL RETURN TO YOU, GADISH

NOTES

1. [Emendation follows *Hagahos HaGra*; cf. *Sdeh Yehoshua* and *Maharam Chaviv*, who place the word לְעוֹמְרִין at the beginning of the next passage as an introductory quote from the Mishnah.]

2. *Deuteronomy* 24:19.

3. [The text used by *Rash* and *Rosh* appears to have read: אִף עוֹמֵר שְׂאִין

.] אֲחֲרָיו עוֹמֵר

4. Thus, *shich'chah* pertains only to a sheaf that was forgotten in its final form during the final gathering stage.

[See Variant A for the alternative approaches of *Rambam* and *Rosh*.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. According to *Rash*, whose approach we have followed in our elucidation, the initial portion of our Mishnah is discussing the law regarding sheaves that were tied for various purposes and will eventually be consolidated into larger sheaves. *Rambam*, however, presents a completely different interpretation (see *Rambam Commentary with Tos. Anshei Shem*, and in *Hil. Matnos Aniym* 5:12-13). He explains that a harvester would often form small piles of sheaves as he worked his way through the field, and after the entire field had been reaped and piled in this way, all the sheaves would be collected into a great stack or transferred directly to the threshing floor. These intermediate gathering places were known by various names, depending on the manner and form in which the sheaves were gathered: Rounded, aboveground piles were called *kova'os* because of their resemblance to a helmet (*kova*) that rests upon a person's head; piles that were "hidden" (*kamus*) in underground trenches were known as *kumasos*; and flat, circular piles were called *chararah* on account of their similarity to the round, coal-baked biscuits of that name. And on some occasions, the sheaves were transported to a place where they would be combined into larger sheaves, in order to expedite their subsequent transfer to the great stack or the threshing floor. The Mishnah teaches that the law of *shich'chah* does not apply when sheaves are being moved to any of these intermediate gathering places. It is only when the sheaves undergo their final consolidation — such as when they are transferred to the threshing floor — that the forgotten sheaves are rendered *shich'chah*. [In *Rambam's* understanding, the word קַעֲמֹר refers to the gathering of the sheaves rather than to the binding of the loose grain.] In this vein, the Mishnah rules that when the sheaves are being transported to a great stack, where the gathering process culminates, the law of *shich'chah* is applicable; but when the sheaves are later moved to the threshing floor, there is no *shich'chah*, since the produce has already been subject to *shich'chah* when the gathering process was completed (see 48b note 15). [It should be noted that in the case where the sheaves are gathered with the intent of combining them into larger sheaves, there is no *shich'chah* obligation

even if they are being removed directly to their final gathering place, because the sheaves are viewed as being unfinished until they have been put into their final form. The law of *shich'chah* will apply only after the larger sheaves have been made (see *Beurim of R' Moshe Feinstein* §116; *Derech Emunah* 5:89).]

Rosh agrees with *Rambam's* interpretation of *kova'os*, *kumasos* and *chararah* as intermediate gathering places. However, he defines עוֹמֵר differently than *Rambam* does. For whereas *Rambam* interprets עוֹמֵר as the *consolidation* of dispersed sheaves, which culminates when all the field's sheaves have been collected in one place (even if they will eventually be transferred elsewhere), *Rosh* interprets עוֹמֵר as a broad reference to any removal of sheaves for transport to another location. According to *Rosh*, the last stage in the process is when the sheaves undergo their final *removal* to the intended threshing site. It emerges that when one is collecting sheaves for the great stack with intent to eventually transport them to the threshing floor, the forgotten sheaves are *not* subject to *shich'chah*, since this will not be the final movement of the produce. It is only when the sheaves are being transported to the place where they will be threshed that the law of *shich'chah* applies. Hence, the Mishnah's ruling that *shich'chah* applies when one gathers sheaves to the great stack (הַמְעַמֵּר לְגַדִּישׁ), but not when he transports them from there to the threshing floor (מִמְּוֵנוּ לְתוֹרֵן), must be interpreted as dealing with a case where the farmer had originally planned to thresh the grain at the great stack itself. Anything forgotten while the sheaves are being conveyed to the great stack therefore becomes *shich'chah*, since the great stack is the intended final destination of the grain. If the farmer subsequently changed his mind and decided to move the grain to a separate threshing floor, the law of *shich'chah* does not apply during this transfer (even though the sheaves are in fact being transferred to their final destination), since the produce had already been subject to *shich'chah* when it was gathered to the great stack.

For further discussion, see *Derech Emunah* 5:82,89 with *Beur HaHalachah* ד"ה הקוצר.

Chapter Six

Halachah 1

Mishnah The Mishnah presents a dispute between Beis Shammai and Beis Hillel regarding property that one declares ownerless (*hefker*):

בית שמאי אומרים — **Beis Shammai say:** הַבֶּקֶר לְעֵנִיִּים הַבֶּקֶר — Produce that was declared ownerless^[1] for the poor (i.e. the owner qualifies his declaration by stipulating that it should be available for acquisition by poor people only) is in fact deemed ownerless.^[2] **ובית הלל אומרים** — **But Beis Hillel say:** אינו הַבֶּקֶר עַד שְׂבִיבִי אֶף לְעֵשִׂירִים בְּשִׁמִּיטָה — **It is not deemed ownerless at all** — even for the poor — **unless he declares it ownerless for the rich also, as is the case with *shemittah* produce.**^[3]

The Mishnah returns to the discussion begun at the end of the preceding chapter, regarding the *shich'chah* obligation:

בית שמאי אומרים — **Beis Shammai say:** וְאֶחָד שֶׁל אַרְבַּעַת קַבִּין — **and one is the size of four *kabin*, (בו) ושָׁכַחוּ — and they forgot that unusually large one,** **בית הלל אומרים** — **Beis Hillel say:** אינו שְׂבִיבִי — **It is not *shich'chah*, and it may be retrieved by the owner.**^[4] **ובית הלל אומרים** — **But Beis Hillel say:** שְׂבִיבִי — **It is *shich'chah*, and must be left for the poor.**

Gemara The Gemara cites a source for Beis Shammai's ruling that declaring produce "ownerless for the poor" is effective:

רבי חייא בשם רבי יוחנן — **R' Chiya said in the name of R' Yochanan:** טַעֲמִיחוּ דְּבֵית שְׁמַאי — **The Scriptural basis for the ruling of Beis Shammai is as follows:** „לְעֵנִי וְלִגְרָ” — In the passage that discusses the *peah* and *leket* obligations,^[5] the Torah could have stated simply: **for the poor person and the proselyte.**^[6] **מה תלמוד לומר „תעזוב אתם” — What does [the Torah] teach by stating the additional clause: you shall leave them? — יש לך עֲזִיבָה אַחֶרֶת כִּזֹּו — It teaches that you have another “leaving” — a *hefker* declaration — that is similar to this one; just as this leaving of *peah* and *leket* is specifically for the poor and not for the rich, אֶף מֵה שֶׁנֶּאֱמַר — **so too, that leaving which is stated elsewhere (i.e. a *hefker* declaration, which is not directly related to the topic of****

the verse) **לְעֵנִיִּים וְלֹא לְעֵשִׂירִים — is effective even when it is specifically for the poor and not for the rich.**^[7]

The Gemara cites a source for Beis Hillel's ruling that produce can be declared ownerless only if the declaration makes it available for rich and poor alike:^[8]

אמר רבי שמעון בן לקיש — **R' Shimon ben Lakish said:** טַעֲמִיחוּ — **The Scriptural basis for the ruling of Beis Hillel is as follows:** „תִּשְׁמַטְנָה” — In the passage that discusses the laws of *shemittah*,^[9] the Torah could have stated simply: **And in the seventh year, you shall release it.** **וימה תלמוד לומר „ונטשתה” — What does [the Torah] teach by stating the additional expression: . . . and abandon it? — יש לך נְטִישָׁה אַחֶרֶת כִּזֹּו — It teaches that you have another “abandonment” — a *hefker* declaration — that is similar to this one; just as this abandonment of *shemittah* produce is for both the poor and the rich, אֶף מֵה שֶׁנֶּאֱמַר בְּמָקוֹם אַחֶר — **so too, that****

NOTES

1. The letters ב and פ are occasionally interchanged with one another [due to the fact that both of these consonants are enunciated using the lips (*Tos. Yom Tov*; cf. *Tos. Anshei Shem*)]. Thus, הַבֶּקֶר (with a ב) is equivalent to the more familiar term הַפֶּקֶר (with a פ), *hefker* (*Ramban* to *Exodus* 15:10 and *Leviticus* 19:20, cited by *Rash Sirilio*; *Mahara Fulda*, from *Rash*).

2. In practical terms, this means that the produce is henceforth exempt from *maaser* [and the various other tithes], just like produce that was declared ownerless without qualification (*Rambam Commentary, Rash*; see Mishnah above, 1:5 [14b]).

The law that produce that was declared ownerless is exempt from *maaser* is derived in *Yerushalmi Maasros* 1:1 from the verse (*Deuteronomy* 14:29): **וְכֹא הָלְוִי בִּי אֵינְלִי חֶלֶק וְנִחְלָה עִמָּךְ, and the Levi shall come [to take the *maaser*] for he has no portion or inheritance with you.** The Torah thereby indicates that a Levi's entitlement to the tithes is to compensate for his lacking a holding in the land. [The tribe of Levi was not apportioned a territory in the Land of Israel when the land was distributed (*Numbers* 18:20-24).] It thus follows that produce in which a Levi does indeed have the same claim as an Israelite is not subject to tithes. Since a Levi is just as entitled as any other Jew to take ownerless produce, such produce is exempt from tithing. And accordingly, since Beis Shammai maintain that declaring produce “ownerless for the poor” renders it available for acquisition by both Levite and Israelite poor, it follows that such produce is exempt from *maaser*.

[This is also the source for the law that *leket*, *shich'chah* and *peah* are exempt from *maaser*; see *Yerushalmi Maasros* *ibid.* and 14b note 2.]

3. Which is available for acquisition to all, rich and poor alike (see *Leviticus* 25:2 ff.; *Rashi* *ibid.* v. 6).

Beis Hillel maintain that a *hefker* declaration that limits the potential of acquisition to poor people has no legal effect. Therefore, produce that

was declared *hefker* for the poor does not become ownerless at all, and remains subject to *maaser* (*Rash* and *Rosh*, based on *Bavli Bava Metzia* *ibid.*).

[See *Rash Sirilio* for a possible reason why this dispute between Beis Shammai and Beis Hillel regarding *hefker* is recorded here amid the Mishnayos dealing with the *shich'chah* obligation. See also the *Yad Avraham* commentary in the ArtScroll Mishnayos.]

4. The Gemara will explain Beis Shammai's reasoning.

5. *Leviticus* 23:22 (see *Shoshanim LeDavid*, cited by *Tos. Anshei Shem* *ד"ה הבקר*).

6. The Torah states with respect to *peah* and *leket*: **לְעֵנִי וְלִגְרָ תְּעֹזֵב אֹתָם, for the poor person and the proselyte “you shall leave them.”** Now, the final clause in this verse is seemingly superfluous, as the verse could have conveyed the same point by stating: **לְעֵנִי וְלִגְרָ יִהְיֶה, for the poor person and the proselyte “they shall be”** (see *Ritva, Bava Metzia* 30b and *Sdeh Yehoshua*; cf. *Rosh* and *Tos. Yom Tov* to the Mishnah).

7. By stating the additional words **תְּעֹזֵב אֹתָם, you shall leave them,** the verse informs us that one can voluntarily give his ordinary produce the same status as *peah* and *leket* by making it ownerless for poor people alone. The produce is then exempt from *maaser* just as *peah* and *leket* are.

The Gemara will later explain that according to this approach of R' Yochanan, Beis Hillel derive their opinion by expounding the verse of *peah* and *leket* in an opposite manner (*Mahara Fulda*, following *Rash*; see further below).

8. [As will become clear from the progression of the Gemara, the ensuing explanation of Beis Hillel's view represents a *departure* from the preceding approach of R' Yochanan.]

9. *Exodus* 23:11, which reads: **וְהִשְׁבִּיעַת הַשְּׂמִטָּה וְנִטְשָׁתָה: — And in the seventh [year], you shall release [the land] and abandon it.**

abandonment **which is stated elsewhere** (i.e. a *hefker* declaration, which is not directly related to the topic of the verse) **בין לעניים בין לעשירים** — is effective only when it makes the produce available **for both the poor and the rich**.^[10]

In R' Yochanan's view, Beis Shammai derive their ruling from the superfluous phrase **תַּעֲזֹב אֹתָם**, *you shall leave them*, that appears in the passage regarding *peah* and *leket*. The Gemara asks: **מֵה מְקוּיָמִין בֵּית הַלֵּל טַעְמָהוֹן דְּבֵית שְׁמַאי** — According to R' Yochanan, **how do Beis Hillel deal with the verse that serves as the basis for the ruling of Beis Shammai?**

The Gemara answers:

מֵעוֹט מֵעוֹט „תַּעֲזֹב אֹתָם”, — Beis Hillel expound the phrase ***you shall leave them*** as conveying a **limitation**,^[11] so that the verse is understood to be saying: **זוֹ לְעֵנִיִּים וְלֹא לְעֹשִׂירִים** — **This leaving of *peah* and *leket* is indeed designated for the poor only and not for the rich**, **אָבֵל מֵה שְׁנָאֲמַר בְּמָקוֹם אַחֵר** — **but that leaving which is stated elsewhere** (i.e. the *hefker* declaration) **בֵּין לְעֵנִיִּים בֵּין לְעֹשִׂירִים** — is ineffective unless it is designated **for both the poor and the rich**.^[12]

Having clarified R' Yochanan's approach, the Gemara proceeds to analyze the view of R' Shimon ben Lakish, that Beis Hillel derive their ruling from the superfluous expression **וַיִּטְשֶׁתָּהּ**, *and abandon it*, that the Torah states with regard to *shemittah*. The Gemara asks:

מֵה מְקוּיָמִין בֵּית שְׁמַאי טַעְמָהוֹן דְּבֵית הַלֵּל — According to R' Shimon ben Lakish, **how do Beis Shammai deal with the verse that**

serves as **the basis** for the ruling of **Beis Hillel?**

The Gemara answers:

„וַיִּטְשֶׁתָּהּ וַיִּטְשֶׁתָּהּ” (נְטִישָׁה) מֵעוֹט, — Beis Shammai expound the phrase ***you shall release it and abandon it*** as conveying a **limitation**,^[13] so that the verse is understood to be saying: **זֶה בֵּין לְעֵנִיִּים בֵּין לְעֹשִׂירִים** — **This abandonment of *shemittah* produce is designated for both the poor and the rich**, **אָבֵל מֵה שְׁנָאֲמַר בְּמָקוֹם אַחֵר** — **but that abandonment which is stated elsewhere** (i.e. the *hefker* declaration) **אָבֵל לֹא לְעֵנִיִּים אָבֵל לֹא לְעֹשִׂירִים** — is effective even when it is designated **for the poor only and not for the rich**.^[14]

From the preceding discussion it emerges that the source of Beis Hillel's ruling is a matter of dispute: R' Yochanan holds that Beis Hillel derive their opinion from the exclusionary term stated in the passage of *peah* and *leket*, while R' Shimon ben Lakish holds that Beis Hillel derive their opinion from an exposition of the verse regarding *shemittah*. The Gemara adduces support for the latter approach:

לִישׁוֹן מִתְנִיחָה מְסִיעָא לְרַבֵּי שְׁמַעוֹן — **R' Avin said: „אָמַר רַבִּי אֲבִין בֶּן לָקִישׁ — The language of the Mishnah supports the position of R' Shimon ben Lakish**, that Beis Hillel's view regarding *hefker* is derived from the *shemittah* passage. For the Mishnah states: **עַד שֶׁיִּבְקֹר אֶף לְעֹשִׂירִים בְּשִׁמִּיתָה** — **But Beis Hillel say: It is not deemed ownerless at all UNLESS HE DECLARES IT OWNERLESS FOR THE RICH ALSO, AS is the case with *shemittah* produce**.^[15]

NOTES

10. R' Shimon ben Lakish maintains that the parameters of *hefker* are derived not from the verse of *peah* and *leket*, but from the verse regarding *shemittah*. The exposition informs us that a voluntary abandonment of produce must resemble the state of *shemittah* produce, which is freely available to everyone, rich or poor. Only when produce is declared ownerless for all does it become *hefker* and thus exempt from *maaser*.

11. Beis Hillel construe the word **אֹתָם**, *them*, as an exclusionary term that restricts to *peah* and *leket* a certain aspect of the law stated in that verse (*Rash*, *Rosh*).

12. [I.e. the expression **תַּעֲזֹב**, *you shall leave*, teaches that one generally has the ability to declare his produce ownerless;] the additional word **אֹתָם**, *them*, limits the scope of this ability by implying that it is only with regard to “them” — the *peah* and *leket* discussed explicitly by the verse — that produce can be left solely for the poor. Produce that is made ownerless by virtue of a *hefker* declaration, however, must be designated for both the poor and the rich.

R' Yochanan thus maintains that the verse regarding *peah* and *leket* is the source for the rulings of both Beis Shammai and Beis Hillel. In this he disputes R' Shimon ben Lakish, who cited the verse regarding *shemittah* as the source for Beis Hillel's ruling (*Rash*).

13. [Emendation follows the Vilna and Amsterdam editions.] The suffix **ִי** (*it*) implies that an aspect of the law under discussion pertains specifically to *shemittah* produce and not to ordinary produce that was

declared *hefker* (see *Rash Sirilio* and *Sdeh Yehoshua*).

14. [The superfluous expression **וַיִּטְשֶׁתָּהּ**, *and abandon it*, teaches that one can declare his produce ownerless just like *shemittah* produce; and the extra suffix **ִי**, *it*, teaches further that a *hefker* declaration, unlike *shemittah*, may be designated for poor people only.] The implication is that only “it” — the *shemittah* produce discussed explicitly by the verse — must be left for both the poor and rich alike, but produce that is *voluntarily* declared ownerless may be left even for the poor alone.

Hence, according to R' Shimon ben Lakish both Beis Hillel and Beis Shammai derive their respective opinions from the verse regarding *shemittah*. This is at variance with R' Yochanan's assertion that Beis Shammai derive their ruling from the verse regarding *peah* and *leket* (*Rash*).

15. By stating that *hefker* must be declared ownerless for all people “as [is the case with] *shemittah* produce,” Beis Hillel indicate that their position regarding *hefker* in fact emanates from a Scriptural analogy to *shemittah*, as opined by R' Shimon ben Lakish.

R' Yochanan, who holds that Beis Hillel derive their opinion from the verse of *peah* and *leket* rather than the verse of *shemittah*, is forced to say that the Mishnah mentions *shemittah* merely as a model for the proper way to declare something ownerless [namely, that *hefker* must be designated for rich and poor alike, just like *shemittah* produce, which is available for acquisition by rich people as well as poor people] (*Mahara Fulda*, from *Rash*).

The Gemara discusses the halachic ramifications of the dispute between R' Yochanan and R' Shimon ben Lakish regarding the source of Beis Hillel's ruling:

הַבְּקָר לְבִהְמָה אֲבָל לֹא לְאָדָם — If one declares produce *hefker* for animals but not for people, לְגוֹיִם אֲבָל לֹא לְיִשְׂרָאֵל — or for idolaters but not for Jews, לְעֵשִׂירִים אֲבָל לֹא לְעֵנִיִּים — or for the rich but not for the poor, דְּבָרֵי הַבַּל אֵין הַבְּקִירוֹ הַבְּקָר — all [R' Yochanan and R' Shimon ben Lakish] agree that his *hefker* is not an effective *hefker*, because it resembles neither *shemittah* produce (which is ownerless vis-a-vis all people), nor *peah* and *leket* (which are intended for the Jewish poor).^[1] לְאָדָם אֲבָל לֹא לְבִהְמָה — If, however, one declares produce *hefker* for people but not for animals, לְיִשְׂרָאֵל לְעֵנִי אִתְּהֵי הָעִיר — or for Jews but not for idolaters, אֲבָל לֹא לְגוֹיִם — or for the poor of that city but not for the poor of a different city,^[2] תְּפִלוּגְתָּא דְּרַבִּי יוֹחָנָן וְדְרַבִּי שְׁמַעוֹן בֶּן לָקִישׁ — the effectiveness of his declaration (according to Beis Hillel) is contingent upon the dispute between R' Yochanan and R' Shimon ben Lakish: עַל דְּעִתִּיהָ דְּרַבִּי יוֹחָנָן הַבְּקִירוֹ הַבְּקָר — According to the view of R' Yochanan that Beis Hillel derive the law of *hefker* from the passage of *peah* and *leket*, his *hefker* is an effective *hefker*,^[3] עַל דְּעִתִּיהָ דְּרַבִּי שְׁמַעוֹן בֶּן לָקִישׁ אֵין הַבְּקִירוֹ הַבְּקָר — but according to the view of R' Shimon ben Lakish that Beis Hillel's ruling is derived from the *shemittah* passage, his *hefker* is not an effective *hefker*, because it is not analogous to *shemittah* produce.^[4]

The Gemara comments:

אָמַר רַבִּי לָא — R' La said: There is no need to infer the positions of R' Yochanan and R' Shimon ben Lakish on this matter from their dispute regarding Beis Hillel's reasoning, בְּפִירוּשׁ פְּלִיגִין — for they actually disagreed explicitly about the issue! רַבִּי יוֹחָנָן אָמַר — R' Yochanan said that if one declares produce *hefker* for people but not for animals, or for Jews but not for idolaters, or for the poor of that city but not for the poor of another city, הַבְּקִירוֹ הַבְּקָר — his *hefker* is an effective *hefker*, רַבִּי שְׁמַעוֹן בֶּן לָקִישׁ אָמַר — and R' Shimon ben Lakish said that in these instances אֵין הַבְּקִירוֹ הַבְּקָר — his *hefker* is not an effective *hefker*.^[5]

The Gemara considers whether a rich person is able to acquire an object that was declared *hefker* for the poor only (according to Beis Shammai, who say that a declaration of this sort is effective):

הַדָּה דְּאִמְרָה) — R' Avin bar Chiya said: ^[6] הַבְּקָר לְעֵנִיִּים וְזָכוּ בָהֶן עֲשִׂירוֹן — Regarding objects that were declared *hefker* for the poor, and rich people took possession of them, תְּפִלוּגְתָּא דְּרַבִּי מַאִיר וְרַבִּי יוֹסִי — the disposition of those objects is a matter of dispute between R' Meir and R' Yose.^[7] עַל דְּעִתִּיהָ דְּרַבִּי דוֹ אָמַר כִּינּוּן שְׂאֵדָם מְבַקֵּיר דְּבַר וְיָצָא) — According to R' Meir, ^[8] מַאִיר — who says that as soon as a person declares something *hefker* it leaves his possession, הַבְּקִירוֹ הַבְּקָר — his *hefker* is an effective *hefker* even with respect to a rich person being able to take possession of it;^[9]

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1. *Mahara Fulda*, from *Rash*. [If the paradigm for *hefker* declarations is the law of *shemittah*, as R' Shimon ben Lakish maintains, it is perforce impossible for one to effect a state of ownerlessness that excludes humans in general or even a particular subset of people. And similarly, if the source for the general concept of *hefker* is the law of *peah* and *leket*, as R' Yochanan maintains, then one's *hefker* declaration must not be exclusive of Jews or poor people.]

2. This does not mean that the owner excluded rich people from being able to acquire the produce, for such a declaration would surely be ineffective according to Beis Hillel. Rather, the intent here is that he declared the produce ownerless *on account of* his city's poor, i.e. the dire poverty in his city is what spurred him to declare his produce *hefker*. The declaration itself, however, was inclusive of *all* the city's residents, rich and poor alike; only residents of other cities were excluded (*Rash*; *Rosh*).

3. And the produce is thus [available for acquisition by the specified parties] and exempt from *maaser* obligation (*Rash*).

R' Yochanan holds that the critical factor in determining the validity of a *hefker* declaration according to Beis Hillel is that the produce must not resemble *peah* and *leket* with regard to its being made available solely for the poor [and certainly it may not exclude the poor] (see 49a note 12). Using this criterion, any *hefker* declaration that encompasses rich and poor alike is effective, even if it excludes animals, idolaters or the residents of another city (see *Rash*, *Rosh* and *Gra ms. 2*).

4. Since, according to R' Shimon ben Lakish, Beis Hillel derive the parameters of *hefker* from the law of *shemittah*, a *hefker* declaration therefore may not contain any exclusion whatsoever [for it must be similar to

shemittah produce, which is freely available to all people and even to animals] (*Rash*; see *Rash Sirilio* and *Chazon Ish*, *Sheviis* 14:4).

5. In *Bavli Bava Metzia* 30b, the Gemara states that a *hefker* declaration which excludes even a single person is invalid. This appears to coincide with the position of R' Shimon ben Lakish (*Rash*; see *Rash Sirilio*). See further, *Shulchan Aruch*, *Choshen Mishpat* 273:3 with *Sma* §7 and *Pischei Teshuvah* §1.

[See Variant A for an alternative understanding of this Gemara.]

6. Deletion of the parenthesized words follows *Gra*; cf. *Maharam Chaviv* and *Beur of R' Chaim Kanievski*.

7. The Gemara is referring to a Tannaic dispute recorded in *Yerushalmi Nedarim* 4:10 (see also *Bavli Nedarim* 43a), regarding the point at which an object that was declared *hefker* leaves the possession of its owner (*Mahara Fulda*). R' Meir maintains that the object is rendered ownerless immediately; that is, the owner instantly forfeits his title to the object, even before another party has acquired it. R' Yose, on the other hand, maintains that a *hefker* declaration merely allows other people to acquire the object, but until this happens it remains the property of the original owner. See further below.

8. Emendation follows *Gra ms. 1*.

9. R' Meir holds the moment one declares an object ownerless — even if only for the poor, according to Beis Shammai — it is no longer his. Hence, it may thereupon be acquired even by rich people (*Mahara Fulda*), for once the object has left the possession of its owner, all conditions that he attached to it [by dint of his ownership] fall away (*Gra*).

TEXTUAL AND INTERPRETIVE VARIANTS

A. According to *Rash* and *Mahara Fulda*, whose approach we have followed in our elucidation, there is a dispute between R' Yochanan and R' Shimon ben Lakish regarding the source for the opinions of Beis Shammai and Beis Hillel. However, *Rambam Commentary* cites the verse of *peah* and *leket* as the source for Beis Shammai's ruling (as stated by R' Yochanan), and the verse of *shemittah* as the source for Beis Hillel's ruling (as stated by R' Shimon ben Lakish). This indicates that in *Rambam's* understanding, the explanations of R' Yochanan and R' Shimon ben Lakish complement each other and do not represent conflicting viewpoints. [It is also evident that *Tosafos* to *Pesachim* 57a אלא ד"ה and to *Bava Kamma* 28a זה ד"ה understood the *Yerushalmi* this way.]

The problem with *Rambam's* approach, however, is that it seemingly fails

to acknowledge the give-and-take of the Gemara here. How can *Rambam* hold that there is no dispute when the Gemara cites a support for the opinion of R' Shimon ben Lakish, and subsequently discusses the halachic difference between R' Yochanan and R' Shimon ben Lakish? (see *Shitah Mekubetzet*, *Bava Metzia* 30b לקיש ריש, citing *Tos. Shantz*).

To resolve this difficulty, *Shoshanim LeDavid* (cited by *Tos. Anshei Shem*) suggests that *Rambam* understood the concluding statement of R' La as rejecting the Gemara's previous assumption that R' Yochanan and R' Shimon ben Lakish argue. That is, the sentence בְּפִירוּשׁ פְּלִיגִין וְכוּ should be read rhetorically: *Did [R' Yochanan and R' Shimon ben Lakish] explicitly disagree [about this issue]? [Certainly not! You therefore have no basis to presume that there is any dispute between them.]*

רו אָמַר אִין — but according to R' Yose, — על דעתיה דרבי יוסי — **who says that an object declared hefker does not leave the possession of its owner except through acquisition** by another party, אִין הֶקְפָּרוּ הֶבְקֵר — **his hefker is not an effective hefker** with respect to a rich person being able to take possession of it.^[1]

The Gemara analyzes the disposition of time-limited *hefker* declarations:^[2]

עד כְּדוֹן כְּשֶׁהֶבְקִירָה לְמִן מְרוּבָה — **Until now, we know only about the law where [one] declared [his produce] hefker for an**

extended period of time.^[3] — [אָבְלָן (ואפילו) הֶבְקִירָה לְמִן מוּעָט — **But what is the law if he declared [his produce] hefker for just a brief period of time?** Does it remain exempt from tithes even if the owner himself reacquires it, as is normally the law with regard to *hefker*?^[4]

The Gemara answers:

— **Let us resolve [the inquiry] from the end of this following Baraisa:** — הֶבְקִיר אֶת שְׂדֵהוּ — **If ONE DECLARED HIS FIELD OWNERLESS,** שְׁנַיִם וּשְׁלֹשָׁה יָמִים הוֹזֵר בּוֹ — **for TWO OR THREE DAYS afterward HE MAY RETRACT [HIS DECLARATION].**^[5] — תִּנּוּ רַבִּי שְׁמַעוֹן דִּמְאָ קוּמֵי רַבִּי זְעִירָא — **And in explanation of this**

NOTES

1. In R' Yose's view, an object that was declared *hefker* remains the property of the owner until someone acquires it. In this case, therefore, the object cannot be considered truly ownerless until one of its intended recipients — viz. a poor person — takes possession of it. Hence, should a rich person take the object he will not acquire it, for it still belongs to the owner [who designated it specifically for the poor] (*Mahara Fulda; Sdeh Yehoshua*).

[See Variant A for other interpretations of R' Avin bar Chiya's statement.]

2. [Declaring an article *hefker* for a limited time means that the article is being made available for acquisition by others during that period only. If someone takes possession of the article during that period, he acquires it forever; otherwise, the article automatically reverts to the owner (see *Peirush HaRosh, Nedarim* 44a אמר דר' אמר; see also *Teshuvos R' Akiva Eiger* 1:145, *Shaarei Yosher* 5:23).]

3. I.e. he did not place a short-term limit on how long the produce should remain ownerless if not acquired. Rather, he extended the range of the *hefker* far into the future (e.g. a year) [or simply declared the produce ownerless without qualification]. In cases such as these, the produce is subject to the classic law of *hefker*, which is that the produce is henceforth exempt from the *maaser* obligation even if the owner himself should reacquire it.

This is the law according to R' Meir, who holds that an item that was declared *hefker* becomes ownerless at once (see 49b note 7). The produce is thus permanently exempt from *maaser* even if the owner himself reacquires it. In R' Yose's view, however, an object that was declared *hefker* does not become ownerless until it is acquired by another party; hence, if one declares his produce *hefker* and then reacquires it himself, the *maaser* obligation remains in force, since the produce never really left the owner's possession to begin with (*Rash Sirilio*).

4. [The present inquiry has no relevance with regard to R' Yose's view, for according to R' Yose it is obvious that produce that was declared *hefker* and was then reacquired by its original owner remains subject to the *maaser* obligation (as explained in the previous note). Rather,] the Gemara is inquiring whether R' Meir, who rules that produce that was declared *hefker* is generally exempt from *maaser* even if the owner himself reacquires it, allows this exemption with respect to short-term *hefker* declarations as well (*Rash Sirilio*; see *Sdeh Yehoshua*). [The reason the exemption might not apply in this case is perhaps because of the concern that the owner's taking of the produce under these circumstances would be misconstrued as a *retraction* of his *hefker*

declaration (which would leave the *maaser* obligation intact) rather than a new acquisition of property from a state of ownerlessness.]

5. This Baraisa is referring to a standard *hefker* declaration that is not limited to any particular span of time. It teaches that within the first three days after a field has been declared ownerless, the owner has the option to recant and nullify his declaration (*Rash Sirilio*).

In *Bavli Nedarim* 44a (where a similar Baraisa is recorded), the Gemara explains that this rule was enacted by the Rabbis to counter the subterfuge employed by cheats, who would declare their fields *hefker* and then reclaim them in order to free their produce from the *maaser* obligation. Since it was their intention at the very moment they were declaring the *hefker* to reclaim their fields, the *hefker* was no more than a charade and never really valid. To deter such conduct, the Rabbis decreed that every *hefker* declaration — even one sincerely meant — could be retracted for up to three days, even if someone else had already taken possession of the property. [The field's produce thus remains subject to *maaser* during that period (even if the field was acquired by someone other than the one who declared it ownerless), since the *hefker* has not yet become finalized.] Hence, if the original owner should reclaim his field anytime during the first three days (which is what someone employing a subterfuge would do — see following paragraph), it will be understood that his action constitutes a retraction of his *hefker*; thereby nullifying it and leaving the *maaser* obligation intact (*Mahara Fulda*, based on *Ran* ad loc.; see also *Tosafos* there).

In a parallel text that appears in *Yerushalmi Nedarim* 4:10 (and in the version presented by *Rash Sirilio* and *Sdeh Yehoshua* here), the following sentence appears at this point: אָמַר רַבִּי זְעִירָא — **R' Z'eira said:** לֹא אָמַר — **[The Baraisa] says only that one may retract his hefker declaration during the first three days;** הָא לְאַחַר שְׁלֹשָׁה אִינוּ הוֹזֵר בּוֹ — **this implies that after the first three days have elapsed, he cannot retract [his declaration].** I.e. R' Z'eira inferred from the Baraisa that once three days have gone by, the *hefker* is considered final and can no longer be retracted, even if no one had yet taken possession of the property. The reason for this is that people who plan to reclaim the fields they had fraudulently declared *hefker* do not wait more than three days before doing so. Hence, once three days have passed without the owner retracting, there is no further concern that the declaration was made insincerely. The original *hefker* declaration therefore stands and the owner has no authority to undo it (see *Ran* and *Peirush HaRosh* to *Nedarim* 43b-44a; see further below). Should the original owner of the field reacquire it at this point, he is considered to have made a new acquisition, not a

TEXTUAL AND INTERPRETIVE VARIANTS

A. Some commentators do not accept the notion that a rich person should be able to acquire an object that was declared *hefker* exclusively for the poor. They therefore offer various alternative interpretations of R' Avin bar Chiya's statement.

R' Chaim Kanievski (in his *Beur*) asserts that it is certainly forbidden for a rich person to take produce that was declared ownerless for the poor, and if he does so it amounts to stealing. The issue under discussion is whether such produce that was illegally taken by a rich person is nonetheless exempt from *maaser* obligation. According to R' Meir, the produce became *hefker* and thus permanently exempt from *maaser* immediately upon being declared ownerless for the poor. Thus, if a rich person subsequently appropriates the produce, and instead of returning it to the poor (as he is obligated to do) he decides to eat it, there is no requirement for him to tithe the produce beforehand. According to R' Yose, however, the produce remains in the possession

of the owner — and hence retains its *maaser* obligation — until it is acquired by a poor person. If a rich person (who cannot legally acquire the produce) were to take it, it would still be subject to *maaser*, since it technically has not yet become ownerless.

Maharam Chaviv and *Sefer Nir* take an entirely different approach. They suggest that R' Avin bar Chiya is discussing whether a person who was poor and then became wealthy may acquire an object that had been declared "ownerless for the poor" prior to his increase in assets. According to R' Meir, the object became ownerless for the poor at the time of the declaration — which means that this person, who was poor at the time, is included as well, and may therefore take possession of the object even though he is now rich. R' Yose, however, maintains that the object does not actually leave the owner's possession until the moment of acquisition. Accordingly, it may be acquired only by someone who is presently a poor person.

Baraisa, R' Shimon Diyama taught in the presence of R' Z'eira: **אָפּילוּ לְאַחַר שְׁלֹשָׁה יָמִים (אינו) חוּר בּוֹ — He may retract [his declaration] even shortly after three days have passed.**^{6]} **אָמַר לֵיהּ — [R' Z'eira] said to him** in response:

מִכִּין דָּאֵת אָמַר אָפּילוּ לְאַחַר שְׁלֹשָׁה יָמִים — Once you say that a hefker declaration may be retracted even after three days have passed, [the law] should be the same whether the declaration was retracted after just three days have passed or whether it was retracted after many more

than three days have passed — and this is surely untrue!^{7]} Clearly, then, one's ability to retract an ordinary *hefker* declaration does not extend at all beyond the Rabbinically ordained three-day period.

Support for R' Z'eira's argument is adduced from the latter portion of the Baraisa, which pertains to time-limited *hefker* declarations:

לִישׁוֹן מִתְּנִיתָהּ מְסִייעַ לְרַבִּי זְעִירָא — The language of this second half of the Baraisa supports the argument of R' Z'eira:

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retraction of the earlier *hefker*. The produce of the field would therefore be exempt from *maaser* (*Rash Sirilio*; see *Tosafos, Nedarim* *ibid.*).

6. R' Shimon Diyama asserted that the “two or three days” mentioned in the Baraisa were meant only as an example, not as an absolute time frame, and in reality one can retract his *hefker* declaration even some time *after* three days have passed. Apparently, R' Shimon Diyama held that the Rabbis were concerned about the possibility of subterfuge even in cases where the owner waits longer than three days to reclaim his field. They therefore allowed a *hefker* declaration to be retracted even if more than three days had elapsed since the declaration was made (see *Rash Sirilio, Maharam Chaviv* and *Pnei Moshe*; cf. *Mahara Fulda* with *Sefer Nir* ד"ה הרי"א). [It is unclear at what point R' Shimon Diyama would

consider a *hefker* declaration to be final and un retractable.]

7. R' Z'eira responded to R' Shimon Diyama as follows: According to your assertion that a *hefker* declaration can be retracted beyond the first three days, it should just as well be possible for one to retract his declaration even after numerous days [or years] have gone by, as there is no reason to differentiate between one case and another. But this is certainly impossible, for then the entire concept of *hefker* would essentially be meaningless! (see *Mahara Fulda* and *Pnei Moshe*). [Thus, argues R' Z'eira, the Baraisa must mean that a *hefker* declaration can be retracted *only* within the first three days and not afterward. Only then does the Baraisa's ruling have a plausible explanation, namely, that the concern for subterfuge is limited to the first three days.]

במה דברים אמורים — IN WHAT instance WAS IT SAID that one may retract his *hefker* declaration within three days?^[1] בשהבקייר סתם — WHEN HE DECLARED an item *HEFKER* WITHOUT SPECIFYING any time limitation. אָבֵל אִם אָמַר שְׂדֵי מוֹבְקֶרֶת יוֹם אֶחָד — BUT IF HE DECLARED: LET MY FIELD BE *HEFKER* for ONE DAY, שָׁבַת אֶחָד — or for ONE WEEK, חֹדֶשׁ אֶחָד — or for ONE MONTH, שָׁנָה אֶחָת — or for ONE YEAR, שְׁבִיעֵי אֶחָד — or for ONE SEVEN-YEAR PERIOD, the law is as follows: אִם עַד שְׁלֹא יָבֵה בֵּין הוּא בֵּין אֲחֵר — AS LONG AS NEITHER HE NOR ANYONE ELSE HAS TAKEN POSSESSION of it, אָבֵל — HE CAN RETRACT [HIS DECLARATION]; אָבֵל — HE CANNOT RETRACT [HIS DECLARATION].^[2] From the fact that the first part of the Baraisa regarding an ordinary *hefker* declaration mentions only “two or three days” and does not supply a broader range of examples as is found in this latter ruling, it may be inferred that three days is in fact the absolute limit for retraction of ordinary *hefker* declarations — thus affirming R’ Zeira’s contention.^[3]

The Gemara concludes by enumerating the various issues that

are resolved by this Baraisa, beginning with the Gemara’s original inquiry:

הָרָא אָמְרָה הוּא זְמַן מְרוּבָה הוּא זְמַן מוֹעֵט — This Baraisa **informs** us that the law regarding produce that was declared *hefker* for an **extended period of time is the same** as the law regarding produce that was declared *hefker* for a **brief period of time**; in both cases the produce remains exempt from tithes even if the owner himself reacquires it.^[4] הָרָא אָמְרָה לֹא חָשׂוּ עַל הָעֲרָמָה — Furthermore, this Baraisa **informs** us that in the case of a time-limited *hefker* declaration, [the Rabbis] were **not concerned for a subterfuge**.^[5] הָרָא אָמְרָה שְׂאֵדָם מְבַקֵּיר וְחוֹזֵר וְיוֹבֵקָה — It further **informs** us that a person can declare his produce *hefker* and then **reacquire** it himself, thereby exempting the produce from the tithing obligation.^[6] הָרָא פְּשִׁיטָא שְׂאִילְתִּיהָ דְּרַבִּי זְעִירָא — And finally, it **confirms** the accuracy of R’ Zeira’s question to R’ Shimon Diyama,^[7] דְּרַבִּי זְעִירָא אָמַר הוּא זְמַן מְרוּבָה הוּא זְמַן מוֹעֵט — **for R’ Zeira said** that with regard to retracting an ordinary *hefker* declaration beyond the first three days, [the law] is **the same whether a lengthy time or a brief time** has elapsed.^[8]

NOTES

1. See above, 50a note 5.

2. This latter part of the Baraisa teaches that although the Rabbis enacted a rule allowing *hefker* declarations to be retracted for up to three days [even if someone had already taken possession of the item] in order to avoid the possibility of subterfuge, they did not do so for a time-limited *hefker*. This is because anyone declaring his field *hefker* merely to circumvent the *maaser* obligation would not bother to attach a time limit, since he was planning to take back his field immediately in any case. It was therefore assumed that anyone declaring his field *hefker* for a fixed amount of time is doing so sincerely, thus precluding the need for any special retraction period (*Maharam Chaviv* and *Pnei Moshe*, based on *Ran* to *Nedarim* 44a). It emerges that the only issue in the case of a time-limited *hefker* is whether someone has taken possession of the property. If no one has done so, the owner can retract his *hefker* even after three days. If someone has taken possession of the property, the owner may not retract his *hefker* even within three days.

Now at first glance, this ruling seems to accord with the view of R’ Yose that an item declared *hefker* does not leave the owner’s possession until someone actually acquires it. The truth, however, is that the Baraisa’s ruling is consistent with the view of R’ Meir as well. For when R’ Meir stated that an item that was declared *hefker* leaves the owner’s possession immediately, he was referring only to ordinary *hefker* declarations; but in the case of a time-limited *hefker*, R’ Meir agrees that the owner may later retract his declaration. The reason for this distinction is that the owner’s reluctance to permanently let go of his property indicates that he wishes to leave himself the option of retracting his declaration. In other words, we assume that he made the property *hefker* on the condition that he should be able to [retroactively] nullify his declaration as long as no one has yet taken possession of the property (see the approach of Ulla in *Bavli Nedarim* 44a, as explained by *Peirush HaRosh* ד”ה ושמי; cf. *Ran* ad loc. and *Pnei Moshe*).

In any event, the Baraisa states that once someone has taken possession of the field from its state of *hefker*, even if that person is the owner himself, the *hefker* declaration can no longer be retracted. What this means is that if the owner takes possession of the field as an acquisition from *hefker* rather than simply retracting his original declaration, the *hefker* is considered to have been fully valid, and the field’s produce is exempt from the *maaser* obligation. For in contrast to *retracting* a declaration of *hefker*, which means that the field was never ownerless and its produce is therefore subject to *maaser*, *reacquiring* a field from its state of *hefker* means that the field *was* ownerless for a brief time, and its produce is therefore exempt from *maaser* even after it has been reacquired (see *Rash Sirilio*).

