

## OVERVIEW of the Daf

### 1) Adhering to local customs

R' Safra asked R' Abba whether the people who know the establishment of the new month are permitted to perform melachah on the second day of Yom Tov outside of town.

R' Abba in the name of Rav answered that it is permitted.

Two versions are presented concerning the punishment R' Yosef gave to a person who traveled on the second day of Yom Tov.

### 2) Clarifying R' Yehudah's opinion

R' Yehudah's ruling concerning Shemittah produce is challenged from the Mishnah.

A number of different explanations are presented, three of which are not refuted.

### 3) Biur shemittah

The Gemara identifies the source of a halachah related to removing produce from one's home when it is no longer available in the field.

A Baraisa records a dispute whether Shemittah produce taken out of Eretz Yisroel should be destroyed in chutz la'aretz or returned to Eretz Yisroel for destruction.

An incident related to this dispute is recorded.

The Gemara relates that R' Ilai chopped down a tree containing berries during the Shemittah year.

The practice of R' Ilai is questioned from a pasuk which indicates that such a tree may not be chopped down. ■

## REVIEW and Remember

1. According to R' Yosef, what is more severe; lashes or banishment?
2. Does R' Yehudah's ruling in the Mishnah express a stringency or a leniency?
3. How far will animals travel to obtain food?
4. What is the source that prohibits chopping down a tree bearing fruit during Shemittah?

## Distinctive INSIGHT

### The mitzvah to rid the Shemittah fruit from the house

כלה לחיה אשר בשדה. כלה לבהמתך מן הבית

The Torah tells us that a person may keep fruits from the Shemittah year in his house only as long as that type of fruit is available in the field for the animals. However, once the season for that fruit is over, and it is no longer available at large, anyone who had gathered any quantities of that fruit in his house must remove it. The end of the season heralds in **שעת הביעור**—the moment when the fruit must be eradicated from the house.

Tosafos (ד"ה מתבערין) writes that the requirement is for the householder to take his fruit from the house and to declare it ownerless and available for all to take, man or beast. The Tosefta even describes how a man would distribute these fruits to all his relatives and neighbors, and how he would place it at his doorstep and announce that the fruits are free for all to take and enjoy. Although we find references which indicate that the fruit is prohibited after the hour of **ביעור**, this is only the case if the person fails to rid the fruit from his house. However, once he makes them ownerless, he may also partake of the fruits as much as anyone else.

Ramban, in his commentary to the Torah (Vayikra 25:7) writes that if the mitzvah of **ביעור** is not done, the owner has lost the mitzvah. The fruit become prohibited, and it must be destroyed. Chazon Ish (11:6) writes that Tosafos disagrees with Ramban, and they hold that even after the mitzvah was not done, any time the owner decides to rid the fruit from the house he may do so, and the fruit would then be permitted to be eaten according to the guidelines stated above.

Rambam (Shemitta V'Yovel 7:3) writes that at the moment of **ביעור**, the owner must distribute the fruit, an amount of three meals to each person, and whatever is left must be burnt, thrown into the sea, or otherwise destroyed. ■

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# HALACHAH Highlight

## Can a ben-Eretz Yisroel do a melachah in private on the second day of Yom Tov in chutz la'aretz?

כתב רש"י וז"ל ביישוב לא עבידנא מלאכה ביו"ט שני הואיל ונהגו בו איסור לא אשנה "לעיניהם" את המנהג.

Rashi writes, "We should not do melachah on the second day of Yom Tov in an inhabited area, for a deviation from local custom may cause discord. They prohibit work, and we shall not deviate in front of them..."

Rashi's explanation of the Gemara suggests that it would be permitted for a person from Eretz Yisroel to do labor in private on the second day of Yom Tov, even in a place where the local residents do not do labor. This is the opinion of the Maharsh"l and Taz. Taz explains that since the whole reason of the prohibition is the 'engendering of contention', it would indeed be permitted in private, for there would not be anyone who would object. Tosafos<sup>2</sup> writes, however, that even in private it would be forbidden, for in all likelihood someone from the locale will find out about what he is doing. However, things which no one will find out about would be permitted even according to Tosafos.

