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Tzvi Gershon Ben Yoel (Harvey Felsen) o"h

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It was stated above: Rabbi Yehoshua ben Levi said that wherever Rabbi Yehudah introduces his remarks by saying: "When is this so?" or, "In what case is it said?" he is merely explaining the words of the Chachamim. Rabbi Yochanan said: If Rabbi Yehudah said, "When is this so?" he is explaining, but if he said, "In what case is it said?" he is disagreeing. It emerges that they all agree when he said, "When is this so?" he is agreeing!?

The *Gemora* asks: And if he said, "When," is he indeed explaining, but we learned in a *Mishna*: The following people are unfit to give testimony or judge. If someone gambles, lends with interest, flies pigeons, and sells *Shemittah* produce, he is unfit to testify. Rabbi Yehudah says: When are they unfit for testimony and judgment, when they have no other occupation. However, if they have another occupation, they are fit to testify and judge. And in connection with this, it was taught in a *braisa*: And the Sages ruled: Whether he has no occupation other than that, or whether he has another occupation, he is ineligible? [*Now, assuming that the Sages in the braisa last mentioned are the same as those whose view is represented in the first clause of the Mishna cited, is it not evident that even where he differs from a view expressed R' Yehudah still used the introductory word 'when'? An objection thus arises against both R' Yehoshua ben Levi and R' Yochanan!?*]

The *Gemora* answers: The opinion of the Sages (*mentioned in the braisa*) is the opinion of Rabbi Yehudah in the name of Rabbi Tarfon, for it was taught in a *braisa*: Rabbi Yehudah said in the name of Rabbi Tarfon: (*A person said, "I am a nazir if that man is So-and-so," and another person said, "I am a nazir if that man is not so-and-so"*) Neither of them is a *nazir*, for *nezirus* can only take effect when there is a clear expression (*without any doubt; even if later we find out that the condition was met*). Evidently, when a person is in doubt as to whether he is or is not a *nazir*, he does not submit himself to become a *nazir*; so also here (*by gambling*), since he does not know beforehand whether he would gain or lose, he does not fully consent to transfer possession to the other. [*Rabbi Tarfon holds that an undertaking dependent on an unknown circumstance is not binding, and therefore the same applies to gambling. Each gambler accepts to pay, but the result is beyond his control; it is therefore regarded as an asmachta – theft; whether gambling is his sole occupation or not.*] (82a)

WE SHALL RETURN TO YOU, CHALON

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L'zecher Nishmas HaRav Raphael Dov ben HaRav Yosef Yechezkel Marcus O"H

How is *shittuf* arranged in connection with the *Shabbos techum*? [*One who places a certain amount of food in a place up to 2,000 amos away from his current location; he is then permitted to walk 2,000 amos beyond there because the location of his food is regarded as his residence*.] One sets down a barrel (*of food*) and says, "Behold this is for all the residents of my town, for anyone who may desire to go to a house of mourning or to a wedding feast." Anyone who accepted to rely on the *eiruv* (*and make that their place of residence*) while it was yet day, is permitted (*to enjoy its benefits*), but if one did it (*the accepting*) after dark this is forbidden, since no *eiruv* may be made after dark.

Rav Yosef ruled: An *eiruv* may be prepared only for the purpose of enabling one to perform a *mitzvah*.

The *Gemora* asks: What does he teach us, seeing that we learned in our *Mishna*: for anyone who may desire to go to a house of mourning or to a wedding feast?

The *Gemora* answers: It might have been assumed that mention was made of that which is usual, therefore we were taught (*Rav Yosef's ruling*).

The *Mishna* had stated: Anyone who accepted to rely on the *eiruv*.

The *Gemora* suggests: May it be inferred from this ruling that no retroactive clarification is valid, for if retroactive clarification were valid, why should it not become known retroactively that he was pleased to accept the *eiruv* while it was yet day?

Rav Ashi replied: The cases taught (*in the Mishna*) are those where one was, or was not informed (*that an eiruv had been made*).

Rav Assi said: A child of the age of six may go out of the *techum* with the *eiruv* of his mother. [*This is so, even though she did not explicitly confer upon him the right of a share in it. A child of six is deemed to be entirely attached to, and dependent upon his mother, and it is assumed that she meant him to enjoy the same privileges of the eiruv as she herself.*]

An objection was raised from a *braisa*: A child who is dependent upon his mother goes out by his mother's *eiruv*, but one who is not dependent upon his mother does not go out by her *eiruv*; and we also learned a similar ruling in respect of a *sukkah*: A child who is not dependent upon his mother is obligated in the *mitzvah* of *sukkah*. And when the point was raised as to what child may be regarded as independent of his mother, it was explained at the academy of Rabbi Yannai: Any child who, when defecating, does not require his mother's assistance. Rabbi Shimon ben Lakish explained: Any child who, when awaking, does not cry, "Mother!"

The *Gemora* interjects: "Mother!" Is this imaginable? Do not older children also cry, "Mother"?

Rather, say: Any child who, when awaking, does not persistently cry, "Mother!" And what is the age of such a child? About four or five (*according to their development*). [*At any rate, it follows that a child of the age of five at the latest is deemed to be independent of his mother. How then could Rav Assi maintain that a child of six may go out by his mother's eiruv?*]

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Rav Yehoshua the son of Rav Idi replied: What Rav Assi spoke of was a case, for instance, where the child's father prepared an *eiruv* for him in the north and his mother in the south, since even a child of the age of six prefers his mother's company. [*And this is what Rav Assi meant: The child may go out by the eiruv of his mother, and not by that of his father.*]

An objection was raised from a *braisa*: A child who is dependent upon his mother may go out by his mother's *eiruv* until he is six years of age. Is this not an objection against Rav Yehoshua the son of Rav Idi? [*The ruling that a child up to the age of six may go out by his mother's eiruv, even if she did not prepare it especially for his benefit as well. The previous explanation - that the ruling applied to a case where both his father and mother prepared an eiruv on his behalf cannot be given here, since the age limit indicated, viz., 'until he is six,' obviously includes that of a younger child, who is undoubtedly dependent on his mother and who is unquestionably permitted to go out on account of her eiruv.*]

The *Gemora* concludes: This is indeed a refutation.