3. *Rash Sirilio* פשטא דר”ה; see note 8 below.

4. The Baraisa puts all time-limited *hefker* declarations in a single category, so that a field that was declared *hefker* for one day has the same law as a field that was declared *hefker* for seven years. In all cases the *hefker* is sufficiently effective to make retraction impossible, thus exempt-

ing the field’s produce from the *maaser* obligation, once someone has taken possession of the field — even if that person is the original owner himself (see end of note 2 above). This resolves the Gemara’s initial inquiry (*Rash Sirilio*).

5. From the Baraisa it is clear that even if someone declared his field *hefker* for just a single day and then immediately reacquired it, the *hefker* is considered to have been fully effective, and the field’s produce is exempt from *maaser*. This shows us that with respect to time-limited *hefker* declarations, the Rabbis were not apprehensive that the owner declared the field ownerless only because he intended to reclaim it and thereby exempt the produce from *maaser* (*Gra*; see note 2 above).

6. See end of note 2 above.

7. Translation follows *Mahara Fulda*; cf. *Rash Sirilio*.

8. R’ Shimon Diyama had claimed that the retraction period for ordinary *hefker* declarations extends beyond the three days mentioned in the Baraisa. R’ Zeira objected that if this were true, it should be possible to retract a *hefker* declaration even after a prolonged period of time, for once the first three days have gone by there is no basis to treat one time span differently than another. Since we know that this is *not* the case, it must be concluded that a person’s ability to retract his *hefker* declaration is in fact limited to the first three days (see 50a note 7).

The Gemara is now emphasizing that R’ Zeira’s position is supported by the wording of the latter part of the Baraisa, which refers to a wide spectrum of time periods (one day, one week, etc.), as it implies that the Baraisa’s initial ruling regarding the retraction period for ordinary *hefker* declarations means two or three days specifically (*Rash Sirilio*; cf. *Mahara Fulda* and *Pnei Moshe*).

To summarize the law according to R’ Meir, as it emerges from this discussion: A standard, open-ended *hefker* declaration may be retracted during the first three days, even if someone has already taken possession of the produce that was declared *hefker*; once three days have passed, the declaration is no longer retractable, and the produce is henceforth exempt from *maaser* even if the owner himself reacquires it. By contrast, a time-limited *hefker* declaration — regardless of its stated interval — may be retracted indefinitely (thus keeping the produce subject to *maaser*) as long as no one has yet acquired the produce. Once someone (another party, or even the owner himself) takes possession of the produce, the *hefker* declaration can no longer be retracted (even within three days), and the produce is exempt from *maaser*.

[Note: In our elucidation of this passage, we have followed the approach outlined by *Rash Sirilio*. While most of the other commentators are in agreement with respect to the basic structure of the *sugya*, there is much divergence regarding the individual points; see *Mahara Fulda*, *Maharam Chaviv* and *Pnei Moshe* for their respective approaches. *Gra*’s unique interpretation is presented in Variant A.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. Unlike the majority of commentators, *Gra* explains that the Gemara is inquiring whether time-limited *hefker* declarations are effective at

all. [I.e. since the entire concept of voluntary *hefker* is derived either from the law of *peah* and *leket* or from the law of *shemittah* (see Gemara

The Mishnah's latter segment stated:

[כל עומרי השדה של קב קב וכו' — If ALL THE SHEAVES OF THE FIELD ARE EACH the size OF ONE KAV etc. (and one is of four kavs, and they forgot that (large) one, Beis Shammai hold that it is not *shich'chah* and Beis Hillel hold that it is *shich'chah*.)]

The Gemara seeks to determine the reasoning behind Beis Shammai's ruling:

מה נן קיימין — What are we dealing with, i.e. what is Beis Shammai's reason for exempting the large sheaf from *shich'chah*? אם משום דבר מוטוים — If it is because such a relatively large sheaf constitutes something distinctive,⁹ דיו שנים — then it should suffice for it to be merely two kavs in size.¹⁰ אם משום שורה — And if Beis Shammai's reason is that the oversized sheaf has the

status of a “row” because we view it as though it were divided into four separate sheaves of one kav each,¹¹ דיו שלשה — then it should suffice for it to be merely three kavs in size.¹² Why do Beis Shammai require that it be as large as four of the other sheaves?

The Gemara answers:

חד (בא רבי) [בר רבנן]¹³ אמר רבי יוחנן קומי רבי שמעון בן לקיש — One of the Rabbinical students stated this following explanation of R' Yochanan in the presence of R' Shimon ben Lakish: כל שהוא יכול לחולקו ולעשותו שורה בבית שמאי — Beis Shammai exempt from *shich'chah* any [sheaf] that one can divide and make into a row, with a “row” being defined as four sheaves in accordance with Beis Shammai's own opinion later in this chapter.¹⁴

NOTES

9. The oversized sheaf [being four times larger than the rest] stands out among the others (*Mahara Fulda*). Hence, even if it was temporarily overlooked the owner will almost certainly remember it sooner or later. This might be grounds to exclude it from the purview of *shich'chah*, for we will learn in the Mishnah and Gemara below, 7:1 [58a], that something which possesses a feature that will cause a person to eventually remind himself of it is not considered forgotten.

10. If a sheaf can be considered “distinctive” on account of its large size relative to the other sheaves in the field, this designation should apply even to a sheaf that is merely twice the size of the others. Why would Beis Shammai require that it be four times as large in order to be exempt? (*Rash Sirilio, Pnei Moshe, Gra ms. 1*).

11. The Gemara is proposing that since each of the field's sheaves measures a single kav, we ought to view the four-kav sheaf as if it were composed of four individual sheaves (*Pnei Moshe*). This would put it in the same category as a row of consecutive sheaves, which does not become *shich'chah* if forgotten; see above, 44a note 7.

12. If Beis Shammai view the large sheaf as though it were divided into individual one-kav bundles, then even if the sheaf were only three times the size of the others it should be exempt from *shich'chah*, since three sheaves constitute a row (*Mahara Fulda*). Why, then, do Beis Shammai require it to be four times as large as the others?

13. Emendation follows the Vilna and Amsterdam editions; cf. *Pnei Moshe*.

14. The Gemara answers that Beis Shammai indeed hold that we view the large sheaf as though it were divided into separate, one-kav sheaves. The reason they require that the sheaf be four times as large as the other sheaves is that they follow their own opinion in the Mishnah below, Halachah 4 [54b], that only a set of four sheaves or more is exempt from *shich'chah*. [This is in opposition to Beis Hillel's opinion there that even a set of three sheaves is exempt.] According to Beis Shammai, three consecutive sheaves do not qualify as a “row” and are not exempt from *shich'chah* (*Rosh; Mahara Fulda*). [See Variant B for *Gra*'s version of the text.]

Beis Hillel, however, state in our Mishnah that even a sheaf of four kavs is subject to *shich'chah*. This is because they do not accept Beis Shammai's premise that a large sheaf is viewed as though it were divided into smaller bundles. Rather, Beis Hillel hold that it must be treated as the single sheaf that it actually is (*Rash*). It follows that according to Beis Hillel, even a sheaf that is six, seven, or eight times as large as the other sheaves is treated as an individual sheaf and thus subject to *shich'chah* [up to a maximum size of two se'ahs (twelve kavs), which is exempt for a different reason — see below, Halachah 5] (*Mishneh LaMelech, Hil. Matnos Aniyim 5:17; Rash Sirilio; Tos. R' Akiva Eiger §59; see, however, Rambam's opinion cited in Variant C*).

TEXTUAL AND INTERPRETIVE VARIANTS

above, 49a), perhaps a *hefker* declaration can therefore be effective only if there is no associated time limit, just like *peah, leket* and *shemittah* produce, which are forever ownerless and available for acquisition.]

To resolve this inquiry, the Gemara first cites a Baraisa, which according to *Gra* is to be read as follows: הפקיר את שדהו שנים ושלושה ימים — If ONE DECLARED HIS FIELD OWNERLESS FOR TWO OR THREE DAYS, חוץ — HE MAY RETRACT [HIS DECLARATION]. The point of this ruling is that R' Meir — who holds that an article that was declared *hefker* generally becomes ownerless immediately — agrees in the case of a time-limited *hefker* that the original owner leaves himself the option of retracting his declaration before the article has been acquired (see note 2, second paragraph).

The Gemara then presents a discussion between R' Shimon Diyama and R' Z'eira about whether this allowance to retract applies to all time-limited *hefker* declarations, or just to those that are for three days or less; a proof to the former position is adduced from a second Baraisa, which indicates that all time-limited *hefker* declarations, regardless of length, can be retracted as long as no one has yet taken possession of the property. In any event, it is clear from the above that time-limited *hefker* declarations are, in fact, effective — thus resolving the Gemara's initial inquiry.

For further elaboration of this approach, see *Beur of R' Chaim Kanievski*; see also *Gra*'s textual emendations to the end of this passage (presented in *Hagahos HaGra*).

B. Following our version of the text, the Gemara's original question is quite enigmatic. For the Gemara was certainly aware that Beis Shammai's view in the Mishnah below (Halachah 4) is that only a row of four sheaves is exempt from *shich'chah*. Why then does the Gemara contend that if a large sheaf is viewed as separate one-kav bundles

according to Beis Shammai, it should therefore be exempt even if it is merely three times the size of the other sheaves?

Gra (ms. 1), however, emends the text of the Gemara's question to read: אי משום שורה צריך שלוש — If you suggest that Beis Shammai's reason for exempting the large sheaf is that its sheer size gives it the same status as a “row” — why, three physically distinct sheaves are needed in order to create a row! How can Beis Shammai justify giving this designation to a single sheaf? [I.e. the Gemara's focus is not on the number of sheaves needed to create a row, but rather on the very concept of a large sheaf being considered equivalent to a row of separate sheaves.] To this the Gemara replies that Beis Shammai view the large sheaf as if it were actually divided into four separate sheaves, which achieves the minimum needed to create a row in Beis Shammai's own view.

C. *Rambam* (*Hil. Matnos Aniyim 5:17*) rules in accordance with Beis Hillel that *shich'chah* applies even to a sheaf that is four times the size of the others. He adds, however, that a sheaf that is larger than four of the other sheaves is not subject to *shich'chah*! (See, similarly, *Rav* and *Meiri* to *Eduyos 4:3*.) It would appear that *Rambam* had another version of this *Yerushalmi*, in which the Gemara concludes that Beis Shammai's reason for exempting the four-kav sheaf is that it is deemed “distinctive” and stands to be remembered (see *Raavad* and *Tos. Shantz* to *Eduyos* *ibid.*). Accordingly, *Rambam* posits that Beis Hillel argue only in the Mishnah's specific case of a sheaf that is four times as large as the other sheaves, because they do not consider such a sheaf sufficiently prominent to be exempt from *shich'chah*. They agree, however, that a sheaf that is greater than this size is regarded as distinctive, and thus exempt from *shich'chah*. See *Derech Emunah, Beur HaHalachah* ad loc. for further discussion of *Rambam*'s view.

The Gemara clarifies an aspect of Beis Shammai's position: **רבי יונה (והוא) בעי — R' Yonah stated:**^[1] **שְׁעָרָא — This** four-to-one ratio that makes a sheaf of four *kavs* exempt from *shich'chah* according to Beis Shammai is the measure for exemption of larger sheaves as well. That is to say, **כָּל עוֹמְרֵי קֶבֶן וְשָׂחָו — just as the Mishnah teaches that if all the sheaves of the field are each the**

size of one *kav* and one is the size of four *kavs*, and [the harvester] forgot that unusually large one, Beis Shammai say that it is not *shich'chah*, **כָּל עוֹמְרֵי הַשָּׂדֶה שֶׁל שְׁנֵי קֶבֶן וְאֶחָד שֶׁל שְׂמוֹנֶת — so too, if all the sheaves of the field are each the size of two *kavs* and one is the size of eight *kavs*, and the large one was forgotten, it is not rendered *shich'chah* according to Beis Shammai.**^[2]

Halachah 2

Mishnah **הָעוֹמֵר שֶׁהוּא סְמוּךְ לְגִפְהַ לְגִדִּישׁ וְלִבְקָר וְלִבְלֵים — If a sheaf was standing near a wall^[3] or a stack of grain, or near cattle^[4] or farming tools,^[5] and he forgot to gather it,^[6] בֵּית שְׁמַאי בֵּית שְׁמַאי — Beis Shammai say: אֵינוֹ שְׂכָחָה — It is not *shich'chah*, and it may be retrieved by the owner.^[7] וּבֵית הַלֵּל — But Beis Hillel say: שְׂכָחָה — It is *shich'chah*, and must be left for the poor.^[8]**

Gemara Of the four cases discussed by the Mishnah, the first two (*a wall or a stack of grain*) are stationary landmarks, while the last two (*cattle or [farming] tools*) are transient in nature.^[9] In light of this difference, the Gemara finds difficulty with the positions of both Beis Shammai and Beis Hillel: **וְקָשְׁיָא עַל (דְּבֵית שְׁמַאי) וְדֵבֵית הַלֵּל^[10] — But there is the following difficulty with Beis Hillel's position: בְּגִפְהַ וּבְגִדִּישׁ דְּבָרָא שֶׁהוּא**

מִסּוּבִי — Regarding the case of a sheaf forgotten near a wall or a stack of grain, the wall and stack of grain are items that are distinctive (owing to their fixed position in the field), so that the nearby sheaf stands to be eventually remembered; **וְאֵינוֹן אָמְרִין — yet [Beis Hillel] say** that the sheaf is *shich'chah*?! **וְקָשְׁיָא עַל (דְּבֵית הַלֵּל) — And conversely, there is the following difficulty with Beis Shammai's position: הַבְּקָר**

NOTES

1. [Literally: R' Yonah desired (to say).] This translation follows *Rash, Mahara Fulda*, and *Maharam Chaviv*, who apparently understood R' Yonah to be presenting a definitive statement rather than an inquiry. [*Yerushalmi* commonly uses the term *בְּעֵי* to denote a fixed ruling.] This reading is also implied by the *Yerushalmi* text of *Rash Sirilio*. However, cf. *Gra ms. 1* and *Pnei Moshe*, who interpret R' Yonah's statement as an [unanswered] inquiry; see also *Mareh HaPanim*.

[Note that the subsequent phrase *הוּא שְׁעָרָא* is absent in the Vilna and Amsterdam editions.]

2. I.e. just as Beis Shammai rule in our Mishnah that a four-*kav* sheaf in a field of one-*kav* sheaves is viewed as a group of four and thus exempt from *shich'chah*, so too is an eight-*kav* sheaf in a field of two-*kav* sheaves [which is, likewise, four times as large as the others] viewed as four separate two-*kav* sheaves and is thus exempt from *shich'chah* (*Sdeh Yehoshua*; see *Mahara Fulda*). [It is unclear why one would have thought to differentiate between these two cases.]

[*Gra*, who understands R' Yonah to be presenting an inquiry (see note 1), emends the beginning of the question to read: *כָּל עוֹמְרֵי הַשָּׂדֶה שֶׁל חֲצֵי קֶבֶן וְאֶחָד שֶׁל שְׁנֵי קֶבֶן וְשָׂחָו — What would Beis Shammai hold in a case where all the sheaves of the field are each the size of one-half *kav* and one is the size of two *kavs*, and the large one was forgotten? According to this text, R' Yonah was asking whether Beis Shammai's exemption of a sheaf that is four times the size of the others is applicable when the sheaves are all smaller than the ones mentioned in the Mishnah.]*

3. *גִּפְהַ* is a wall made of uncemented stones (*Mahara Fulda*, from *Rash*). Alternatively, it is some sort of gate (see *Rambam Commentary* and *Ri ben Malki Tzedek*).

4. Translation follows *Shenos Eliyahu*. [*Rash Sirilio*, however, vowelizes this word as *בְּקָר*, meaning *cattle stall*; a similar translation is presented by *Mahara Fulda* and *Sdeh Yehoshua*. See also *Tos. Shantz* to *Eduyos* 4:4.]

5. I.e. the implements used for plowing (*Rambam Commentary*). [Cf.

Rash Sirilio, who interprets this as referring to the shed in which the farming tools are stored.]

6. When the sheaves were being removed from the field to the threshing floor, a sheaf that was located near one of the items mentioned in the Mishnah was forgotten.

[This understanding of the Mishnah's case accords with the view of R' Yehoshua, cited in *Tosefta* 3:6 and in the Gemara below (see *Rash, Rosh* and *Ri ben Malki Tzedek* here and to the following Mishnah; *Rambam's* variant approach will be discussed later).]

7. Beis Shammai maintain that a sheaf located near any of these prominent items is bound to be remembered eventually, and hence does not become *shich'chah* if it was overlooked (*Rosh*; *Shenos Eliyahu*; see above, 50b note 9).

8. Beis Hillel hold that a sheaf is not considered memorable just because it is located near one of the mentioned objects. Accordingly, it does become *shich'chah* if forgotten.

[A wall and a stack of grain are examples of landmarks that are stationary. (Presumably, the grain was always stacked in the same place in the field.) Cattle and farming tools, on the other hand, do not remain in one place. Accordingly, the Mishnah mentions a *wall* or a *stack of grain* to highlight Beis Hillel's view that even a sheaf situated near a fixed installation will not necessarily be remembered and is therefore *shich'chah*. *Cattle* or *implements* are mentioned to emphasize that in Beis Shammai's view, even these transient elements of the landscape constitute landmarks that will cause a sheaf left nearby to be remembered (see *Shenos Eliyahu*, *Peirush HaAroch* with emendation of *R' Chaim of Volozhin*).] See, however, the Gemara below.

9. See *Shenos Eliyahu* cited in the preceding note.

10. The emendations in this passage follow *Hagahos HaGra*; see similarly *Rash*, cited by *Mahara Fulda*, and *Tos. Shantz* to *Eduyos* 4:4. [Others, however, defend the printed version; see Variant A.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. In the standard printed version of this *Yerushalmi*, the difficulty with Beis Shammai's view is from the case of a sheaf near a wall or a grain stack, and the difficulty with Beis Hillel's view is from the case of a sheaf near cattle or farming tools; the Gemara appears to be propounding that only a sheaf that is located near an item that is relatively *nondistinctive* (e.g. cattle) should be exempt from *shich'chah*. Many commentators (cited in note 10) find this problematic, for logic would seem to dictate that the items with *greater* distinctiveness are the ones that are more likely to effect an exemption. They therefore emend the text so that the two questions are transposed, as we have done in our elucidation.

Rash Sirilio, however, preserves the printed version by interpreting the Mishnah's latter two cases as referring to a cattle stall and a tool shed, respectively (see notes 4 and 5 above). These are permanently useful structures, certainly more permanent than an uncemented stone wall or a stack of grain, and are therefore considered to be fully distinctive items that can exempt a nearby sheaf from *shich'chah*. See further in *Rash Sirilio* for the specifics of how the Gemara is to be read according to this approach. See also *Sdeh Yehoshua*, *Chidushei Rada*, *Mishneh LaMelech* to *Hil. Matnos Aniym* 5:3, and gloss of *R' Yitzchak Frankel* to *Shenos Eliyahu*.

ובכלים דָּבַר שְׂאִינוּ מְסוּיִים — Regarding the case of a sheaf forgotten near **cattle or farming tools**, the cattle and tools are **items that are relatively nondistinctive** (due to their portability), וְאִינוֹן אֲמַרְיִן (הוּא) וְשְׂאִינוֹן שְׂכָחָה — yet [Beis Shammai] say that [the sheaf] is not *shich'chah*!?

The difficulties remain unresolved.

The Mishnah below, 7:1 [58a], teaches that if one overlooks an olive tree that is memorable on account of its name, productivity or location, the law of *shich'chah* does not apply, because the tree will eventually be remembered. The Gemara now analyzes the example that is given in that Mishnah for the case of olive trees that are distinctive on account of location:

הוּא עוֹמֵד — Being distinctive “IN ITS LOCATION” means

בְּצֵד הַגֵּת אוֹ בְּצֵד הַפִּירְצָה — THAT IT STANDS ALONGSIDE THE WINEPRESS OR THE BREAK in the wall.^[11]

The Gemara asks:

מִתְנַיְתָא דְּבֵית שְׁמַאי — Seemingly, that Mishnah is in accordance with the opinion of Beis Shammai. דְּבֵית שְׁמַאי אֹמְרִים אֵינוֹ שְׂכָחָה — For Beis Shammai say in the Mishnah here that a sheaf which was forgotten near a landmark is **not** subject to the law of *shich'chah*, and this is echoed by the Mishnah below, which teaches that there is an exemption of distinctive location with regard to olive trees as well. Beis Hillel, however, state here that a sheaf located near a landmark *is* subject to the law of *shich'chah*. This view is seemingly incompatible with the Mishnah's ruling below that an olive tree that stands adjacent to a winepress or a break in the wall is *not* subject to the law of *shich'chah*.^[12] — ? —

NOTES

11. Such a tree is known as “the tree near the press” or “the tree near the gap,” and would thus tend to be remembered sooner or later (see *Derech Emunah* 5:145-146).

12. As a rule, the halachah follows the view of Beis Hillel over that of Beis

Shammai. The Gemara therefore finds it difficult that the Mishnah below should present an anonymous ruling in accordance with the view of Beis Shammai, for anonymous rulings are generally viewed as being authoritative (see *Melech Shlomo* to that Mishnah).

The Gemara differentiates between the ruling of the Mishnah below and the ruling of our Mishnah here:

אָמַר רַבִּי יוֹסֵי — R' Yose said: דְּבַר הַבֵּל הִיא — Actually, [that Mishnah] is consistent with the opinion of all.^[1] תִּמְנָן — For the Mishnah there is discussing the case of דְּבַר מְחוּבָר בְּצֶד דְּבַר — an item that is permanently^[2] attached to the ground [i.e. an olive tree] standing alongside an item that is attached to the ground [e.g. a winepress]. Beis Hillel agree that a fixed object located near another fixed object is considered distinctive, and is thus exempt from the law of *shich'chah*. בְּרַם הֵבֵא — The Mishnah here, however, speaks of דְּבַר מְלוּשׁ בְּצֶד דְּבַר מְחוּבָר — an item that is detached [i.e. a sheaf of grain] standing alongside an item that is attached [e.g. a wall]. Regarding this case Beis Hillel maintain that the sheaf, being portable, cannot be regarded as distinctive on account of its location, and it therefore remains subject to the law of *shich'chah*.^[3]

Our Mishnah teaches that Beis Shammai and Beis Hillel argue about the case of a sheaf located near a wall, a grain stack, cattle or farming tools. In the following Mishnah (on 52b), we will learn that Beis Shammai and Beis Hillel agree that there is no *shich'chah* in a case where one took hold of a sheaf with intent to take it to the city and subsequently forgot it in the field.^[4] The Gemara now cites a Baraisa^[5] that presents a Tannaic dispute as to which of these two cases was the one actually disputed by Beis Shammai and Beis Hillel:

אָמַר רַבִּי אִילְעָזָר — R' IL'AI SAID: שְׁאַלְתִּי אֶת רַבִּי יְהוֹשֻׁעַ — I ASKED R' YEHOShUA: בְּאֵלֶּי עוֹמְרִין חֲלוּקִין בֵּית שְׁמַאי וּבֵית הַלֵּל — WITH RESPECT TO WHICH SHEAVES DO BEIS SHAMMAI AND HILLEL ARGUE?^[6]

“I swear^[8] BY THIS TORAH that their dispute was as follows: עוֹמֵר הַסְּמוּךְ לְגִפָּה וְלַגְרִישׁ — If A SHEAF WAS standing NEAR A WALL OR A STACK OF GRAIN, OR near CATTLE OR farming TOOLS, AND HE FORGOT to gather IT, בֵּית שְׁמַאי אוֹמְרִים — BEIS SHAMMAI SAY: וּבֵית הַלֵּל אוֹמְרִים — BUT BEIS HILLEL SAY: אֵינוֹ שְׂכָחָה — IT IS NOT *SHICH'CHAH*; אֵינוֹ שְׂכָחָה — IT IS *SHICH'CHAH*.^[9] אָמַר רַבִּי אֶלְעִזָּר — HOWEVER, WHEN I CAME BEFORE R' ELIEZER,^[10] אָמַר — HE SAID TO ME: לֹא נִחְלַקוּ בֵּית שְׁמַאי וּבֵית הַלֵּל — BEIS SHAMMAI AND BEIS HILLEL DID NOT DISAGREE אֵלֶּי שְׂכָחָה — REGARDING A SHEAF THAT WAS standing NEAR A WALL OR A STACK OF GRAIN, OR near CATTLE OR farming TOOLS, AND HE FORGOT IT, שְׂכָחָה — THAT IT IS *SHICH'CHAH*.^[11] וְעַל מֵה נִחְלַקוּ — REGARDING WHAT DID THEY DISAGREE? עַל הָעוֹמֵר שֶׁנִּטְלוּ — REGARDING A SHEAF THAT [ONE] TOOK from the field with the intent of bringing it home to the city,^[12] וְנִתְּנוּ בְּצֶד הַגִּפָּה בְּצֶד הַגְרִישׁ בְּצֶד הַבְּקָר בְּצֶד הַבְּלִים — AND temporarily PLACED IT ALONGSIDE A WALL, ALONGSIDE A GRAIN STACK, ALONGSIDE THE CATTLE, or ALONGSIDE THE farming TOOLS, AND THEN FORGOT IT. שְׁבִית שְׁמַאי אוֹמְרִים אֵינוֹ שְׂכָחָה — FOR BEIS SHAMMAI SAY that [THE SHEAF] IS NOT *SHICH'CHAH* in this case, מִפְּנֵי שְׂוָבָה בּוֹ — BECAUSE HE HAD already ACQUIRED IT before it was forgotten;^[13] וּבֵית הַלֵּל אוֹמְרִים שְׂכָחָה — BUT BEIS HILLEL SAY that it is *SHICH'CHAH*.^[14] אֶת הַדְּבָרִים לְפָנַי רַבִּי אֶלְעִזָּר בֶּן עֲזַרְיָה — AND WHEN I CAME AND RELATED THE WORDS of R' Eliezer BEFORE R' ELAZAR BEN AZARYAH, אָמַר לִי — HE SAID TO ME: הֲבֵרִית — “I swear by THE COVENANT!”^[15] הֵן הָיוּ הַדְּבָרִים שֶׁנֶּאֱמָרוּ לוֹ לְמֹשֶׁה בְּחוּרֵב — THESE ARE THE VERY WORDS THAT WERE SAID TO MOSES AT HOREB [Mount Sinai].”^[16]

NOTES

1. [I.e. it accords even with Beis Hillel, who rule in our Mishnah that a sheaf located near a landmark remains subject to *shich'chah*.]

2. See *Rash Sirilio* מחובר דבר מחובר.

3. R' Yose asserts that Beis Hillel admit that an *attached* item is rendered memorable (and hence exempt from *shich'chah*) on account of its location near a fixed landmark, as in the case of the Mishnah below regarding an olive tree near a winepress. Beis Hillel argue with Beis Shammai only in the case of an item that is *not* attached to the ground, because they maintain that since the item can easily be transported at a moment's notice, its location near a landmark does nothing to fix it in a person's mind. That is why Beis Hillel rule in our Mishnah that a sheaf of grain is subject to the law of *shich'chah* even if it is located next to a wall (*Pnei Moshe*) [and all the more so in the other cases of the Mishnah, where the unattached sheaf lies near another portable entity such as a herd of cattle (*Melechtes Shlomo* to the Mishnah below, 7:1)].

4. In this case, a farmer who was in the process of removing sheaves from the harvest area to the threshing floor took hold of a sheaf with intent to take it home to the city, and temporarily placed it on the side. If he subsequently forgets to take the sheaf home with him, it is not rendered *shich'chah*, because he did in fact remember to take it at the time of the gathering (see *Rashi* to *Sotah* 45a ד"ה וכה ביה; *Ramban*, *Bava Metzia* 11a with gloss of R' Isser Zalman Meltzer; *Derech Emunah* 5:24-26; see also note 13 below).

5. From *Tosefta* 3:6.

6. Was their disagreement about the case of a sheaf located near a wall or a grain stack etc. (as recorded in our Mishnah), or rather about the case of a sheaf that the owner took hold of to take to the city and then forgot in the field?

7. [Emendation follows the Vilna and Amsterdam editions.]

8. *Mahara Fulda*.

9. But with respect to a sheaf that one forgot after having taken hold of it to take it to the city, Beis Shammai and Beis Hillel are in agreement that it is not *shich'chah*. Thus, the Mishnah here and the one below conform with R' Yehoshua's version of the dispute (*Mahara Fulda*, following the approach of *Rash* [and *Rosh*] here and in the following Mishnah).

10. R' Il'ai was a student of R' Eliezer (*Rash Sirilio*, from Mishnah *Eruvin* 2:8; see *Bavli Succah* 27b).

11. [For Beis Shammai, too, agree that the sheaf, being only temporarily located next to a landmark, will not be remembered by the owner on account of its location (*Pnei Moshe*; see note 3 above).]

12. *Rash Sirilio*, based on the text of this Baraisa as it appears in *Tosefta* *ibid.* על העומר שהחזיקו בו להוליכו לעיר וכו', regarding a sheaf that they took hold of in order to transfer it to the city etc..]

13. When he initially remembered and took hold of the sheaf [with the intention of removing it from the field], he “acquired” it in the sense that *shich'chah* is no longer applicable (*Mahara Fulda*; see *Bircas Kohan* §13).

14. In R' Eliezer's view, Beis Hillel maintain that the fact that one initially took hold of a sheaf with the intent of removing it to the city does not prevent it from becoming *shich'chah* if he later forgets to take it from the field.

[R' Eliezer mentions that the sheaf was placed alongside a wall etc. to teach that even in this case, where there are *two* possible reasons for the sheaf to be exempt, Beis Hillel nevertheless rule that the sheaf is subject to *shich'chah*.]

15. I.e. by the Torah, which is the covenant between God and the nation of Israel, as it is written (*Exodus* 34:27): *For according to these words [of the Torah] I have sealed a covenant with you and Israel (Rash, cited by Mahara Fulda; cf. Ri ben Malki Tzedek).*

16. I.e. this is indeed the true version of the dispute between Beis Shammai and Beis Hillel.

[See Variant A.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. According to the approach of *Rash* and *Rosh*, which we have followed in our elucidation, R' Eliezer's version of the dispute differs from the version of R' Yehoshua in two respects: (a) R' Yehoshua

understands Beis Shammai and Beis Hillel to be disagreeing about the case of one who overlooked a sheaf located near a landmark such as a wall or a grain stack. R' Eliezer, however, maintains that in this case all

The Gemara cites a discussion regarding a Mishnah in Tractate *Kesubos*, in the course of which our Mishnah's ruling will be introduced as a challenge:

האשה שנקלו לה — We learned in a Mishnah there:^[17] נקסי מלוג — If a woman inherited^[18] properties before becoming an *arusah* and then became an *arusah*, מודים בית שמאי ובית הלל — Beis Shammai and Beis Hillel agree

שהיא מוכרת ונותנת — THAT SHE MAY SELL them OR GIVE them away, ונקיים — AND [THE TRANSFER] STANDS.^[19] לה — If, however, SHE INHERITED [THE PROPERTIES] AFTER BECOMING AN *ARUSAH* and is still an *arusah*, בית שמאי — BEIS SHAMMAI SAY: תמכור — SHE MAY SELL them,^[20] ובית הלל — BUT BEIS HILLEL SAY: לא תמכור — SHE MAY NOT SELL them.^[21]

NOTES

17. *Kesubos* 8:1. This Mishnah deals with the extent of a woman's ability to sell her *melog* property.

[A woman who marries may ask to have all or some of the property she brings into the marriage appraised and its value fixed for her at the time of the marriage, and its sum recorded and added to her *kesubah*. If this is done, then in the event of her divorce or widowhood, she receives that appraised value, regardless of the actual value of the property at the time of the death or divorce. Property entered into the marriage in such a fashion is known as *נכסי צאן ברזל*, *tzon barzel* (literally: iron sheep) properties. They are compared to iron because of their enduring ironlike value, which the wife is assured of retaining.]

All other property of a married woman — whether it is property she brought into the marriage and did not ask to be recorded in the *kesubah*, or property she acquired after she was already married, such as through inheritance or as a gift — is termed *נכסי מלוג*, *melog* (literally: plucking) property. Such property is hers, and any increase or decrease in its value accrues to her. Nevertheless, her husband owns the right to use this property and keep whatever crops or income it yields for as long as the marriage lasts (hence the name *plucking property*, because the husband enjoys its dividends but has no rights to the property itself, analogous to plucking the feathers of a fowl, which leaves the bird itself intact). See *Rashbam to Bava Basra* 139b ד"ה והאשה.

Strictly speaking, the fact that a woman retains legal title to her *melog* properties should give her the right to sell them at any point in her marital life. The Rabbis, however, invalidated the sale of such property by a fully married woman (a *nesuah*), since this interferes with the husband's right to use the property during the marriage (Mishnah *ibid.* 8:2). [In this context, "invalidation" of the sale means that the husband may remove the property from the buyer to enjoy its produce for as long as the wife is

alive (see *Bavli Kesubos* 78b).] The segment of the Mishnah that is cited here deals with a woman who wishes to sell her *melog* property while she is yet an *arusah* (betrothed), before the husband has acquired the right to use the property.

18. [The Mishnah's reference to property that she *inherited* is merely an example. The same laws apply to properties that she received as a gift (or acquired in other ways and did not request to be written into the *kesubah*), since all of these are classified as *melog* property (*Tos. Yom Tov to Kesubos* 8:1 ד"ה האשה שנקלו לה, citing *Teshuvos HaRashba* II:108).]

19. I.e. although Beis Shammai and Beis Hillel disagree about whether an *arusah* is allowed to sell property that she inherited *after* becoming an *arusah*, as the Mishnah proceeds to teach, they are in agreement that an *arusah* may sell or give away property that she inherited *before* becoming an *arusah* (*Rivash*, cited by *Shitah Mekubetzes, Kesubos* 78a מודים מ"ה, because the property initially fell solely into her domain (*Rash Sirilio* and *Mahara Fulda*; see *Bavli Kesubos* 78a). [Since she acquired the property while single and under her own jurisdiction, her husband does not obtain rights in it even after she enters his jurisdiction through becoming his *arusah*.]

20. For at this point, prior to *nisuin*, the husband has not yet actually acquired the rights that are accorded to him through marriage (see *Rash Sirilio* and *Bavli Kesubos* 78b).

21. Beis Hillel hold that since the woman acquired the property at a point in time when the husband has *prospective* rights to her and her property (for an *arusah* stands to be taken in *nisuin*), it is therefore forbidden for her to sell the property (*Pnei Moshe* and *Beur of R' Chaim Kanievski*, based on *Bavli Kesubos* 78a). [Beis Hillel agree, however, that if the

TEXTUAL AND INTERPRETIVE VARIANTS

agree that the sheaf is *shich'chah*. (b) Whereas R' Yehoshua holds it unanimous that a sheaf that was taken with the intent to be transported to the city is no longer subject to *shich'chah*, R' Eliezer maintains that according to Beis Hillel, such a sheaf does become *shich'chah* if it is subsequently forgotten in the field. What emerges from this approach is that the Mishnayos in our chapter reflect the version put forward by R' Yehoshua.

Rambam, though, interprets the statements of R' Yehoshua and R' Eliezer in an entirely different manner (see *Rambam Commentary, Kafich ed.*, and *Hil. Matnos Aniyim* 5:3; see also *Meiri to Eduyos* 4:4). In *Rambam's* view, all acknowledge that Beis Shammai and Beis Hillel argued regarding the case of a sheaf located near a landmark, and agreed that a sheaf that one took with the intention of bringing it to the city is no longer subject to *shich'chah* — as stated in the Mishnah. The issue at hand is how exactly to define the case about which Beis Shammai and Beis Hillel disagreed: Were they referring to any instance in which a sheaf happens to be located next to a landmark (as is indeed implied by the wording of the Mishnah), or was their dispute limited to cases where the sheaf was specifically *placed* in such a location?

R' Yehoshua interprets the dispute in accordance with the simple meaning of the Mishnah — namely, that the sheaf had been standing next to a wall or some other landmark from the outset, and was overlooked by the harvester when he gathered the field's sheaves to the threshing floor. Beis Shammai hold that such a sheaf is sure to be remembered, and is therefore exempt from *shich'chah*, whereas Beis Hillel hold that a sheaf is not rendered memorable on account of its being located next to one of these landmarks.

R' Eliezer, on the other hand, maintains that in this case there is *no* disagreement between Beis Shammai and Beis Hillel, for even Beis Shammai admit that a sheaf does not become exempt from *shich'chah* just because it happens to be located near a landmark. Rather, R' Eliezer interprets the dispute as pertaining to a case where a sheaf was

intentionally moved within the field so that it will be near a wall or some other prominent object. And Beis Shammai and Beis Hillel are disagreeing as to whether this case of a sheaf being taken to a definitive location *within* the field can be compared to the case of the following Mishnah, in which the sheaf is being removed *from* the field to the city. [Clearly, *Rambam* rejects *Tosefta's* version of R' Eliezer's response (according to which the dispute involves a sheaf that is being taken to the city — see note 12), in favor of the plain meaning of the version found here in *Yerushalmi*, which states simply: על העומר שנטלו ונתנו בצד — regarding a sheaf that one took and placed alongside a wall etc.] In Beis Shammai's opinion, taking a sheaf and placing it in a definitive location in the field accomplishes the same thing as taking a sheaf with the intent of transferring it to the city: The person "acquires" the sheaf, so that it is no longer subject to *shich'chah*. Beis Hillel, however, argue that there is no exemption when a sheaf is moved from one place to another within the field, even if it was set in a distinctive location. Only when one picks up a sheaf with intent to transfer it to the city [and ultimately forgets it somewhere in the field] is it exempt from *shich'chah*.

Following this approach, the rulings of our Mishnah do not necessarily reflect the view of R' Yehoshua, for they are also consistent with R' Eliezer's view. *Rambam* (*Hil. Matnos Aniyim* 5:3) therefore rules in accordance with R' Eliezer, since his interpretation is accepted by R' Elazar ben Azaryah as well.

[The standard Vilna edition of *Rambam's Commentary* has yet another approach that is based on the text of the *Tosefta* (for elaboration, see *Tos. Yom Tov*, and *Mishneh LaMelech to Hil. Matnos Aniyim* *ibid.* at length). It appears that *Rambam* ultimately revised his commentary to accord with the text of the *Yerushalmi*, and it is this later version that he follows in *Hil. Matnos Aniyim* and that has come down to us in the Kafich edition (see *Mareh HaPanim, Mishneh LaMelech* *ibid.* and *Pe'as HaShulchan* 9:7).]

The Gemara asks a question regarding the dispute presented in this Mishnah:

רבי פינחס בעא קומי רבי יוסי — R' Pinchas asked in the presence of R' Yose: וְלָמָּה לֹא תְּנִינָהּ מִקּוּלֵי בֵּית שְׁמַאי וּמַחֲוֵמֵי בֵּית הַלֵּל — Why is this dispute not taught among the leniencies of Beis Shammai and the stringencies of Beis Hillel that are recorded in Tractate *Eduyos*?^[22]

The Gemara answers:

לֹא אֲתִיבֵן מִתְּנִיחָא אֶלָּא דְּבַר — [R' Yose] replied to him: שֶׁהוּא חוֹמֵר מִשְׁנֵי צְדָדִין — The Mishnah in *Eduyos* cites only those matters which in Beis Hillel's view are stringent from all perspectives^[23] וְקַל מִשְׁנֵי צְדָדִין — and in Beis Shammai's view are lenient from all perspectives. בְּרַם הִכָּא — Here however, חוֹמֵר הוּא מִצַּד אֶחָד וְקַל מִצַּד אֶחָד — [each of the rulings] is a stringency from one perspective and a leniency from another perspective.^[24]

NOTES

arusah acted improperly and sold the property, the transfer is fully valid, for the husband's prospective rights cannot negate a sale after the fact (see Mishnah *ibid.*.)

22. In disputes between Beis Shammai and Beis Hillel, Beis Hillel generally take the lenient position. The few exceptions to this rule are enumerated in the Mishnayot of Tractate *Eduyos*, Chs. 4 and 5. Now, the dispute cited above presumably qualifies as such an exception, considering that Beis Shammai are lenient and allow the *arusah* to sell the property she has inherited, whereas Beis Hillel are stringent and forbid her to sell the property. Why, then, asks R' Pinchas, is this dispute not recorded in *Eduyos*?

23. Literally: from two sides.

24. [When dealing with a dispute pertaining to monetary law, the positions in the dispute generally are not described as being "lenient" or "stringent," because a leniency for one party is a stringency for the other. Here, too,] Beis Shammai's ruling that the *arusah* may sell her inherited property is a leniency from the *arusah's* perspective, but a stringency from the husband's perspective; and Beis Hillel's ruling that the property may *not* be sold is a stringency from the *arusah's* perspective, but a leniency from the husband's perspective. This precludes the possibility of the dispute being cited in *Eduyos* among the leniencies of Beis Shammai and the stringencies of Beis Hillel (*Mahara Fulda*).