In practice, the Mishna Berura<sup>3</sup> rules according to Tosafos and writes<sup>4</sup> that a "ben Eretz-Yisroel" who is in Chutz LaAretz for the second day of Yom Tov, should

wear tefillin in private. The reason is that this is not a melachah<sup>5</sup> (prohibited labor) and no one will know. He also writes, that any melachah which in some circumstance could somehow be performed by one who lives in the Diaspora can be performed by a ben Eretz-Yisroel. On the one hand, no one will find out, and even if someone does, anyone can assume that he performed the act in that permitted way which even one who lives in the Diaspora can perform. For example<sup>6</sup>, when the second day of Yom Tov falls out on Friday, a ben Eretz-Yisroel would be allowed to cook food in preparation for Shabbos even without an eiruv tavshilin, for this is considered 'private' for the aforementioned reason. ■

1. הט"ז באו"ח תצ"ו ס"ק ב' ובשם המהרש"ל

2. תוס' כאן בד"ה ביישוב

3. המ"ב שם ס"ק י' וכן בסימן תס"ח במ"ב ס"ק ג'

4. המ"ב תצ"ו ס"ק י"ג

5. במ"ב שם. וע"ע בשו"ת שה"ל ח"ז סימן ס"ה שכתב שמחמירים רק מספק כתוס', ושמותר לבן א"י הנמצא ביו"ט שני בחו"ל, להדליק בצנעה נר להבדלה שבמוצאי יו"ט ראשון

6. במ"ב שם. ובשו"ת אג"מ או"ח ח"ד סימן ק"ד הסתפק האם מותר לו להדליק את החשמל, שבסובר שאינו אלא מאיסור נולד, ולא מלאכה, ואפשר שנחשב כבצנעה מפני שיש אנשים שיש להם שעון שבת המדליקו, ואפשר שמ"מ האג"מ יודה לעצם קולא זו של המ"ב, אלא שהסתפק בצירור זה של חשמל. [ולחזו"א בלא"ה יש איסור בונה ולגרשז"א בנורה יש איסור מבעיר ואכמ"ל.] ויסוד זה מדויק מהגמ' בעמוד הקודם דכמה בטלני איכא בשוקא. וכן עי' בשדי חמד כללים מערכת הלמ"ד כלל ע"ט ובשו"ת מנח"י ח"ח סנ"ז ד' ובשבה"ל הנ"ל ■

## Gemara GEM

### Banishment for violating the second day of Yom Tov

דרב ושמואל דאמרי תרווייהו מנדין על שני ימים טובים של גלויות

The יחוסי תנאים ואמוראים points out that this rule of Rav and Shmuel seems unnecessary to be stated. We have already ruled at the beginning of the perek (50b) that the rule of not doing labor on Erev Pesach was enforced with banishment (שמותי) for those who violated its guidelines. If this was the case for failure to keep a mere custom, how much more so would we expect

the second day of Yom Tov, which borders on a legitimate possible Torah violation, to be enforced with banishment! And even if we take into consideration the fact that we are aware of the actual date of Yom Tov, and that the second day is "just a custom," following what was done in previous times, (מנהג אבותנו בידינו), we still would not expect Yom Tov to be any less than erev Yom Tov. Why, then, did Rav and Shmuel have to state what seems to be obvious?

He answers, based upon an opinion of Tosafos (50a, ד"ה מקום), that Erev Pesach is a day during which a person has his Korban Pesach brought. On the day a person has his offering

brought, there is a Torah expectation not to do any labor. We would therefore expect that the rule not to work on this day might be more strict than the second day of Yom Tov. This is why Rav and Shmuel teach that the second day of Yom Tov is equally severe.

He also answers that Rav and Shmuel are dealing with a case of violating the laws of techum on the second day of Yom Tov, and this is certainly only a rabbinic injunction. Doing labor on Erev Pesach might seem more weighty than techum on Yom Tov itself. Yet, the retribution for this is banishment, and no worse. ■