R' Pinchas challenges this response:

וְהִתְנִיחַ — **But we learned in the Mishnah** in *Eduyos* (4:3) among the leniencies of Beis Shammai and the stringencies of Beis Hillel: בֵּית שְׁמַאי אומרים — **BEIS SHAMMAI SAY:** הַבֶּקֶר לְעֵנִיִּים הַבֶּקֶר — Produce that was declared **OWNERLESS FOR THE POOR IS** in fact deemed **OWNERLESS**. But Beis Hillel say: It is not deemed ownerless [even for the poor] unless it is declared ownerless for the rich also.^[1] הָרִי הוּא קַל לְעֵנִיִּים וְחֹמֶר הוּא לְבַעַל הַבַּיִת — Now, **[Beis Shammai's ruling]** in this case is a **leniency for the poor**, who have now gained the right to acquire the produce, and a **stringency for the original owner**, who has lost his ownership of the produce; וְהִתְנִיחַ — yet, the **Mishnah teaches it as a leniency of Beis Shammai!** — ? —

R' Yose deflects the challenge:

קַל הוּא לְעֵנִיִּים — **[Beis Shammai's ruling]** there is a **leniency for the poor**, וְאֵינוֹ חֹמֶר לְבַעַל הַבַּיִת — but it is not a **stringency for the owner**, שְׂמַדְעוֹ הוּבְקָרוֹ — because **[the produce] was initially declared ownerless by [the owner's] own will.**^[2]

R' Pinchas advances another challenge to R' Yose's assertion that the Mishnah in *Eduyos* records only those disputes in which the position of Beis Shammai is lenient from all perspectives:

אָמַר לֵיהּ — **[R' Pinchas] said to him:** וְהִתְנִיחַ — **But we learned further in the Mishnah** in *Eduyos* (4:4): עוֹמֵר שְׂהוּא — If A SHEAF WAS standing NEAR A WALL OR A STACK OF GRAIN, OR near CATTLE OR farming TOOLS, AND HE FORGOT to gather IT, Beis Shammai say: It is not *shich'chah*, [and it may be retrieved by the owner]. But Beis Hillel say: It is *shich'chah*, [and must be left for the poor]. הָרִי הוּא קַל — Now, **[Beis Shammai's ruling]** in this case is a **leniency for the owner**, as it permits him to retrieve the forgotten sheaf, and a **stringency for the poor**, as it forbids them to take the sheaf; וְהִתְנִיחַ — yet, **[the Mishnah] teaches it as a leniency of Beis Shammai!** — ? —

This challenge, too, is deflected:

קַל הוּא לְבַעַל הַבַּיִת — **[R' Yose] replied to him:** קַל הוּא לְבַעַל הַבַּיִת — **[Beis Shammai's ruling]** there is a **leniency for the owner**, but it is not a **stringency for the poor**, שְׂאֲדִיִּין — since **[the poor] have not yet acquired any interest in [the forgotten sheaf]**. Only the removal of property that is already under one's jurisdiction is considered a stringency.^[3]

R' Pinchas rejoins:

וְאָמַר אוֹף הָכָא — **But if so**, how did you answer above that Beis Shammai's permitting of an *arusah* to sell property that she inherited as an *arusah* is considered a stringency for the husband?^[4] Say here, as well, קַל הוּא לְאִשָּׁה וְאֵינוֹ חֹמֶר לְבַעַל — that **[Beis Shammai's ruling] is a leniency for the wife but not a stringency for the husband, since he has not yet acquired an actual interest in [the properties] that she inherited.** — ? —

The Gemara answers:

אָמַר לֵיהּ — **[R' Yose] replied:** מִכֵּיּוֹן שְׂקִידָשָׁה — **Since he has already betrothed her**, לְזִכְוֹתָהּ וְלִזְכוּתוֹ נָפְלוּ — **[the properties] are deemed to have fallen into both her jurisdiction and his jurisdiction.**^[5] Hence, Beis Shammai's ruling that the *arusah* may sell the properties is indeed a stringency with respect to the husband.

Having mentioned the views of Beis Shammai and Beis Hillel regarding an *arusah's* ability to sell property that she inherited after becoming an *arusah*, the Gemara now cites a Baraisa that elaborates on that case:^[6]

אָמַר רַבִּי יוֹדָה — **[THE SAGES] ARGUED BEFORE RABBAN GAMLIEL:** הַזֵּאִיל וְהָאֶרְסָה אִשְׁתּוֹ — **[SINCE AN ARUSAH IS HIS WIFE AND A NESUAH IS HIS WIFE,** מַה זֶה מִכְרָה בְּטָל — **JUST AS THIS ONE'S [the nesuah's] SALE IS INVALID,** אִף זֶה מִכְרָה בְּטָל — **SO SHOULD THIS ONE'S [the arusah's] SALE BE INVALID!**^[7] אָמַר לֵיהּ — **[RABBAN GAMLIEL] REPLIED TO THEM:** בְּחֻדְשֵׁי אֲנִי בּוֹשִׁין — **CONCERNING THE NEW [PROPERTIES] that she inherited after becoming a nesuah WE ARE ASHAMED, i.e. we do not understand why the sale is invalid,** אֲלֵא — **AND YOU WISH TO IMPOSE UPON US THE OLD [PROPERTIES], i.e. to limit her ability to sell properties that she inherited as an arusah?!**^[9]

The Gemara clarifies the meaning of Rabban Gamliel's reply:

אֵילֵי הֵן הַחֻדְשִׁים — **Which are the new [properties] to which Rabban Gamliel is referring?** מִשְׁנִישָׂאָתָא — **Those that she inherited and sold after she became a nesuah.** וְאֵילֵי הֵן הַיְשָׁנִים — **And which are the old [properties] to which Rabban Gamliel is referring?** עַד שְׁלֵא נִישָׂאָתָא — **Those that she inherited and sold before she became a nesuah, i.e. as an arusah,** וְנִישָׂאָתָא — **and subsequently became a nesuah.**^[10]

NOTES

1. [This is a reiteration of the ruling presented by the first Mishnah in our chapter.]

2. Since the owner himself chose to declare his produce *hefker*, Beis Shammai's ruling that the declaration is effective does not reflect a loss or imposition on the part of the owner. Accordingly, the ruling cannot be classified as a stringency in any sense (see *Rash Sirilio* and *Pnei Moshe*). By contrast, in the case of the Mishnah in *Kesubos* Beis Shammai allow the *arusah* to sell inherited property *against her husband's will*, which does constitute a stringency from the husband's point of view.

3. *Pnei Moshe*.

4. *Ibid*.

5. In the case under discussion, the woman inherited the properties while she was an *arusah*, at a time when the husband already had some jurisdiction over her. Consequently, the properties are viewed as having fallen to him as well.

6. *Pnei Moshe*. [The Baraisa that follows is from *Tosefta, Kesubos* 8:1.]

7. The Sages argue that just as a *nesuah's* sale of property she inherited after becoming a *nesuah* is invalid, as taught in the Mishnah in *Kesubos* 8:2 (see 51b end of note 17), so too should the sale by an *arusah* of property she inherited as an *arusah* be invalid (*Rashi* to *Kesubos* 78b ד"ה אשרו). [Practically speaking, this would mean that the field's usufructuary rights would belong to the husband once the marriage has been completed through *nisuin* (*Birkas Kohan*).]

The Sages' argument is directed at both Beis Shammai and Beis Hillel. For even Beis Hillel, who forbid an *arusah* to sell property that she inherited after becoming an *arusah*, agree that if she did sell the property the sale is valid (see 51b note 21). Why is this different than the case of a *nesuah*, where her sale is invalid even after the fact? (*Sdeh Yehoshua* to *Yerushalmi Kesubos* 8:1; see *Bavli Kesubos* 78a-b with *Rashi*).

8. [Most *Yerushalmi* texts read מְגַלְגֵּין עֲלֵינוּ, as is stated in *Tosefta* *ibid*.]

9. Rabban Gamliel is responding as follows: It is difficult to understand why the Rabbis stated that when a wife sells property that she inherited as a *nesuah*, her husband may remove the property from the buyer in order to enjoy its produce (see 51b note 17). For since a husband is entitled only to the produce of his wife's property but the property itself is hers, the sale ought to be fully valid, and the husband should be forced to take his produce from the money she obtains from the sale [e.g. by investing it and keeping the profits]. Will you now come along and compound this difficulty by invalidating even the sale of property that she inherited and sold as an *arusah*? (*Shitah Mekubetzes, Kesubos* 78a ד"ה אמר להם; see *Haflaah* there).

10. As noted above (note 7), the sale of property by an *arusah* has relevance to the husband only after *nisuin* has taken place. It is from this post-*nisuin* standpoint that the Gemara refers to properties which the wife acquired and sold while yet an *arusah* as "old" properties (*Birkas Kohan*).

Halachah 3

Mishnah Having recorded the dispute between Beis Shammai and Beis Hillel regarding a sheaf that was forgotten near a wall or a stack of grain etc., the Mishnah now cites three instances in which Beis Shammai and Beis Hillel agree that an uncollected sheaf does not become *shich'chah*.^[11]
 ראשי השורות — Regarding the ends of rows,^[12] עומר שקנגרו מוכיח — or the uncollected sheaf whose adjacent [sheaves] demonstrate that it was not necessarily forgotten,^[13]

NOTES

11. The meaning of this Mishnah is the subject of diverse interpretations among the commentators. Our elucidation will follow the approach presented by *Rash* and *Rosh*, which is supported by a simple reading of the *Yerushalmi*. The approaches of *Rambam* and *Gra* will be discussed later in the Variants section.

12. A row has two “ends” — its beginning and its end. The Mishnah is thus referring to a sheaf forgotten at the very beginning or the very end of a row (*Rash, Rosh*).

Sheaves at the beginning of a row are exempt from *shich'chah* because, as the Gemara will derive through Biblical exegeses, *shich'chah* applies only to grain forgotten during the removal process, i.e. it had originally been situated in the worker's path but was then forgotten by him. If, however, a worker began his removal of sheaves from the middle of a row, the sheaves left at the beginning of the row are not rendered *shich'chah* if they were forgotten, for rather than being forgotten in the course of the removal process, these sheaves were never part of the process to begin with. Since the beginning of a row is excluded from *shich'chah* because it was never within the collector's route, the exemption applies not only to the first sheaf in a row but to all the sheaves from the start of the row until the point at which the collection process is begun.

A sheaf forgotten at the end of a row is not subject to *shich'chah* because, as the Gemara will explain, the Torah states (*Deuteronomy 24:19*): לֹא תָשׁוּב לִקְחָהּ, you shall not return to take [the forgotten sheaf]. This indicates that a sheaf is subject to *shich'chah* only if it is situated in such a way that it can be bypassed during the collection process so that one must return to retrieve it. The last sheaf in a row, however, can never be bypassed in the collection process; its being forgotten can result only from the collection process having stopped before reaching that point. [Subsequently collecting that sheaf therefore would not constitute returning to it.] Hence, it is not rendered *shich'chah* if forgotten.

Note that in order for a sheaf to be excluded from *shich'chah* on the basis of its being an “end of a row,” it must be the last sheaf in a single or final row, where there will be no further collection of sheaves. However, in a case where there is another row to be collected after it, the mere fact that the uncollected sheaf is situated at the end of a row does not make it exempt from *shich'chah*. For the removal of sheaves is still in progress, and this sheaf is effectively being bypassed for a sheaf in the next row — thus putting it within the purview of the verse you shall not return to take it (*Rash* below ירושלמי ד"ה אינו וד"ה ירושלמי see the next case of the Mishnah and the following note).

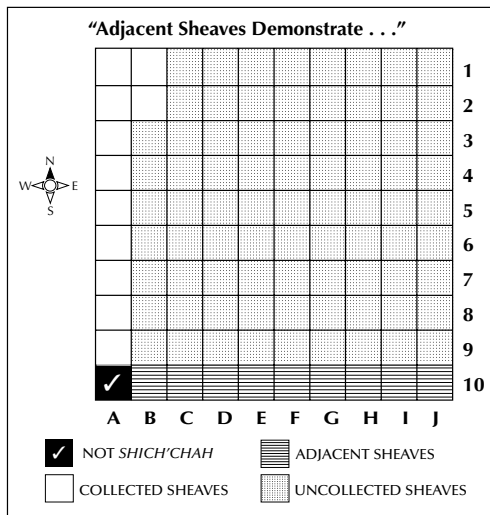
[*Rash* asserts that this “end of row” exemption applies only to the very last sheaf

in the row, which cannot be passed by in the collection process. If, however, the last two sheaves in the row were forgotten, the second-to-last sheaf does become *shich'chah*, for although it was not actually bypassed in this particular instance since nothing beyond it was collected, it could have been bypassed by collecting the sheaf that was after it. Cf. *R' Yechezkel Landau's* marginal emendation of the text of *Rash*, according to which *Rash* could hold that the Mishnah's exemption pertains even to multiple sheaves that were forgotten at the end of a row; see further *Beurim of R' Moshe Feinstein* §119.]

13. This refers to a sheaf (or sheaves) at the end of the first row in a multiple-row arrangement. For example, one hundred sheaves were arranged in ten rows of ten, running from north to south [see diagram]. The farmer, following a north-south route, removed the first nine sheaves of the first row [A1-A9], but instead of continuing on to remove the last sheaf in that row [A10], he turns back to the north and begins collecting the sheaves in the next row [B1, B2, etc.]. Now, the fact that this uncollected sheaf [A10] lies at the end of a row does not exempt it from *shich'chah*, for it is followed by the sheaves of the subsequent rows. (As explained in the preceding note, only a sheaf at the end of a single or final row can be exempt on account of its being an “end of a row.”) Our Mishnah teaches, however, that this sheaf is nevertheless exempt from *shich'chah* on other grounds — namely, because it is a sheaf whose adjacent sheaves demonstrate [that it was not necessarily forgotten]. That is to say, the uncollected sheaf [A10] can actually be viewed as a component of two rows: besides being the southernmost sheaf in the first north-south row [row A], it is also the westernmost sheaf in the last east-west row [row 10]. Thus, while the sheaf appears to have been bypassed when viewed from the perspective of the north-south row A, it has not been bypassed when viewed from the perspective of the east-

west row 10, whose collection has not yet started. The sheaf is therefore exempt from *shich'chah*, because its adjacent sheaves — i.e. the other sheaves in the east-west row 10 — demonstrate that it has not necessarily been bypassed and forgotten, for it is rather part of the as yet uncollected east-west row (*Rash* and *Rosh* below ד"ה יורד). The details of this exclusion will be elaborated upon at the end of the Mishnah.

[The above exemption is applicable even if the farmer truly forgot the sheaf in question and never had any intention of leaving it to be collected with the adjacent sheaves. As long as the formation of sheaves in the field is such that the uncollected sheaf can be construed as possibly having been left to be gathered later as part of an adjacent row, the sheaf is excluded from being rendered *shich'chah* (see *Derech Emunah* 5:77 with *Tziyun HaHalachah* §147; cf., however, *Mishnah Rishonah* below ד"ה אבל הרמב"ם).]



העומר שהחזיק בו להוליכו אל העיר ושכח — or the sheaf that [one] took hold of in order to transfer it to the city and placed it on the side and then forgot it,^[1] מודים שאינו שְׂכִיחָה — [Beis Shammai and Beis Hillel] agree that it is not *shich'chah*.

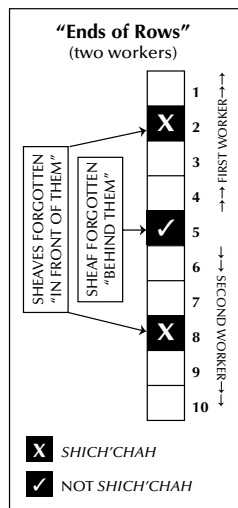
The Mishnah illustrates the exemption regarding the “ends of rows”:
 And these are the “ends of rows”:^[2] שנים שהתחילו באמצע השורה — If two workers started collecting sheaves in the middle of the row, זה פנה לצפון וזה פנה לדרום — this one having turned toward the north and this one having turned toward the south,^[3] ושכחו לפניהן ולאחריהן — and they forgot sheaves in front of them and behind them,^[4] שלפניהן שְׂכִיחָה — that which was in front of them is *shich'chah*, ושל אַחֲרֵיהֶן אינו שְׂכִיחָה — and that which was behind them is not *shich'chah*.^[5]

The Mishnah proceeds to illustrate the case of the עומר שְׂכִיחָה מוכיח, the sheaf whose adjacent [sheaves] demonstrate [that it was not necessarily forgotten]:

If a lone [worker] started collecting sheaves from the beginning of the row, and forgot sheaves in front of him and behind him,^[6] שלפניו אינו שְׂכִיחָה — that which was left uncollected in front of him (i.e. at the end of the row) is not *shich'chah*,^[7] ושל אַחֲרָיו שְׂכִיחָה — but that which was

NOTES

1. This case of the Mishnah has been explained above, 51b; see notes 4 and 13 and Variant A there.
2. As explained above (52a note 12), in a single row of sheaves an “end of row” can be either the first sheaves in the row or the last sheaf in the row. The Mishnah will now describe an application of the former category.



3. A lone row of sheaves lying on a north-south line, for example, was being removed to the threshing floor by two workers. Rather than starting at the two ends of the row, the workers decided to start somewhere in the middle and work their way through the row in opposite directions. [See diagram.]

4. The first worker started from approximately the middle of the row, e.g. sheaf #4, and removed the sheaves from there toward the row’s northern tip, while the second worker started from sheaf #6 and worked his way toward the row’s southern tip. However, neither worker took sheaf #5, which was thus forgotten behind them, i.e. the workers started beyond that point, with this sheaf to their backs. Proceeding along their routes and collecting their sheaves, the workers also skipped a sheaf along the way, e.g. the first worker

skipped sheaf #2, and the second worker skipped sheaf #8. Thus, sheaves #2 and #8 were forgotten in front of them, that is, the workers had started before those points and had been facing these sheaves but then bypassed them. Accordingly, the Mishnah states that the workers forgot [sheaves] in front of them (#2 and #8) and behind them (#5).

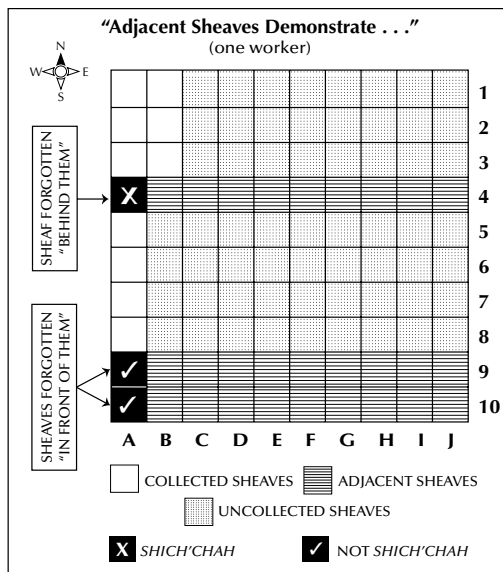
5. The sheaves that were originally in front of the workers and were bypassed by them [sheaves #2 and #8] constitute typical *shich'chah* (and have nothing to do with illustrating the case of “ends of rows”). Each of these sheaves had been in front of a worker who was working his way toward it and then skipped over it; therefore, both sheaves are *shich'chah* and may not be retrieved.

The sheaf that was forgotten behind them [#5], on the other hand, represents a case of “ends of rows.” This sheaf does not become *shich'chah*, because each worker had started collecting beyond it, and it was never part of either one’s route. It is comparable to the first sheaf or sheaves in a row that a solitary worker began to clear from somewhere in the middle, which are exempt from the law of *shich'chah* because they were never within the collector’s route to begin with (see above, 52a note 12). [Thus, the Mishnah has illustrated the exclusion of “ends of rows” as far as the beginning of the row is concerned. Although the Mishnah’s illustration uses the case of a middle sheaf forgotten by two workers, that middle sheaf is in effect the “beginning” of a row, since the workers started beyond that point and proceeded in opposite directions] (second explanation of *Rash* and *Rosh*, based on the Gemara below; cf. their first explanation, with *Tos. Yom Tov* and *Mishnah Rishonah*).

Now, in truth, the Mishnah could have illustrated this exemption using the simpler case of a single worker who began collecting sheaves from

somewhere in the middle of a row, and continued to the end. The sheaves from the beginning of the row until the worker’s starting point would be examples of “ends of rows” that are not subject to *shich'chah*. Nevertheless, the Mishnah uses the more complex case of two collectors working their ways toward opposite ends of the row, in order to teach that the middle sheaf [#5] is also considered to be an “end of row” that is outside the workers’ routes, [even though — as a middle sheaf — it is flanked on either side by removed sheaves] (*Tos. Yom Tov*).

6. The Mishnah is referring to a case where the sheaves are arranged in multiple rows. E.g. one hundred sheaves were arranged in ten rows running from north to south [1-10], which can also be viewed as ten rows running from east to west [A-J] (see diagram). Ordinarily, a worker would remove these sheaves to the threshing floor by collecting sheaves A1-A10, then sheaves B1-B10, then sheaves C1-C10, etc. In this case, however, the worker removed A1, A2, and A3, and then bypassed A4 (for example), continuing instead with A5 and leaving A4 uncollected behind him. After picking up A5, he continues collecting A6, A7, and A8, and then turns his attention to B1, B2, B3, etc. — leaving A9 and A10 uncollected in front of him.



Note that according to this interpretation (that of *Rash* and *Rosh*), the expression *in front of him* is being used here differently than it was used in the preceding case of the two workers who started collecting from the middle of the row. Here it is used to refer to the sheaves at the end of the row, which have not yet been reached; above, however, it was used to refer to sheaves in the middle of the row that were approached and then bypassed. Similarly, the expression *behind him* is being used here in a somewhat different sense than it was in the

previous case. Here, it is used to denote a middle sheaf that was forgotten and skipped over. Above, it was used to denote a “beginning” sheaf that was behind the workers’ starting point (*Tos. Yom Tov*).

7. Sheaves A9 and A10 that the worker left uncollected in front of him are not rendered *shich'chah*, because the sheaves that are contiguous with them in rows 9 and 10 — i.e. sheaves B9 through J9, and sheaves B10 through J10 — are adjacent sheaves that demonstrate [that it is not forgotten]. That is, the presence of these adjacent sheaves allows us to construe sheaves A9 and A10 as being part of the as-yet-unstarted rows 9 and 10 running from east to west, rather than as part of the unfinished north-south row A. As components of unstarted rows, these sheaves cannot be said to have been forgotten (*Rash*). Rather, we can just as easily say that it was the worker’s intent to collect rows 9 and 10 from east to west beginning with sheaves A9 and A10, respectively. Thus, these

left uncollected **behind him** (in the middle of the row) is *shich'chah*, שְׁהוּא בְּבֵל תְּשׁוּב — **for it is encompassed by the prohibition “not to return”** to take a forgotten sheaf.^[8]
 זֶה הַקְּבָלָה — **This is the rule:** בְּל שְׁהוּא בְּבֵל תְּשׁוּב שְׂבָהָ — **Any [sheaf] that is encompassed by the prohibition “not to return,”** i.e. it was on the worker's route and was forgotten, **is *shich'chah*;** וְכֵן שְׂאִינוּ בְּבֵל תְּשׁוּב אֵינוּ שְׂבָהָ — **but any sheaf that is not encompassed by the prohibition “not to return,”** i.e. it was forgotten outside of the worker's route, **is not *shich'chah*.**^[9]

NOTES

uncollected sheaves are not subject to the Torah's injunction: *you shall not return to take it*, since the worker has not yet begun removing the east-west rows that contain them (*Rosh*). [A forgotten sheaf is rendered *shich'chah* only if it had been on the worker's route and was bypassed by him, so that he would need to *return* to retrieve it. However, retrieving sheaves that were forgotten outside the worker's route — as in this case, where the sheaves are viewed as part of uncollected rows — does not constitute “returning” to them, inasmuch as the worker was never there in the first place (see Gemara below).]

Were it not for the fact that sheaves A9 and A10 are shown to be unforgotten by the sheaves opposite them in rows 9 and 10, these sheaves [A9 and A10] would have been *shich'chah*. Sheaf A10, though it is the last sheaf in row A, would not have been exempted as an “end of row,” since it is followed by the sheaves in the next row (see 52a notes 12 and 13); and sheaf A9 would have been *shich'chah* even in the case of a single row, because it can be bypassed through the removal of sheaf A10 (see 52a end of note 12). However, now that these two sheaves are regarded as being affiliated with the adjacent unstarted east-west rows, they are exempt from *shich'chah* even though they do not qualify for the “end of row” exemption (see *Rash* ירושלמי below).

8. The sheaf that the worker left uncollected *behind him* [sheaf A4] must be left as *shich'chah*, because it was bypassed when he skipped it and continued on his route to collect the next sheaf [sheaf A5]. Retrieving the skipped sheaf would thus entail *returning* to take it, and it is therefore governed by the prohibition: *do not return to take it* (*Rash* and *Rosh*).

In this case, we do not say that the sheaves adjacent to the one that was skipped [i.e. sheaves B4-J4] allow it to be viewed as part of an east-west row [row 4] and thus outside the worker's route. For only sheaves at the end of a row [A9 and A10, in the present example] are saved from being rendered *shich'chah* on account of being affiliated with more than one row, owing to the fact that the worker did not continue his north-to-south collection beyond those sheaves. I.e. when the worker goes from A8 to B1,

he has not skipped over any sheaves that lie on his route, since A9 and A10 are considered part of rows 9 and 10 and thus outside his route. However, when the worker goes from A3 to A5, he has skipped A4, which *does* lie on his route. [Unlike rows 9 and 10, which can be argued to be outside of his north-south route, row 4 is definitely within his route, as evidenced by his continuing to collect the remainder of north-south row A. It makes no sense to say that a worker in the *middle* of a north-south route would leave over a row to be collected on an east-west route.] Therefore, the fact that sheaf A4 happens to lie on row 4 as well as on row A does not save it from becoming *shich'chah* (see *Derech Emunah*, *Beur HaHalachah* to 5:10 הדין הקוצר ד"ר).

9. The Mishnah is reiterating the rule that *shich'chah* applies only to a sheaf forgotten in such a way that its retrieval involves returning.

Tosafos, *Bava Metzia* 11a ד"ה זה explain that the Mishnah repeats this point in order to allude that a forgotten “corner sheaf” is *shich'chah*. *Tiferes Yisrael* §20 and *Derech Emunah* 5:69 explain this to mean that if a person cleared two adjacent outer rows of a field but forgot the corner sheaf, that sheaf is *shich'chah*. I.e. if he collected sheaves A1-A9 along north-south row A, skipped A10, and then began collecting sheaves B10 through J10 along east-west row 10, the forgotten corner sheaf A10 is governed by the prohibition “not to return” and is therefore *shich'chah*. [Although A10 was initially exempt from *shich'chah* since it could be viewed as the beginning of east-west row 10 (rather than as the final part of north-south row A), we do not say that as the beginning of row 10 it remains exempt when skipped in the collection of that row.] This is because we now view these two adjacent rows as a single L-shaped row, so that the forgotten corner sheaf is not the beginning of a row but rather an intermediate sheaf. Accordingly, once removal of the east-west row 10 has begun, retrieving the corner-sheaf would involve “returning,” and it is therefore deemed *shich'chah* (see, however, *Tos. Yom Tov* זה הבלל ד"ה with *Tos. Anshei Shem.*)

[As noted, *Rambam* and *Gra* interpret this Mishnah differently than *Rash* and *Rosh*; see Variant A for elaboration of their views.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. In contrast to *Rash* and *Rosh*, who interpret the Mishnah as presenting two distinct exemptions (“ends of rows” and “the sheaf whose adjacent sheaves demonstrate [that it is not forgotten]”), *Rambam* [*Commentary* and in *Hil. Matnos Aniym* 5:10-11, as explained by *Kesef Mishneh*] interprets it as referring to a *single* exemption involving a forgotten sheaf that can be regarded as being part of a perpendicular row. To illustrate this exemption, the Mishnah cites the case of two workers who began collecting from a north-south row in opposite directions, leaving sheaves uncollected in front of them (i.e. at the end of the row) and behind them. The sheaf left *behind them* is not rendered *shich'chah*, because it is evident that their intention all along was to leave over the middle sheaf of each row and thereby form a separate east-west row across the field. The sheaf left *in front of them*, however, does become *shich'chah*, for there is no reason to believe that they would take the unusual step of creating a new east-west row at the field's edge.

The Mishnah then contrasts this case of two workers with a case in which an almost identical procedure is performed by one worker: The worker starts from the beginning of the row, skips over a middle sheaf (leaving it *behind him*), and then stops short of the last sheaf in the row (leaving it *in front of him*). Here the law is the reverse of that which applies to two workers — the sheaf left in front of him does not become *shich'chah*, while the sheaf left behind him does become *shich'chah*. Now, in the case of a single worker we never assume that his intention in leaving over a sheaf was to create a new east-west row; it is for a completely different reason that the sheaf at the end of the row is exempt from *shich'chah*. The reason this sheaf is exempt is that its retrieval by a lone worker would not involve “turning back” to take it, considering that the worker never reached that sheaf in the first place. [This exemption is not applicable in the previous case involving two workers, because a sheaf forgotten in front of one worker is necessarily behind the other worker, who would need to turn back in order to retrieve it.] The sheaf that the lone worker leaves *behind him*, however, is rendered *shich'chah*, for

the retrieval of that sheaf does necessitate “turning back,” [and as explained above, it is not viewed as being part of a separate east-west row.]

Gra (in *Shenos Elyahu*), too, interprets the Mishnah as referring to a single exemption pertaining to a case where the forgotten sheaf can be regarded as part of an adjacent east-west row. However, unlike *Rambam*, he understands that this exemption applies even in the case of a lone worker, viz. when he forgets a sheaf at the end of a row. [It emerges that *both* of the Mishnah's cases illustrate the “adjacent sheaves” exemption: In the case of two workers, where it is usual for them to leave an uncollected east-west row in the middle of the field, a sheaf left *behind them* is not rendered *shich'chah*; in the case of a single worker, who would not be expected to create a new east-west row anywhere other than the edge of the field, only a sheaf left *in front of him* (at the end of the row) is exempt from *shich'chah*.]

To summarize: According to *Rash* and *Rosh*, there are three instances in which a forgotten sheaf is exempt from *shich'chah*: (a) it is the first sheaf in a row (or a sheaf that two workers left behind them); (b) it is the last sheaf in a single or final row; (c) it is the last sheaf of the first row in a multiple-row arrangement, where the adjacent sheaves allow us to view it as part of a perpendicular row. According to *Rambam* and *Gra*, there is no automatic exemption for sheaves forgotten at the beginning or end of a row. A forgotten sheaf is exempt from *shich'chah* only in the case of two workers who left a sheaf behind them, where it is assumed that they intend to form a perpendicular row across the field with it and the adjacent sheaves; or in the case of a lone worker who left a sheaf at the end of a row, where [according to *Rambam*] its retrieval would not involve “turning back.” [According to *Gra*, the exemption in this case as well is due to the forgotten sheaf being viewed together with the adjacent sheaves as a separate, perpendicular row.]

Various other approaches to this Mishnah are presented by *Raavad* (in his gloss to *Rambam* *ibid.*), *Rav* and *Rash Sirillo*. For further discussion and analysis, see *Shaarei Emunah*; *Derech Emunah* to 5:10-11 with *Beur HaHalachah* ד"ה הקוצר ד"ה; *Tos. Yom Tov* שלפניו ד"ה.

Gemara The Gemara seeks the source for the Mishnah's initial ruling that the law of *shich'chah* does not apply to "ends of rows":

מניין לראשי שורות — From where do we derive that "ends of rows" are exempt from *shich'chah*?^[1] אמר רבי יונה — R' Yonah said: כתיב — For it is written in the passage that discusses the *shich'chah* obligation:^[2] „בי תקצר קצירך בשדך ושכחת” — *When you reap your harvest in your field and you forget* etc. This verse, which deals with the *shich'chah* pertaining to standing grain,^[3] implies: מה שאתה קוצר אתה שוכח — Whatever grain you have already begun to reap, you can forget and it will be rendered *shich'chah*; but any grain that you have not begun to reap, i.e. grain that was left unreaped at the beginning of a row, is not rendered *shich'chah* if forgotten.^[4]

The Gemara asks:

עד כדון ראשי שורות קמה — Until now, we know only that the beginnings of rows of standing grain are exempt from *shich'chah*. [עומרים] סוף שורות (קמה) — From where do we derive an exemption for the ends of rows with regard to the forgetting of sheaves of cut grain?^[5]

The Gemara answers:

אמר רבי יונה — R' Yonah said: „לא תשוב לקחתו” — For the verse states:^[6] ... *you shall not return to take it*, which implies: ממקומו שבאת לא תשוב לקחתו — After coming from its place, you shall not return to take it. This excludes a sheaf situated at the end of a row, which cannot be bypassed and returned to.^[7]

The Gemara proceeds to ask:

עד כדון ראשי שורות (עומרים) [קמה] וסוף שורות עומרים — Until now, we know only that the Torah excludes from *shich'chah* the beginnings of rows of standing grain, and the ends of rows of sheaves.^[8] [ראשי שורות עומרים וסוף שורות קמה] — From where

do we derive an exemption for the beginnings of rows of sheaves and the ends of rows of standing grain?

The Gemara answers:

נילף ראש שורות עומרים מראש — אמר רבי יונה — We derive the exemption for the beginning of rows of sheaves from the exemption for the beginning of rows of standing grain, וסוף שורות קמה מסוף שורות עומרים — and we derive the exemption for the end of rows of standing grain from the exemption for the end of rows of sheaves.^[9]

The next part of the Mishnah stated:

העומר שכנגדו מוכיח — Regarding THE uncollected SHEAF WHOSE ADJACENT [SHEAVES] DEMONSTRATE that it was not necessarily forgotten . . . (all agree that it is not *shich'chah*.)

The Gemara cites a Baraisa^[10] that elaborates on this exemption:

העומר שכנגדו מוכיח כיצד — WHAT IS THE CASE OF “THE uncollected SHEAF WHOSE ADJACENT [SHEAVES] DEMONSTRATE that it was not forgotten”? היו לו עשר שורות של עשרה עשרה עומרים — If [ONE] HAD TEN ROWS OF TEN SHEAVES EACH, ויעמר אחר — and HE GATHERED the sheaves in ONE OF [THE ROWS] FROM NORTH TO SOUTH, ושכח אחר מן — AND HE FORGOT ONE OF [THE SHEAVES], i.e. the last sheaf in the row,^[11] מפני שהוא נידון מזרח — IT IS NOT *SHICH'CHAH*, אינו שכחה — FOR IT IS JUDGED AS being part of a row going EAST TO WEST.^[12]

The Baraisa stated that the final sheaf of a north-south row does not become *shich'chah* if left uncollected, since it can be judged as part of an adjacent east-west row. The Gemara inquires: עימר מזרח ומערב ושכחו — If he subsequently gathered the sheaves of the adjacent row from east to west, and forgot [the

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1. As mentioned above (52a note 12), the “ends of rows” exclusion applies to both a sheaf at the beginning of a row as well as a sheaf at the end of a [single or final] row. Now, the law of *shich'chah* applies not only to forgotten sheaves [*shich'chas omer*], but also to forgotten standing grain [*shich'chas kamah*] (see above, 37a note 14). The Mishnah's exemption thus encompasses four cases: (a) standing grain left unreaped at the beginning of a row; (b) standing grain left unreaped at the end of a row; (c) sheaves left uncollected at the beginning of a row; and (d) sheaves left uncollected at the end of a row. The Gemara will proceed to explain the basis for all four exemptions.

2. *Deuteronomy* 24:19.

3. The law of *shich'chas kamah* is derived from the continuation of this verse, which states: ושכחת עמר בשדה, and you forget a sheaf in the field. The seemingly superfluous expression “in the field” alludes to another form of *shich'chah* in one's field that applies to something other than a sheaf, viz. the *shich'chah* of standing grain overlooked during the reaping (*Sifrei*, cited by *Rash* here and to 4:6; see *Rashi* to *Sotah* 45a ד"ה לשכחת קמה; see also 37a note 19). Once it has been established that *shich'chah* is applicable with regard to standing grain, it is only reasonable to assume that the beginning of the verse — *When you reap your harvest* etc. — is dealing with standing grain that was forgotten during the reaping (see *Rash*).

4. By introducing the *shich'chas kamah* obligation with the clause, *when you reap your harvest*, the verse indicates that overlooked grain becomes *shich'chah* only if it was forgotten in the course of being reaped, i.e. it was located beyond the point at which the worker began reaping. This excludes grain left unreaped at the beginning of a row, which was never in the path of the reaper to begin with (see *Rash* ירושלמי ד"ה לאחריהם, *Rash Sirilio* and *Mahara Fulda*).

5. [Actually, we do not yet know why ends of rows are exempt at all, even with respect to standing grain. The Gemara, however, focuses on the ends of rows “of sheaves” in anticipation of R' Yonah's response, which addresses this case specifically (*Birkas Kohen*.)]

6. *Deuteronomy* *ibid*.

7. See above, 52a note 12.

[This verse also serves as the source for the exemption regarding “a sheaf whose adjacent sheaves demonstrate that it was not forgotten” (i.e. in a case involving the final sheaf of a row followed by other rows, where the standard “end of row” exclusion is not applicable). For the adjacent sheaves let us view the forgotten sheaf as part of an as-yet-unstarted perpendicular row, thus putting it outside of the worker's route so that his eventual retrieval of it will not constitute “returning” to take it (see *Rash* and *Rosh* cited in 52b note 7, and *Mahara Fulda*.)]

8. The first part of the verse (*When you reap your harvest* etc.), which teaches the exemption pertaining to “beginnings of rows,” refers to the forgetting of standing grain; and the second part of the verse (*you shall not return* etc.), from which the “ends of rows” exemption is derived, refers to the forgetting of sheaves (*Mahara Fulda*). [The clause *you shall not return to take it* is clearly referring to the forgetting of sheaves, for standing grain cannot simply be “taken” but must first be cut (*Rash Sirilio*.)]

9. The fact that the Torah places the obligations of *shich'chas kamah* and *shich'chas omer* in the same verse informs us that the two are analogous to one another. Hence, the “beginning of row” exemption that is stated in regard to standing grain applies to sheaves also, and the “end of row” exemption that is stated in regard to sheaves applies to standing grain as well (*Rash Sirilio*).

10. From *Tosefta* 3:9.

11. *Ri ben Malki Tzedek* ד"ה העומר.

12. See above, 52a note 13 and 52b notes 6-8.

[The Baraisa speaks of an instance in which only the final sheaf in the row was forgotten. However, the law would be the same even if two or more sheaves were forgotten at the end of the row, as long as they can be reckoned as part of adjacent rows running from east to west (see *Rash* ד"ה יחיד, cited in 52b note 7.)]

same sheaf] once again at the end of that row,^[13] מהו שיטשה שְׂפָחָה — what is [the law] with regard to it now being rendered *shich'chah*? Does it become *shich'chah* on account of having been forgotten this time, when there are no adjacent sheaves to

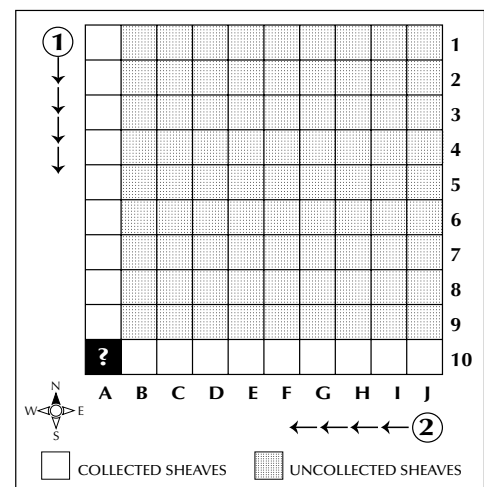
prevent it from becoming *shich'chah*? Or, perhaps, since at the time when it was initially forgotten it was saved from becoming *shich'chah*, a subsequent forgetting will not have the effect of rendering it *shich'chah*.^[14] —?—

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13. After collecting sheaves A1-A9 from north to south in row A, and leaving sheaf A10 uncollected, he proceeded to the southeastern corner of the field and began working his way back from east to west along row 10. Here too, however, he collected only the first nine sheaves in the row, i.e. J10-B10, and again forgot to take sheaf A10 (subsequently continuing from there to another row, e.g. row B or row 9). See diagram. [This should not be confused with the case of the “corner sheaf” described in 52b note 9, where, after skipping sheaf A10, he collected sheaves B10-J10, going from *west* to *east*.]

14. *Mahara Fulda*; see *Pnei Moshe* ד"ה נשמעינה.

[The Gemara above, 5:2 (44a) presents a similar inquiry (see 44a notes 2-3) and resolves it in the same manner as will the Gemara here.]



The Gemara answers:

נשמענה מן הדא — Let us learn [the resolution] from the following discussion pertaining to the *shich'chah* of sheaves: עינמר — Regarding a case where one removed the first, second and third sheaves of a row of sheaves from the field to the threshing floor, וְשָׁכַח אֶת הָרְבִיעִי — and he then forgot the fourth sheaf and moved on to the fifth sheaf, two versions of the law are taught: אֵית תַּנְיֵי תַנִּי — There are some teachers of Baraisos who teach: אִם נָטַל אֶת הַחֲמִישִׁי הָרִי הוּא — IF HE TOOK THE FIFTH sheaf, [THE FOURTH SHEAF] IS rendered *SHICH'CHAH*, but if he did not take it, the fourth sheaf is not rendered *shich'chah*.^[1] אֵית תַּנְיֵי תַנִּי — and there are other teachers of Baraisos who teach: אִם שָׁהָא לִיטוּל אֶת הַחֲמִישִׁי הָרִי הוּא — IF HE passed by the fourth sheaf and merely WAITED long enough TO TAKE THE FIFTH sheaf, [THE FOURTH SHEAF] IS immediately rendered *SHICH'CHAH*, even though he did not actually take the fifth sheaf.^[2] אָמַר רַבִּי בִּזְוִיָּא — And R' Bun bar Chiya said: These opinions are not contradictory. מֵאֵין דְּאָמַר נָטַל אֶת הַחֲמִישִׁי — The one who said that the fourth sheaf is not considered *shich'chah* unless he actually took the fifth sheaf — refers to a case where there is a sixth sheaf in the row. In this case, after the first three sheaves are taken there are still three sheaves remaining. These remaining sheaves cannot all be rendered *shich'chah*, because together they constitute a “row” of three.^[3] Hence, the fourth sheaf does not become *shich'chah* simply by being bypassed, since it is still considered part of this row of three sheaves. Only when the fifth sheaf is taken and the row of three is broken — such that the fourth sheaf stands as a lone forgotten sheaf — is it rendered *shich'chah*.^[4]

מֵאֵין דְּאָמַר אִם שָׁהָא לִיטוּל אֶת הַחֲמִישִׁי — And the one who said that the fourth sheaf is rendered *shich'chah* even if he merely passed it by and waited long enough to take the fifth sheaf — refers to a case where there is no sixth sheaf in the row. There, when the fourth one is overlooked it stands alone as a forgotten sheaf, and it therefore becomes *shich'chah* even before the fifth sheaf has been taken.^[5]

On the basis of R' Bun's reconciliation of the two Baraisos, the Gemara proceeds to resolve the inquiry. The Gemara focuses on the case where there are six sheaves, regarding which the law is that the fourth sheaf is not rendered *shich'chah* until the fifth one is actually taken:

אִם עַד שְׁלֵא נָטַל אֶת הַחֲמִישִׁי — Now, from the time when the farmer forgot the fourth sheaf and passed it by until the time when he actually took the fifth sheaf, לֹא כָּבַר נִרְאָה — was not the forgotten fourth sheaf fit then to be judged as part of a row, together with the fifth and sixth sheaves, and therefore saved from being considered *shich'chah*? Surely it was!^[6] אָמַר רַבִּי אֶתְרִיָּא — But nevertheless, you say that when the fifth sheaf is removed and the “row” that saved the fourth sheaf is thereby eliminated, [the fourth sheaf] is rendered *shich'chah*! Evidently, the fact that the sheaf was once prevented from becoming *shich'chah* does not preclude it from becoming *shich'chah* in the future. וְהִכָּא שְׁבָחָה — Here too, in the case of our inquiry, although the sheaf was originally saved from becoming *shich'chah* by virtue of its affiliation with a thus far unstarted adjacent row, it is rendered *shich'chah* when subsequently forgotten in the collection of that row.^[8]

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1. That is, even though he passed the fourth sheaf without taking it, it does not become *shich'chah* until he actually takes the fifth sheaf.

[Our elucidation follows the approach of Rambam, *Hil. Matnos Aniyyim* 5:6, as understood by *Derech Emunah* ad loc.; see *Mahara Fulda* here and *Pnei Moshe* to 44a אֵית תַּנִּי תַנִּי; see note 8 below.]

2. *Derech Emunah* (5:45, with *Tziyun HaHalachah* §86) explains that the person is not deemed to have completely diverted his attention from the fourth sheaf — and thus, to have “forgotten” it — until he goes past it and waits long enough to take the next sheaf (cf. *Pnei Moshe* to 44a דִּיה שְׁמַיָּא שְׁמַיָּא).

In any event, the second Baraisa gives a different ruling than the first Baraisa, which states that there is no *shich'chah* until the fifth sheaf is actually taken.

3. The law of *shich'chah* applies to one who forgets a single sheaf or two sheaves together, not to one who forgets a row of three sheaves; if three or more sheaves are forgotten, the landowner may return for them (see the following Mishnah on 54b). It follows that if the farmer would remove the first three sheaves in a row of six and then forget to take the next three, they would not be *shich'chah* (*Mahara Fulda*).

4. *Mahara Fulda*; *Derech Emunah* 5:44; see also *Pnei Moshe* to 44a and *Aruch HaShulchan HeAsid* *ibid*.

5. Since the original row contained only five sheaves, and the farmer had

already removed the first three sheaves, the remaining two sheaves do not constitute a row, but two “individual” sheaves. Therefore, as soon as he passes the fourth sheaf and diverts his attention to the fifth, the forgotten sheaf is rendered *shich'chah* (*Mahara Fulda*; *Derech Emunah* 5:45; see *Aruch HaShulchan HeAsid* *ibid*.).

6. [The fourth sheaf *should have* been rendered *shich'chah* as soon as the farmer passed it by and waited long enough to take the fifth sheaf (as is the law in a case where there are only five sheaves). The only reason it does not become *shich'chah* at this point is that it is still considered part of a three-sheaf row, which cannot be rendered *shich'chah*.]

7. Emendation follows the Vilna edition and the *Yerushalmi* text of *Rash Sirilio*.

8. We have elucidated this *sugya* in accordance with the approach presented by *Mahara Fulda*, which is based on Rambam, *Hil. Matnos Aniyyim* 5:6 (see *Maharam Chaviv* here and to 5:2, *Mayim Chaim* and *Derech Emunah* to Rambam loc. cit., and *Pe'as HaShulchan* 9:15). *Rash*, however, presents a different understanding of the two Baraisos and R' Bun's reconciliation of their rulings. His explanation is cited by *Mahara Fulda* to 44a (see also *Rash Sirilio*, *Sdeh Yehoshua* and *Gra ms.* 1 here), but *Mahara Fulda* states there that he prefers the approach of Rambam. See Variant A for the specifics of *Rash's* approach.

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A. According to *Rash*, it is universally held that a forgotten sheaf does not become *shich'chah* until the next sheaf has been taken in its stead. Both Baraisos accept that the farmer must actually take the fifth sheaf in order for the fourth sheaf to be rendered *shich'chah* (see *Beurim of R' Moshe Feinstein* §121). The rulings of the Baraisos address a different point — namely, whether the fourth sheaf is prevented from becoming *shich'chah* if the farmer paused before proceeding to collect the fifth sheaf.

The first Baraisa states that the fourth sheaf is rendered *shich'chah* only if the farmer proceeded directly from the third sheaf to the fifth sheaf and took it immediately. If, however, he waited a bit before taking the fifth sheaf, the fourth sheaf is not rendered *shich'chah*. The second

Baraisa, on the other hand, states that the fourth sheaf is rendered *shich'chah* even if he waited before taking the fifth sheaf.

R' Bun reconciles the two Baraisos as follows: The first Baraisa refers to a case involving a row of six sheaves. In this instance, if the farmer pauses after removing the third sheaf, the collection process is deemed to have been interrupted, thus rendering the remaining three sheaves a new and distinct row. Since the fourth sheaf lies at the beginning of this new row, it does not become *shich'chah* when the farmer forgets it and proceeds to the fifth sheaf, in accordance with the rule that a “beginning of a row” is exempt from *shich'chah* (see above, 52a note 12). It is only when the farmer skips directly from the third sheaf to the fifth sheaf, without interrupting the collection process, that the fourth sheaf is

In the course of the preceding discussion it was mentioned that a row of three sheaves is not subject to *shich'chah*. The Gemara explores the parameters of this law:

הָיָה עוֹמֵר אֶחָד גָּדוֹל — If one sheaf in a row of sheaves was relatively large, עֵימַר צֵד הַחִיצוֹן — and [the harvester] removed only the outer side of this sheaf (i.e. the side facing him) to the threshing floor,^[9] בְּצֵד הַפְּנִימִי נִידוֹן בְּשׂוֹרָה — there is no question that the remaining inner side of the sheaf is judged in conjunction with the two sheaves ahead of it as a three-sheaf row that is exempt from *shich'chah*.^[10] עֵימַר צֵד הַפְּנִימִי — If, however, he first removed the inner side of the sheaf, בְּצֵד הַחִיצוֹן מִדּוֹ שִׁידוֹן בְּשׂוֹרָה — what is [the law] insofar as judging the remaining outer side in conjunction with the two sheaves ahead of it as a row of three consecutive sheaves?^[11]

עֵימַר צֵד הָעֶלְיוֹן — Similarly, if he removed only the upper side of a large sheaf, בְּצֵד הַתַּחְתּוֹן נִידוֹן בְּשׂוֹרָה — there is no question that the remaining lower side of the sheaf is judged in

conjunction with the two sheaves ahead of it as a *shich'chah*-exempt row. עֵימַר הַתַּחְתּוֹן בְּצֵד הָעֶלְיוֹן מִדּוֹ שִׁידוֹן בְּשׂוֹרָה — If, however, he removed the lower side of the sheaf, keeping the upper side suspended in midair by supporting it with a piece of wood or the like,^[12] what is [the law] insofar as judging the remaining upper side in conjunction with the two sheaves ahead of it as a row of three consecutive sheaves?^[13]

The inquiries remain unresolved.

In connection with the topic of “upper” and “lower” objects,^[14] the Gemara cites a discussion pertaining to the law of *eglah arufah*.^[15]

רַב בַּר נְחִת לְתַמְן אָמַר — When Rav went down to there [Babylonia], he declared: אֲנִי הוּא בֶן עֲזַאי דְּהִכָּא — I am the Ben Azzai of here. I.e. my mind is particularly clear today, and I am ready to answer all questions with the same degree of sharpness and depth as Ben Azzai, who would expound in the markets of Tiberias.^[16] אֶתָּא חַד סָב שְׂאֵל לֵיהּ — A certain old man^[17] came and inquired of him:

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9. For example, ten sheaves were arranged in a single row. All of the sheaves were the same size, except for one of them, e.g. sheaf 4, which was twice as large as a standard sheaf. After removing the first three sheaves of this row, the harvester proceeded to remove the outer half of sheaf 4 (i.e. the half closest to him), and left the half that faces the remaining sheaves uncollected (see *Mahara Fulda* and *Pnei Moshe*).

10. I.e. if after removing the outer half of sheaf 4 he skipped ahead to remove sheaf 7, there is no question that the three intervening sheaves which were forgotten — viz. the remaining half of sheaf 4 together with sheaves 5 and 6 — combine with one another to form a *shich'chah*-exempt row, since there is no separation between them (ibid.).

11. Do we say that the removal of the inner half of sheaf 4 creates a separation between the outer half of sheaf 4 and sheaves 5 and 6, which prevents them from combining with one another to be judged as a row? Or do we say that since the inner and outer sides of sheaf 4 were both part of the same sheaf, the removal of half of that sheaf [even if it is the inner half, which was situated between the remaining outer half and sheaves 5 and 6] does not constitute a separation, and the remainder of sheaf 4 therefore combines with sheaves 5 and 6 to form a row? (ibid.). [See Variant B.]

12. *Pnei Moshe*.

13. Does the absence of this sheaf's lower half constitute a separation

that prevents the upper half from being viewed together with the following two sheaves as a *shich'chah*-exempt row? Or, perhaps this is not deemed a separation, since both halves are regarded as parts of the same, single sheaf (see *Mahara Fulda* and *Pnei Moshe*).

14. See *Mahara Fulda*.

15. עֵגְלָה עֲרוּפָה, *eglah arufah* [literally: decapitated calf]: The Torah (*Deuteronomy* 21:1-9) commands that if the corpse of a murdered person is found in the open and it is unknown who killed him, a measurement must be made to ascertain which town is located nearest to the corpse, the likelihood being that the murderer came from there. The elders of that town bring a calf to an untilled valley, where they decapitate it from the back of its neck. They then wash their hands over the dead calf, and make a statement declaring that they are in no way responsible for the murder. The Kohanim who are present then pray for atonement (see *Mishnah, Sotah* Ch. 9).

16. *Rash Sirilio, Mahara Fulda* and *Pnei Moshe*, from *Rashi* to *Sotah* 45a ד"ה הריני כבן עזאי.

17. Who found Rav's proclamation to be somewhat pretentious, and wished to confound him (*Sdeh Yehoshua*; see *Alei Tamar*).

[*Bavli (Sotah* 45a) relates that *Abaye* once proclaimed himself as ready to answer questions as Ben Azzai, and he was confronted by a “certain Rabbi” who asked a question similar to the one with which the old man confronted Rav (*Mahara Fulda*).]

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rendered *shich'chah*. [See further, 54a Variant A.]

The second Baraisa, by contrast, deals with a row consisting of only five sheaves. Here, even if the farmer were to pause after taking the third sheaf, his delay would not be regarded as an interruption of the previous collection, inasmuch as the two remaining sheaves do not qualify as a separate row. Hence, when the farmer skips from the third sheaf to the fifth sheaf — even after waiting in between — he is merely completing the earlier collection. The fourth sheaf, therefore, is not a “beginning of a row,” and is rendered *shich'chah*.

As regards the Gemara's ensuing proof, *Rash Sirilio, Sdeh Yehoshua* and *Gra ms. 1* (who follow *Rash's* approach) explain it in the same manner as was explained according to *Rambam's* approach; viz. the fact that the fourth sheaf becomes *shich'chah* when the fifth sheaf is taken despite its having been part of a three-sheaf row (albeit only momentar-

ily) when it was initially forgotten, proves that a sheaf which was once saved from becoming *shich'chah* can still become *shich'chah* subsequently once the “saving” factor has been eliminated. Cf. *Beurim of R' Moshe Feinstein* §121 for a novel explanation of the Gemara's inquiry and subsequent resolution according to *Rash*.

B. According to *Gra*, the Gemara is discussing a case where the larger - sheaf was protruding beyond the confines of the row. The “inner side” refers to the part that aligned with the other sheaves, whereas the “outer side” refers to the portion of the sheaf that juts outside the row. Presumably, the Gemara's question is then whether a half-sheaf can join together with other sheaves as part of a single “row” if no part of it is currently in alignment with them.

[See *Rash Sirilio* and *Maharam Chaviv* for other interpretations of the Gemara's question here.]

זה על גבי זה — If two murder victims are found one atop the other, with one being a bit closer to one city and the other being a bit closer to another city,^[1] are both cities obligated to bring an *eglah arufah*?^[2] סָבַר רַב שֶׁהֵן עוֹרְפִין — Rav considered saying that they do decapitate a calf, i.e. the elders of each city are obligated to bring an *eglah arufah* on account of the corpse that is closer to them. אָמַר לִיה — [The old man] said to him: אֵין עוֹרְפִין — You are wrong! They do not decapitate a calf for either city. אָמַר לִיה — [Rav] said to him: לְמָה — Why? אָמַר לִיה — [The old man] replied: הִתְחַתּוּן מִשּׁוּם טָמוּן — A calf is not decapitated on account of the bottom [corpse] because it is “hidden” by the top corpse, וְהֵעֲלִיּוֹן מִשּׁוּם צָף — and a calf is not decapitated on account of the top [corpse] because it is “floating” on the bottom corpse and not touching the ground.^[3] בָּרַךְ — When [Rav]^[4] ascended back to here [Eretz Yisrael], אָתָּא לְגַבֵּי רַבִּי — he went to Rebbi and recounted this discussion he had with the old man. אָמַר לִיה — [Rebbi] said to him: יָאֵתָּא לְךָ — He spoke to you properly!^[5] וְלֹא „בִּי יִמְצָא” — For the Torah introduces the passage of the decapitated calf with the phrase:^[6] *Should [a corpse] be found*. By using the singular term *יִמְצָא*, the verse implies that an *eglah arufah* is brought only if a single corpse is found, and not if multiple [corpses] are found one atop the other.^[7]

The Gemara cites a Baraisa that is relevant to the earlier discussion about the constitution of a three-sheaf “row”:

רַבִּי יְהוּדָה בְּרַבִּי אִמְרַי — R’ YEHUDAH THE EMINENT ONE SAYS: הֲיָדָה — If THERE WAS A WATER CANAL

ACROSS THE ENTIRE FIELD traversing the rows of sheaves, the law is as follows: אִם עוֹקֵר אֶת הַמְחָרִישָׁה מִצֶּד זֶה וְנִתְּנָה בְּצֶד זֶה — IF the canal is so wide that when plowing the field [ONE] MUST RAISE THE PLOWSHARE FROM THIS SIDE AND PLACE IT DOWN ON THE OTHER SIDE,^[8] אֵינוּ נִידוּן בְּשׂוֹרָה — [THE SHEAVES] on either side of the canal ARE NOT JUDGED together AS A ROW.^[9] וְאִם לֹא נִידוּן בְּשׂוֹרָה — BUT IF the canal is NOT wide enough to necessitate lifting the plowshare, [THE SHEAVES] ARE JUDGED together AS A ROW and are exempt from *shich’chah*.

The Gemara presents an inquiry: קָצַר חֲצֵי שׂוֹרָה — If [one] reaped half a row and it became dark and he had to stop,^[10] וּבָא לְמַחֵר — and he came back on the following day to finish the job, נִידוּן בְּשׂוֹרָה — there is no question that [the remaining half] is judged as a new and independent row so that its first grain is exempt from *shich’chah* as a “beginning of a row.”^[11] וְשָׁב לֵישֵׁב קָרָא לוֹ חֲבִירוֹ — If, however, he reaped half a row and sat down to eat, or sat down to sleep, or his friend called him away, or it got dark and he had to light a lamp, what is the law? Is the remaining half considered an independent row on account of these relatively brief interruptions?^[12]

The Gemara leaves the inquiry unresolved.

The Mishnah stated that a sheaf that one took hold of in order to bring it to the city does not become *shich’chah* if it is subsequently forgotten in the field. The Gemara cites a Baraisa^[13] that discusses a related law:

NOTES

1. *Rash Sirilio*, from *Rashi* to *Sotah* 45a ד”ה שני חללים; see, however, *Sdeh Yehoshua*.

2. [The old man’s point in question will become clear in the ensuing Gemara.]

3. The Mishnah, *Sotah* 9:2, states that an *eglah arufah* is brought only when a corpse is found exposed and lying on the ground. If, however, the corpse was *hidden* by a pile of stones, or *floating* [i.e. elevated] above the ground, no *eglah arufah* is brought (see there for the Scriptural source for these conditions). The old man thus argued that since the bottom corpse is covered by the top corpse, and the top corpse is elevated above the ground by the bottom corpse, there is no *eglah arufah* obligation for either city.

Rav, on the other hand, was of the opinion that since the corpses are of one kind, we apply the principle: מִיִּין בְּמִינוֹ אֵינוּ חוֹצֵץ, *a kind with its own kind does not interpose* (see *Bavli Pesachim* 29b), so that the top corpse is considered to be lying directly on the ground. And similarly, Rav held that the bottom corpse cannot be considered “hidden” when covered only by another corpse (*Mahara Fulda*, based on *Bavli Sotah* 45a).

4. *Pnei Moshe*; cf. *Korban HaEidah*, *Sotah* 9:2.

5. I.e. the old man is indeed correct that neither city brings an *eglah arufah* — but for a reason different than the one he gave you (*Pnei Moshe*).

6. *Deuteronomy* 21:1.

7. [In principle, Rebbi accepts Rav’s reasoning that the two corpses, being of one kind, do not constitute an interposition or a covering with respect to each other, thus precluding their being exempted as “floating” or “hidden.” But as far as the actual halachah is concerned, he agrees that there is no *eglah arufah* obligation for either city (as the old man argued), because the Torah limits the *eglah arufah* requirement to cases involving a single corpse (see further *Keren Orach* to *Sotah* 45a ד”ה ועיין *Nachal Eisan* 3:3:4).]

8. I.e. the breadth of the canal is wide enough that the farmer cannot plow through it, but must lift the plowshare and carry it over to the other side in order to continue plowing (*Mahara Fulda*).

9. If the farmer forgot two sheaves on one side of the canal and a third sheaf on the other side, they do not combine with one another to form a “row” that is exempt from *shich’chah* (*Gra*; cf. *Rash Sirilio* and *Sdeh Yehoshua*).

10. *Mahara Fulda*.

11. The Gemara considers it obvious that the overnight delay constitutes an interruption of the reaping process, which dissociates the remainder of the standing crop from that which was reaped on the previous day. Accordingly, if the farmer did not resume where he left off but mistakenly began reaping somewhere further in the row, the grain he has forgotten to reap is regarded as a “beginning of a row” [see 52a note 12] and hence does not become *shich’chah* (see *Rash Sirilio* and *Mahara Fulda*; cf. *Gra*’s alternative version and interpretation; see also *Pnei Moshe*).

[In keeping with the printed version of the text, our explanation of the Gemara here follows *Rash Sirilio*’s interpretation of the phrase נִידוּן בְּשׂוֹרָה as referring to the creation of a new row whose “beginning” is exempt from *shich’chah*. This differs from *Gra*’s interpretation of this same phrase in the previous Gemara (which accords with the printed version of the text there) as meaning that the sheaves combine to form a row of three. See *Rash Sirilio* and *Gra* for their respective modifications of the text, according to which the translation of נִידוּן בְּשׂוֹרָה is consistent throughout.]

12. Translation follows *Rash Sirilio* and *Sdeh Yehoshua*. [Note that the word חֲשִׁיבָה is absent in the Vilna and Amsterdam editions.]

[See Variant A.]

13. *Tosefta* 3:7.

TEXTUAL AND INTERPRETIVE VARIANTS

A. We have mentioned on the previous *amud* (53b Variant A) that according to *Rash*’s interpretation of the Gemara there, pausing during the harvesting process is considered an interruption that renders the remaining sheaves (if there are at least three of them) an independent row. *Rash Sirilio* (to 44a ד”ה מאן דאמר) explains that the precise definition

of what constitutes “pausing” depends on the discussion of the Gemara here: Any delay that would qualify as an interruption of one’s reaping (e.g. going home and returning the next day) is likewise deemed an interruption with regard to the collection of sheaves. Cf. *Beurim of R’ Moshe Feinstein* §124 and *Derech Emunah* 5:45.

לְעִיר [לְהוֹלִיכוֹ] (וְהוֹלִיכוֹ) — If ONE TOOK hold of A SHEAF in order TO TAKE IT TO THE CITY, וְנָתַנוּ עַל גְּבֵי חֲבִירָו — AND HE PLACED IT ON TOP OF ANOTHER [SHEAF], וְשָׁכַח אֶת שְׂנִיָּהוֹן — AND HE subsequently FORGOT BOTH OF THEM, הִתְחַתּוֹן שְׂכָהָ — THE LOWER ONE IS *SHICH'CHAH*,^[14] וְהֶעֱלִיֹן אִינוֹ שְׂכָהָ — AND THE UPPER ONE IS NOT *SHICH'CHAH*.^[15] רַבִּי שִׁמְעוֹן אוֹמֵר — R' SHIMON SAYS: שְׂנִיָּהוֹן אֵינָן שְׂכָהָ — BOTH OF THEM ARE NOT *SHICH'CHAH*. הִתְחַתּוֹן מִפְּנֵי שֶׁהוּא מְכֻסָּה — THE LOWER ONE is not *shich'chah* BECAUSE IT IS COVERED by the top one,^[16] וְהֶעֱלִיֹן מִפְּנֵי שֶׁזָּכַח בּוֹ — AND THE UPPER ONE is not *shich'chah* BECAUSE HE HAS already ACQUIRED IT.^[17]

The Gemara qualifies the dispute:
 רַבִּי זְעִירָא אוֹמֵר — R' Z'eira says: The Tanna Kamma in fact agrees with R' Shimon that the lower sheaf is exempt from *shich'chah* [אֶת הֶעֱלִיֹן] — in a case where [the harvester] remembers the upper [sheaf] and forgets the lower sheaf alone — for then it is clear that the lower sheaf was forgotten solely as a result of its being covered by the upper sheaf. They disagree only in a case where the harvester forgets *both* sheaves, so that the forgetting of the lower sheaf cannot be attributed to the fact that it was covered.^[18]

NOTES

14. In accordance with the opinion of the Sages in the Mishnah below, Halachah 7 [57a], that even “hidden” (i.e. covered) produce is subject to *shich'chah* (*Rash Sirilio*, based on *Bavli Sotah* 45b; see, however, note 18).

15. For [as taught in our Mishnah,] once a farmer takes hold of a sheaf with the intention of removing it from the field, he has “acquired” it in the sense that it is no longer subject to *shich'chah* (*Gra*; see 51b notes 4 and 13).

16. R' Shimon concurs with the view of R' Yehudah (in the Mishnah below, Halachah 7) that “hidden” produce is *not* subject to *shich'chah* (*Rash Sirilio*, based on *Bavli Sotah* *ibid.*).

17. See note 15.

18. R' Z'eira is asserting that although the Tanna Kamma does not accept R' Shimon's automatic exemption with regard to “hidden”

produce, he agrees that a sheaf which was overlooked on account of external factors, rather than on account of simple forgetfulness, is indeed exempt from *shich'chah* (see Mishnah above, 5:6 [47b], with note 21). Thus, in a case where the visible upper sheaf was *not* forgotten, the Tanna Kamma admits that the lower sheaf is exempt from *shich'chah*, for then we presume that the lower sheaf was forgotten solely as a result of the fact that it was hidden from view. It is only in a case where both the lower *and* upper sheaves were forgotten that the Tanna Kamma declares the lower sheaf *shich'chah*, because when that happens it is evident that the lower sheaf would have been forgotten even if it had been visible, and hence the harvester's forgetting of it cannot be blamed on the fact that it was covered (*Kesef Mishneh's* understanding of *Rambam, Hil. Matnos Aniyim* 5:4, as explained by *Meichal HaMayim* ad loc., *Toldos Yitzchak*, and *Beurim of R' Moshe Feinstein* §125; see, similarly, *Radvaz* and *Mahari Korkos* [second explanation] there, and *Rash Sirilio*; see also *Mareh HaPanim*).

The Gemara correlates R' Zeira's statement with that of another Amora in a different context:

אֲתֵיָא דְרַבִּי זְעִירָא וְעִירָא כְּרַבִּי יוֹנָה — This statement of R' Zeira accords with R' Yonah. דְרַבִּי יוֹנָה אָמַר — For R' Yonah said in regard to the Mishnah's ruling (above, 5:6) that a sheaf that was obscured by a covering of straw is not subject to *shich'chah*.^[1] בּוֹזֵר אֶת הַקֶּשֶׁן — The Mishnah's exemption is applicable only where [the harvester] remembers the straw itself, in that case we can attribute his forgetting of the underlying sheaf to the fact that it was concealed from view. If, however, he overlooked the straw as well, the sheaf beneath it does become *shich'chah*, because it is then evident that he would have forgotten the sheaf even if it had not been covered.^[2] כַּאֲשֶׁר רַבִּי זְעִירָא אָמַר — Similarly, R' Zeira says here regarding the case of a sheaf covered by another

sheaf בּוֹזֵר אֶת הָעֵלְיוֹן — that the lower sheaf is exempt from *shich'chah* according to the Tanna Kamma only in an instance where [the harvester] remembers the upper [sheaf] and forgets the lower sheaf alone, but not in an instance where he forgets both the lower and upper sheaves.^[3]

Our Mishnah stated that sheaves that were arranged in rows are rendered *shich'chah* when they are bypassed in the collection process. The Gemara cites a Baraisa^[4] that discusses the law regarding sheaves that were not arranged in rows:

שָׂדֵה שְׁעוּמְרִיָּה מְעֻרְבָבִין — In the case of A FIELD WHOSE SHEAVES WERE IN DISARRAY,^[5] וְשָׂדֵה אֶחָד מֵהֶן — AND [THE FARMER] FORGOT ONE OF THEM, אֵינוֹ אֵינָהּ עַד שִׁטּוֹל אֶת סְבִיבוֹתָיו — IT IS NOT *SHICH'CHAH* UNTIL HE REMOVES THE SURROUNDING SHEAVES.^[6]

Halachah 4

Mishnah שְׁנֵי עוּמְרֵינֵי שְׂבָחָה — Two forgotten sheaves are *shich'chah*, וּשְׁלֹשָׁה אֵינָן שְׂבָחָה — but three are not *shich'chah*.^[7] שְׁנֵי צִבּוּרֵי זֵיתִים וְהַחֲרוּבִים שְׂבָחָה — Two forgotten heaps of olives or carobs are *shich'chah*, וּשְׁלֹשָׁה אֵינָן שְׂבָחָה — but three are not *shich'chah*.^[8] שְׁנֵי הוֹצִינֵי פֶשֶׁתֵּן שְׂבָחָה — Two forgotten stalks of flax^[9] are *shich'chah*, וּשְׁלֹשָׁה אֵינָן שְׂבָחָה — but three are not *shich'chah*. שְׁנֵי גְרָגְרִים פָּרֵט — Two

NOTES

1. See 47b note 21.

2. *Aruch HaShulchan HeAsid* 9:10.

3. [See Variant A for alternative explanations of this Gemara.]

4. *Tosefta* 3:8.

5. They were set down haphazardly, rather than in rows.

6. Since the collection process in this field does not follow any defined route, the Torah's injunction "not to return" [בל תשוב] is inapplicable until all the surrounding sheaves have been removed (*Mahara Fulda; Minchas Bikkurim* to *Tosefta* *ibid.*; see *Derech Emunah* 5:48; cf. *Rash Sirilio*).

7. If the farmer forgot two consecutive sheaves, they are both rendered *shich'chah*. If, however, he forgot a set of three or more consecutive sheaves, they do not become *shich'chah*, and remain the property of the owner.

Tosefta 3:10, recorded by *Rambam, Hil. Matnos Aniym* 5:14, states that in order for a set of three sheaves to be excluded from *shich'chah*, the sheaves must be distinct and separate from one another. *Derech Emunah* 5:94 is uncertain as to whether this means that the three sheaves must not be touching one another, or whether it means only that they must be discernible as three distinct sheaves, to the exclusion of where the sheaves are lying one on top of the other or standing so close to one another that they appear as one large sheaf. [*Beurim of R' Moshe*

Feinstein §127 (based on his suggested interpretation of the Gemara below; see note 14) concurs with the latter interpretation.]

8. Olives and carobs were piled into heaps as they were harvested, and these heaps were later consolidated into one large pile. This gathering of the individual heaps to the large pile parallels the gathering of the bound sheaves of grain to the great stack, and hence, a heap that was overlooked in this process is rendered *shich'chah* (*Derech Emunah* 5:100; see *Mishnah* above, 5:7 [48b]). Our *Mishnah* teaches that, as in the case of sheaves, if the farmer forgot one or two consecutive olive or carob heaps, they are rendered *shich'chah*. If, however, he forgot three or more consecutive heaps, they do not become *shich'chah*.

Note: The law of *shich'chah* applies to the produce of trees [that meet the five criteria set forth in the *Mishnah* above, 1:4 (12a), with respect to *peah*] (*Tosefta* 2:13; *Bavli Chullin* 131a), and this is reflected in the *Mishnah's* example of olives and carobs. However, as with *peah*, there is disagreement among the Rishonim as to whether the *shich'chah* that applies to produce other than grain, olives and grapes (which are mentioned by the Torah either explicitly or by allusion) is of Biblical origin or merely Rabbinic in nature. See *Derech Emunah* 1:38 and 2:6-7, and 12a note 7.

9. *Mahara Fulda; Shenos Eliyahu, Peirush HaAruch*; see *Rash* and *Rosh*. [Alternatively, the reference is to *bundles* of cut flax (*Rambam*

TEXTUAL AND INTERPRETIVE VARIANTS

A. In our elucidation of the foregoing passage, we have explained that R' Zeira is coming to qualify the position of the Tanna Kamma, by stating that the Tanna Kamma agrees with R' Shimon in a case where the upper sheaf was remembered. This approach follows the view of *Rambam (Hil. Matnos Aniym* 5:4) as interpreted by *Kesef Mishneh, Radvaz, Mahari Korkos* [second explanation] and *Rash Sirilio*.

Raavad (ad loc.), however, asserts that R' Zeira is actually defining the position of R' Shimon. That is, R' Zeira limits R' Shimon's exemption regarding the lower sheaf to cases where the upper sheaf was remembered. The reason for this limitation is that a sheaf covered by another sheaf generally cannot be considered truly "hidden," since both are of the same kind. [This coincides with the view of Rav regarding *eglah arufah*, cited earlier on 54a; see note 3 there. Cf. *Bavli Sotah* 45b.] Only when the upper sheaf is remembered, so that it is entirely outside the realm of *shich'chah* law, can we say that the lower sheaf is covered by something of "another kind" and thus exempt from *shich'chah*. [For analysis of how *Raavad* understands the Gemara's subsequent correlation of R' Zeira's teaching with that of R' Yonah, see *Derech Emunah, Beur HaHalachah* p. 212.]

Yet another approach is suggested by *Derech Emunah, Beur HaHalachah* *ibid.* (see also *Mahari Korkos'* first explanation of *Rambam* loc.

cit., Pe'as HaShulchan 9:9, and *Aruch HaShulchan HeAsid* 9:15). He, too, understands R' Zeira to be qualifying the position of R' Shimon, but explains R' Shimon's reasoning differently than the other commentators do. To wit, R' Shimon exempts the lower sheaf not because he holds that hidden produce is excluded from the purview of *shich'chah* (as was explained in 54a note 16), but rather because he considers the forgetting of the lower sheaf to have been caused by the external factor of its being obscured. R' Zeira is explaining that this exemption applies only if the harvester remembered the upper sheaf, thereby allowing us to attribute his forgetting of the lower sheaf to the fact that it was concealed. But if he forgot the upper sheaf as well, it is no longer possible to say that the lower sheaf was forgotten solely because it was covered, and it therefore does become *shich'chah* even according to R' Shimon.

An apparent difficulty with these latter two approaches is that they perceive the disagreement between the Tanna Kamma and R' Shimon as pertaining specifically to a case where the upper sheaf was remembered. The Baraisa, however, seems to explicitly be discussing a case where *both* sheaves were forgotten! (see *Rash Sirilio*). For possible resolutions of this problem, see *Mahara Fulda, Gra* and *Pnei Moshe*.

fallen grapes are *peret*, וּשְׁלִישָׁה אֵינָן פֶּרֶט — but three are not *peret*.^[10] שְׁתֵּי שִׁבְלִים לֶקֶט — Two fallen ears of grain are *leket*, וּשְׁלֹשׁ אֵינָן לֶקֶט — but three are not *leket*.^[11] בְּדַבְרֵי בֵּית הַלֵּל — These rulings are in accordance with the opinion of Beis Hillel. וְעַל כּוֹלָם בֵּית שְׁמַאי אָמְרִים — But concerning all of them Beis Shammai say: שְׁלֹשָׁה לַעֲנִיִּים — Three belong to the poor, וְאַרְבָּעָה לְבַעַל הַבַּיִת — and four belong to the owner.^[12]

Gemara The Gemara presents an inquiry regarding the Mishnah's first ruling that three consecutive sheaves that were forgotten do not become *shich'chah*:

רַבִּי בּוֹן בְּרַ חִיָּיא בְּשֵׁם רַבִּי יוֹחָנָן — R' Bun bar Chiya related the following inquiry in the name of R' Yochanan: עֲשָׂאֵן כְּמִין גַּם — If [one] had arranged [three sheaves] perpendicularly in the form of the Greek letter *gamma*,^[13] and these sheaves were all forgotten, what is the law? Does the Mishnah's exemption apply only when the three sheaves are in a straight row, or does it apply even when the sheaves are arranged in a right-angle formation?^[14]

The inquiry is left unresolved.

The Mishnah stated in its second ruling:

שְׁנֵי צִיבּוּרֵי זֵיתִים וְכוּ' — TWO forgotten HEAPS OF OLIVES etc. (or carobs are *shich'chah*.)

The Gemara notes:

לֹא אָמַר אֶלָּא צִיבּוּרֵינָן — When discussing the application of *shich'chah* with regard to olives, [the Mishnah] speaks only of forgotten heaps. הָא זֵיתִים לֹא — This implies that individual olives that were forgotten are not rendered *shich'chah*.^[15]

The Gemara explains why this is so:

מָה בֵּין הַצִּיבּוּרִין מָה בֵּין הַזֵּיתִים — What difference is there between olive heaps and individual olives? צִיבּוּרִין גָּמֵר מְלֵאכָה — Olive heaps are fully processed for transport to the main pile, זֵיתִים אֵינָן גָּמֵר מְלֵאכָה — whereas individual olives are not fully processed for transport to the main pile.^[16]

Our Mishnah has discussed the *shich'chah* of olive heaps that were forgotten during the collection process. The Gemara now presents a law pertaining to the *shich'chah* of attached olives that were forgotten when the trees were harvested:^[17]

רַבִּי הוֹשַׁיָּא אָמַר רַבִּי הוֹשַׁיָּא — R' Hoshaya said: אֲמַר רַבִּי חִיָּיא הַגָּדוֹל כָּל זֵית — I was once treading^[18] olives with R' Chiya the Great, אָמַר לִי — and he told me the following law: כָּל זֵית — Even after you have finished plucking an olive tree, any remaining olive that you can stretch out your hand and take from the harvested tree אֵינוֹ שְׁכָחָה — is not *shich'chah*.^[19]

An opposing opinion:

מִכִּיּוֹן שֶׁעָבַר עָלָיו וְשָׁחָה — R' Yochanan said: אֲמַר רַבִּי יוֹחָנָן — As soon as one has passed beyond [the tree] and forgotten [its remaining produce], הָרִי הוּא שְׁכָחָה — it is rendered *shich'chah*.^[20]

NOTES

Commentary, Kafich ed.; see Rashash.]

The Mishnah is referring to flax that [was planted for its edible seeds, and has in fact] produced seed. Otherwise, like any other nonfood plant it would not be subject to the law of *shich'chah* (*Rosh*; see Mishnah above, 1:4 [12a]).

10. Grapes that drop from a cluster that is being cut off the vine are known as *peret*, and belong to the poor (see General Introduction and Mishnah below, 7:3 [61a]). The Mishnah teaches that if three grapes fall simultaneously they are not classified as *peret*, and may be kept by the owner (*Rambam, Hil. Matnos Aniyim* 4:15).

[The Mishnah's inclusion of this law concerning *peret* — as well as the law that follows, which concerns *leket* — among the laws of *shich'chah* is evidently due to the common upper limit of three.]

11. If one or two ears fell from within the harvester's sickle or from within his hand (see Mishnah above, 4:7 [40b]), they are *leket* and belong to the poor; if three ears fell simultaneously, they are not *leket* and belong to the owner (*Rambam, Hil. Matnos Aniyim* 4:1).

12. Beis Shammai maintain that for *shich'chah*, *peret*, and *leket*, a set of three is still awarded to the poor, and only a set of four or more is retained by the owner. The reasoning behind the views of Beis Shammai and Beis Hillel will be explained in the Gemara.

13. [*Gamma* is the third letter of the Greek alphabet, whose uppercase form resembles an inverted "L." It is commonly used by the Gemara to denote the shape of a right angle.]

14. *Mahara Fulda*; see *Maharam Chaviv*.

Beurim of R' Moshe Feinstein §127 understands R' Yochanan to be issuing a definitive statement, rather than an inquiry. R' Yochanan is asserting that although the three-sheaf exemption does not apply when the forgotten sheaves are situated in close proximity to one another (as taught in *Tosefta* 3:10, cited above, note 7), the exemption is applicable

when the sheaves are arranged in a *gamma*-shaped formation. For then, even if the sheaves are touching one another, they are readily discernible as three separate entities.

[See Variant B for *Gra's* approach.]

15. The Mishnah connotes that *shich'chah* applies only when the farmer forgets to collect one or two heaps of olives while he is gathering the separate heaps to the main pile (see note 8). If, however, he forgets to collect one or two *individual* olives (e.g. when forming the intermediate heaps), they do not become *shich'chah*.

16. We have learned above, 5:7 [48b-49a], that *shich'chah* applies only to produce that is already in its final form and ready for transport to the main pile or the threshing floor (see our notes there). In the case of grain, the individual ears are tied into sheaves before being transported to the main pile or the threshing floor, so *shich'chah* applies only to forgotten sheaves (see *Rambam, Hil. Matnos Aniyim* 5:9 with *Derech Emunah* §61). Similarly, in the case of olives, which are assembled into heaps prior to their removal to the main pile, *shich'chah* applies only to forgotten heaps. There is no *shich'chah* for individual olives that were forgotten, since they are not yet fully processed for transport to the main pile (see *Mahara Fulda* and *Derech Emunah* 5:101).

17. Just as the *shich'chah* for grain applies not only to sheaves that were forgotten during the gathering process but also to standing grain that was forgotten during the reaping (see 37a notes 14 and 19), so does the *shich'chah* for fruits [olives, carobs, etc.] apply to both detached produce forgotten during the gathering process as well as attached produce forgotten during the harvesting of the trees.

18. See above, 43b note 7.

19. See *ibid.* note 8.

20. See *ibid.* note 9. [This dispute between R' Hoshaya and R' Yochanan is discussed further in the Gemara below, 67b.]

TEXTUAL AND INTERPRETIVE VARIANTS

B. *Gra* asserts that R' Yochanan's statement is misplaced in our text, and actually belongs at the end of the previous Halachah, following the Gemara's citation of the Baraisa regarding a field whose sheaves were in disarray. According to *Gra* (as understood by *Pe'as HaShulchan* 9:17 and *Derech Emunah* 5:48; see also *Tziyun HaHalachah* §91), R' Yochanan is explaining that a sheaf forgotten in a disarrayed field is

rendered *shich'chah* as soon as two sheaves on neighboring sides [e.g. one to its north and one to its east] are removed; the Baraisa does not require that all the surrounding sheaves be removed in order for *shich'chah* to apply.

See *Sefer Nir* and *Beur of R' Chaim Kanievski* for yet another interpretation of this Gemara.

The Mishnah stated:

שְׁנֵי גִרְגָרִים וְכוּ' — TWO FALLEN GRAPES etc. (are *peret*, but three are not *peret*).

The Gemara cites a ruling that will be contrasted with the ruling of our Mishnah:

רַבִּי לֵעֲזֹר בְּשֵׁם רַבִּי חִיָּיא רַבָּה — R' Lazar said in the name of R' Chiya the Great: חֲצִי אֶשְׁכּוֹל פָּרַט — A half-cluster that broke off from the bunch is *peret*.

An alternative version of this ruling:

חֲצִי אֶשְׁכּוֹל אוֹ — R' Chiya taught a Baraisa:^[21] חֲצִי אֶשְׁכּוֹל שָׁלֵם — A HALF-CLUSTER that broke off from the bunch, OR AN ENTIRE CLUSTER that fell apart and all its grapes became detached,^[22] פָּרַט — IS *PERET*.

The Gemara asks:

וְהֵיכֵן — But the Mishnah taught: שְׁנֵי גִרְגָרִים פָּרַט — TWO fallen GRAPES ARE *PERET*, but three are not *peret*. How, then, can R' Chiya say that *peret* applies to a half-cluster (and possibly even a disintegrated whole cluster), which comprises many more than three grapes?

The Gemara answers:

רַבִּי אִמִּי בְּשֵׁם רַבִּי חִיָּיא — R' Imi said in the name of R' Chiya:^[23] The Mishnah is referring to the standard case of grapes that were dislodged from a cluster while it was being cut off the vine. There

the law is that one or two fallen grapes are *peret*, but three or more are not. בְּקוֹצֵר וּמְנִיחַ תַּחַת הַגֶּפֶן — The ruling of R' Chiya, however, pertains to one who severed the clusters and placed them under the vine, and when collecting them discovered that some produce had separated from the clusters. R' Chiya teaches that in this case, where the separation occurred after the clusters had already been placed on the ground, the law of *peret* is not limited to one or two grapes, and even a half-cluster (or the loose grapes of a whole cluster) must be left for the poor.^[24]

Returning to discuss the Mishnah's first ruling that three forgotten sheaves are not *shich'chah*, the Gemara inquires:^[25] הֲיֵי עֲשׂוּיִין בְּמִין סִינְפוֹן — If [three sheaves] were arranged in the form of a branch protruding from a tree,^[26] do they combine with one another in order to constitute a "row" that is exempt from *shich'chah*?

The Gemara answers:

מְנַחֵם בְּשֵׁם רַבִּי יוֹנָתָן — Menachem said in the name of R' Yonasan: They indeed combine with one another to form a *shich'chah*-exempt row, וְהוּא שְׂוִיָּה חוֹתֵכֵן בְּשֻׁוֹה — provided that [the middle sheaf] evenly bisects [the others] — that is, it must lie at an equal distance from the two sheaves adjacent to it.^[27]

NOTES

21. This version of R' Chiya's view was presented by an anonymous Amora, who disputed the version of R' Lazar cited above. Alternatively, the Gemara is now recording the version that was universally accepted by the students in the academy (*Kesef Mishneh, Hil. Matnos Aniyim* 4:16).

22. *Rambam, Hil. Matnos Aniyim* 4:16, as explained by *Kesef Mishneh, Mahari Korkos* (third approach) and *Tzofnas Pane'ach*.

23. [The Rome ms. reads: *in the name of R' Yochanan*; the Amsterdam and Vilna editions omit this attribution entirely.]

24. *Mahara Fulda* and *Maharam Chaviv*, from *Rambam, Hil. Matnos Aniyim* 5:15-16.

The Gemara does not explain why the law is so much more stringent with regard to grapes that became separated after the clusters were placed on the ground. *Radvaz* and *Kiryas Sefer* (to *Rambam* *ibid.*) suggest that it is a penalty imposed by the Rabbis to discourage people from dropping the harvested clusters on the ground and obscuring the *peret* that has fallen during the cutting. [A similar penalty is recorded in the Mishnah above, 5:1 (41b), regarding one who piles his grain on top of uncollected *leket*.]

Alternatively, *Tzofnas Pane'ach* (to *Rambam* *ibid.*) explains that when one places the clusters on the ground as he harvests them, the harvesting process is not considered complete until the clusters have been collected. Accordingly, the law of *peret* can be applicable both at the time of the cutting as well as when the clusters are collected from the ground (cf. 61a Variant A). [It is thus similar to the laws of *shich'chah*

and *leket*, which are relevant to both standing grain and cut grain; see *Rambam* cited above, 43a Variant A.] There is a difference, however, between these two forms of *peret*, in that the latter form applies even to three or more grapes, since the cluster from which they became separated had initially fallen to the ground as a single unit. [See further *Birkas Kohan* §13.]

For alternative understandings of this passage, see *Rash Sirilio, Aruch HaShulchan HeAsid* 13:3 and *Derech Emunah* 4:94 with *Beur HaHalachah*. *Gra's* version of the text will be discussed in Variant C below.

25. Our elucidation of this section will follow *Mahara Fulda*; see also *Pnei Moshe*.

26. The second of the three forgotten sheaves was not aligned with the others, but situated a bit to the side of the row in a T-shaped formation [thus giving it the appearance of a branch (סִינְפוֹן) that protrudes from the side of a tree] (*Mahara Fulda*).

27. *Mahara Fulda*. [When the middle sheaf is situated on the halfway line between the sheaves that precede and follow it, it is evident that the middle sheaf actually belongs in the row between the two sheaves, but was accidentally positioned to the side. If, however, the out-of-line sheaf is closer to one of the adjacent sheaves than it is to the other, it does not give the appearance of being part of the row, and therefore does not combine with the other two sheaves to qualify for the three-sheaf exemption.]

For other interpretations of this Gemara, see Variant C.

TEXTUAL AND INTERPRETIVE VARIANTS

C. According to *Rash Sirilio*, the foregoing passage relates to the preceding topic regarding *peret*. The Gemara is explaining that if three fallen grapes were found and it is evident that they had all been cut off from the same part of a cluster, but it is unknown whether all three fell at the same time, we determine their status by examining their stems: If the stems are all the same length, it can be assumed that the three grapes were cut at the same time, and they are therefore exempt from *peret*. If the stems are not the same length, we presume that the grapes fell separately, and they must therefore be left for the poor. See further *Derech Emunah* 4:90.

Gra presents an emended version of the text, according to which this Gemara is actually the continuation of R' Imi's attempt to resolve R' Chiya's assertion that even a half-cluster [and possibly even an entire cluster] can become *peret*. R' Imi states: תִּמְךָ בְּבוֹצֵר גִּרְגָרִים בְּרֵם הִכָּא בְּעֲשׂוּיִין

— There, in our Mishnah, we are dealing with one who is cutting individual grapes from a grape cluster. In such a case each individual grape is considered separately, and thus if three grapes should fall simultaneously they are not rendered *peret*. Here, however, with respect to the ruling of R' Chiya, we are dealing with one who is cutting the clusters in sections (e.g. he cuts off half a cluster at a time). In this instance, each section is viewed as a single unit that is capable of becoming *peret*. [And likewise, if one is harvesting the clusters in their entirety, the law of *peret* will apply even to whole clusters that fall and disintegrate (see *Derech Emunah* 4:91 with *Beur HaHalachah*).] Finally, the Gemara comments וְהוּא שְׂוִיָּה חוֹתֵכֵן בְּשֻׁוֹה — that this stringency applies only when all of the sections are cut to the same size. If, however, some of the sections were cut larger than the others, these larger sections would not become *peret* if they were to fall in the course of the harvest.

The Mishnah stated in its concluding segment:

[ועל כולם בית שמאי וכו' — These rulings (that *shich'chah*, *peret*, and *leket* apply to two units but not to three) are in accordance with the opinion of Beis Hillel. BUT CONCERNING ALL OF THEM BEIS SHAMMAI etc. (say: Three belong to the poor, and four belong to the owner).]

The Gemara explains the reasoning that underlies this dispute:

אמר רבי אבין — R' Avin said: טעמייהו דבית שמאי,, לגר ליתום — **Beis Shammai's source** is the verse stated in the passage of *shich'chah*:^[1] *You shall not return to take it; for the proselyte, for the orphan, and for the widow it shall be.* The verse connotes that the law of *shich'chah* applies even if enough sheaves were forgotten that they could be divided among three people — one sheaf for the proselyte, one for the orphan and one for the widow.^[2] Only if four or more sheaves were forgotten do they remain the owner's. — טעמייהו דבית הלל,, לעני ולגר — **And Beis Hillel's source** is the verse stated with respect to *leket* and *peret*:^[3] *for the poor person and the proselyte shall you leave them.* This verse mentions just

two people, which implies that the laws of *leket* and *peret* are applicable when there are two fallen stalks or grapes (one for the poor person and one for the proselyte), but not when there are three or more.^[4]

An alternative explanation of the dispute:

אמר רבי מנא — R' Mana said: שניהן מקרא אחד דרשו — **Both of them** [Beis Shammai and Beis Hillel] **expounded this one verse** stated in the passage of *shich'chah* as the source for their respective opinions: *לגר ליתום ולאלמנה יהיה* — **for the proselyte, for the orphan, and for the widow it shall be.** — **Beis Shammai say** that the verse means: when there is a set of three forgotten sheaves — one for the proselyte, one for the orphan and one for the widow — it shall be **for the poor**.^[5] **ובית הלל אומרים** — **But Beis Hillel say** that the verse's intent is exactly the opposite — that when there is a set of three forgotten sheaves, it shall be **for the owner**, and only when there are just one or two sheaves must they be left for the poor.^[6]

Halachah 5

Misfnah This Mishnah teaches that there is a limit on the size of a single sheaf beyond which it cannot be rendered *shich'chah*:

העומר שיש בו סאתים ושכחו — If a sheaf contains two *se'ah*^[7] and [the farmer] forgot it, אינו שכחה — it is not *shich'chah*.^[8]

שני עמרים ובהן סאתים — If one forgot two sheaves that in combination with each other contain two *se'ah*, רבן גמליאל אומר — **Rabban Gamliel says:** לבעל הבית — They belong to the owner. והקמחים אומרים — **But the Sages say:** לעניים — They belong to the poor.^[9]

Rabban Gamliel, alluding to the law stated in the previous Mishnah that two forgotten sheaves are *shich'chah* but three are not *shich'chah*, addresses a rhetorical question to the Sages:^[10]

וכי מרוב העמרים יופי כח של בעל הבית או הורע כח של בעל הבית — **From an abundance of sheaves, is the owner's strength enhanced or is the owner's strength diminished?** I.e. does the multiplicity of forgotten sheaves increase the owner's right to them or decrease it? — אמרו לו יופי כח — **[The Sages] said to him: His strength is enhanced.**^[11] ואמר להן — **[Rabban Gamliel] said to them:** Since you agree that the multiplicity of

NOTES

1. *Deuteronomy* 24:19.

2. *Mahara Fulda*; *Rash Sirilio*; *Shenos Eliyahu*.

[The law regarding *peret* and *leket* is derived by comparison to law of *shich'chah*: Just as we have established with respect to *shich'chah* that three forgotten sheaves must be left for the poor but four may be kept by the owner, so is it the case with respect to *peret* and *leket*, that up to three units are left for the poor but not four or more (*Rash Sirilio*).]

3. *Leviticus* 19:10.

4. *Rambam, Hil. Matnos Aniyim* 5:16; *Mahara Fulda, Rash Sirilio, Shenos Eliyahu*.

[According to Beis Hillel, the law regarding *shich'chah* is derived from the law regarding *leket* and *peret* (*Derech Emunah* 5:107).]

Beis Hillel maintain that although the verse pertaining to *shich'chah* enumerates three people (the proselyte, the orphan and the widow), we see that the corresponding verse regarding *leket* and *peret* incorporates two of them — viz. the orphan and the widow — in the single expression *לעני*, for the poor person. This indicates that a set of two units (one for the poor person and one for the proselyte) represents the upper limit for that which must be left for the poor. Beis Shammai, on the other hand, contend that the verse regarding *shich'chah* states its expanded list for the very purpose of teaching that the maximum number of recipients is three rather than two (*Tos. Yom Tov*; cf. *Rash Sirilio* and *Mishnah Rishonah*).

5. This accords with the simple meaning of the verse.

6. Beis Hillel expound the term *יהיה* *it shall be*, as connoting *יהא*, *it shall remain in its [original] state* (see *Bavli, Arachin* 5a and *Niddah* 54b).

The verse thus means that when there are three forgotten sheaves (corresponding to the three people enumerated in the verse), the sheaves remain in the possession of the owner (*Sdeh Yehoshua*; see also *Mahara Fulda* and *Rash Sirilio*).

See Variant A for *Gra's* alternative version of the text.

7. I.e. it contains two *se'ah* of grain. The stalks and straw are not included in this measure (*Tiferes Yisrael* §27; see *Rambam Commentary* to the end of this Mishnah; cf. *Derech Emunah* 5:114).

Two *se'ah* represents a measure of volume equal to the bulk of 288 eggs (approximately 7.5 gallons, or one cubic foot).

[*Rash Sirilio*, however, maintains that the Mishnah is not referring to a sheaf that contains a volume of two *se'ah*, but rather to a sheaf whose weight is equivalent to that of two *se'ah*. As stated in *Yerushalmi Terumos* 10:5, this corresponds to the weight of 9,600 *zuz* (approximately 90 pounds). For further discussion, see *Tos. Yom Tov* with *Tos. Chadashim* and *Chidushei Mahariach*.]

8. The Gemara will explain the reason for this exemption.

9. Rabban Gamliel maintains that although neither sheaf is entitled on its own to the "two *se'ah*" exemption, since the two forgotten sheaves together contain a total of two *se'ah*, they do not become *shich'chah*. The Sages, however, disagree.

10. *Rambam Commentary, Kafich ed.*

11. [Since a set of three or more forgotten sheaves is not *shich'chah*, it is evident that the increase of forgotten sheaves increases the owner's rights.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. *Gra* emends the text to read: בית שמאי אומרים יתום ואלמנה תרי — **Beis Shammai say that the orphan and the widow** mentioned in the verse count as two separate recipients, which, together with the proselyte, constitute a total of three; ובית הלל אומרים חד — **but Beis Hillel say that the orphan and the widow count as only one recipient, bringing the total**

number (including the proselyte) to two. That is, Beis Hillel maintain that the connective letter ו (*and*) in the expression *ולאלמנה* (*for the orphan and the widow*) serves to indicate that these two are reckoned as but a single recipient. See also *Sifrei to Deuteronomy* 24:19 with *Malbim*.

forgotten sheaves reduces their susceptibility to becoming *shich'chah*, the following argument can be made: מיה אם בזמן — שהוא עומר אחד ובו סאתים ושכחו אינו שכהה — **If when there is only one sheaf and it contains two *se'ah* and he forgot it, it is not *shich'chah*,** שני עומרים ובהן סאתים אינו דין שלא יהו שכהה — **then when there are two sheaves and they together contain two *se'ah*, should it not follow that they are not *shich'chah*?** — אמרו לו — [The Sages] said to him: אמרו לו — **[The Sages] said to him: אמרו לו —** — **can you say so for two sheaves, which are like bundles?**^[13]

The Mishnah now discusses the application of the two-*se'ah* limit with regard to the *shich'chah* of standing grain: קמה שיש בה סאתים ושכהה — **If standing grain contains two *se'ah*,**^[14] **and [the farmer] forgot to reap it, it is not *shich'chah*.**^[15]

אין בה סאתים אכל היא ראויה לעשות סאתים — **If [the forgotten standing grain] does not contain two *se'ah*, but it is capable of producing two *se'ah*,**^[16] **אפילו היא של טופח — even if it is currently as meager as a crop of grasspea,**^[17] **רואין אותה באילו היא ענבה של שעורים — we view it as if it were laden with normal-size barley kernels.**^[18]

Gemara The Gemara provides the source for the Mishnah's ruling that a sheaf containing two *se'ah* does not become *shich'chah*:

אמר רבי לעזר — **R' Lazar said: כתוב — It is written:**^[19] **כי, — When you reap your harvest in your field and you forget a sheaf in the field, you shall not return to "take" it. — עומר שאתה יכול לפשוט ירך ולטלו —** The Torah refers here to a sheaf that you can stretch out your hand and take all at once,^[20] **— [ויצא זה שאין אתה יכול לפשוט ירך ולטלו] — to the exclusion of a sheaf that you cannot stretch out your hand and take all at once, i.e. one that contains two *se'ah* or more, which the Rabbis assessed as being too much for a single person to lift and carry at one time.**^[21]

An alternative source:

— **There are some teachers of Baraisos who teach:**

— **ושכהה עמר,** — **When the verse states AND YOU FORGET A SHEAF, it indicates that *shich'chah* applies only when you forget a "sheaf," BUT NOT when you forget A "STACK"; and a two-*se'ah* sheaf, by virtue of its sheer size, is classified as a "stack."**^[22]

The Gemara asks:

— **היך עבידי — What practical difference does it make whether a two-*se'ah* sheaf is exempt from *shich'chah* because it cannot be lifted by a single person all at once, or because it is classified as a "stack"?**^[23]

The Gemara gives an answer that relates to the dispute between Beis Shammai and Beis Hillel in the Mishnah above, Halachah 2 [51a], regarding a forgotten sheaf that was situated near a prominent item such as a grain stack.^[24]

— **שכה עומר אחד בצידו — One difference is in a case where [the farmer] forgot a single ordinary sheaf that was located next to [a two-*se'ah* sheaf].**

NOTES

12. [The standard Mishnayot text reads: לא וכו' — אמרו לו: לא וכו'.]

13. The Sages responded that the reason a two-*se'ah* sheaf is exempt from *shich'chah* is that the Torah states with respect to the *shich'chah* obligation (*Deuteronomy* 24:19): *and you forget a sheaf in the field*. This implies that *shich'chah* pertains only to a forgotten "sheaf" but not to a forgotten "stack" — and a two-*se'ah* sheaf is classified as a "stack" due to its great size. [The Gemara will cite a Baraisa that presents this exposition.] Regarding the case at hand, however, each of the two forgotten sheaves contains less than two *se'ah*, and thus can only be viewed as independent bundles that must be assessed in terms of their intrinsic properties. Since neither sheaf on its own contains enough to be regarded as a stack (i.e. two *se'ah*), they are both eligible to be rendered *shich'chah* (see *Mahara Fulda* and *Pnei Moshe*).

14. That is, a patch of standing grain that will yield two *se'ah* of grain after threshing (see *Rambam Commentary*).

15. The Gemara (55b) will provide a Scriptural basis for equating the *shich'chah* of standing grain to the *shich'chah* of sheaves in this respect.

16. As will be explained below, the Mishnah is referring to a barley crop that was beaten by destructive winds, which stunted the growth of its kernels. In the case under consideration, the forgotten stalks do not actually contain two *se'ah* of grain, but would have been capable of yielding this amount had they not been damaged (*Rash*, *Rosh*).

17. Grasspea is a type of legume whose seeds are very thin (*Rash*).

18. Although the damaging winds caused the barley kernels to shrivel so that they did not attain their normal size but are as small as grasspea, we

assess how large these stunted kernels would have been had they developed normally. If when evaluated in this manner they amount to two *se'ah* of grain, the forgotten standing grain is not *shich'chah* (*Rash* and *Rosh*, cited by *Rash Sirilio*; see Variant B for the alternative approach of *Rambam Commentary* and *Ri ben Malki Tzedek*).

This allowance of basing the two-*se'ah* measurement on the potential yield rather than on the actual yield applies only to the assessment of forgotten standing grain, but does not extend to assessing the content of a forgotten sheaf. This is because standing grain can continue to grow [see *Bavli Taanis* 19a], so that its potential size is a factor to be considered. But when assessing the two-*se'ah* content of a forgotten sheaf, which is detached and no longer grows, no such allowance is made (*Rash Sirilio* to 55b ובלבד ד"ה; see *Hagahos HaGra* to *Tosefta* 3:12 §12, cited by *Tos. Anshei Shem* ר"ה רואין; see, however, *Shoshanim LeDavid* [cited by *Tos. Anshei Shem* *ibid.*], and *Mishnah Ritshonah*).

19. *Deuteronomy* 24:19.

20. *Rash*, *Mahara Fulda* and *Pnei Moshe*, from *Sifrei* to *Deuteronomy* ad loc.

21. *Ibid.*; see *Tos. Yom Tov* and other sources cited at the end of note 7 above.

22. See above, note 13.

Rosh notes that from the Sages' reply to Rabban Gamliel in our Mishnah, it is evident that they subscribe to this latter derivation recorded in the Baraisa.

23. *Rash*; *Mahara Fulda*.

24. See 51a notes 6-8.

TEXTUAL AND INTERPRETIVE VARIANTS

B. In contrast to *Rash* and *Rosh*, who explain the Mishnah as referring to a barley field whose produce resembles טופח, *Rambam Commentary* and *Ri ben Malki Tzedek* (see also *Mahara Fulda*) interpret the Mishnah literally to mean that a patch of טופח containing less than two *se'ah* was forgotten. The Mishnah rules that we calculate whether the forgotten portion of the crop would have yielded two *se'ah* if it were actually barley (whose kernels are significantly larger), and if so, it is exempt from *shich'chah*.

Rash rejects this interpretation on the basis of the Gemara below (55b), which mentions only that we assess underdeveloped ears of grain as if they were healthy and normally sized, but not that we view one species as if it were another species. *Rambam*, too, appears to have reconsidered, for he records in *Hil. Matnos Aniyyim* 5:19 only that "small ears are viewed as large ears and wind-beaten ears are viewed as if they were full." See *Derech Emunah*, *Beur HaHalachah* ad loc.; see also *Rash Sirilio* and *Pnei Moshe* to 55b ובלבד ד"ה.

עומר — If you classify [the two-*se'ah* sheaf] as a “sheaf” and say that its general exemption from *shich'chah* is only because it cannot be lifted (as R' Lazar asserts), דברי הכל — then according to all [both Beis Shammai and Beis Hillel] the ordinary sheaf that was forgotten at its side is subject to *shich'chah*, for it is not next to a “stack.” ואין תעבדינה גריש — If, however, you classify [the two-*se'ah* sheaf] as a “stack” (in accordance with the Baraisa's derivation), מהלוקת בית שמאי — then the disposition of the forgotten sheaf — which now has the status of “a sheaf near a stack” — is contingent upon the dispute between Beis Shammai and Beis Hillel in the Mishnah above, Halachah 2.^[1]

The Gemara presents an additional difference between the two derivations:

שכח שני עומרין בצדו — Another difference will be in a case where [the farmer] forgot two ordinary sheaves next to [a two-*se'ah* sheaf]. אין תעבדינה עומר — If you classify [the two-*se'ah* sheaf] as a “sheaf,” then the two adjacent sheaves can combine with it to form a row of three, מהלוקת בית שמאי ובית הלל — making the status of the two smaller sheaves contingent upon the dispute between Beis Shammai and Beis Hillel in the previous Mishnah (on 54b) as to whether a row of three sheaves is exempt from *shich'chah*.^[2] אין תעבדינה גריש — If, however, you classify [the two-*se'ah* sheaf] as a “stack,” אינו נידון בשורה — then this group of sheaves is not judged as a row of three even according to Beis Hillel, since we do not have a row of three sheaves, but rather two sheaves and a stack.^[3]

The Mishnah stated:

קמה שיש בה סאתים וכו' — If STANDING GRAIN CONTAINS TWO *SEAH* etc. (and he forgot [to reap] it, it is not *shich'chah*.)

The Gemara provides a Scriptural source for extending the “two *se'ah*” exemption to forgotten standing grain:^[4]

„בי תקצר קצירך בשדה ושכחה — אמר רבי יונה — For the verse states:^[5] *When you reap your harvest in your field and you forget a sheaf in the field.* In this verse, the expression “in the field” refers to the forgetting of standing grain;^[6] by juxtaposing it to the forgetting of “a sheaf,” the Torah teaches that the law for both is the same.^[7] עומר שיש בו סאתים ושכחו אינו שכחה — Just as when there is a sheaf that contains two *se'ah* and [one] forgets it, it is not rendered *shich'chah*,^[8] קמה שיש בה סאתים ושכחה אינה שכחה — so too, if there is standing grain that contains two *se'ah* and [one] forgets it, it is not rendered *shich'chah*.

The final segment of the Mishnah stated:

אפילו היא של טופח וכו' — If (the forgotten standing grain) does not contain two *se'ah*, but it is capable of producing two *se'ah*, EVEN IF IT IS currently as meager as a crop OF GRASSPEA etc., [we view it as if it were [laden with normal-size] barley kernels].

The Gemara qualifies the Mishnah's ruling:

ובלכר שיבלין — אמר רבי יוסי — But this is true only when the forgotten stalks have already developed ears of grain. היו רקות — Then the Mishnah rules that even if [the ears] are short,^[9] רואין אותן כאילו הן ארוכות — we view them as if they are long; שרופות — and even if they are wind-beaten, רואין אותן כאילו הן מליאות — we view them as if they are full.^[10] If, however, the forgotten stalks have not yet developed ears of grain, we do not concern ourselves about how much grain they could eventually produce, and they are subject to *shich'chah* regardless of their quantity.^[11]

Halachah 6

Mishnah The Mishnah discusses another exception to the law of *shich'chah*:

קמה מצלת את העומר ואת הקמה — Standing grain saves both an adjacent sheaf and adjacent

NOTES

1. According to Beis Shammai, this sheaf — like any sheaf that stands next to a stack of grain — is exempt from *shich'chah*. According to Beis Hillel, however, there is no such exemption. The sheaf is therefore subject to *shich'chah* even though it is situated next to a “stack.”

2. The forgotten sheaves are exempt from *shich'chah* according to Beis Hillel, who hold that *shich'chah* does not apply to a set of three or more sheaves. [The two-*se'ah* sheaf, as well, must ultimately be forgotten in order for this exemption to remain effective (see Gemara above, 53b, with notes 4-6 and Variant A, for details).] According to Beis Shammai, though, these sheaves do become *shich'chah*, for Beis Shammai hold that only a set of four or more is exempt.

[This practical consequence of classifying a two-*se'ah* sheaf as a “sheaf” rather than a “stack” can be illustrated within the context of Beis Shammai's view as well, in a case where one forgot three ordinary sheaves next to a two-*se'ah* sheaf. For if the latter is classified as a “sheaf,” Beis Shammai would hold that the first three combine with it to form a four-sheaf row that is exempt from *shich'chah* (see *Rash* and *Mishneh LaMelech, Hil. Matnos Aniyim* 5:17).]

3. [*Rash* notes that *Bavli* (*Bava Basra* 72b) argues with *Yerushalmi* on this point, and maintains that the reason a two-*se'ah* sheaf is exempted from *shich'chah* is that it is classified as a “stack,” but at the same time it has the status of a “sheaf” in that it can combine with two adjacent sheaves to create a *shich'chah*-exempt row. See *Mishneh LaMelech, Hil. Matnos Aniyim* 5:3 (end) and 5:17, and *Pe'as HaShulchan* 10:13, for further elaboration of *Bavli*'s position. Cf. *Rashbam*'s understanding of *Bavli*, as explained by *Beurim of R' Moshe Feinstein* §132.]

4. The two derivations presented above with regard to the exemption of a two-*se'ah* sheaf do not apply to standing grain, for produce that is attached to the ground cannot be lifted in any event, and moreover, it

bears no resemblance to a grain stack. Accordingly, a different source is needed for the Mishnah's ruling that forgotten standing grain containing two *se'ah* is exempt from *shich'chah* (*Shaarei Emunah*).

5. *Deuteronomy* 24:19.

6. As noted earlier (37a note 19 and 53a note 3), the *shich'chah* of standing grain is derived from the seemingly superfluous expression *בשדה, in the field*, which alludes to a form of *shich'chah* in one's field that applies to something other than a sheaf (see Gemara above, 4:4 [37a], and *Sifrei* cited by *Rash* here and to Mishnah 4:6).

7. [This analogy between the *shich'chah* of standing grain and the *shich'chah* of sheaves was also cited in the Gemara above, 4:4 (ibid.), for a different purpose (see *Rash, Rosh* and *Rash Sirilio*.)]

8. As derived by the Gemara above.

9. [The word *רקות* sometimes means *short* rather than *thin*; see Mishnah, *Negaim* 10:1.]

10. I.e. with regard to stalks that have already developed ears of grain but are underdeveloped or damaged, we assess their grain content on the basis of how much they could potentially produce if they were mature and healthy. If this amount is two *se'ah* or more, the stalks are exempt from *shich'chah*, even if their actual content is less than two *se'ah* (*Mahara Fulda*; see 55a notes 16-18).

11. The Gemara refers to a case where they are being cut for fodder (see *Mahara Fulda*; see also *Beur of R' Chaim Kanievski* and *Derech Emunah* 5:119).

[According to *Gra*, R' Yose's point is that we do not view a sparsely grown area as though it possesses a consistently dense concentration of stalks. Only the actual stalks that were forgotten are taken into consideration and viewed as if they were fully developed and healthy. Cf. *Shenos Eliyahu* with note of R' Chaim of Volozhin.]

standing grain from becoming *shich'chah*,^[12] וְהָעוֹמֵר אֵינוֹ מַצִּיל לֹא אֶת הָעוֹמֵר וְלֹא אֶת הַקֶּמֶה — but a sheaf does not save an adjacent sheaf nor adjacent standing grain from becoming *shich'chah*.^[13] אֵי זוֹ הִיא קֶמֶה שֶׁהִיא מַצִּילֶת אֶת הָעוֹמֵר — Which standing grain is it that saves a sheaf from becoming *shich'chah*? כָּל שֶׁאֵינָהּ שֶׁבָּחָה אֶפִּילוּ קֶלַח אֶתָּה — Any that is itself not *shich'chah*, even if only one stalk.^[14]

NOTES

12. If a forgotten sheaf or forgotten standing grain is located near standing grain that is *nonshich'chah*, the forgotten produce does not become *shich'chah*. Rather, it is saved from becoming *shich'chah* by its proximity to the unforgotten standing grain, and may be retrieved by the owner (*Rash*; *Mahara Fulda*). [As to what constitutes “near” in this regard, see 56a note 9.] The Gemara will provide the Scriptural source for this ruling.

13. If a forgotten sheaf or forgotten standing grain is located near a sheaf that is *nonshich'chah*, the forgotten produce becomes *shich'chah* nonetheless. Its proximity to the unforgotten sheaf does not save it [for, as the Gemara explains, Scripture teaches that the ability to “save” is unique to standing grain] (*Rash*).

14. If even one stalk of unforgotten standing grain is near a forgotten sheaf, it saves the forgotten sheaf from being rendered *shich'chah*. [Furthermore, even if all the standing grain adjacent to a sheaf has been forgotten, aside for one stalk at its opposite end, that stalk saves the standing grain adjacent to it, and the saved grain in turn — having been rendered *nonshich'chah* by its proximity to the unforgotten standing stalk — saves the forgotten sheaf adjacent to it from becoming

shich'chah (*Shenos Eliyahu*, based on *Yerushalmi* above, 43b; see note 6 there).]

Some commentators note that the Mishnah’s wording, “Any that is not *shich'chah*” [as opposed to “any that was not forgotten,” as in fact is the version of several manuscripts], implies that the standing grain has the capacity to save a nearby sheaf as long as it is *halachically* classified as *nonshich'chah* — even if it was actually forgotten. [For example, if the standing grain was forgotten, but was excluded from becoming *shich'chah* on account of containing two *se'ah*, it will save a nearby sheaf] (*Mishnah Rishonah*, *Rashash*, *Derech Emunah* 5:128; cf. *R' Yehoseif* cited by *Melech Shlomo*).

Although the Mishnah states, “What standing grain is it that saves a sheaf?” it actually refers to the saving of either a sheaf or standing grain; in either case, a single stalk of *nonshich'chah* suffices to save the forgotten produce from being designated *shich'chah* (see *Rambam*, *Hil. Matnos Aniyyim* 5:21). The Mishnah mentions “sheaf” merely as an example, and chooses this example because the sheaf was the first of the cases mentioned in the previous clause (*Tos. Yom Tov*, *Pnei Moshe*). For other explanations, see *Mishnah Rishonah* and *Melech Shlomo*.

The Mishnah discusses a qualification of the rule mentioned in the previous Mishnah, that when forgotten produce measures two *se'ah* or more it is not rendered *shich'chah*:

סָאָה תְּבוּאָה עֶקְוָה וְסָאָה שְׂאִינָה עֶקְוָה — If a *se'ah* of cut grain and a nearby *se'ah* of standing grain that has not yet been cut were both forgotten,^[1] וְכֵן בְּאֵילָן — and similarly with regard to a tree, if a *se'ah* of detached fruit and a nearby *se'ah* of attached fruit were both forgotten, וְהַבְּצִלִּים — and similarly, with regard to garlic and onions,^[2] אֵינָן מִצְטָרְפִין — they do not combine to qualify for the two-*se'ah* exemption from *shich'chah*; rather, they belong to the poor.^[3] רַבִּי יוֹסֵי אוֹמֵר — R' Yose says: אִם בָּאת רְשׁוֹת לְעֵנִי בְּאֶמְצַע אֵין מִצְטָרְפִין — If the domain of the poor comes between them, they do not combine, וְאִם לֹא הָרִי אֵלּוּ מִצְטָרְפִין — but if not, they do combine.^[4]

Gemara The Gemara provides the Scriptural source for the Mishnah's first ruling, that standing grain saves an adjacent forgotten sheaf from becoming *shich'chah*:

כִּי תִקְצֹר — Rebbi said:^[5] בְּתוֹב — It is written: כִּי תִקְצֹר „כִּי תִקְצֹר — When you reap your harvest in your field and you forget a sheaf in the field.^[6] עֶמֶר — The verse applies the *shich'chah* obligation to a sheaf that is surrounded by a “field,” meaning harvested [land], וְלֹא עֶמֶר שְׂסָבִיבוֹתָיו קָמָה — but not to a sheaf that is surrounded by standing grain.^[7]

The Mishnah stated that only standing grain saves adjacent produce from becoming *shich'chah*, but a sheaf does not save adjacent produce from becoming *shich'chah*. The Gemara wonders why the preceding exposition does not exclude from *shich'chah* even that which is near a non-*shich'chah* sheaf:

וְלָמָּה עֶמֶר שְׂסָבִיבוֹתָיו עֹמְרִין וְלֹא עֶמֶר שְׂסָבִיבוֹתָיו קָמָה — But why is it that a forgotten sheaf that is surrounded by non-*shich'chah* sheaves is considered *shich'chah*, while a forgotten sheaf that is surrounded by non-*shich'chah* standing grain is not considered *shich'chah*?^[8]

NOTES

1. *Yerushalmi* below, top of 57a, assumes that “cut grain” refers to a bound sheaf (see, however, *Mishnah Rishonah* ד"ה רע and *Rashash*). Thus, the Mishnah means that one forgot a sheaf containing a *se'ah* and an adjacent patch of standing grain containing a *se'ah*.

2. I.e. a *se'ah* of detached garlic and a nearby *se'ah* of attached garlic, or a *se'ah* of detached onions and a nearby *se'ah* of attached onions, were both forgotten (*Rambam, Commentary* and *Hil. Matnos Aniyyim* 5:20; *Rash's* second interpretation; *Shenos Eliyahu HaAroch*). An alternative explanation will be cited in the Variants section below.

3. Although, in all these cases, the two forgotten portions contain, between them, the requisite two *se'ah* for a *shich'chah* exemption, they cannot be combined to form a single two-*se'ah* set, but must be treated individually. Therefore, each of the forgotten items is rendered *shich'chah* and becomes the property of the poor.

The Mishnah uses three examples — from the realms of grain, tree fruit, and vegetables — in order to illustrate the universality of the principle that a *se'ah* of attached produce does not combine with a *se'ah* of detached produce to qualify for the two-*se'ah* exemption (*Tiferes Yisrael*). One might have thought that this rule applies only to grains, for in that case the detached and attached portions are called by different names — “sheaves” and “standing grain.” The Tanna therefore explicates that it applies even to fruits [and vegetables], where the different categories of produce have the same title (*Shoshanim LeDavid*, cited by *Tos. Anshei Shem*).

Alternatively, the Tanna emphasizes that the rule applies across the board, to contrast his view with the following opinion of R' Yose. As we shall see, R' Yose maintains that the rule excluding the combination of detached and attached produce pertains only to grain fields and vineyards, which are subject to the laws of *leket* and *peret*, respectively, but not to ordinary orchards or fields containing fruits or vegetables (*Rash Sirilio; Meleches Shlomo*).

For another explanation of the clause “and similarly, with regard to garlic and onions,” see Variant A.

4. R' Yose maintains that detached produce can be combined with attached produce to make up a two-*se'ah* unit of forgotten produce — thus preventing its allocation to the poor as *shich'chah* — unless “the domain of the poor comes between them.” Understood simply, this

means that if the attached and detached *se'ahs* are separated by produce that is allotted to the poor, such as *leket* or *peret*, then the attached and detached *se'ahs* cannot be combined. Thus, if there is fallen *leket* between a detached sheaf and attached grain, or there is fallen *peret* between detached grapes and attached grapes, then the detached and attached portions do not combine to form a two-*se'ah* unit. Otherwise, they do combine to form such a unit (*Rash, Mahara Fulda*; cf. *Rambam Commentary* as explained by *Rishon LeTziyon*).

The Gemara (57a), however, will explain R' Yose's words differently. [In any event, according to R' Yose, the exclusion from combining detached and attached produce pertains only when part of a grain field or vineyard interposes between them. The exclusion does not pertain to ordinary orchards or fields containing fruits or vegetables.]

5. *Rash Sirilio's* text reads: אָמַר רַבִּי אֵילָא, R' Eila said.

6. *Deuteronomy* 24:19.

7. “A sheaf in the field” denotes a sheaf lying on open ground, i.e. on a harvested field. This excludes a sheaf surrounded by [or adjacent to] standing grain that is non-*shich'chah* (*Bear of R' Chaim Kanievski*; see *Gemara* further with *Gra* ד"ה וּמְשִׁינִי, cf. *Rambam Commentary*).

While the verse does not indicate that the standing grain surrounding the sheaf must be non-*shich'chah*, logic dictates that grain that is itself *shich'chah* — and that does not “save” itself from being awarded to the poor — cannot save something else from being awarded to them. Thus, it is obvious that, in order for the sheaf to be saved from becoming *shich'chah*, the standing grain surrounding it must be non-*shich'chah* (*Mishnah Rishonah*; see *Derech Emunah* 5:129 for another explanation).

Although the exclusion of something “surrounded by standing grain” is stated in regard to שְׂכַחַת עֹמְרִין, forgotten sheaves, it applies also to שְׂכַחַת קָמָה, forgotten standing grain. Since these two laws are mentioned in the same verse (see *Gemara* above, 55a), they are linked by a *hekeish* and are therefore analogous. Hence, the Mishnah's ruling that standing grain saves both an adjacent sheaf and adjacent standing grain from becoming *shich'chah* (see *Aruch HaShulchan HeAsid* 12:2; see further, 56b note 5 and Variant A there).

8. Just as we expound the verse “in the field” (i.e. in the open) as excluding a sheaf that is surrounded by [or adjacent to] non-*shich'chah*

TEXTUAL AND INTERPRETIVE VARIANTS

A. Some explain that when the Mishnah states, “and similarly, with regard to garlic and onions,” it does not refer to a *se'ah* of detached garlic (or onions) and a nearby *se'ah* of attached garlic (or onions). Rather, it means that if a *se'ah* of attached garlic and a nearby *se'ah* of attached onions were both forgotten, they do not combine to qualify for the two-*se'ah* exemption (*Rash's* first interpretation; *Shenos Eliyahu HaKatzar*). The novelty is that although onions and garlic are both used as spices, and are therefore grouped together in certain contexts [see

Orlah 2:10], in this particular instance they do not combine (*Rash Sirilio*).

Interestingly, *Rash* specifies that the Mishnah means to teach that a *se'ah* of attached garlic and a *se'ah* of attached onions do not combine. *Beur HaHalachah* (5:18 העמ"ד) infers from this that if detached garlic and onions were tied together in one bundle, they would qualify for the two-*se'ah* exemption. The reason is that such a bundle would be classified as a “stack” (see above, end of 55a).

The Gemara answers:

עומר שסביבותיו עומרין — In the case of a sheaf that is surrounded by non-*shich'chah* sheaves, מה שתחתיו שדה — what is beneath [those sheaves] is a “field,” עומר שסביבותיו עומרין — but in the case of a sheaf surrounded by non-*shich'chah* standing grain, מה שתחתיו קשין — what is beneath [that grain] is “straw,” not a “field.”^[9]

A related Baraisa is cited:

תנא — It was taught in a Baraisa:^[10] קמת חבירו מצלת את שלו — THE STANDING GRAIN OF ONE'S FELLOW that is non-*shich'chah* SAVES ONE'S OWN adjacent produce from becoming *shich'chah*,^[11] של גוי מצלת את של ישראל — [THE STANDING GRAIN] OF A GENTILE SAVES THE adjacent [PRODUCE] OF A JEW from becoming *shich'chah*; של חטין מצלת את של שעורין — and [STANDING GRAIN] OF WHEAT that is non-*shich'chah* SAVES adjacent [PRODUCE] OF BARLEY from becoming *shich'chah*,^[12] דברי רבי — these are THE WORDS OF REBBI.^[13] — BUT THE SAGES SAY: אינה מצלת אלא שלו — ONLY ONE'S OWN non-*shich'chah* grain SAVES his forgotten produce from becoming *shich'chah*, אינה מצלת אלא ממינה — and ONLY [PRODUCE] OF ITS OWN KIND SAVES forgotten produce from becoming *shich'chah*.^[14]

Our Mishnah rules that non-*shich'chah* standing grain saves both forgotten sheaves and forgotten standing grain, whereas a non-*shich'chah* sheaf saves neither. The Gemara cites a Baraisa that presents other opinions regarding this matter.

It was taught in a Baraisa:^[15] רבן שמעון בן גמליאל בשם שהקמה — RABBAN SHIMON BEN GAMLIEL SAYS: — [אומר] — JUST AS STANDING GRAIN that is non-*shich'chah* SAVES A nearby SHEAF that was forgotten from becoming *shich'chah*, כך העומר מציל את הקמה — SO TOO, A SHEAF that is non-*shich'chah* SAVES nearby STANDING GRAIN that was forgotten from becoming *shich'chah*.^[17] ודין הוא — AND THIS IS supported by the LOGIC of *kal vachomer*: ומה אם הקמה — FOR IF EVEN STANDING GRAIN, [18] שפחה בה כח העני (ושכחה) — IN WHICH THE INTERESTS OF THE POOR HAVE BEEN EXPANDED, inasmuch as they are entitled not only to *shich'chah*, but also to *leket* and *peah* from it, הרי היא מצלת — CAN SAVE a nearby sheaf from becoming *shich'chah*,^[19] עומר — then in regard to A SHEAF, שהורע בו כח העני — IN WHICH THE INTERESTS OF THE POOR HAVE BEEN LIMITED, inasmuch as they are entitled only to *shich'chah*, but not to *leket* or *peah* from it, [את שפחה] — IS IT NOT LOGICAL THAT IT SHOULD be able to SAVE adjacent standing grain from becoming *shich'chah*?^[20]

NOTES

standing grain, let us expound it as excluding a sheaf that is surrounded by [or adjacent to] non-*shich'chah* sheaves (*Pnei Moshe, Gra*; cf. *Rash Sirilio*).

9. When a forgotten sheaf is surrounded by other, non-*shich'chah*, sheaves, the surrounding field has already been harvested, and is in essence “open ground.” The fact that sheaves are lying on this open ground does not alter its classification as a “field.” Therefore, the forgotten sheaf is considered “a sheaf in the field” and is subject to *shich'chah*. By contrast, when a forgotten sheaf is surrounded by non-*shich'chah* standing grain, the land beneath that grain is not “open ground,” but rather, land filled with the stalks of that grain. Therefore, the sheaf is not considered “a sheaf in the field,” and is excluded from becoming *shich'chah* (*Pnei Moshe, Beur of R' Chaim Kanievski*; see *Mahara Fulda*).

By stating that *shich'chah* applies specifically to a sheaf that is “surrounded by harvested land,” the Gemara implies that as long as there is no swath of harvested land separating the sheaves from the standing grain, the sheaf is deemed “adjacent” to the standing grain, and is saved by it; the precise distance between them is not a factor (see *Mareh HaPanim* הקמה ד"ה and *Beurim of R' Moshe Feinstein* §134 ד"ה ושעור; see also Gemara above, 43b with note 3; cf. *Mishnah Rishonah* ד"ה ואת הקמה and *Derech Emunah* 5:127 with *Tziyun HaHalachah* §231 and *Beur HaHalachah* 5:21 end of קמה ד"ה).

With respect to forgotten standing grain, the Gemara above (5:2; 43b) stated an additional leniency: Even if it is surrounded by a swath of harvested land, if the stalk is long enough to reach the non-*shich'chah* grain, such that it can be cut together with that grain, it is saved from becoming *shich'chah* (*Rash*). [While *Rambam* mentions this clause in his *Commentary* here, he omits it in *Hil. Matnos Aniyyim* 5:21. There he stipulates simply that the forgotten sheaf or forgotten grain must be adjacent to non-*shich'chah* grain and not surrounded by harvested land. For discussion of *Rambam's* opinion, see the sources cited in the previous paragraph.]

10. *Tosefta* 3:11.

11. That is, if one forgot some produce at the border of his property, and his neighbor had standing grain adjacent to it, on the other side of the property line, the neighbor's grain saves his own from becoming *shich'chah* (*Pnei Moshe*; see following note).

12. It is irrelevant whether the non-*shich'chah* grain belongs to a Jew or a gentile, or whether it is the same species as the forgotten produce or

another. For in any event, the forgotten produce is not “in the field,” i.e. it is not surrounded by harvested land (*Rash Sirilio*).

In the case of a gentile, it is irrelevant whether he remembered the standing grain or forgot it, since a gentile's grain is not subject to becoming *shich'chah* at all (*Pnei Moshe*).

13. In *Tosefta* *ibid.* the text reads: דברי רבי מאיר, *the words of R' Meir*.

14. Thus, standing grain of wheat saves only forgotten sheaves or grain of wheat, not of barley or any other species.

The Sages maintain that since the verse (*Deuteronomy* 24:19) states *When you reap your harvest in your field*, it implies that only one's own unharvested grain saves his forgotten produce from becoming *shich'chah* (*Rash Sirilio*; *Kiryas Sefer, Hil. Matnos Aniyyim* 5:21). Moreover, the phrase “field” connotes an area in which the same kind of produce is sown (*Kiryas Sefer* *ibid.*).

[Alternatively, the forgotten grain must be deemed subordinate to the non-*shich'chah* grain in order for it to be saved, and subordination is possible only when both belong to one person and are of the same species (*Derech Emunah* 5:138).]

15. *Tosefta* *ibid.*

16. Our reading follows text of *Tosefta*, and *Rash Sirilio's* text of *Yerushalmi*.

17. Rabban Shimon ben Gamliel disputes the Mishnah's ruling that a non-*shich'chah* sheaf can save neither a sheaf nor standing grain.

18. Emendations throughout the Baraisa follow *Rash*.

19. [As derived above from the verse, *and you forget a sheaf* “in the field.”] Thus, although the poor have broad rights in standing grain, standing grain works *against* the poor, in that it saves the owner's forgotten sheaf from being awarded to them as *shich'chah* (*Rash, Rash Sirilio*).

20. Certainly, a sheaf — which is less “friendly” to the poor than standing grain — ought to work against them and save adjacent produce from being awarded to them as *shich'chah* (*Rash*).

Note that Rabban Shimon ben Gamliel compares two cases that are opposites, both in regard to the item that effects the save and in regard to the item being saved. He states that since *standing grain* saves a *sheaf*, logic dictates that a *sheaf* should save *standing grain*. His *kal vachomer*, however, deals specifically with the item effecting the save, for it states that since standing grain has the capacity to save, surely a sheaf must have the capacity to save. The *kal vachomer* does not address the item being saved. This is the focus of the next Tanna's rebuttal.

The Baraisa continues with a dissenting opinion:
 אָמַר לוֹ רַבִּי — REBBI SAID TO [RABBAN SHIMON BEN GAMLIEL]: This *kal vachomer* argument is not completely valid. (מַה אִם קָמָה שִׁיפָה כַּח הָעֵנִי בַּהּ וּשְׂכַחָה הָרִי הִיא מַצְלָלָה) [מַה לְקַמָּה מַצְלָלָה אֶת הָעוֹמֵר]^[1] — WHAT IS the comparison TO the law that non-*shich'chah* STANDING GRAIN SAVES AN adjacent SHEAF from becoming *shich'chah*? [שְׂהוּרַע בַּח הָעֵנִי בּוֹ] — That rule is logical, SINCE THE INTERESTS OF THE POOR HAVE BEEN LIMITED IN [THE SHEAF], inasmuch as it is not subject to *leket* or *peah*! When the forgotten item is something in which the poor have limited rights, reason dictates that it should readily be saved from being awarded to them as *shich'chah*. (עוֹמֵר שְׂהוּרַע כַּח הָעֵנִי בּוֹ וּשְׂכַחוּ אֵינּוּ דִין שִׁיבִיל) [נְצִיל עוֹמֵר אֶת הַקָּמָה] — SHALL we therefore say that A non-*shich'chah* SHEAF SAVES adjacent STANDING GRAIN, [שִׁיפָה בַּח] [וְהָעֵנִי בָּהּ] — WHEN THE INTERESTS OF THE POOR HAVE BEEN EXPANDED IN [THE STANDING GRAIN], inasmuch as it is subject even to *leket* and *peah*? Why, since the forgotten item is something in which the poor enjoy greater rights, reason dictates that it should

less readily be saved, and should sooner be awarded to them as *shich'chah*! How can you argue that a non-*shich'chah* sheaf must be able to save forgotten standing grain from becoming *shich'chah*?^[2]

The Gemara notes that there are two points regarding which these Tannaim are in agreement:

מִדְּבָרֵי שְׁנֵיהֶן נִלְמַד — From the words of both of them [Rabban Shimon ben Gamliel and Rebbi] we may learn that, in their opinion, מְצִילִין עוֹמֵר מֵעוֹמֵר — a forgotten sheaf is saved from becoming *shich'chah* by an adjacent sheaf that is non-*shich'chah*,^[3] וְאֵין מְצִילִין קָמָה מִקָּמָה — and forgotten standing grain is not saved from becoming *shich'chah* by adjacent standing grain that is non-*shich'chah*.^[4] In these points, Rabban Shimon ben Gamliel and Rebbi agree, and dispute our Mishnah. They disagree only about whether forgotten standing grain is saved from becoming *shich'chah* by an adjacent non-*shich'chah* sheaf. Rabban Shimon ben Gamliel holds that it is saved, whereas Rebbi holds that it is not saved.^[5]

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1. As mentioned, the emendations to the Baraisa follow *Rash*.

2. Although you (Rabban Shimon ben Gamliel) are correct that sheaves are less “friendly” to the poor than standing grain, your conclusion is incorrect. Granted that, when we consider the item effecting the save, a sheaf ought to be more potent than standing grain; and since the Torah indicates (with the phrase *in the field*) that standing grain can effect a save, it follows that a sheaf can surely do so. But we must also consider the item being saved — and a sheaf (being less “friendly” to the poor) is more amenable to being saved from becoming *shich'chah* than is standing grain. Now, since the Torah states *and you forget a sheaf in the field*, it teaches that a standing grain saves a sheaf from becoming *shich'chah*. The *kal vachomer* expands this law and states that even a sheaf saves a sheaf from becoming *shich'chah*. But what is the basis for saying that a sheaf saves *standing grain* (which is more “friendly” to the poor) from becoming *shich'chah*? (*Rash*; see also *Rash Sirilio* and *Mahara Fulda*).

Rabban Shimon ben Gamliel, however, holds that our only consideration is the nature of the item effecting the save, i.e. its capacity to effect an exemption from *shich'chah*. When it is an item in which the poor have limited interests, it ought to be able to save *anything* from being awarded to the poor, without regard for the extent of their interests in the item being saved (*Rash Sirilio*, *Mahara Fulda*).

3. As explained in the previous note, both Tannaim agree that a sheaf is less “friendly” to the poor than standing grain. They disagree only about whether we must focus specifically on the item effecting the save or also on the item to be saved. Thus, when the item effecting the save *and* the item to be saved are sheaves, both Tannaim will agree that the forgotten item is spared from being rendered *shich'chah*. It emerges that Rabban Shimon and Rebbi both dispute the Mishnah’s ruling that a sheaf does not save another sheaf from becoming *shich'chah* (*Rash Sirilio*, *Mahara Fulda*).

4. For since both the item effecting the save and the item to be saved are “friendly” to the poor, saving cannot take place. As mentioned in note 2, the Torah mentions only that standing grain saves a sheaf from being rendered *shich'chah*, but does not say that it saves standing grain. Rabban Shimon and Rebbi will both agree that since standing grain is more “friendly” than a sheaf to the poor, it is *not* saved by the standing

grain (which itself is also “friendly” to the poor). Thus, they both dispute the Mishnah’s ruling that non-*shich'chah* standing grain saves forgotten standing grain from becoming *shich'chah* (*Rash Sirilio*, *Mahara Fulda*; see further, *Tos. R’ Akiva Eiger* §66).

5. For Rabban Shimon maintains that all depends on the nature of the item effecting the save, and he thus holds that a sheaf — in which the poor have limited rights — can save anything from becoming *shich'chah*. But Rebbi maintains that we must consider the nature of the item that is to be saved, and he thus holds that standing grain — in which the poor have expanded rights — cannot be saved by anything from becoming *shich'chah* (see *Rash Sirilio* and *Mahara Fulda*).

The Tanna of our Mishnah, however, rules that standing grain saves both a sheaf and standing grain, but a sheaf saves neither a sheaf nor standing grain. Some explain that this Tanna rejects the assertion that standing grain is more “friendly” than sheaves to the poor. For to the contrary — we find that standing grain is exempted from *shich'chah* as long as it has the *potential* to produce two *se'ah* of kernels, whereas a sheaf is not exempted unless it *actually* contains two *se'ah* [see above, 55a, end of Mishnah 5]. Since in this respect, standing grain is *less* “friendly” to the poor, the *kal vachomer* expounded by Rabban Shimon ben Gamliel and Rebbi is not valid. Rather, we expound a *hekeish* which compares forgotten standing grain to forgotten sheaves (see 56a note 7). Thus, we derive that just as a forgotten sheaf is saved by standing grain, so too, forgotten standing grain is saved by standing grain. With respect to the item effecting the save, there is no *hekeish*. And since, unlike standing grain, sheaves are considered “in the field,” they do not save anything from becoming *shich'chah* (*Tos. Anshei Shem*).

In summary, there are three Tannaic opinions regarding this matter: (a) Rabban Shimon ben Gamliel maintains that a sheaf (because the poor have limited interests in it) saves both standing grain and a sheaf; and standing grain saves a sheaf, but not standing grain. (b) Rebbi maintains that anything can save a forgotten sheaf, but nothing can save forgotten standing grain. (c) The Tanna of our Mishnah maintains that standing grain can save anything, but a sheaf cannot save anything. (*Rambam*, *Hil. Matnos Aniyyim* 5:21, rules in accordance with the Tanna of our Mishnah).

See Variant A for *Gra*’s text of the Baraisa.

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A. *Gra* has a variant reading of the Baraisa, leading to a different understanding of the debate between Rabban Shimon ben Gamliel and Rebbi. According to *Gra*, Rabban Shimon ben Gamliel’s *kal vachomer* goes as follows: If even standing grain, in which the poor have expanded interests, can save *standing grain* from becoming *shich'chah* (as stated in the Mishnah), then surely a sheaf, in which the poor have limited interests, can save standing grain from becoming *shich'chah*. [Thus, in both parts of the *kal vachomer*, Rabban Shimon deals with cases in which the item being saved is standing grain; the *kal vachomer* states simply that a sheaf can save it no less than standing grain can.]

Rebbi counters that if this *kal vachomer* is valid — i.e. if we consider a sheaf less “friendly” to the poor than standing grain — then we ought to take it a step further and expound it as follows: If even standing grain, in which the poor have expanded interests, can be saved by a sheaf from becoming *shich'chah*, then surely a sheaf, in which the poor have limited interests, should be saved by a sheaf from becoming *shich'chah*. But, Rebbi argues (unspokenly), you surely concede that a sheaf *cannot* be saved by another sheaf! [Rebbi apparently considers this self-evident.] Perforce, we must conclude that this *kal vachomer* is not valid, and the laws of “saving” from *shich'chah* are not based on these considerations of “expanded” and “limited” interests. Thus, there is no basis to argue

The Mishnah described which standing grain saves a sheaf from becoming *shich'chah*: Any that is itself not *shich'chah*, even if only one stalk.^[6]

The Gemara infers:

הָא אִם שָׂכַח שְׂבָהּ — This implies that only standing grain that is presently not *shich'chah* saves an adjacent forgotten sheaf, but if [the owner] subsequently forgot the standing grain as well, the sheaf will become *shich'chah* at that point. Let us thus resolve our inquiry (cited above, 5:2) as to whether a forgotten sheaf, that was saved from becoming *shich'chah* by its proximity to non-*shich'chah* standing grain, becomes *shich'chah* when that standing grain is itself forgotten!^[7]

The proof is deflected:

תִּיבְתַר בְּשִׂשְׁבָּה אֶת הַקָּמָה תְּחִילָה — Do not infer that if one subsequently forgot the standing grain, the sheaf is rendered *shich'chah* at that time. Rather, interpret [the Mishnah] as excluding a sheaf from being saved only in a case where one forgot the standing grain first, before forgetting the sheaf, such that the sheaf was never saved in the first place.^[8]

The Mishnah stated further that a *se'ah* of cut grain and a *se'ah* of standing grain do not combine to qualify for the two-*se'ah* exemption from *shich'chah*; rather they belong to the poor.

The Gemara remarks:

הָא אִם הָיוּ שְׂתִייהָן עֲקוּרוֹת לְבַעַל הַבַּיִת — By focusing on the case of a cut *se'ah* (i.e. a sheaf containing one *se'ah*) and an attached *se'ah*,

the Mishnah implies: But if both of the one-*se'ah* units were cut, i.e. there were two one-*se'ah* sheaves adjacent to one another, they would combine for the exemption and would belong to the owner. מִתְּנִיחָא כְּרֵבָן גַּמְלִיאַל — Thus, the Mishnah accords with the opinion of Rabban Gamliel, who ruled in the previous Mishnah (6:5) that two forgotten sheaves combine to qualify for the two-*se'ah* exemption from *shich'chah*.^[9]

As mentioned, the Gemara above (5:2) inquired whether a forgotten sheaf, that was saved from becoming *shich'chah* by its proximity to non-*shich'chah* standing grain, becomes *shich'chah* when the grain that saved it is itself forgotten, or remains saved permanently. Our Gemara now proposes to resolve this inquiry on the basis of our Mishnah's ruling, that a forgotten *se'ah* of cut grain (i.e. a one-*se'ah* sheaf) and a forgotten *se'ah* of uncut (standing) grain do not combine for the two-*se'ah* exemption from *shich'chah*. The resolution is based on the understanding that the Mishnah refers to a case in which these two units were forgotten in the order in which they are mentioned — first the sheaf and then the standing grain.^[10] Thus, when the owner initially forgot the sheaf, but had not yet forgotten the adjacent standing grain, the sheaf was saved by the standing grain from becoming *shich'chah*. By stating that when the standing grain is forgotten, it does not combine with the forgotten sheaf for the two-*se'ah* exemption, the Mishnah implies that the sheaf is rendered *shich'chah* at that point! The Gemara therefore infers:

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6. The elucidation of the next segment as pertaining to this section of the Mishnah follows *Mahara Fulda*. Cf. *Rash Sirilio, Pnei Moshe*.

7. The Gemara above (5:2; 44a-b) inquired whether something that was saved from becoming *shich'chah* when initially forgotten, by virtue of its proximity to non-*shich'chah* grain, can be rendered *shich'chah* at a later point in time. For example, if the item effecting the save is itself subsequently forgotten and rendered *shich'chah*, such that it loses its capacity to “save” another item, will the previously saved item become *shich'chah* at that time? [According to *Mahara Fulda* above (44a ד"ה דבר להציל), the Gemara there actually speaks of a different case, but its inquiry pertains to this case as well (see 44a note 3). According to *Gra* there (44b ד"ה דבר שהוא ראוי להציל ושכחו), the Gemara speaks explicitly of this case (see 44b Variant A).]

The present tense of our Mishnah's ruling — that any standing grain that “is not *shich'chah*” saves a forgotten sheaf — implies that if the standing grain was at one point non-*shich'chah* but eventually became *shich'chah*, the forgotten sheaf, too, is no longer saved and becomes *shich'chah* at that time. Thus, the above inquiry may be resolved on the basis of our Mishnah (*Mahara Fulda*).

8. That is, the Mishnah does not mean that only standing grain which is

presently non-*shich'chah* can save a sheaf from becoming *shich'chah*. Rather, it means that any standing grain that is non-*shich'chah* when the sheaf is initially forgotten saves it from becoming *shich'chah* at any point in time. The only case in which a sheaf that is adjacent to standing grain becomes *shich'chah* is one in which the standing grain was rendered *shich'chah* before the sheaf was forgotten — so that it was never able to save the sheaf in the first place. Since this interpretation is possible, the inquiry cannot be resolved on the basis of our Mishnah (*Mahara Fulda*).

9. According to the Sages, who rule in the previous Mishnah that two one-*se'ah* sheaves do not combine for the exemption, our Mishnah need not have specified that a cut *se'ah* does not combine with an uncut *se'ah*.

For further discussion, see Variant B.

10. That is, the owner forgot to remove a one-*se'ah* sheaf of cut grain from the field, and then forgot to cut an adjacent one-*se'ah* patch of standing grain (*Pnei Moshe; Mahara Fulda* above, 44b ד"ה ומשני). [The reference is to a person whose practice is to cut a patch of grain and immediately bundle and remove it, before proceeding to cut the next patch. It happened that he completed his work in one patch but forgot to remove a one-*se'ah* sheaf, and then forgot to cut an adjacent one-*se'ah*

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even that a sheaf can save standing grain from becoming *shich'chah*.

The Gemara comments that from the words of both Tannaim we may infer that one sheaf cannot save another sheaf from becoming *shich'chah*. For Rabbi assumes this law to be self-evident, to the extent that he relies upon it as the basis for refuting Rabban Shimon ben Gamliel's *kal vachomer*. Clearly, whatever Rabban Shimon ben Gamliel's reasoning is, he does not disagree with this point. [According to *Gra*'s text, the Gemara does not mention a second law that can be inferred from the words of these Tannaim.]

It emerges according to this text [in contrast to *Rash*'s text], that Rabbi agrees with the Tanna of our Mishnah, that standing grain saves both a sheaf and standing grain, but a sheaf saves neither another sheaf nor standing grain. Thus, there are only two Tannaic opinions: (a) Rabban Shimon ben Gamliel maintains that standing grain saves both a sheaf and standing grain, and a sheaf saves standing grain but not another sheaf. (b) Rabbi and the Tanna of the Mishnah hold that standing grain can save anything, while a sheaf cannot save anything.

B. Since *Yerushalmi* explains our Mishnah as following Rabban Gamliel,

it would seem that the previous Mishnah and our Mishnah represent a dispute [in one Mishnah] followed by an anonymous ruling [in a subsequent Mishnah that follows one of the opinions]. The rule in such instances is that the halachah accords with the anonymous ruling of the latter Mishnah (see *Bavli Yevamos* 42b). It would thus appear that the halachah follows Rabban Gamliel.

Rambam (*Hil. Matnos Ani'im* 5:18), however, rules in accordance with the Rabbis that two sheaves do not combine to qualify for the two-*se'ah* exemption. Interestingly, *Rambam* still finds it necessary to cite (ibid. 5:20) our Mishnah's ruling that detached and attached produce do not combine for the two-*se'ah* exemption. The implication is that *Rambam* considers our Mishnah's ruling compatible with the view of the Sages, in apparent contradiction to *Yerushalmi*!

For various resolutions of *Rambam*'s view, see *Radvaz* to *Rambam* ibid. 5:20, *Mareh HaPanim, Mishnah Rishonah* ד"ה ד"ה, *Rashash, Shoshanim LeDavid* cited by *Tos. Anshei Shem, Pe'as HaShulchan* 10:21, *Beurim of Moshe Feinstein* §135 ד"ה ואייתא 135, and *Derech Emunah — Beur HaHalachah* 5:18 ד"ה העומר.

ותציל עקורה משאינה עקורה — **But** if something that was initially saved remains saved permanently, then **let the cut grain** (i.e. the sheaf) still **be saved on account of the uncut grain**, even after the uncut grain itself is forgotten.^[11] Why does the Mishnah consider the sheaf *shich'chah*? הדיא אגורה — Perforce, **this** tells us

that דבר שהוא ראוי להציל ושכחו הרי הוא שכחה — if there is **something that is fit to be saved**^[12] from becoming *shich'chah* on account of its proximity to non-*shich'chah* grain, and [the reaper] subsequently **forgot it** again when it no longer has non-*shich'chah* in its proximity, **it is rendered *shich'chah*** at that time!^[13]

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patch, moving on instead to a more distant section.]

11. Granted that the one-*se'ah* sheaf and the *se'ah* of standing grain do not combine to qualify for the two-*se'ah* exemption, the sheaf should nevertheless remain the owner's, on account of having been saved when it was initially forgotten (*Mahara Fulda; Beurim of R' Moshe Feinstein* above. §103).

12. I.e. something that was actually saved when it was forgotten. The expression *fit to be saved* is a paraphrase of the expression that the Gemara used (above, 5:2; 44a,b) in posing the inquiry.

13. The Gemara mentions here another case that is governed by the above inquiry. That inquiry pertains to two cases: (a) The standing grain that effected the save is itself *forgotten*; (b) the standing grain is *reaped*

and at that time the forgotten sheaf is again overlooked. In either case, the forgotten sheaf no longer has any non-*shich'chah* in its proximity that can save it, and the inquiry explores whether it remains “saved” (see 44a note 3). Our Mishnah (as currently understood) deals with the first case: A one-*se'ah* sheaf was forgotten in proximity to a *se'ah* of standing grain, and then the standing grain was also forgotten. Since the Mishnah treats the sheaf as *shich'chah*, the Gemara infers that in the related case — where the standing grain was reaped and the sheaf again overlooked — the sheaf would also become *shich'chah*. In any event, we see from the Mishnah that something saved from becoming *shich'chah* initially *can* become *shich'chah* at a later time, when circumstances change (see *Mahara Fulda*).

The resolution is rejected:

^[1] תיפתר בקוצר שורה — אמר רבי (יונתן) וינהי — R' Yonah said: Interpret the Mishnah as referring to a case where one first cuts an entire row of standing grain and then removes the sheaves of the entire row,^[2] וכבר שכח את הקמה עד שלא שכח — and it deals with a case where he already forgot to cut the standing grain before he forgot to remove the sheafs. That is, he cut an entire row of grain but inadvertently left a patch standing in it, and then, when he returned to bind the cut grain into sheaves and remove them, he left one of the sheaves behind, near the patch of standing grain. Since the standing grain was forgotten first, it was rendered *shich'chah* immediately. When the sheaf is subsequently forgotten, there is no *nonshich'chah* standing grain in its proximity that can save it from becoming *shich'chah*. The Mishnah informs us that although both the standing grain and the sheaf are now forgotten, they do not combine for the two-*se'ah* exemption from *shich'chah*. Rather, both of them belong to the poor.^[3]

The Mishnah stated:

אם באת רשות לעני וכו' — R' Yose says: IF THE DOMAIN OF THE POOR COMES etc. (between them, they do not combine, but if not, they do combine).]

“The domain of the poor” refers to *leket* or *peret*, which are entitlements of the poor. The Gemara nevertheless inquires as to the precise meaning of R' Yose's clause:

מה — What does R' Yose mean? עד שתבוא ממש — Does he mean that detached and attached produce combine for the two-*se'ah* exemption unless [the domain of the poor] actually comes

between them, i.e. there are fallen *leket* ears or fallen *peret* grapes lying on the ground between the detached and attached produce? או אפילו נראית להביא — Or does he mean that, even if [the domain of the poor] is merely capable of coming between them, they do not combine. I.e. whenever there is a potential for *leket* or *peret* to fall there, for there is standing grain or there are grapes on the vine between the detached and attached produce, it prevents them from combining for the exemption.^[4]

The Gemara resolves the inquiry:

נשמעיה מן הדין — Let us learn [the resolution] from the following Baraisa, in which R' Yose elaborates his ruling quoted in the Mishnah:^[5] כגון תבואה והקרים — R' Yose says: Whenever the domain of the poor, SUCH AS a GRAIN field OR A VINEYARD, comes between the detached and attached produce, they do not combine for the two-*se'ah* exemption. וְכָרֵם לֹא עַל אֲתֵר הוּא — Now, in the case of a vineyard [the “domain of the poor”], i.e. the actual *peret*, is not there immediately at the beginning of the harvest, for it often takes some time for *peret* to fall. Similarly, in the case of a grain field, the actual *leket* is not there immediately at the beginning of the harvest, since it often takes some time for *leket* to fall. It is thus possible for detached and attached produce to be forgotten without any *peret* or *leket* interposing between them. Nevertheless, R' Yose states unequivocally that when there are grapevines or a grain field between the detached and attached produce, these portions do not combine to qualify for the two-*se'ah* exemption.^[6] הדין אמרה — This tells us, in effect, אפילו נראית לבוא — that even if [the domain of the poor] is merely fit to come between the detached and attached produce, they do not combine.^[7]

NOTES

1. Emendation follows Rome ms., *Rash* and the parallel *sugya* above, 44b.
2. That is, we are not dealing with one who cuts, binds and removes each patch of standing grain before proceeding to cut the next patch (such that he must have forgotten the sheaf before forgetting the standing grain). Rather, we are dealing with one who cuts each row in its entirety, and then returns to the beginning of the row to bind the cut grain into sheaves and remove them from the field (*Pnei Moshe*, here and above, 44b; *Mahara Fulda* and *Gra* there).
3. And inasmuch as the sheaf was never saved, the Mishnah's ruling has no relevance to the inquiry regarding the status of something that was

once saved from becoming *shich'chah* (*Pnei Moshe*).

See Variant A for further discussion and alternative approaches.

4. According to the latter side of the inquiry, R' Yose holds that, even if there is no actual *leket* or *peret* between the detached and attached portions, they do not combine — as long as grain from which *leket* can fall, or grapevines from which *peret* can fall, interpose between them (see *Rosh* and *Rash Sirilio*).

5. *Tosefta* 3:10.

6. *Rash*, *Rash Sirilio*, *Mahara Fulda*, *Gra*; cf. *Pnei Moshe*.

7. Note that in the Baraisa R' Yose mentions specifically a grain field or

TEXTUAL AND INTERPRETIVE VARIANTS

A. According to a simple reading of the Gemara, R' Yonah does not mean that the Mishnah *must* be referring to a case where the person forgot the standing grain first, but that the Mishnah *might* be referring to this case, so the inquiry cannot be resolved on the basis of our Mishnah. It should be noted, however, that although the inquiry is not resolved here, the Gemara above (44a) did resolve it on the basis of another Mishnah. The conclusion of the Gemara there is that something initially saved from becoming *shich'chah* can in fact be rendered *shich'chah* at a later point in time, if the reason for its being saved no longer exists (see 44b note 10). Thus, *Rambam* (*Hil. Matnos Aniyim* 5:20) cites our Mishnah's ruling, that a *se'ah* of cut grain and a *se'ah* of standing grain do not combine for the two-*se'ah* exemption — meaning that they are both considered *shich'chah* — without any qualification. The implication is that this rule applies whether the standing grain was forgotten first or the sheaf was forgotten first (see *Pe'as HaShulchan* 10:21). [See 44b Variant A for *Gra*'s variant understanding of the Gemara above.]

Rash, in another approach to our Gemara, understands R' Yonah to mean that the Mishnah *must* refer to a case in which the person forgot the standing grain first. According to *Rash*, R' Yonah did not advance his interpretation in order to deflect the resolution of the inquiry. Rather, R' Yonah addresses the Mishnah itself, and asserts that it can be understood only in the manner stated — where the standing grain is forgotten before the sheaf. The reason is as follows: If the sheaf is forgotten first, then the standing grain saves it from becoming *shich'chah*. Now, the sheaf and standing grain together measure two *se'ah*, and the sheaf, having been

saved by the standing grain, is deemed ancillary to it. Should the standing grain subsequently be forgotten, this is tantamount to the forgetting of a single two-*se'ah* unit of grain. Surely, the two-*se'ah* exemption must apply in this instance! Perforce, states R' Yonah, the Mishnah deals with a case in which the standing grain was forgotten first, so it never saved the sheaf from becoming *shich'chah*. Thus, one *se'ah* of standing grain was forgotten by itself, and subsequently, a one-*se'ah* sheaf was forgotten by itself. Regarding this case, the Mishnah teaches that the two units do not combine for the two-*se'ah* exemption from *shich'chah* (*Rash* as elaborated by *Mishnah Rishonah*; see *Beurim of R' Moshe Feinstein* §135; see *Tos. R' Akiva Eiger* §67 and *Beurim of R' Moshe Feinstein* *ibid.* for a slightly different understanding of *Rash*'s words).

Now, the Gemara had thought to resolve the inquiry (whether something initially saved from becoming *shich'chah* can be rendered *shich'chah* later) on the basis of the Mishnah, which seemingly holds that if a one-*se'ah* sheaf was forgotten but saved by standing grain, and then the item that effected the save was itself forgotten, even the sheaf is rendered *shich'chah*. According to *Rash*'s approach, the Gemara rejects this resolution by citing R' Yonah, who asserted for a different reason that the Mishnah cannot be speaking of a case where the sheaf was forgotten before the standing grain. And since it does not refer to this case, it has no bearing on the inquiry (*Derech Emunah* — *Beur HaHalachah* 5:20 ה"ד שכח).

For yet another approach to our *sugya*, see *Shenos Eliyahu HaAroch* and *Beur HaHalachah* *ibid.*

Halachah 7

Mishnah The Mishnah lists various situations in which produce is not subject to the law of *shich'chah*:
 תְּבוּאָה שֶׁנִּתְּנָה לְשַׂחַת — Grain that was given for fodder,^[8] או לְאַלּוּמָה,^[9] — or for bindings,^[9] וְכֵן
 בְּאִיגוּדֵי הַשּׁוּמִים — and similarly stalks of garlic that were harvested for binding,^[10] וְאִיגוּדֵי הַשּׁוּמִים וְהַבְּצָלִים — and
 bundles of garlic or onions,^[11] אֵין לָהֶן שְׂכָחָה — are not subject to *shich'chah*.^[12]
 וְכָל הַטְּמוּנִין בְּאֶרֶץ כְּגוֹן הַלּוּף וְהַשּׁוּמִים וְהַבְּצָלִים — Concerning any [produce] that is hidden in the ground, such as
luf,^[13] garlic and onions,^[14] רַבִּי יְהוּדָה אָמַר — R' Yehudah says: אֵין לָהֶן שְׂכָחָה — They are not subject

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vineyard, indicating that “the domain of the poor” refers to the potential to acquire *leket* or *peret*. *Tos. Yom Tov* wonders why “the domain of the poor” does not also include the potential to acquire *peah* — which would make it possible for the rule of interposition to apply to all fields and orchards (which are subject to the *peah* requirement), not only grain fields and vineyards! For discussion of this matter, see *Tos. Yom Tov, Mishnah Rishonah* and *Tiferes Yisrael* §41.

8. I.e. grain that is harvested prematurely when it is still moist (*Pnei Moshe*), for use as fodder (*Rash, Mahara Fulda*). Because it is not cut for human consumption, such grain is excluded from the laws of *shich'chah* [as the Mishnah continues below] (*Rash, Rosh, and Mahara Fulda*, as explained by *Tiferes Yisrael* in *Hilchasa Gevira, Shaarei Emunah* §13, *Derech Emunah* 5:62, and *Beurim of R' Moshe Feinstein* §136).

Others explain that the law of *shich'chah* applies only to forgotten sheaves [not forgotten cut grain], as the verse (*Deuteronomy* 24:19) states: וְשִׁכְחָתָ עִמָּךְ, and you forget a sheaf. Since grain cut for fodder is never bound into sheaves, it is not subject to *shich'chah* (*Rash Sirilio; Shaarei Emunah* §13 *ד"ה פ"י ה"ר"מ* and *Derech Emunah* 5:61,62, in explanation of *Rambam Commentary* and *Hil. Matnos Aniyim* 5:9; see also *Beurim of R' Moshe Feinstein* *ibid.*).

Two practical differences emerge from these two explanations. First, with regard to the obligations of standing grain *shich'chah* and other gifts for the poor: According to the first explanation, grain cut not for human consumption is exempt not only from the *shich'chah* of sheaves, but also from *shich'chah* of standing grain, and other gifts for the poor (see above, 1:4). According to the second explanation, however, such grain is exempt only from the *shich'chah* of sheaves, since it is in respect to that obligation that the Torah stresses עִמָּךְ, sheaves. It is not exempt from *shich'chah* of standing grain, or other gifts for the poor, since their obligations are not conditional on the grain being bundled into sheaves (see *Derech Emunah, Beur HaHalachah* ל"ה להאב"ל; see also *Maadanei Eretz, Terumos* 2:7 §2). [See, however, *Derech Emunah, Tziyun HaHalachah* 5:108, which states that although according to the second explanation such grain is not exempt from other gifts for the poor, it may be exempt from *shich'chah* of standing grain.] Second, with regard to *mature* grain that is harvested for use as fodder: According to the first explanation, it is subject to *shich'chah*, since mature grain is generally used for human consumption. We do not reckon with the fact that this person cut it for use as fodder; rather we apply the principle of אֲדָמָה כִּלְאֵי הַשָּׂדֶה, which states that normative behavior is defined by the prevailing practices in society [see, for example, *Bavli Menachos* 70a]. According to the second explanation, such grain is not subject to *shich'chah* [since it is never bound into sheaves] (see *Derech Emunah* *ibid.* §63, and *Beur HaHalachah* *ibid.*; see also *Maadanei Eretz* 5:9).

9. I.e. stalks of grain harvested to be used as cord for binding sheaves (*Rash; Rosh; Mahara Fulda*). Because these stalks were not cut for human consumption, the obligation of *shich'chah* is not applicable [as the Mishnah continues below] (*Shaarei Emunah* §13 and *Beurim of R' Moshe Feinstein* §136; see preceding note). [*Derech Emunah, Beur HaHalachah* *ibid.* maintains that here too the reference is to grain that was cut prematurely; see *Mishnah Rishonah*.]

Rambam (*Commentary* and *Hil. Matnos Aniyim* 5:9), however, interprets the word לְאִיגוּמָה as meaning small bundles. As explained above (see 6:4 and 5:7 with notes), the *shich'chah* obligation applies only to sheaves that are in their final form. Since these small bundles stand to be consolidated into larger sheaves, they are not in their final form, and are thus exempt from *shich'chah* (*Rosh* in explanation of *Rambam; Pnei Moshe*; see also *Rash Sirilio*).

Others explain that according to *Rambam*, small bundles are exempt from *shich'chah* even if the farmer does not intend to consolidate them into larger sheaves. The reason for this is that the Torah's reference to a forgotten עִמָּךְ [sheaf] implies a standard-size sheaf that farmers generally make to transport the grain to the threshing floor; smaller

bundles are not included in the term עִמָּךְ, and as such are excluded from the obligation of *shich'chah* [see preceding note] (*Tos. Anshei Shem, Shaarei Emunah* §13 *ד"ה פ"י ה"ר"מ*, *Derech Emunah* 5:65).

10. I.e. garlic stalks that were harvested to tie together bunches of garlic (*Rash, Rosh, and Mahara Fulda*). Here too, the obligation of *shich'chah* does not apply, since these stalks were not cut for human consumption (*Shaarei Emunah* §13 and *Beurim of R' Moshe Feinstein* §136; see preceding two notes).

Rambam Commentary, however, interprets אִיגוּדֵי הַשּׁוּמִים as a bunch of naturally connected garlics. Since it stands to be combined with other such bunches into a larger bundle, it is exempt from *shich'chah*, which applies only to bundles in their final form (see *Rosh* and *Pnei Moshe*; see preceding note). Alternatively, such bunches do not qualify as “sheaves,” which by definition are tied together artificially [or because they are smaller than standard-size sheaves] (see *Tos. Anshei Shem, Shaarei Emunah* *ibid.*, *Derech Emunah* 5:66; see also *Ri Korkos* to *Rambam, Hil. Matnos Aniyim* 5:9).

11. These are preliminary small bundles of garlic or onions, which are subsequently collected and re-bound into larger bundles. Only the final sheaves are subject to *shich'chah*, but these intermediate bundles are not [see preceding two notes] (*Rash; Rosh; Mahara Fulda* and *Pnei Moshe*; see also *Rash Sirilio*).

Alternatively, even if the farmer does not intend to consolidate them into larger bundles, they are exempt. This is because these bundles are too small to qualify as “sheaves” (see preceding note; see also *Mishnah Rishonah* and *Beurim of R' Moshe Feinstein* §136, for their understanding of *Rambam*).

12. According to *Rash, Rosh, and Mahara Fulda*, the first three cases are exempted because they were not harvested for human consumption, whereas the last case is exempted because the sheaves are not in their final form (see preceding notes; see *Beurim of R' Moshe Feinstein* §136). According to *Rambam*, as explained by *Derech Emunah* and *Shaarei Emunah* [cited in preceding notes], all the cases mentioned by the Mishnah are exempted for the same reason; namely, that the forgotten produce does not meet the legal definition of a “sheaf.”

13. *Luf* is a type of onion (*Rambam Commentary, Pnei Moshe*). [*Y. Felix* (*Commentary to Yerushalmi Sheviis* pp. 315, 389) identifies *luf* as the arum palaestinum, commonly known as black calla [see *R' Daniel*, cited by *Aruch*, ל"ו ע"י] or Solomon's lily. This is a perennial plant whose leaves and bulbs are edible upon cooking. Both arum and onions are part of the lily family but are of different genuses. See also *Aruch* *ibid.*]

14. These are all bulbous plants, whose edible product (the bulb) grows underground (*Rambam Commentary; Rav*).

The Mishnah now considers whether or not “hidden” produce is subject to the law of *shich'chah* of standing grain; i.e. if those bulbs overlooked when the others are plucked must be left there as *shich'chah* (*Tos. Anshei Shem*; see *Rambam Commentary* and *Hil. Matnos Aniyim* 5:8, and *Rash Sirilio*).

[*Tos. Yom Tov* and *Tos. Anshei Shem* maintain that although the leaves of these plants are exposed, they are nevertheless classified as “hidden” produce, since the main edible part (the bulb) is underground; cf. *Derech Emunah, Tziyun HaHalachah* 5:93.]

According to *Shenos Eliyahu*, the Mishnah refers to bulbs that were uprooted, sheaved, and then buried underground for storage [see *Mishnah Sheviis* 5:2], and the Mishnah refers to the *shich'chah* of forgotten sheaves. [It is important to note that even those commentators who explain the Mishnah as referring to attached bulbs, agree that buried bulbs are also classified as “hidden” produce (*Mishnah Rishonah; Beurim of R' Moshe Feinstein* §136; see also *Rash* 5:7).]

[Possibly, *Shenos Eliyahu* demurred from explaining in accordance with the simple meaning of the Mishnah, because in his opinion attached bulbs are not considered “hidden,” since their leaves are exposed. Therefore, he explains the Mishnah as referring to uprooted bulbs which

to *shich'chah*.^[15] וְחֻכְמֵי אֲמֹרִים — But the Sages say: יֵשׁ לָהֶן שְׂחָה — They are subject to *shich'chah*.^[16]

Gemara The Gemara addresses the Mishnah's first ruling, and expands it:

אָמַר רַבִּי יוֹנָה — R' Yonah said: לֹא סוֹף דְּבַר נִיחָנָה — [The Mishnah's exemption] does not end with grain that was [already] given for fodder, אֲלֵא אֶפְיֵלוּ נוֹטְלָה עַל מְנַת לִיחָנָה — but extends even [to grain] that one took [i.e. harvested] with the intent to give it to animals as fodder.^[17]

The Mishnah stated:
וְכָל הַטְּמוּנִין וְכוּ' — Concerning ANY [PRODUCE] THAT IS HIDDEN (in the ground, such as luf, garlic, and onions, R' Yehudah says: They

are not subject to *shich'chah*. But the Sages say: They are subject to *shich'chah*) etc.]

The Gemara cites another Mishnah regarding hidden objects, in which the opinions of R' Yehudah and the Sages are reversed:

הַמְדֻלֵּק אֶת הַגְּדִישׁ — We learned there in a Mishnah:^[18] וְהָיוּ בּוֹ כְּלִים — AND UTENSILS WERE hidden IN IT, and they were burned together with the stack, רַבִּי יְהוּדָה אָמַר — R' YEHUDAH SAYS: מִשְׁלֵם כָּל מָה שֶׁבְּתוֹכוֹ — HE PAYS FOR WHATEVER WAS INSIDE IT, including the utensils.^[20]

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are **completely** buried underground (see *Tos. Anshei Shem; Beurim of R' Moshe Feinstein* *ibid.*.)

15. R' Yehudah maintains that “hidden” produce is not subject to *shich'chah*. He agrees, however, that *luf*, garlic, or onion bulbs that were uprooted, sheaved and left forgotten above the ground, are subject to *shich'chah* (*Rash, Ri ben Malki Tzedek, Mahara Fulda*).

16. The Sages maintain that even “hidden” produce is subject to *shich'chah*.

As explained above (5:6; 47b), produce forgotten on account of external factors is not subject to *shich'chah*. Still, the hidden produce of our Mishnah is subject to *shich'chah*, and is not exempted on grounds of being overlooked because of its being hidden — an external factor. This is because it is normal for these plants to be underground, and as such, his forgetting them must be attributed to sheer forgetfulness, and the laws of *shich'chah* apply (see *Rambam, Hil. Matnos Aniyyim* 5:3,8, and 25, with *Derech Emunah* §21,22, and 52, and *Beur HaHalachah* 5:3 ד"ה עמרו; see also *Maadanei Eretz* 3:1).

[The source of the dispute between R' Yehudah and the Sages will be given in the Gemara.]

17. The Mishnah's expression “grain that was given for fodder” — in the past tense — implies that the grain had already been used for fodder (see *Mahara Fulda*). The Mishnah would thus be saying that grain harvested for use as fodder is exempt from *shich'chah* only if a portion of

the grain had already been given to the animals as fodder. If, however, it was yet to be used as fodder, it is subject to *shich'chah* — even though the grain was cut with the intent to feed it to the animals. R' Yonah teaches that this is not so, and even if none of the grain has been given to the animals for fodder, it is nevertheless not subject to *shich'chah* [for the reasons explained above in note 8] (see *Shaarei Emunah* §13 and *Meleches Shlomo*; see also *Rash Sirilio, Sdeh Yehoshua*, and *Mahara Fulda*).

Alternatively, by stating “grain that was given for fodder,” rather than “grain that was cut for fodder,” the Mishnah implies that only grain *originally sown* for fodder is not subject to *shich'chah*; grain that was merely cut for use as fodder is subject to *shich'chah*. R' Yonah explains that this is not so, and even if the grain was not originally sown for fodder, but merely harvested with that intent, it is not subject to *shich'chah* (*Pnei Moshe*; see *Beurim of R' Moshe Feinstein* §136 ד"ה ואיתה).

18. *Bava Kamma* 6:7 (29a Vilna ed.); *Bavli Bava Kamma* 61b.

19. *Bavli Bava Kamma* 61b explains that this refers to one who kindled a fire in his own premises, and it then spread to another person's property [through negligence] and burned a stack of grain there.

20. R' Yehudah holds that one who sets a fire — even on his own property — is liable for everything it burns, even items that were *hidden* from view (*Mahara Fulda*).

אינו משלם אלא גדיש חיטין — BUT THE SAGES SAY: וְחַכְמֵי אֱמִירִים — או גדיש שעורין או גדיש שעורין — HE PAYS ONLY FOR A STACK OF WHEAT OR FOR A STACK OF BARLEY.^[1]

The Gemara points out an apparent contradiction in R' Yehudah's positions:

מחלפא שיטתיה דרבי יהודה — The opinions of R' Yehudah are reversed. תמן הוא אומר — There, with respect to damage by fire, [R' Yehudah] says that לרבות את הטמון — the verse means to include liability for hidden [objects]; וְכֵן הוּא אָמַר — and here, with respect to the *shich'chah* obligation, he says that פֶּרֶט לְטֶמֶן — the verse means to exclude hidden [produce] from the *shich'chah* obligation.^[2] — ? —

The Gemara answers:

תמן — There with respect to liability for damage by fire, the Torah states:^[3] “וְנֹאֲכַל גְדִישׁ אֹרְחָהּ” — *If a fire goes forth etc. and consumes a grain stack or standing grain etc., the one who ignited the fire shall pay.* “מִמִּשְׁמַע שְׁנֵאֲמַר, קָמְהָ” — Now, from the implication of that which is stated *standing grain*, אין אנו יודעין שהגדיש בכלל — do we not know that a grain stack is encompassed as well?^[4] “גְדִישׁ” — ומה תלמוד לומר, — What need was there for [the Torah] to state a grain stack? לרבות את הטמון — To include liability for hidden [objects].^[5] “שָׂדֶה” — וְכֵן הוּא אָמַר — However here, with respect to the *shich'chah* obligation, the Torah states: *your field — which is exposed* — implying that the *shich'chah* obligation applies only to produce that resembles a field, insofar as it too is exposed, פֶּרֶט לְטֶמֶן — to the exclusion of produce that is hidden.^[6]

The Gemara now points out an apparent contradiction in the

opinions of the Rabbis who argue with R' Yehudah:

מחלפא שיטתין דרבנן — The opinions of the Rabbis are reversed. תמן אינון אמרין — There, with respect to damage by fire, they say that פֶּרֶט לְטֶמֶן — the verse means to exclude liability for hidden [objects]; וְכֵן הוּא אָמַר — and here, with respect to the *shich'chah* obligation, they say that לרבות את הטמון — the verse means to include hidden [produce] in the *shich'chah* obligation.^[7] — ? —

The Gemara answers:

תמן — There, with respect to liability for damage by fire, the Torah states: “או הקמה או השדה” — *If a fire goes forth etc. and consumes a grain stack, or standing grain, or a field etc. the one who ignited the fire shall pay.* מה (שרך) [שדה] בגלוי אף כל דבר — The Torah mentions a “field” to teach that just as one’s field is exposed, so too, one is liable for fire damage to any object that resembles a field, insofar as it too is exposed, to the exclusion of things that are hidden.^[8] ברם הכא — However here, with respect to the *shich'chah* obligation, the Torah states: *your field — which is exposed* — to the exclusion of “hidden produce,” “קצירך” בגלוי — and it also states *your harvest — which is exposed* — to the exclusion of “hidden produce.” והוי מיעוט אחר מיעוט — Thus, [the verse] presents one exclusion [of hidden produce] following another exclusion [of hidden produce], ואין מיעוט — אין מיעוט — and in accordance with the general rule, one exclusion of hidden produce following another exclusion of hidden produce does not serve to exclude, but to include hidden [produce].^[9]

Halachah 8

Mishnah הקוצר בלילה — One who harvests at night, והמעמר — and one who removes sheaves,^[10]

NOTES

1. The Sages hold that one is not obligated to pay for fire damage to hidden things (*Mahara Fulda*). Rather, if the stack was of wheat, he pays as though it contained only wheat [including the space taken up by the utensils]; if it was of barley, he pays as though it contained only barley (*Pnei Moshe, Rash Sirilio*).

2. The Torah states the term *שדה*, *field*, both with respect to the *shich'chah* obligation [When you reap your harvest in your *field* and you forget a sheaf in the *field* (*Deuteronomy* 24:19)], and with respect to liability for damage by fire [If a fire goes forth and comes across thorns and consumes a grain stack, or standing grain, or a *field*, the one who ignited the fire shall pay (*Exodus* 22:5)]. With respect to *shich'chah*, R' Yehudah apparently expounds the term “field,” as limiting the law of *shich'chah* to produce that lies exposed on the field (see *Sifri to Deuteronomy* *ibid.*). Likewise, he should expound the term “field” stated with respect to fire liability, as limiting liability for damage by fire to items that are exposed on the field. Why then does he expound that verse to include even hidden items?

3. *Exodus* 22:5.

4. Once the Torah teaches that one is liable for fire damage to standing grain, it is obvious that he is also liable for fire damage to a grain stack. For there are certainly no grounds for exempting liability for this very same grain after it is cut and piled into a stack (*Mahara Fulda*; see also *Rash Sirilio*).

5. The Torah states “a grain stack” to teach that he is liable for the entire grain stack — even foreign objects hidden within it (*Pnei Moshe*; see *Yerushalmi Bava Kamma* 6:5) — which would have, otherwise, been excluded by the implication of the term “field” (*Mahara Fulda*).

6. Thus the opinions of R' Yehudah are indeed consistent. For, in fact, he expounds the term “field” to exclude hidden things. Therefore with respect to *shich'chah*, where there is no superfluous verse teaching otherwise, he exempts hidden produce on the basis of the term “field.” With respect to liability for damage by fire, however, although the term “field” implies an exemption for hidden objects, the superfluous “grain stack” teaches that there is liability for “hidden objects” (*Mahara Fulda*).

7. With respect to *shich'chah*, the Rabbis apparently expound the term “field” as including even produce that is hidden (see *Sifri* *ibid.*). Likewise, they should expound the term “field” stated with respect to fire damage liability, to include hidden items, and impose liability for the damage of even such an item. Why then do they expound that verse to exclude hidden items?

8. Like R' Yehudah, the Rabbis maintain that the term “field” implies an exclusion of hidden items. As such, they exclude “hidden objects” from liability for fire damage. [Their argument centers on the superfluous “grain stack”; R' Yehudah uses it to teach that one is liable for fire damage to hidden objects, while the Rabbis do not. Hence, the exclusion of “hidden objects” derived from the term “field” remains. *Yerushalmi Bava Kamma* *ibid.* raises the question as to what the Rabbis learn from the superfluous “grain stack,” and offers no answer.]

9. One of the principles of Scriptural exegesis is that back-to-back exclusions cancel each other, and the overall effect is to indicate an *inclusion* (see *Tos. Yom Tov, Orlah* 1:2, for an explanation of this principle). Since in this verse there are two exclusions of “hidden produce,” it follows that something hidden is not excluded at all. Rather, the two exclusions teach us that *shich'chah* does apply to hidden produce.

[See *Tos. Yom Tov*'s suggestion as to why R' Yehudah does not apply this principle (see also *Rash Sirilio* and *Sdeh Yehoshua*).]

In summary: According to *Yerushalmi*, R' Yehudah and the Sages agree that the term “field” implies an exclusion of hidden items. Thus, both the term “field,” stated with respect to fire damage, and the term “field” stated with respect to *shich'chah*, imply an exclusion of hidden produce. R' Yehudah, however, expounds the superfluous term “grain stack,” stated with respect to fire damage, to teach an inclusion of hidden objects, and the Sages expound the additional exclusionary term “your harvest” stated with respect to *shich'chah*, as teaching an inclusion of hidden produce. [See *Bavli Sotah* 45a and *Bava Kamma* 60a, for variant explanations of both disputes.]

10. The Gemara will explain that this means one who removes sheaves [to the threshing floor] at night.

ואם היה מתכוין ליטול את — and a blind person^[11] יש לו שכהה — are subject to the law of *shich'chah*.^[12] אם אמר רבי יונה — If he intended only to take the thick ones,^[13] אין לו שכהה — he is not subject to the law of *shich'chah*.^[14] אם אמר הרי אני קוצר על מנת מה שאני שוכח אטול — If one says, “Behold I am reaping on condition that what I forget I shall return to take,” יש לו שכהה — he is subject to the law of *shich'chah*.^[15]

Gemara The Gemara clarifies the Mishnah's first clause:

One who harvests at night, and one who removes sheaves, and a blind person are subject to the law of shich'chah.

הקוצר — So is the Mishnah to be understood: כיני מתניחא — One who harvests at night, והמעמר בלילה — and one who removes sheaves at night, סומא בין ביום בין בלילה — and a blind person who harvests or removes sheaves by day or by night [are subject to the laws of *shich'chah*].^[16]

The Gemara addresses the next clause of the Mishnah:

[ואם היה מתכוין וכו' — IF HE INTENDED (only to take the thick ones, he is not subject to the law of *shich'chah*) etc.]

The Gemara extends the ruling of the Mishnah.

לא סוף דבר גסין — R' Yonah said: אמר רבי יונה [The Mishnah's exemption] does not end with the thick [stalks or sheaves] אלא אפילו דקין — but extends even to the thin [stalks or sheaves]. (וכי מאחר שדרכו לבחון בגסין — For since he is wont to discern and take the thick ones, אפילו דקין אין ליה שכהה — even the thin ones are not *shich'chah*.^[17])

The Gemara cites the Mishnah's final clause that reads:

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11. That is, a blind person who harvests or removes sheaves, during the day or during the night (see Gemara).

12. [Just as harvesting or removing sheaves in daylight is subject to the laws of *shich'chah*, so too is harvesting or removing sheaves at night (or by a blind person).]

This ruling represents two novelties. First, although the produce in question is not visible to the person reaping or collecting it, it is still not considered “hidden produce,” which is exempt from *shich'chah* according to R' Yehudah of the preceding Mishnah. This is because the produce in these cases is in reality exposed; it is merely not visible to the reaper or collector due to external factors (*Mahara Fulda*; see also *Sdeh Yehoshua*).

The second novelty is that the forgotten standing grain or a sheaf is not exempt from *shich'chah* on the grounds that an external factor was responsible for its being forgotten [see above, 57a note 16]; namely, that it was harvested or collected at night or by a blind person. Rather, we say that the person engaging in such work at night [or when blind] demonstrates that he does not consider the reduced visibility [or his handicap] to be an impediment to his efficiency. On the contrary, since he is aware of the darkness [or his handicap] he will be especially careful and thorough. If in spite of this he left a stalk or sheaf behind, it is attributed to simple forgetfulness, and the standing grain or sheaf is deemed *shich'chah* (*Tiferes Yisrael* §49, *Hilchasa Gevira*, and *Derech Emunah* 5:53,54; see above, 48b with notes; see also *Shaarei Yerushalmi*).

[With regard to how the ruling of the Mishnah (that produce harvested or collected by a blind person is subject to *shich'chah*) is consistent with the opinion of R' Yehudah who exempts a blind person from mitzvos (see *Bavli Bava Kamma* 87a), see *Shaarei Emunah* §14.]

13. If the nighttime or blind harvester (or collector of sheaves) [in realizing that the handicap to their visibility would make it difficult to harvest or remove all the produce in its entirety] planned to take only the thick ears or sheaves now [which he could sense by touch, and return during the day for the thin ears or sheaves, or, in the case of the blind person, to have someone else complete the job] (*Rambam, Hil. Matnos Aniyim* 5:8; *Pnei Moshe*; see *Tos. Yom Tov*).

Others, however, understand that this case is not related to the preceding case. Rather, it refers to harvesting and removing of sheaves during the daytime by a sighted person, who chooses at this juncture to harvest or remove only the thick ears (*Rash* and *Rosh* as understood by *Derech Emunah* 5:55).

[Some suggest that even according to *Rambam*, who takes this part of the Mishnah to be a continuation of the Mishnah's first case, the ruling issued by the Mishnah would be applicable also to a case where a sighted person harvested or collected the sheaves during the daytime. The Mishnah chose the case of nighttime or a blind person, because of the novelty it represents (see *Sdeh Yehoshua, Meichal HaMayim, Aruch HaShulchan HeAsid* 9:20, *Tos. Anshei Shem*; cf. *Tevunah* and *Derech Emunah* *ibid.*.)]

14. The thick ears or sheaves which he overlooked are not subject to *shich'chah*. There are a number of reasons given for this ruling: (1) Harvesting only thick ears is not the normal way in which people harvest, and is therefore not included in the expression *כִּי תִקְצֵר קְצִירְךָ*, when you reap your harvest (*Deuteronomy* 24:19) — the condition that the Torah predicates for the laws of *shich'chah*. Therefore such selective

reaping is excluded from the laws of *shich'chah* (*Rash Sirilio*; see *Sdeh Yehoshua*). [It remains unclear why selective collecting of sheaves exempts from *shich'chah*, since in that case the harvesting was done in a normal way; see *Pe'as HaShulchan* 9:21.] (2) The law of *shich'chah* takes effect with the end of the harvesting [or collecting]. Since in this case he has not finished harvesting [or collecting], as he is now harvesting [or collecting] only the thick ones, the law of *shich'chah* does not take effect (see *Tzafnas Pane'ach, Hil. Matnos Aniyim* 5:8; see also *Melech Shlomo* and *Mishnah Rishonah*). (3) The laws of *shich'chah* apply only to stalks and sheaves that are subject to being permanently forgotten [see 7:1]. In these cases, the forgotten thick stalks or sheaves will likely be remembered when he returns to harvest or collect the thin stalks or sheaves. As such, the laws of *shich'chah* are not applicable (*Gra ms.*). (4) As we have explained [see above, note 12], produce forgotten on account of external factors is not subject to *shich'chah*. In this case, we can attribute his forgetting the thick stalks or sheaves to his mistaking them for thin ones, which is not a true form of forgetting, and hence they are not subject to *shich'chah* (*Gra ms.*; see *Beur of R' Chaim Kanievski* and *Derech Emunah* 5:55).

15. [His pre-condition is not valid, and accordingly the forgotten produce is rendered *shich'chah*. The Gemara will give the reason for this ruling.]

This ruling is definitely not related to the first case of the Mishnah, and refers to any person who makes such a pre-condition [see note 13] (*Rambam, Hil. Matnos Aniyim* 5:8; *Pnei Moshe*; cf. *Tevunah*).

[Although the Mishnah issues this ruling with respect to a farmer who makes such a stipulation prior to harvesting, the same ruling applies to one who makes such a stipulation prior to collecting his sheaves. See *Tos. Anshei Shem* for the novelty that the case of harvesting represents.]

16. The Mishnah adds the words *בלילה*, at night, after the first case (*one who harvests*). It does not add these words in the subsequent two cases (*one who removes sheaves, and a blind person*). This gives the mistaken impression that those two cases are linked to each other, in that they are both dealing with either daytime or nighttime work. The Gemara therefore explains that it is as though the Mishnah reads: and one who removes sheaves at night, and a blind person by day or by night, so that the case of one who removes sheaves is a continuation of the first case, whereas the case of a blind person is not (see *Pnei Moshe* and *Beur of R' Chaim Kanievski*).

17. When harvesting or collecting the thick stalks or sheaves, the thick ones that are forgotten are not subject to *shich'chah* because of the reasons set forth above in note 14. R' Yonah teaches that even the thin ones that are “left behind” are not subject to *shich'chah*, because they were left behind intentionally, to be harvested or collected at a later time (see *Mahara Fulda*).

Many commentators find it difficult to understand why the exemption of thin ones from *shich'chah* is considered a greater novelty than the exemption of the thick ones. To the contrary! The intentionally left behind thin ones are understandably not *shich'chah*, since they were not forgotten, whereas the overlooked thick sheaves, having been truly forgotten, would appear to be *shich'chah*! (see *Boaz* §5; see also *Pnei Moshe, Tos. Yom Tov, Meichal HaMayim, Aruch HaShulchan HeAsid* 9:19 and *Beurim of R' Moshe Feinstein* §137).

Gra ms. suggests that R' Yonah's novelty is with regard to the thin ones forgotten during the second harvesting or collection, when he is concentrating on the thin ones. One would have thought that those

הַחֵבֶלֶת — אָמַר הָרִיבִי קוֹצֵר עַל מִנְתַּי מִה שְׁאַנִּי שׁוֹבֵחַ אֲנִי אֶטוֹל יֵשׁ לוֹ שְׂכָחָה — IF ONE SAYS, “BEHOLD I AM REAPING ON CONDITION THAT WHAT I FORGET I SHALL return to TAKE,” HE IS SUBJECT TO THE LAW OF *SHICH’CHAH*.

The Gemara gives the reason for the Mishnah’s ruling:

שֶׁהִתְנָה עַל מַה שְׂכָתוֹב בַּתּוֹרָה — For he has made a stipulation contrary to what is written in the Torah, וְכֵן הִמְתְּנָה עַל מַה שְׂכָתוֹב בַּתּוֹרָה — and whoever makes a stipulation contrary to what is written in the Torah, הִנָּא בָטֵל — his stipulation is void.^[18]

הַדְרִין עֲלֶיךָ בֵּית שְׁמַאי

WE SHALL RETURN TO YOU, BEIS SHAMMAI

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stalks or sheaves are *shich’chah* since they were left behind unintentionally. R’ Yonah teaches otherwise; even this forgotten produce is not subject to *shich’chah*. This is because we attribute his forgetting the thin stalks or sheaves to his mistaking them for thick ones [which he does not wish to collect at this time], which is not a true form of forgetting. Or because the forgotten thin ones will likely be remembered when he returns to harvest or collect the thick ones that he intentionally left behind during this second collection process (see also *Beur of R’ Chaim Kaniewski* and *Derech Emunah* 5:55).

It is noteworthy that according to *Gra* these are the very same reasons that the thick ones left behind during the first harvesting or collection process were not subject to *shich’chah* (see above, note 14). Yet, R’ Yonah states that applying these reasons to the thin ones forgotten during the second harvesting or collection process represents a greater novelty. This is because during the first process he is concentrating on the thick ones (leaving the thin ones for later). Thus, we can attribute his leaving a thick one behind to his mistaking it for a thin one. Likewise, it is possible to say that the forgotten ones will likely be remembered during the second process. During the second process, however, the field has been emptied of (most of) the thick ones. Thus, one could have said that the farmer is not concentrating on only the thin ones, rather he is harvesting (or collecting) all the leftover produce. As such, we cannot say that he mistook a thin one for a thick one (since he is not trying to differentiate). We also cannot say that the forgotten thin one will likely be remembered (for there will not be another harvesting or collection process). R’ Yonah teaches that this is not so; rather, we say that even during the second process, he is concentrating specifically on the thin ones (leaving any leftover thick ones for later). Accordingly, we say that even the ones forgotten during the second process are not subject to *shich’chah*, for the same reasons the thick ones were not during the first process.

[According to *Gra*, the words מֵאַחַר שֶׁדָּרְכוּ לִיבְחוּ בְּגִסִּין mean as follows: Since (even in the second collection) he is wont to discern **and leave** the thick ones for later, we can therefore say that he mistook a thin one for a thick one (or, that any forgotten thin ones will likely be remembered when he goes back for the thick ones).]

See Variant A for alternate texts of R’ Yonah’s statement.

18. This general principle invalidates a stipulation that, if effective, would override Torah law (see *Kesubos* 9:1, 51a [Vilna ed.] and *Bava Metzia* 7:7, 29a [Vilna ed.]). Since the Torah assigns forgotten produce to the poor, the farmer’s pre-condition that he retain possession of

forgotten produce is contrary to Torah law, and is therefore not valid. Thus, the forgotten produce is indeed rendered *shich’chah*.

[*Yerushalmi* (*Bava Metzia* *ibid.* and *Kiddushin* 10b, Vilna ed.; see also *Bavli Kiddushin* 19b with *Yefei Einayim*) makes an exception to this principle with regard to monetary matters, so that if one makes a stipulation regarding monetary matters contrary to what is written in the Torah, his stipulation stands. Now, our case pertains to monetary matters (i.e. leaving the forgotten produce for the poor), and yet the farmer’s stipulation is void. There are two reasons suggested by the commentators as to why this so. First, leaving *shich’chah* for the poor is a mitzvah, and is viewed as a nonmonetary matter (see *Pnei Moshe*; see also *Rambam Commentary*). Second, a stipulation regarding monetary matters stands because the person’s stipulation is not directed at the Torah, rather at the other party with whom he is stipulating. In effect, he is stipulating that the other party waive their financial rights, not that Torah law itself should not apply to him. Thus, his condition stands (see *Ritva* to *Kiddushin* *ibid.*). In our case, however, this reasoning does not apply, because it is impossible to stipulate with all the poor that they should waive their rights to their entitlements (see *Rash Sirilio*; see *Aruch HaShulchan HeAsid* 9:21 for a similar reason).

Tos. R’ Akiva Eiger §69 finds difficulty with the Gemara’s need to apply this principle in this case. This principle is necessary only with respect to matters that are contingent upon one’s consent, and thus can be made contingent upon a stipulation [e.g. an act of acquisition is effective only when performed with the consent of the parties involved. Accordingly, one can make a stipulation that he consents to the acquisition only if certain conditions are met]. In this case, however, where forgetting produce while harvesting [or collecting sheaves] effects the *shich’chah* obligation even without the farmer’s consent, a stipulation has no place. It is similar to one processing his grain on the condition that they not become subject to the tithes; or cooking meat and milk together on the condition that they not become prohibited. Obviously in those cases a condition has no place; the condition cannot change the fact that his produce was processed or that the milk and meat were cooked together. Here too, the condition cannot change the fact that he harvested and forgot some produce. Why then must the Gemara cite the principle that a stipulation contrary to the Torah is void, in order to explain the Mishnah’s ruling? (see *Boaz* §6 at length). [For another explanation of the Gemara — which would resolve this difficulty — see *Shenos Elyahu HaAroch*, *Tevunah*, and *Derech Emunah* 5:59,60 with *Tziyun HaHalachah*.]

TEXTUAL AND INTERPRETIVE VARIANTS

A. Our presentation of the *sugya* is based on the text as we have it, which states that **even** the thin ones are not subject to *shich’chah* [and definitely not the thick ones]. *Rosh*, however, posits that the Mishnah exempts only the thin ones that were intentionally left in the field, but not any overlooked thick ones. *Melech Shlomo* suggests that *Rosh* had a different text of R’ Yonah’s statement that deletes the word אֶפְיֵלוֹ from the text. Thus, the text reads: אֶלָּא דָּקִין וְכוּ אֵין לָהֶם שְׂכָחָה. According to this text, R’ Yonah is stating that the Mishnah’s exemption pertains only to the thin ones that were left intentionally, but not to any overlooked thick ones (see also *Tos. Yom Tov*). [It is unclear how the words אֶלָּא דָּקִין וְכוּ (the Mishnah’s exemption does not end with the thick stalks or sheaves) are explained according to this emendation of the text.]

Yet another version of the text seems to have been the basis of *Shenos Elyahu HaAroch*’s elucidation of the *sugya*. It appears that he emended the text as follows: אֶלָּא דָּקִין אֵין גְּסִין מֵאַחַר שֶׁדָּרְכוּ לִיבְחוּ בְּדָקִין. According to this version of the text, the exemption of the thick ones from *shich’chah* represents the greater novelty, and R’ Yonah is saying that the Mishnah exempts not only the thin ones that were left intentionally, but even any thick sheaves that were overlooked and left unintentionally, since they stand to be remembered and retrieved when the farmer returns to collect the thin ones. Many commentators maintain that this was *Rambam’s* (*Hil. Matnos Aniyim* 5:8) text as well (see *Pe’as HaShulchan* 9:22, *Aruch HaShulchan HeAsid* 9:19, and *Derech Emunah*, *Tziyun HaHalachah* 5:98).

Chapter Seven

Halachah 1

Mishnah This chapter continues with discussion of *shich'chah*, focusing specifically on *shich'chah* in trees:^[1] **בְּשָׂדֵה אֵילָנִים שֶׁיָּשׁ לוֹ שֵׁם בְּשָׂדֵה — Any olive tree^[2] that has a name in the field as a distinctive, extraordinary tree, אֲפִילוּ כְּזֵית הַנְּטוּפָה בְּשַׂעֲתוֹ — even if it is known as an olive tree that drips [oil] in its time,^[3] וְשָׁכַחוּ — if [the owner] forgot it,^[4] אֵינָהּ שְׂכָחָה — it is not subject to the law of *shich'chah*.^[5]**

The Mishnah elaborates:

בְּמָה דְּבָרִים אָמוּרִים — When are these words said, i.e. that a tree's reputation can exempt its fruit from the laws of *shich'chah*? בְּשֵׁמוֹ וּבְמַעֲשָׂיו וּבְמִקְוָמוֹ — When it is distinctive in its name, in its productivity, or in its location.^[6]

The Mishnah defines these terms:

בְּשֵׁמוֹ שֶׁהָיָה שְׂכָחָנוּ אוֹ בְּיָשָׁנוּ — Being distinctive “in its name” means that [the tree] was known as a *shafchani* or as a *baishani*.^[7] בְּמַעֲשָׂיו שֶׁהוּא עוֹשֶׂה הַרְבֵּה — “In its productivity” means that it produces much.^[8] בְּמִקְוָמוֹ — “In its location” means that it stands alongside a winepress or a break in the wall.^[9]

The Mishnah now turns to the case of ordinary, non-distinctive trees:

וְשָׂרְיָהוּ כָּל הַיְזֵיתִים — But with regard to all other olive trees, this is the law: שְׁנַיִם שְׂכָחָה — Two trees that were forgotten are *shich'chah*; וּשְׁלֹשָׁה אֵינָן שְׂכָחָה — but three trees that were forgotten are not *shich'chah*.^[10]

NOTES

1. The source that olive trees are subject to *shich'chah* is the verse (*Deuteronomy* 24:20): כִּי תִבְטַח וַיִּתֵּךְ לֹא תִפְאַר אַחֲרָיֶךָ: *When you beat your olive tree you shall not remove its glory behind you.* The precise manner in which the verse is expounded to teach the *shich'chah* obligation will be discussed below (58b; see note 20 there).

There is some question among the Rishonim as to which trees are subject to *shich'chah*. On the one hand, the verses that teach this obligation (*ibid.* vs. 20-21) are stated with regard to grapevines and — by extension or derivation — to olive trees (see below, 58b-59a) which implies that only these species are included in this mitzvah. However, some Rishonim maintain that the mitzvah includes other species as well. [For a comprehensive listing of the Rishonim involved, see *Derech Emunah, Matnos Aniyim* 2:7, and *Tziyun HaHalachah* there §31,32.]

Note, however, that *Yerushalmi* (above, 1:4) draws an analogy between grapevines and olive trees and all other species of fruit tree. It employs this analogy to teach that the law of *peah*, stated with regard to grapevines and olive trees, applies to other fruit trees as well. It stands to reason that this same analogy can be employed to extend the law of *shich'chah* to all fruit trees. Thus, in *Yerushalmi's* view, all species of fruit tree are subject to *shich'chah* by Biblical law (see *Derech Emunah, Beur HaHalachah* 1:6 ד"ה והוא הדין, and 2:1 ד"ה שנאמר ובקצרכם הדין).

2. Although the Mishnah states its rulings with regard to olive trees, they apply also to any other fruit tree that is obligated in the law of *shich'chah* (see *Rambam, Matnos Aniyim* 5:22-25; *Gra* below ד"ה זה ד"ה זה מסיים; see *Derech Emunah* 5:148, and *Tziyun HaHalachah* §259; cf. *Radvaz to Rambam* *ibid.*). The Mishnah singled out the olive tree because of the ruling of R' Yose (at the end of this Mishnah), which is stated only in regard to olive trees (see *Rash Sirilio* ש"ח א"ג ש"ח א"ג ד"ה). Alternatively, these trees were singled out because they were the most important trees in Eretz Yisrael in that period (see *Tziyun HaHalachah* 5:259, based on *Rambam* 5:25). See further, *Shaarei Emunah* כל זית ד"ה.

3. “An olive tree that drips oil” (i.e. a *netofah*) is an example of a tree “that has a name in the field” (see *Rosh; Rambam, Matnos Aniyim* 5:23). It refers to a tree whose olives are so succulent that oil drips from them of its own accord. This unusual characteristic earns the tree a special distinction (see *Rash* and *Rosh; Gemara* 58b; cf. *Rambam Commentary*). Because it is a distinctive tree, it is not subject to the law of *shich'chah*. The reasons for this will be explained below, in note 5.

“In its time” refers to a tree that drips oil at certain times, but not on a constant basis. Even if a particular tree does not produce so lavishly every year, its law is still that of a distinctive tree, for its yield [in most other years] has earned it the reputation of “an olive tree that drips oil”

(see *Rav; Aruch HaShulchan HeAsid* 12:6; see *Gemara* 58b with note 12). See Variant A.

4. I.e. he entirely overlooked the tree, and did not harvest it at all.

[With regard to a case in which he began harvesting the fruit of a *netofah* and overlooked some of the olives, see *Mishnah* below, 59a.]

5. The law of *shich'chah* applies only to a tree that (barring an incident that brings it to the owner's attention) will probably be forgotten permanently once it is overlooked. The distinctive trees of our Mishnah, however, will probably not be forgotten permanently. Therefore, they are not subject to the law of *shich'chah*. One who overlooks these trees during the harvest need not leave them for the poor, but may return to them and take the crop. The *Gemara* (58b) will derive this ruling from a Scriptural verse.

6. Thus, the features that make a particular tree memorable, and thus exempt from *shich'chah*, are one of three: (a) if it is singled out by having a distinctive name; (b) if it is known to be unusually productive; (c) if it is identified by its location near a particular landmark. An olive tree known to people for any one of these features is not subject to *shich'chah* (*Rosh*; see *Tiferes Yisrael* §4).

7. These names signify unusual qualities; they will be explained in the *Gemara* below (58b).

8. The *Gemara* (*ibid.*) will explain whether its productivity is manifested in the number of olives on the tree or in the amount of oil in the olives.

9. In this case, the distinctiveness of the tree lies in its proximity to a particular landmark. For example, an olive tree standing near a winepress or a break in the wall would be identified as “the tree near the press” or “the tree near the gap” (*Derech Emunah* 5:145-146; see there for other explanations).

[This holds true only if there is one tree near the landmark, or perhaps even two. Where, however, there are a number of trees there, they are subject to *shich'chah*, for a location shared by many trees does not render any one of them distinctive (*Chidushim U'Veurim of R' Moshe Feinstein* §138 ד"ה ובעי).]

10. Most Rishonim understand the Mishnah to be discussing a person who forgets to harvest entire trees (*Rosh; Rambam, Matnos Aniyim* 5:22; *Rash*, as explained by *Kesef Mishneh* ad loc.; cf. *Radvaz's* interpretation of *Rash*). [However, *Hasagos HaRaavad* (there) maintains that the Mishnah refers to the case of one who overlooks two or three olives on a tree (see *Kesef Mishneh* and *Radvaz* *ibid.*.)]

The Mishnah rules that the maximum number of trees subject to *shich'chah* if overlooked is two. If a person forgets to harvest three or

TEXTUAL AND INTERPRETIVE VARIANTS

A. *Gra* explains that “in its time” refers to a tree that is dripping oil at the time it is overlooked, but did not drip oil in any other year. Because this tree does not usually produce so abundantly, it cannot be described as “a tree that has a name in the field.” Nevertheless, this tree too is exempt

from *shich'chah*. Although the spontaneous dripping of oil — which represents a loss to the owner — is something of a liability, the tree's present abundance of oil is sufficiently memorable to exempt the tree from *shich'chah* (see also *Shenos Elyahu*; cf. *Rosh* נ"טו ד"ה; see *Gemara* 58b).

A dissenting view:

רבי יוסי אומר — R' Yose says: אין שְׂכָחָה לְזֵיתִים — There is no *shich'chah* for olive trees.^[11]

Gemara The Mishnah ruled that an olive tree that is distinctive in some way is exempt from *shich'chah*. The Gemara provides the source of this ruling: **R' La said:**^[12] **בְּתִיב — It is written**, in the verse that teaches the law of *shich'chah*:^[13] **“וְשָׂכַחְתָּ עִמָּךְ בַּשָּׂדֶה”**, — **When you reap your harvest in your field, and you forget a sheaf in the field, do not return to take it.** The words *and you forget* imply that the law of *shich'chah* applies only to **עֹמֵר שָׂאֵתָה — a sheaf that you will forget forever** once it has been overlooked. **יָצָא זֶה — Excluded is this** case of a distinctive tree, **שָׂאֵת זֹכְרָה לְאַחַר זְמַן — which you will remember afterward**, because of its unusual feature.^[14]

The Gemara presents an inquiry regarding the exemption for distinctive trees. It prefaces the inquiry with a series of related rulings. The first ruling:

רבי ירמיהו פְּעִי — R' Yirmiyah stated:^[15] **הִזְהֵר מִסּוּיִים בְּדַעְתּוֹ — If [a tree] was distinctive in [the owner's] mind only, כְּמוֹ שְׂדוּאָה — it is regarded as if it were distinctive** in reality. Therefore, it is not subject to the law of *shich'chah*.^[16]

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more trees, he may return and take their fruit, for they are not *shich'chah*. This follows the view of Beis Hillel, who rule in an earlier Mishnah (6:4 [54b]) that two forgotten sheaves (or piles of olives) are *shich'chah* but three sheaves are not (*Rash*). [Beis Shammai (there) rule that the law of *shich'chah* applies to as many as three forgotten sheaves, but not to four. The same is true of trees: according to Beis Shammai, three are *shich'chah*; four are not *shich'chah*.]

11. The Gemara will explain R' Yose's reasoning.

12. See above, 3b note 4.

13. *Deuteronomy* 24:19.

14. The unqualified phrase *and you forget* implies a permanent forgetting. This excludes a plant that is especially memorable for some reason, such as the olive trees discussed in our Mishnah (*Mahara Fulda*).

Rash Sirilio explains differently: In order to violate this prohibition, one must recall the forgotten sheaf and return to take it. Thus, the verse could have stated that when a person *remembers* a forgotten sheaf, he shall not return to collect it. By focusing on the act of forgetting, the verse implies that the prohibition applies only to a sheaf that is truly forgotten, meaning, one that will likely remain forgotten forever. This excludes a sheaf (or tree) that is rendered memorable on account of some distinctive feature.

15. Literally: R' Yirmiyah desired [to say] (*Mahara Fulda*). However, *Maharam Chaviv* translates פְּעִי here as “inquired” (see also *Shaarei Emunah* pp. 354-355 לֹא שִׂישׁ בְּלִי דְרִיבָה, third explanation).

16. The Gemara refers to a tree that possesses none of the special characteristics mentioned in the Mishnah [or any other inherent speciality], but is nevertheless viewed by its owner as something unique and distinctive. R' Yirmiyah rules that because the tree is distinctive in the owner's eyes, it is excluded from the law of *shich'chah* (*Mahara Fulda*, first explanation). Alternatively, the Gemara refers to a tree that does possess one of the characteristics of the Mishnah, but whose special characteristic is not yet known to the general public. R' Yirmiyah rules that although its distinctiveness is known only to its owner, there is no *shich'chah* for this tree (*Mahara Fulda*, second explanation; see *Rambam, Matnos Aniyim* 5:24).

17. R' Yirmiyah rules that proximity to a tree of another type is sufficient to render an olive tree exempt from *shich'chah*. Just as an olive tree located next to a winepress or a break in the wall is distinctive, and thus exempt from *shich'chah*, so too an olive tree located alongside a date palm (*Rash Sirilio*).

Some say that this applies only when the neighboring tree is a date palm. Because this tree is both fruit-bearing, beautiful and tall, it renders its neighbor distinctive. Trees that do not possess these three characteristics, however, do not cause their neighboring trees to be

A second ruling:

הִיָּה עֹמֵר בְּצִד הַדְּקָל — If [an ordinary tree] was standing beside a date palm, הַדְּקָל מְסִיִּימוֹ — the date palm lends it distinctiveness. Therefore, it is not subject to the law of *shich'chah*.^[17]

A third ruling:

הִיוּ שְׂנֵיָהוּ נְטוּפָה — If [two olive trees] adjacent to one another were [trees] that drip [oil], זֶה מְסִיִּים אֶת זֶה — this one lends distinctiveness to that one, וְזֶה מְסִיִּים אֶת זֶה — and that one lends distinctiveness to this one. Therefore, neither is subject to the law of *shich'chah*.^[18]

The Gemara now poses its inquiry:

הִיָּתָה כָּל שְׂדוּהָ נְטוּפָה — If all the trees of one's field were [trees] that drip [oil], and the person forgets to harvest some of them, are they *shich'chah* or not?^[19]

The Gemara answers:

לֵאמֹר — Let us learn the answer to this question **מִן הַרָא — R' Shimon bar Yakim:** **רְבִי יוֹסֵי אֹמֵר — The Mishnah stated: R' YOSE SAYS: אֵין שְׂכָחָה לְזֵיתִים — THERE IS NO SHICH'CHAH FOR OLIVE TREES. אֲמֵר רְבִי שְׂמַעוֹן בַּר יְקִים — And R'**

exempt from *shich'chah* (*Aruch HaShulchan HeAsid, Peah* 12:7; *Derech Emunah, Matnos Aniyim* 5:157, with *Beur HaHalachah* עומד ר' יהודה עומר). Others maintain that this ruling is stated with regard to any type of tree (see *Rash Sirilio*, as explained by *Derech Emunah* and *Beur HaHalachah* *ibid.*; *Gra ms.* 1. הִיָּתָה כָּל שְׂדוּהָ נְטוּפָה וְזֶה מְסִיִּים אֶת זֶה).

18. Many commentators take note of an obvious difficulty with this ruling, as follows: Since each tree is distinctive on its own, each should be exempt from *shich'chah* on its own merit, and should not require the additional distinctiveness each garners through its proximity to another distinctive tree. They propose several approaches to this difficulty:

Mahara Fulda explains that R' Yirmiyah's case is where the person began harvesting the olives on these trees and then, before completing the task, moved on to other trees and forgot about these two. Ordinarily, the olives that remain on a tree whose harvest has begun are subject to the law of *shich'chah*, even if it is a distinctive tree [for the owner will remember the harvest he began, and will assume he completed it] (see Mishnah below, 59a). R' Yirmiyah rules that where two distinctive trees are located next to one another, then even if the owner has already begun their harvest, there is no *shich'chah*, for the owner is likely to recall the unusual sight of two distinctive trees growing side-by-side.

Alternatively, the Gemara speaks of a case in which one of the trees no longer drips oil. Because it was a *netofah* formerly, and even now is located alongside an active *netofah*, it is exempt from *shich'chah* (*Radvaz, Matnos Aniyim* 5:24, first explanation; see also *Toldos Yitzchak*).

[For another explanation, see *Rash Sirilio*; for a different reading of this clause, see *Gra*.]

19. The inquiry concerns a case in which all the trees of the field were distinctive *netofah* trees (i.e. “trees that drip oil”) and the person harvested all but two. One could argue that the owner is unlikely to forget two such unusual trees (see previous note); therefore, despite his temporary lapse, these trees should not be subject to *shich'chah*. On the other hand, since the *entire field* consists of distinctive trees, it is altogether possible that the owner will forget to return for these two that were overlooked. It could easily occur that he lumps them together in his mind with the many other distinctive trees of the field, and assumes that these were harvested along with the others (*Mahara Fulda*).

Alternatively, the inquiry is not limited to a case in which one forgot two trees, but applies just as well where one forgot a single *netofah* tree in a field that consists entirely of such trees. One could argue that a single tree among many is not particularly special or memorable, and so should be subject to *shich'chah*. Or perhaps, the excessive oil content of a *netofah* makes it memorable even when it is only one of many such trees (see *Rash Sirilio; Maharam Chaviv*).

Shimon bar Yakim said with regard to this ruling: לֹא אָמַר רַבִּי יוֹסֵי אֶלָּא בְּרֵאשׁוֹנָה — R' Yose said this only in the beginning, שְׁלֵא הָיוּ הַיְזִיתִים מְצוּיִין — when olive trees were not common, שָׁבָא אֲדַרְיָנוּס הִרְשַׁע וְהִחְרִיב אֶת כָּל הָאָרֶץ — for Hadrian the wicked came and laid waste to the entire land. אֲבָל עַכְשָׁיו שֶׁהַיְזִיתִים מְצוּיִין — But now that olive trees are common, יֵשׁ לָהֶן שְׂכָחָה — even R' Yose agrees that there is *shich'chah* for [olive trees].^[20]

According to R' Shimon bar Yakim, the dispute between the Tanna Kamma and R' Yose concerns ordinary olive trees during a period in which such trees were scarce. Because the trees were scarce, their status was as that of distinctive trees. Yet, the Tanna Kamma rules that during this period, olive trees *were* subject to *shich'chah*. We see that even when an entire field consists of distinctive trees (e.g. “trees that drip oil”), the trees are subject to the laws of *shich'chah*.^[21]

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20. Hadrian was emperor of Rome at the time of Bar Kochba's revolt; his legions laid waste to Eretz Yisrael. In the process, they destroyed many of the land's fruit trees. Because of the scarcity of olive trees during that period, even ordinary trees were unusually precious. Therefore, R' Yose rules that at that time, ordinary trees were treated as distinctive; hence, if during that period a person would forget to harvest an olive tree, it was not subject to the law of *shich'chah*. However, once the land was restored, and olive trees were again plentiful, R' Yose too agrees that they are subject to *shich'chah* (*Mahara Fulda*; see *Rash* to the Mishnah).

21. R' Yose's ruling in our Mishnah represents his side of a disagreement with the Tanna Kamma. Obviously, in every dispute, the two disputants must inevitably be discussing the same set of circumstances. Thus, since R' Yose discusses ordinary trees during a period of scarcity, we may assume that the Tanna Kamma too discusses this case. Although ordinary trees were regarded as distinctive during this period, the Tanna Kamma rules that they are subject to *shich'chah*; thus, if a person harvests an entire field of ordinary olive trees at a time of scarcity, but overlooks one or two trees, the forgotten trees are *shich'chah*.

As we have explained, ordinary trees in difficult times are the equivalent of distinctive trees in ordinary times; thus, it stands to reason that the Tanna Kamma's ruling regarding the former case applies to the latter case as well. It follows that according to the Tanna Kamma, even if an *entire field* contains nothing but distinctive trees, the one or two trees that are forgotten are subject to the law of *shich'chah* (*Mahara Fulda*, first explanation; *Gra ms.* 2). [According to

some, R' Yose and the Tanna Kamma do not dispute one another. For discussion, see *Beur HaHalachah* to *Derech Emunah* 5:24 מסיים.]

Alternatively, the Gemara's proof is not from the Tanna Kamma, but from R' Yose, whose ruling demonstrates that the “distinctiveness” of trees is assessed according to their availability. Thus, just as ordinary trees are deemed distinctive when they are scarce, and ordinary when they are common, so too with special trees, such as those that drip oil. It follows that in a field full of trees that drip oil, none are regarded as distinctive; therefore, they are subject to *shich'chah* when overlooked (*Mahara Fulda*, second explanation; see also *Rash Sirilio*; *Sdeh Yehoshua*; *Gilyonei HaShas*; see *Rash* to the Mishnah).

[According to *Shaarei Emunah* (pp. 354-355 לִי שֵׁשׁ כֵּל שֵׁשׁ), there is a common thread running through all four of the Gemara's rulings, all of which concern this question: Does a tree's “distinctiveness” depend upon how it is perceived by the public or how it is perceived by its owner. The first ruling concerns a tree that only the owner considers special; the second and third focus on trees whose location is regarded as distinctive by the owner but not necessarily by others (for not everyone views a date palm or a *netofah* tree as a significant landmark). The Gemara rules that the status of these trees is determined by the owner's perception; therefore, in all three cases, the tree is not subject to *shich'chah*. The Gemara then introduces the case of a field filled with *netofah* trees. In that case, each individual tree is viewed as distinctive by the public; the owner, however, because he owns many such trees, does *not* consider them to be distinctive. The Gemara rules that here too, the tree's status is determined by the owner's perception; therefore, a field filled with trees that drip oil is subject to *shich'chah*.]

The Mishnah stated:

שִׁפְכוֹנִי — [Being distinctive “in its name” means that (the tree) was known as a] *SHAFCHONI*.

The term *shafchoni* translates as “one that pours.” The Gemara explains the use of this term with respect to olive trees:

נוֹטֵף שֶׁמֶן — “*Shafchoni*” means that [the tree] drips (“pours”) oil; that is, its fruit is so succulent that oil drips from the olives while they are still on the tree.^[1] A tree that possesses this distinction is exempt from the law of *shich'chah*.

The Gemara questions this explanation:

וְהִתְיַנֵּן נְטוּפָה — But the Mishnah has already taught that a [tree] that drips [oil] i.e. a *netofah* is exempt from *shich'chah*. Perforce, the term *shafchani* denotes another distinctive feature.^[2]

The Gemara therefore offers another interpretation of *shafchani*:

אֵלָא שְׂהִיא עוֹשָׂה שֶׁמֶן הַרְבֵּה — Rather, *shafchani* means that [the tree] produces much oil, i.e. when the olives are pressed after being picked. However, the oil does not ooze from the olives of its own accord while they are still on the tree.^[3]

The Gemara asks:

בְּמַעֲשֵׂי שְׂהוּא — But we have learned in the Mishnah: *עוֹשָׂה הַרְבֵּה* — “IN ITS PRODUCTIVITY” means THAT [THE TREE] PRODUCES MUCH. Presumably, this means that it produces much oil. It follows that *shafchani* does not refer to the production of oil.^[4] — ? —

The Gemara responds by explaining each of the Mishnah's cases:

אֵלָא שִׁפְכוֹנִי שְׂהוּא עוֹשָׂה שֶׁמֶן הַרְבֵּה — Rather, *SHAFCHONI* means that [the tree] produces much oil from relatively few olives.^[5] נְטוּפָה נוֹטֵף שֶׁמֶן — *NETOFAH* means that [the tree] drips oil of its own accord. מַעֲשֵׂי שְׂהוּא עוֹשָׂה הַרְבֵּה — But when the Mishnah states: “[IN] ITS PRODUCTIVITY means THAT IT PRODUCES MUCH,”

— this means that it produces many olives; its olives, however, produce only the usual amount of oil.^[6] All these trees are considered to be distinctive with regard to the law of *shich'chah*.

The Mishnah stated:

בִּישָׁנִי — [Being distinctive “in its name” means that the tree was known as a] *shafchani*] OR A *BAISHANI*.

The Gemara explains the term *baishani*:

אֵית דְּבַעֵי מִימַר בִּישָׁנִי מִמַּשׁ — Some wish to say that this means that it (i.e. its fruit) is literally *baishani*, i.e. dried out. Because the fruit is dry, it produces little oil. The tree is memorable for this reason.^[7] אֵית דְּבַעֵי מִימַר דְּהוּא מְבַעֵית לַחֲבֵרֵיהּ — Others wish to say that *baishani* connotes embarrassment; [this tree] “embarrasses” its fellow [trees] by producing much more oil than they. It is the extra production that renders the tree memorable.^[8]

The Mishnah ruled that an unusually productive tree is exempt from the laws of *shich'chah*. The Gemara records a pair of inquiries regarding this ruling. The first inquiry:

עַד דְּיַעֲבִיד אַרְבַּעַה כִּפְלִיסִין — Does this mean that a tree is not regarded as distinctive unless it produces four times as much as an ordinary olive tree, כִּי הֵיבֵא דְתַנִּינָן תַּמָּן — as in [the ruling] taught there, in the following Mishnah:^[9] כָּל עוֹמְרֵי הַשָּׂדֶה שֶׁל קַב קַב — If ALL THE SHEAVES OF THE FIELD ARE EACH the size OF ONE KAV, וְאֶחָד שֶׁל אַרְבַּעַת קַבִּין — AND ONE IS the size OF FOUR KABIN, וְשָׁכַחוּ — AND HE FORGOT [THE SHEAF OF FOUR KABIN], Beis Shammai say that it is not *shich'chah*, but Beis Hillel say that it is *shich'chah*?

In that Mishnah, the exemption of the large sheaf requires that it be four times the size of the usual sheaves. Perhaps, then, the same is true here, that an extra-productive olive tree is not exempt unless it produces four times as much as an ordinary tree.^[10]

The Gemara responds:

מִכֵּיּוֹן שְׂהוּא עוֹשָׂה יוֹתֵר מִחֲבֵירוֹ כְּמִי שְׂהוּא מְסוּיִים

NOTES

1. *Rash Sirilio*.

[*Rambam* (to the Mishnah) explains that a *shafchani* is a tree from a certain area renowned for its exceptionally productive olive trees. The name *shafchoni*, which means “one that pours,” denotes the unusual productivity of these trees.]

2. The Gemara first speaks of a נְטוּפָה, [a tree] that drips [oil], and then speaks of שִׁפְכוֹנִי, a *shafchoni*. Clearly, *shafchani* cannot be translated as “a tree that drips oil” (*Mahara Fulda; Maharam Chaviv*).

3. See *Sdeh Yehoshua*.

4. The Gemara assumes that “it produces much” refers to production of oil. Perforce, this cannot be the meaning of *shafchoni* (*Maharam Chaviv*).

5. *Shafchani* refers to a tree whose olives are exceptionally productive; when pressed, they produce more oil than is usual (*Mahara Fulda; Rash Sirilio; Sdeh Yehoshua*).

6. The Gemara now realizes that “it produces much” refers not to the production of oil, but to the production of olives, in which this tree surpasses all others. Although its olives do not yield more oil than others, its abundant production of olives results in far more oil than is common (*Mahara Fulda; Rash Sirilio*).

7. According to this interpretation, בִּישָׁנִי derives from the root יָבַשׁ, dry, and is a literal description of the olives, which are dry and produce little oil (*Mahara Fulda*, quoting *Rash* to our Mishnah; *Maharam Chaviv*). See, however, *Sdeh Yehoshua* and *Rash Sirilio*, who object strongly to *Rash's* explanation.

For other explanations, see *Rambam* to the Mishnah; *Shenos Eliyahu; Sdeh Yehoshua; Pnei Moshe*.

8. According to this interpretation, the term בִּישָׁנִי, *baishani*, derives from the root בָּשָׁ, which connotes embarrassment. The word is not meant literally, but is used metaphorically to describe the tree's effect on its fellows (*Mahara Fulda*, quoting *Rash* to our Mishnah; see also *Rosh* there; see *Sdeh Yehoshua*). According to this view, a *baishani* and

a *shafchani* are one and the same: both are extra-productive trees. However, in some places, this sort of tree is called *baishani*, in others it is called *shafchani* (*Tos. Yom Tov; Maharam Chaviv*).

[Alternatively, בִּישָׁנִי derives from בִּישׁ, which is Aramaic for bad or poor. The tree is so described because its fellow trees are of poor quality in comparison (*Rosh*, second explanation).]

9. Above, 6:1 (49a).

10. The Gemara wonders whether our Mishnah's ruling concerning productive trees should be compared to Beis Shammai's ruling concerning an overly large sheaf of grain. On the one hand, our Mishnah might follow the view of Beis Shammai there, in which case a distinctive tree would have to produce four times as much as an ordinary tree. Or perhaps, the ruling of our Mishnah has nothing in common with that ruling, in which case all would agree (i.e. even Beis Hillel) that an extra-productive olive tree does not need to produce four times as much as its fellows (*Mahara Fulda*).

To explain: Beis Shammai reason that an extra-large sheaf is viewed as being composed of separate ordinary-sized sheaves. Thus, if the large sheaf is four times the size of an ordinary one, it is regarded as four separate sheaves, and is therefore exempt from the law of *shich'chah*. [According to Beis Shammai, the maximum number of forgotten sheaves that are subject to *shich'chah* is three. If one forgets four sheaves, there is no *shich'chah*. See above, 6:4, for disagreement on this matter.] But Beis Hillel maintain that we do not view a large sheaf as being formed of separate, smaller sheaves; therefore, a large sheaf is subject to *shich'chah*.

The Gemara here wonders whether Beis Shammai's reasoning there is also the reasoning behind our Mishnah's ruling concerning olive trees. If the two rulings are the same, then the reason an extra-productive tree is exempt from *shich'chah* is that it is viewed as being composed of several individual trees, of a number too great to be subject to *shich'chah*. According to Beis Shammai, this number is four; thus, if our Mishnah follows their view, the extra-productive tree would need to yield four times as much produce as an ordinary tree (see *Rash Sirilio*).

produces more than its fellow, it is regarded as a distinctive tree, and so is exempt from the law of *shich'chah*. It need not produce four times as much as an ordinary tree.^[11]

A second inquiry:

עַד דִּיעֵבִיר כָּל שָׁנָה וְשָׁנָה — Does the Mishnah mean that **unless [the tree] produces** a large amount of fruit or oil **every single year** it is not considered a distinctive tree?

The Gemara answers:

(ו) מְכִינִין שְׂהוּא עוֹשֶׂה רוֹבֵן שָׁל שָׁנִים — As long as [the tree] produces lavishly in most years, כְּמִי שְׂהוּא מְסוּיִים — it is regarded as a distinctive [tree].^[12]

The Mishnah stated:

בְּמִקוּמוֹ שְׂהוּא עוֹמֵד בְּצַד הַגֶּת אוֹ בְּצַד הַפְּרִיָּצָה — Being distinctive “IN ITS LOCATION” means THAT IT STANDS ALONGSIDE THE WINE-PRESS OR THE BREAK in the wall.

The Gemara asks:

מִתְּנִיתָ דְּבֵית שְׂמַאי — The ruling of the Mishnah is in accordance with Beis Shammai. דְּבֵית שְׂמַאי אוֹמְרִים — For BEIS SHAMMAI SAY:^[13] [הִבְקֵר עֲנִיִּים הִבְקֵר] (אינו שְׂכָה) — If one declares his produce OWNERLESS FOR THE POOR only, IT IS deemed OWNERLESS...^[14] The Mishnah then continues:^[15] If a sheaf was standing near a wall or a pile of grain or near cattle or farming tools, and he forgot to gather it, Beis Shammai say: It is not *shich'chah*. But Beis Hillel say: It is *shich'chah*.

In this Mishnah, the exemption of a sheaf on account of its

location is the subject of a dispute between Beis Shammai, who exempt the sheaf from *shich'chah*, and Beis Hillel, who include it in the law of *shich'chah*. It emerges that our Mishnah, which extends this exemption to trees, is following the view of Beis Shammai.^[16] — ? —

The Gemara differentiates between the ruling of that Mishnah and the ruling of our Mishnah:

אָמַר רְבִי יוֹסֵי — R' Yose said: דְּבָרֵי הַבַּל הִיא — Actually, [our Mishnah] is in accord with the opinion of all (i.e. with both Beis Shammai and Beis Hillel). As for their disagreement in the earlier Mishnah, it can be explained as follows: תָּמָן דְּבָר תְּלוּשׁ בְּצַד דְּבָר — There the Mishnah discusses the case of an object that is detached from the ground (i.e. a sheaf of grain) standing alongside an object that is attached to the ground (e.g. a wall). Beis Hillel maintain that a portable item is not regarded as memorable on account of its location, and so remains subject to *shich'chah*. בָּרַם הֵבֵא דְבָר מְחוּבֵר בְּצַד דְּבָר מְחוּבֵר — Here, however, the Mishnah speaks of an object that is attached to the ground (i.e. a tree) standing alongside an object that is attached to the ground (e.g. a winepress). In this case, Beis Hillel too agree that the object's location can render it memorable, and therefore exempt from *shich'chah*. Thus, our Mishnah is not necessarily following the view of Beis Shammai.^[17]

The Mishnah stated:

אָמַר רְבִי יוֹסֵי — R' YOSE SAYS: אֵין שְׂכָהָ לְוֵיתִים — THERE IS NO SHICH'CHAH FOR OLIVE TREES.

NOTES

11. The Gemara explains that, in fact, an extra-productive tree is exempt from *shich'chah* not because it is legally regarded as being composed of several separate trees, but because its distinctiveness makes it memorable, and thus unfit for *shich'chah*. Therefore, it is not necessary for this tree to produce four times as much as an ordinary one (*Rash Sirilio*).

[Others explain that the Gemara understood all along that an extra-productive tree is exempt because its distinctiveness makes it memorable. In its question the Gemara assumed that a large sheaf too is exempt for this reason; i.e. because its distinctive size makes it memorable. The Gemara therefore asks that just as a sheaf is not considered to be distinctive unless it is four times as large as an ordinary sheaf, so too should a tree not be regarded as distinctive unless it produces four times as much as other trees (*Maharam Chaviv*; see also *Beur of R' Chaim Kanievski*).

The Gemara concludes that in fact, an extra-large sheaf is exempt not because it is distinctive, but because it is viewed as four separate sheaves. (This accords with the Gemara on 50b, which debates the question and concludes that this is the reason a large sheaf is exempt — see notes 14-18 there.) An extra-productive tree, on the other hand, is exempt because it is distinctive. Since these rulings are unrelated, there is no reason to extend the measure of the sheaf to the olive tree of our Mishnah. Rather, as long as a tree produces more than its fellow, even if it does not produce four times the amount, it is exempt from *shich'chah* (see *Beur of R' Chaim Kanievski*).

12. I.e. even if it did not produce well in the year it was overlooked (*Gra* in *Shenos Eliyahu* to our Mishnah). It must, however, produce abundantly in most years; otherwise, it is subject to *shich'chah*.

Gra states further that this requirement applies only to a *shafchani*. A *netofah*, however (i.e. a tree that drips oil) need only produce an excess of oil in the season it is overlooked. Even if this achievement was never matched in previous years, the tree is exempt from *shich'chah* (see Variants to 58a). [According to *Gra*, “a tree that drips oil” is of lesser status than one that “has a name in the field” (see *ibid.*), but is still exempt from *shich'chah*, because of the large volume of oil it produces. Since its status derives entirely from its present yield, its production in previous years is unimportant.]

13. Mishnah above, 6:1 (49a).

14. Beis Shammai hold that one who declares his produce ownerless (*hefker*), but stipulates that it be available for acquisition only by the poor, has made a legally valid declaration. As *hefker*, this produce is not subject to the various tithes, and [according to some] may be freely

acquired only by the poor. The Mishnah then cites Beis Hillel, who rule that a declaration of *hefker* for the poor is not legally valid; therefore, the produce may not be acquired even by the poor, and remains subject to all tithes. For discussion of this dispute, see above, 6:1.

15. Above, 6:2 (51a).

[Although the Gemara cites only the first section of the Mishnah, regarding *hefker*, its question actually concerns the later dispute between Beis Shammai and Beis Hillel, regarding a sheaf standing next to a wall (*Mahara Fulda* et al.). Indeed, *Maharam Chaviv* maintains that the Gemara should be emended to cite only the later Mishnah.]

16. The Gemara above (6:2 [51a]) cites a dispute as to the correct understanding of the disagreement between Beis Shammai and Beis Hillel regarding a sheaf located near a wall. R' Yehoshua maintains that their dispute concerns the principle of produce located next to a landmark: Beis Shammai hold that it is memorable on account of its location, and is therefore exempt from the law of *shich'chah*. But Beis Hillel hold that produce near a landmark is not memorable; therefore, it remains subject to the law of *shich'chah*. R' Eliezer disagrees with R' Yehoshua, and states that the dispute between Beis Shammai and Beis Hillel does not revolve around the principle of distinctiveness, but concerns another issue entirely (see there for particulars).

Our Gemara adopts the view of R' Yehoshua, and therefore assumes that our Mishnah, which exempts a tree located near a landmark from *shich'chah*, accords with the view of Beis Shammai, not Beis Hillel (*Mahara Fulda* and *Pnei Moshe*, here and above; see also *Toldos Yitzchak* there). The Gemara finds this difficult to understand, for in presenting the view of Beis Shammai as an anonymous ruling, the Mishnah implies that their view is authoritative (as per the rule that grants authority to anonymous Mishnahs). This runs counter to the well-known rule which states that in a dispute between Beis Shammai and Beis Hillel, the halachah always follows the view of Beis Hillel (see *Melech Shlomo* to the Mishnah; *Maharam Chaviv* here).

17. Because an item that is not attached to the ground can easily be transported to a different location at a moment's notice, its location does nothing to fix it in a person's mind. Therefore, Beis Hillel rule that a sheaf of grain standing next to a particular landmark is not memorable, and so remains liable to *shich'chah*. [All the more so in the other cases of the earlier Mishnah, in which the unattached sheaf lies near another portable object, such as a pile of grain or a cow (*Melech Shlomo* to our Mishnah).] Beis Hillel agree, however, that the location of an item that is attached to the ground does render it memorable (as long as the landmark too is attached to the ground); therefore, they too

The Gemara explains R' Yose's ruling:

לֹא אָמַר — R' Shimon ben Yakim said: אָמַר רַבִּי שְׁמוּעוֹן בֶּן יָקִים — R' Yose said this only in the beginning, רַבִּי יוֹסֵי אָלֵא בְּרֵאשׁוֹנָה — when olive trees were not common, שְׁלֵא הָיוּ הַזַּיִתִּים מְצוּיִין — for Hadrian the wicked came and laid waste to the land. אָבַל עֲבָשׂוּ שְׁהַזַּיִתִּים מְצוּיִין — But now that olive trees are common, יֵשׁ לְהֵן שְׂבָחָה — even R' Yose would agree that there is *shich'chah* for [olive trees].^[18]

According to this interpretation, R' Yose's ruling was intended

only for that particular time of scarcity, but does not apply in normal times.

The Gemara presents an alternative explanation of R' Yose's ruling, according to which it applies in all times:

לֹא חַיִּיב אָדָם שְׂבָחָה לְזַיִתִּים אֶלֶּא — R' Yose said:^[19] אָמַר רַבִּי יוֹסֵי — No one obligated a person to leave *shich'chah* from olive trees except R' Akiva, „אַחֲרֵיךְ,, „אַחֲרֵיךְ,, דּוּ דַרְשׁ — for he expounds the Scriptural terms *behind you, behind you* to teach this obligation.^[20]

NOTES

admit that an olive tree located alongside a winepress is not subject to the law of *shich'chah*, as per the ruling of our Mishnah (*Pnei Moshe*, here and above, 6:2; see also *Toldos Yitzchak* there; *Beur* of R' Chaim Kanievski here).

18. See 58a note 20.

19. This is not the Tanna R' Yose who was quoted in the Mishnah. Rather, it is the Amora, R' Yose bar Zevidah (*Rash Sirilio*).

20. The term אַחֲרֵיךְ, *behind you*, appears in connection with olive trees in the following verse (*Deuteronomy* 24:20): כִּי תִבֶּטֶט נֵיֶתֶךָ לֹא תִפְאַר אַחֲרֵיךְ: *When you beat your olive tree, you shall not remove its glory behind you.* It appears also in a verse concerning grapevines (*ibid.* v. 21): כִּי תִבְצֹר: *When you harvest your vineyard, you shall not glean behind you.* The common wording creates a *gezeirah shavah* (a Scriptural analogy) that teaches a comparison between these two items. Thus, just as a grapevine is subject to *shich'chah*, so too an olive tree (*Mahara Fulda, Rash Sirilio; Sdeh Yehoshua*).

The source in Scripture for *shich'chah* of grapevines is none other than this very word: אַחֲרֵיךְ, *behind you*. The phrase alludes to the produce *behind* the worker, which he has already passed and forgotten

to take. The verse teaches that this produce must be treated as *shich'chah* (*Bavli Chullin* 131a; see *Rashi* there, 131b שְׂבָחָה וּזוֹ שְׂבָחָה אַחֲרֵיךְ וְזוֹ שְׂבָחָה אַחֲרֵיךְ, citing Mishnah above, 6:2). This gives rise to a difficulty. As we have demonstrated, the verse states *behind you* with regard to olive trees too. Why, then, must *shich'chah* of olive trees be derived by means of a *gezeirah shavah* from grapevines? It should be derived directly from this phrase!

Rash Sirilio explains that in the case of olive trees, the phrase *behind you* is found in the verse that includes trees in the law of *peah* (see above, 1:4 [13a]). *Behind you* informs us that *peah* must be left over at the end of the tree's harvest (i.e. when the harvest is "behind you"). Because the verse is needed for this teaching, it is not available to teach that olive trees are subject to *shich'chah*. By contrast, the verse that states *behind you* regarding grapevines speaks of the obligation to leave gleanings (i.e. *oleilos*) for the poor. Since this obligation has already been taught elsewhere (*Leviticus* 19:10), the phrase *behind you* is superfluous. Therefore, we are free to expound this phrase to teach the requirement of *shich'chah* for grapevines. The *gezeirah shavah* of *behind you, behind you* then extends the law of *shich'chah* further, from grapevines to olive trees (*Rash Sirilio*).

יֹסֵי — מעתה אין שְׂכָחָה לְזֵיתִים כְּרֵבֵי יוֹסֵי — It emerges that according to R' Yose, there is no *shich'chah* for olive trees at any time, "אֲחֵרֶיךָ", הֲלֵא דִרַשׁ — for he does not expound the Scriptural term *behind you* to teach this obligation.^[1]

According to this interpretation, R' Yose has no source to apply the law of *shich'chah* to olive trees, and therefore rules that there was never an obligation of *shich'chah* on olive trees.

R' Akiva expounds the phrase *behind you*, written regarding grapevines and olives, to teach the law of *shich'chah* for olive trees. The Gemara challenges his exposition:^[2]

הֲתִיבֹן — They challenged him as follows: הֲרֵי עוֹמֵר שְׂכָחָה — Behold, there is *shich'chah* for a sheaf of grain.^[3] הֲרֵי לֹא כִתִּיב — and behold, it is not written with regard to sheaves, "אֲחֵרֶיךָ" — "behind you." From where, then, does R' Akiva know that the term *behind you* refers to *shich'chah*?^[4]

The Gemara answers:

לֹא תִשׁוּב לְקַחְתּוֹ — Since it is written, with regard

to *shich'chah* of sheaves: *you shall not turn back to take it*,^[5] "אֲחֵרֶיךָ" — it is as if it is written "behind you."^[6] Because the term "behind you" is alluded to in the verse concerning sheaves, R' Akiva can derive the *shich'chah* of olive trees from this phrase.

According to the Gemara's second interpretation of R' Yose's ruling, R' Yose is saying that there is never *shich'chah* for olive trees. The Gemara makes an observation based on this view:

הֲהֵן וְיֵית נְטוּפָה הוּאֵל וְהוּא מְסוּיִים — R' Yonah stated:^[7] הֲהֵן וְיֵית נְטוּפָה הוּאֵל וְהוּא מְסוּיִים — Concerning this olive tree that drips [oil] and is distinctive:^[8] עַל דְּעֵתִיָּה דְרַבֵּי יוֹסֵי — According to the view of R' Yose (i.e. the Amora who presents the second interpretation of the Tanna R' Yose's ruling), אֲפִילוּ הִתְחִיל בּוֹ — even if one has already begun picking the fruit of [such a tree], כְּמִי שֶׁלֹּא הִתְחִיל — כְּמִי שֶׁלֹּא הִתְחִיל — it is as if he has not begun. That is to say, whether or not he has begun to pick the fruit, there is no *shich'chah* for this tree.^[9]

NOTES

1. R' Yose (bar Zevidah, the Amora) maintains that R' Yose (the Tanna) does not expound the *gezeirah shavah* of *behind you*, *behind you*. According to his view, then, there is no source to include olive trees in the law of *shich'chah*. Therefore, these trees are not subject to this law (*Maharam Chaviv*). [According to R' Yose, the phrase *behind you* that is written regarding olive trees is used *only* to teach that they are included in the law of *peah* (*Mahara Fulda*).]

See *Sdeh Yehoshua* for a different approach to the Gemara's statement, and to the ensuing discussion. See Variant A.

2. *Mahara Fulda*. See *Sdeh Yehoshua* for another approach.

3. The Scriptural requirement of *shich'chah* is stated with regard to sheaves of grain. The verse states (*Deuteronomy 24:19*): כִּי תִקְצֹר קִצְיֶיךָ: בְּשָׂדֶךָ וְשָׂבָחָתָ עִמָּךְ בְּשָׂדֶךָ לֹא תִשׁוּב לְקַחְתּוֹ, *When you reap the harvest of your field and you forget a sheaf in the field, you shall not turn back to take it.*

4. R' Akiva derived the *shich'chah* of olive trees through a Scriptural analogy between olives and grapevines, regarding both of which the verse states: אֲחֵרֶיךָ, *behind you*. The Gemara points out that the verse that constitutes the source of the law of *shich'chah* does not mention this phrase. How, then, does R' Akiva know to apply this phrase to teach the law of *shich'chah*? (see *Mahara Fulda*; *Rash Sirilio*). See Variant B.

5. *Deuteronomy 24:19*.

6. *You shall not turn back* implies that he was in that place once before; thus, it is as if the verse states *you shall not turn back "behind you."* Since there is an oblique reference to this phrase in the source verse, it can be used to teach the law of *shich'chah* elsewhere (see *Mahara Fulda*;

Rash Sirilio; *Pnei Moshe*; see *Maharam Chaviv*, citing the Mishnah above, 6:3 [52a-b]).

7. Literally: R' Yonah desired [to say] (see *Mahara Fulda* above).

8. *Mahara Fulda*.

9. The Gemara refers to the ruling of the forthcoming Mishnah (59a), which qualifies the *shich'chah* exemption of an olive tree that drips oil. The Mishnah states that the exemption applies only where the owner did not actually begin picking the fruit of this tree. Where, however, he picked some of the fruit and then forgot to complete the harvest, even a distinctive tree (such as one that drips oil) is subject to the law of *shich'chah*. [See below, note 14, for the reasoning behind this ruling.]

Now, according to the Gemara's second explanation of the ruling of R' Yose in our Mishnah, *shich'chah* is never practiced in the case of olive trees. According to this view, the ruling of the forthcoming Mishnah is irrelevant, since there is never a requirement of *shich'chah* for olive trees. The Gemara therefore observes that according to this interpretation of R' Yose's view, even if a person begins harvesting a distinctive olive tree and then forgets to return to it, its fruit (like that of all other olive trees) is not *shich'chah*.

However, according to the Gemara's first interpretation of R' Yose (i.e. that offered by R' Shimon bar Yakim), R' Yose agrees that olive trees are generally subject to *shich'chah*, and that only distinctive, memorable trees are exempt. Thus, the ruling of the following Mishnah applies to R' Yose as well, for he too agrees that once its harvest has begun, even an olive tree that drips oil is subject to *shich'chah* (*Mahara Fulda*).

For other interpretations of R' Yonah's statement, see Variant C.

TEXTUAL AND INTERPRETIVE VARIANTS

A. *Gra* maintains that the clause מעתה אין שְׂכָחָה לְזֵיתִים is a question directed at the Amora R' Yose (bar Zevidah). He offers the following reading: מעתה אין שְׂכָחָה לְעֵנְבִים כְּרֵבֵי יוֹסֵי, *If so, there should be no shich'chah for grapes according to R' Yose*. The Gemara reasons that since R' Yose (the Tanna) rejects the teaching of אֲחֵרֶיךָ with regard to olives, he presumably rejects this teaching with regard to grapevines as well. Accordingly, he should not require *shich'chah* for grapevines. Yet, nowhere do we find that R' Yose exempts grapes from *shich'chah*! This would seem to indicate that the Amora R' Yose's understanding of the Tanna R' Yose's ruling is incorrect.

[Since the Gemara does not respond to this challenge, it would seem that R' Yose bar Zevidah's interpretation is indeed refuted. This is borne out by *Gra*'s explanation of the forthcoming Gemara, which he (unlike other commentators) interprets as discussing R' Shimon ben Yakim's interpretation of R' Yose's ruling.]

B. The Gemara's question can perhaps be best understood according to *Maharam Chaviv*, who says that the question was directed not toward the *gezeirah shavah* from grapevines to olive trees, but toward R' Akiva's original derivation of *shich'chah* for grapevines from the phrase *behind you* (see 58b note 20). The Gemara asks: If the words *behind you* do not appear in the verse that represents the Scriptural source of *shich'chah*, how does R' Akiva know that this term expresses the requirement of *shich'chah*?

Others explain the *gezeirah shavah* that teaches *shich'chah* in another manner entirely: In their view, the *gezeirah shavah* is not between grapevines and olive trees; rather, it connects sheaves of grain to olive trees and grapevines. The law of *shich'chah* is originally stated with regard to sheaves (*Deuteronomy 24:19*); R' Akiva extends this law to olive trees and grapevines by means of the *gezeirah shavah* of *behind you*, *behind you*. R' Yose does not expound this *gezeirah shavah*, and therefore holds that there is no *shich'chah* for trees altogether. The Gemara asks: Since the verse of sheaves does not include the phrase *behind you*, there is no basis for this *gezeirah shavah*. The Gemara answers that *you shall not turn back to take it* expresses the same thought as the words *behind you* (see note 6). Therefore, the *gezeirah shavah* is viable.

C. *Mahara Fulda*'s explanation of R' Yonah's statement is difficult to understand. For if R' Yose completely rejects the notion of *shich'chah* for olive trees, it is obvious that a distinctive olive tree whose harvest has begun does not have *shich'chah*. There is no need to inform us of this (*Sefer Nir*).

Others maintain that R' Yonah's statement concerns the Gemara's first interpretation of R' Yose's ruling (by R' Shimon bar Yakim), which has R' Yose discussing the reign of Hadrian, when olive trees were scarce. R' Yose states that during this period, even ordinary olive trees were not subject to *shich'chah*. R' Yonah argues that since R' Yose states

Halachah 2

Mishnah The Mishnah cites two further instances in which a tree is exempt from the law of *shich'chah*. The first case:

וַיֵּית שְׁנַמְצָא עוֹמֵד בֵּין שְׁלֹשׁ שׁוּרוֹת שֶׁל שְׁנֵי מְלַבְּנִים — In the case of an olive tree that is found standing between three rows of olive trees, with the rows separated by two strips of land,^[10] וַיִּשְׁכַּח — and [the owner] forgot to harvest [the tree],^[11] אֵינוֹ שְׂכָחָה — it is not *shich'chah*.^[12]

The second case:

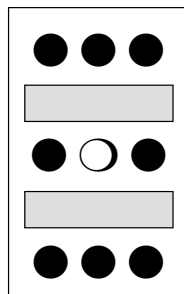
וַיֵּית שְׁנֵי שְׂאֵי בֹ קַתִּים — In the case of an olive tree that has two *se'ahs* of fruit upon it, וַיִּשְׁכַּח — and [the owner] forgot to harvest it, אֵינוֹ שְׂכָחָה — it is not *shich'chah*.^[13]

The Mishnah now qualifies the ruling of the *previous* Mishnah, concerning a distinctive olive tree:

בְּמָה דְּבָרִים אֲמֹרִים — When are these words said, i.e. that a distinctive tree is not subject to the law of *shich'chah*? בְּמָה דְּבָרִים אֲמֹרִים — At a time that [the owner] did not yet begin harvesting it. אֲכַל הִתְחִיל בֹ — But if he began harvesting it, אֲפִילוּ כִּינִית הַנְּטוּפָה בְּשַׁעֲתָהּ — then even if it is known as an olive tree that drips [oil] in its time, וַיִּשְׁכַּח — if he forgot to complete its harvest, וַיִּשְׁכַּח — it is subject to the law of *shich'chah*.^[14]

The Mishnah teaches a rule concerning the point at which olives on a tree become *shich'chah*:

יֵשׁ לוֹ — As long as [the owner] has [olives] remaining to be gathered beneath [the tree], יֵשׁ לוֹ תַּחְתָּיו — he has [olives] that he may harvest at the top of [the tree]. So long as there are olives beneath the tree, those remaining on the tree are permitted to the grower.^[15]



10. Literally: rectangles. A מְלַבֵּן is a mold used to make rectangular bricks (the Hebrew for brick is לִבְנָה, as in *Genesis* 11:3 et al.), and the word became synonymous with rectangle (see *Rambam Commentary*, here and to 3:1). In our Mishnah, מְלַבְּנִים refers to narrow strips of land separating the rows of trees.

The Mishnah's case concerns three rows of three trees each, with a strip of land separating each row from the adjoining one. The tree under discussion is the one that occupies the central position of the nine, i.e. the middle tree in the

middle row [see diagram] (see *Mahara Fulda*; *Rambam Commentary*; cf. *Rash*; *Rosh*; *Shenos Eliyahu*; see *Derech Emunah* 5:169).

11. I.e. the middle tree in the middle row (*Rav*, following *Rambam*).

12. The reasoning behind this exemption will be addressed in the Gemara.

13. This applies even to an ordinary olive tree, which is not distinctive in any way (see *Rash*). If it is laden with two *se'ahs* of olives, it is not subject to the law of *shich'chah*. Therefore, if the owner overlooked this tree at the harvest, he may return to it later and collect its fruit.

This exemption derives from the similar exemption that is taught in an earlier Mishnah regarding grain (above, 6:5): *If standing grain contains two se'ahs and he forgot it, it is not shich'chah*. The same applies with regard to a tree (*Shenos Eliyahu*; see also *Rash Sirilio* to the Gemara *יש בו אם יש בו*; see, however, *Aruch HaShulchan HeAsid*, *Peah* 10:7; *Derech Emunah*, *Tziyun HaHalachah* 5:249).

14. According to one view, this clause qualifies both the Mishnah's previous statement regarding a tree that is laden with two *se'ahs* of fruit and the statement of the earlier Mishnah regarding a tree that has "a name in the field." Thus, a distinctive tree, or a tree of two *seahs*, is exempt from *shich'chah* only as long as the owner has not yet begun harvesting it. Once their harvest begins, these trees too are subject to

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shich'chah (*Rash* and *Rosh*, first explanation; see also *Raavad* to *Hil. Matnos Aniyim* 5:24).

However, others maintain that this clause qualifies *only* the ruling of the earlier Mishnah, which states that a tree that has "a name in the field" is not subject to *shich'chah*. The Mishnah asserts that this holds true only as long as the owner has not begun harvesting the distinctive tree; where, however, its harvest has begun, even a distinctive tree is subject to the law of *shich'chah* for the fruit that remains. According to this view, the qualifying clause of בְּמָה דְּבָרִים אֲמֹרִים does not apply at all to the case of a tree that is laden with two *se'ahs* of fruit; therefore, if a tree remains with two *se'ahs* after its harvest has already begun, it is exempt from *shich'chah* (*Rambam Commentary* and *Matnos Aniyim* 5:25, from *Tosefta* 3:14; *Mahara Fulda*; *Shenos Eliyahu*; cf. *Rash* and *Rosh*, second explanation). This second view is the one followed in the Gemara (60a).

A distinctive tree whose harvest has begun is subject to *shich'chah* because we assume that it will likely be forgotten permanently by the owner. Even if the owner later recalls the existence of this tree, he will not return to it, for he will remember having begun its harvest, and will assume that he completed it as well (*Mirkevot HaMishneh* to *Rambam*, *Matnos Aniyim* 5:24, cited in *Derech Emunah* there §164).

15. As long as there remain beneath the tree fallen olives that the owner has not overlooked, the olives still on the tree are not considered *shich'chah*, and remain the property of the owner (*Rash*; *Rosh*; *Mahara Fulda*).

[*Rosh* points out that in the case of grain, we rule that detached produce located next to standing produce does not prevent the latter from becoming *shich'chah* (see above, 6:6 [55b]). *Rosh* explains that in the case of olives, those who gather them from beneath the tree generally check to see whether any olives remain upon the tree. Since the final examination of the tree does not occur until the olives beneath it are gathered, the owner is not considered to have overlooked the olives on the tree until after the gathering takes place. Therefore, the olives on the tree are not *shich'chah*.]

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this ruling without qualifying it in any way, he evidently holds it to be true even where one has already begun harvesting the trees. Now, we explained earlier (58a note 21) that an ordinary tree in a time of scarcity is the equivalent of a *netofah* ("dripping") tree in ordinary times. It follows that according to R' Yose, just as an ordinary olive tree in

Hadrian's time is exempt from *shich'chah* even after its harvest has begun, so too with a *netofah* tree in ordinary times. Thus, R' Yose disputes the ruling of the Mishnah below (59a) that once the harvest of a *netofah* has begun, it is subject to *shich'chah* (*Gra*).

See *Rash Sirilio* for another approach to R' Yonah's teaching.

A dissenting view:

רבי מאיר אומר — R' Meir says: משתלך המזבא — The olives on the tree are forbidden to the grower **from when the one who searches out hidden [olives] goes on his way**, having completed his task. The owner may harvest them until that point.^[1]

Gemara The Gemara cites an Amoraic ruling regarding our Mishnah's first ruling:

אמר רבי לזר — R' Lazar said: בניי מתינתא — This is the case of the Mishnah; where there is a separation של שני מלבנים — OF TWO STRIPS of land between the three rows AND [THE OWNER] FORGOT to harvest [THE MIDDLE TREE]. There is no need for anything more than two strips of land between the rows.^[2]

R' Lazar continues,^[3] now addressing the reasoning behind the Mishnah's ruling:

מה נן קיימין — What are we dealing with in the Mishnah's ruling concerning an olive tree found in the center of three rows? That is to say, for what reason is the tree not subject to *shich'chah*? R' Lazar offers a pair of suggestions and dismisses both:

אם משום דרך מסוים — If it is because a tree located between two strips of land is regarded as a distinctive object^[4] — אין כאן זיתים — but are there then no other olive trees here, i.e.

between the two strips of land?^[5] אם משום שורה — And if this tree is exempt because there is no *shich'chah* for an entire row,^[6] הוא עצמו נידון בשורה — can it be that [a single tree] alone is judged as an entire row? Of course not!^[7]

R' Lazar presents the true reason this tree is exempt from the law of *shich'chah*:

אלא על ידי שורה על ידי שורות — Rather, this tree is exempt because it is hidden by the trees of [its] row and by the rows of trees on either side of it.^[8]

The Gemara cites the view of R' Yochanan, who disputes R' Lazar's interpretation of the Mishnah's ruling:

בזית נודיין היא — R' Yochanan said: אמר רבי יוסי (יוסי) ויחנן — The Mishnah is speaking of an olive tree of Nod, which, because of its great value, is commonly planted in the center of a group of trees. The olive tree of Nod is a distinctive, memorable tree; therefore, it is not subject to *shich'chah*.^[9]

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1. According to R' Meir, the olives on the tree remain permitted to the owner even after those beneath the tree have been gathered. In his view, these olives do not become *shich'chah* until after all the hidden places on the tree are searched for olives. Only then are the remaining olives on the tree considered *shich'chah* and forbidden to the owner (*Rash; Rosh; Rav; Mahara Fulda*; cf. *Rash Sirilio*; see 60b note 1). [But the Tanna Kamma holds that since this final check is not always performed, the olives become *shich'chah* even before this point (*Beurim of R' Moshe Feinstein*).]

[*Rambam (Commentary)* explains the Mishnah differently. In his view, this exchange deals with the limits that are placed on the *shich'chah* rights of the poor. The olives on the tree are those which were overlooked, and are now *shich'chah*. The Tanna Kamma rules that as long as there are *shich'chah* olives beneath the tree, the olives on the tree are exclusively for the poor. Once, however, the *shich'chah* has been gathered from beneath the tree, the remaining olives on the tree are permitted to all. R' Meir maintains that until the tree reaches the point at which beating it with a stick will produce no further olives (as is done by one who searches out the hidden fruit), the olives on the tree are reserved for the poor, even if no *shich'chah* remains beneath the tree. For yet another interpretation of this ruling, see *Hasagos HaRaavad to Rambam, Matnos Aniyim* 1:12.]

2. One might assume that when the Mishnah speaks of two strips of land separating the three rows, it requires two strips in each direction, so that there is a separation between both the north-south rows and the east-west rows. R' Lazar informs us that, in fact, only two strips running in the same direction are required (*Mahara Fulda*). The rows running in the other direction need no separation between them.

For other explanations of R' Lazar's statement, see *Rash Sirilio; Maharam Chaviv; Beur of R' Chaim Kanievski*.

3. *Mahara Fulda; Maharam Chaviv*; cf. *Sefer Nir*.

4. And is therefore exempt from *shich'chah*, as per the ruling of the previous Mishnah.

5. The other trees in the center row are also located between two strips of land and are thus equally distinctive. Why then should this one be singled out? (see *Mahara Fulda; Gra; Pnei Moshe*). See *Rash Sirilio* for another approach.

6. An earlier Mishnah (6:4 [54b]) rules that three sheaves, or three heaps of olives, or three stalks of grain are not *shich'chah*. The Gemara there

states that this holds true only if the three items form a *שורה*, row, which is defined as three sheaves in a straight line (see *Mahara Fulda* there, as explained by *Derech Emunah, Tziyun HaHalachah* 5:175). [See also above, 5:2 and 6:3, where the Gemara characterizes every group of three sheaves as "a row."] Based on this, our Gemara suggests that the reason this tree is exempt is that it is part of a row of three trees (see *Mahara Fulda; Beur of R' Chaim Kanievski*; cf. *Pnei Moshe*). See *Rash Sirilio* and *Maharam Chaviv* for other explanations.

7. Although this tree is part of a row of three, it is the only one of the three that was forgotten. The other two trees in the row were harvested. A single forgotten tree in a row cannot be judged a forgotten row, and so is not exempt from *shich'chah* (*Mahara Fulda; Pnei Moshe*). See *Gra* for a different approach.

8. I.e. by the two outer trees of the center row and by the two rows on either side (*Mahara Fulda* and *Maharam Chaviv*, following *Rambam Commentary* and *Matnos Aniyim* 5:25; see also *Pnei Moshe; Beurim of R' Moshe Feinstein*).

The exemption of a tree hidden by other trees is based on the ruling of an earlier Mishnah (5:6), which states that if grain was overlooked because the poor blocked it from view with their bodies or covered it with straw, it is not *shich'chah*. Here too, since the tree was overlooked only because it was blocked from view by other trees, it does not become *shich'chah* (see *Derech Emunah, Matnos Aniyim* *ibid.*:172 and *Beur HaHalachah* to 5:3).

[However, this holds true only if the trees are separated by two strips of land. If, however, there is no separation between the rows, so that the trees cluster tightly together, this tree is subject to the law of *shich'chah*. For a tight cluster of trees is extremely noticeable; therefore, we may assume that the owner at some point took note of each and every one of these trees. Because he certainly noticed the middle tree, it becomes *shich'chah* when he subsequently overlooks it.]

[*Rambam* writes (*Matnos Aniyim* *ibid.*) that the tree need not be surrounded on all four sides in order to be exempt from *shich'chah*. Even if it is surrounded by trees on only three sides, it is exempt. Some say that this contradicts *Rambam's* interpretation of our Mishnah (see *Mareh HaPanim* (ד"ה בניי); others see no contradiction (see *Radbaz* ad loc.).]

See Variant A for another interpretation of the Gemara.

9. Nod is the name of a place, where the olive trees are known to be of

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A. According to some authorities, when R' Lazar attributes the exemption of this tree to the surrounding rows, he does not mean that they *hide* the tree from view, but that they render it distinctive. A tree located in the center of this unusual configuration is a distinctive and memorable tree; therefore, it is exempt from *shich'chah* (*Rash Sirilio* and

Sdeh Yehoshua, following *Rosh* to our Mishnah). [Some say that *Rash* too follows this opinion (see *Maharam Chaviv* here; *Tiferes Yisrael* and *Shaarei Emunah* to the Mishnah); see, however, *Mahara Fulda* and *Beurim of R' Moshe Feinstein*, who have a different understanding of *Rash's* view.]

The Gemara qualifies the Mishnah as understood by R' Yochanan:

אָמַר רַבִּי יוֹסֵי — R' Yose said: לֹא סוֹף דָּבָר נוֹרֵיין — It is not essential that the olive tree actually be one of Nod. אֶלֶּא אֶפִּילוּ — Rather, the same is true even of all other types

of olive trees that are valuable to their owner. מִבֵּינן שְׁדַרְבָּן לִיבְחֹן כְּנוֹדֵיין — Since it is [the owner's] practice to check on these valuable trees frequently, as if they were [olive trees] of Nod, אֶפִּילוּ שְׂאֵר כָּל הַזֵּיתִים אֵין לְהֵן שְׂבָחָה — even all these other types of olive trees too are not subject to *shich'chah*.^[10]

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unusual quality. R' Yochanan holds that the Mishnah discusses a tree from this place. Because of its quality, this tree is regarded as distinctive, and so is exempt from *shich'chah*.

According to R' Yochanan, the configuration described in the Mishnah is not essential to the exemption. Rather, it is mentioned only for purposes of identification. For it is common to plant these highly regarded trees in this configuration, surrounded by lesser trees. The Mishnah identifies a tree of Nod by referring to the unusual configura-

tion in which it is often found (*Mahara Fulda*; cf. *Rash Sirilio*).

For other approaches, see *Pnei Moshe*; *Gra*; *Maharam Chaviv*.

10. R' Yose discusses trees that, unlike a tree of Nod, are not *intrinsically* valuable, but are nonetheless valuable in the eyes of their owner, who “checks on them” constantly, as if they were trees of Nod (*Mahara Fulda*). [In their owner's eyes, then, these trees are distinctive; therefore, they are exempt from *shich'chah* (see above, 58a).]

For other views, see *Pnei Moshe*; *Gra*; *Maharam Chaviv*.