The *Gemora* asks: Must it be admitted that this also presents an objection against the view of Rav Assi (*who exempts a child of six, whereas here a child of the age of six seems to be excluded by the expression 'until he is six years of age'*)?

Rav Assi can answer you: 'Until' means 'until and including.'

The *Gemora* asks: Must it be assumed that this presents a refutation of the views of Rabbi Yannai and Rish Lakish? [*For they maintain that a child of the age of four or five is not dependent on his mother, and consequently, should not be allowed to go out by means of her eiruv, whereas here it is ruled that even a child of six may go out by his mother's eiruv.*]

The *Gemora* answers: This is really not difficult, since the former (*the Mishna in sukkah*) refers to a child whose father is in town (*and is attending to the child; in such a case, the child is independent of his mother - even before he is six years of age*), while the latter (*the ruling of the Amoraim*) refers to one whose father is not in town.

The *Gemora* cites a *braisa*: A man may prepare an *eiruv* for his son or daughter, if they are minors, and for his Canaanite slaveman or slavewoman, either with, or without their consent. He may not, however, prepare an *eiruv* for his Jewish manservant or maidservant, nor for his adult son or daughter, nor for his wife, except with their consent.

Elsewhere, a different *braisa* was taught: A man may not prepare an *eiruv* for his adult son or daughter, nor for his Jewish manservant or maidservant, nor for his wife, except with their consent, but he may prepare an *eiruv* for his Canaanite slave or slavewoman, and for his son or daughter, if they are minors, either with, or without their consent, because their hand is as his hand. Even if any of them prepared an *eiruv* (*in one direction*) and their master also prepared one for them (*in a different direction*), the limits of their movements are determined by that of their master, except for a wife, for she is entitled to object (*and since she made her own eiruv, she is not restricted by the eiruv of her husband*).

The *Gemora* asks: But why should a wife be different (*from one's adult sons or daughters, or one's Jewish servants, who are equally entitled to object*)?

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Rabbah replied: The meaning is a wife and all who enjoy a similar status.

The master had stated: Except for a wife, for she is entitled to object.

The *Gemora* notes: The reason then is that she actually objected, but in general (*if she expressed no opinion*), her movements are determined by the *eiruv* of her husband.

The *Gemora* asks: Was it not, however, taught in the first clause: Except with their consent? Does this not mean that they must actually say, "Yes"?

The *Gemora* answers: No; the meaning of 'Except with their consent' is that they kept quiet, which excludes only the case where they said, "No."

The *Gemora* asks: But surely, the case where 'Even if any of them prepared an *eiruv* (*in one direction*) and their master also prepared one for them (*in a different direction*),' where 'the limits of their movements are determined by that of their master' is one where no opinion had been expressed, and was it not nevertheless stated: except for a wife, so that her movements are not determined by the *eiruv* of her husband?

Rava replied: Since they had prepared an *eiruv* (*of their own*), there can be no more significant form of objection.

The *Mishna* states: What is the quantity needed to make an *eruv techumin*? Food of two meals for each person that needs the *eruv*. This is referring to food for a weekday meal, and not for *Shabbos* meals; these are the words of Rabbi Meir. Rabbi Yehudah says: This is referring to food for *Shabbos* meals, and not for his weekday meals. Both opinions intended to be lenient (*Rabbi Meir used to consume at a weekday meal less bread than at a Shabbos meal, which had more courses and since he ate bread with each course, he ate more bread; Rabbi Yehudah, however, consumed on Shabbos less bread than he would on weekdays because he satisfied himself with the extra courses*). Rabbi Yochanan ben Beroka says: The required amount of bread for an *eruv* is a loaf that is purchased for a *pundyon* when four *se'ahs* of grain are purchased for a *sela*. (*Each sela = four dinars, each dinar = six ma'ahs and each ma'ah = two pundyons. Consequently, a sela = (4 X 6 X 2) forty eight pundyons. Since a se'ah = six kavs, four se'ahs = twenty-four kavs. If four se'ahs (twenty-four kavs) sell for a sela (forty-eight pundyons), one can purchase one kav with two pundyons and a half of a kav with one pundyon; it emerges that the loaf of bread measures a volume of twelve eggs since there are twenty-four eggs in a kav.*) Rabbi Shimon says: The required amount of bread for an *eruv* is two thirds of a loaf when there are three loaves to a *kav*. (*One loaf is made from 1/3 kav, the volume of 8 eggs, and 2/3 of a loaf measures 5 1/3 eggs*.) Half of the loaf is used to determine if one's clothes have been contaminated when he entered a house with *tzaraas*. (*A person who enters a house inflicted with tzaraas becomes tamei immediately, but he is not required to wash his clothes unless he remained in it the time necessary for eating. The Sages learned from this that only if a person stayed in the house a length of time needed for eating, is required to wash his clothes. And the time is long enough "to eat a peras", i.e., ½ a loaf. The Mishna teaches us that according to Rabbi Yochanan ben Beroka, who holds that a whole loaf is ¼ a kav [the volume of 6 eggs],*

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the volume of the "eating of a peras" is 3 eggs; and according to Rabbi Shimon, who holds that a loaf is a 1/3 of a kav [8 eggs], the volume of the "eating of a peras" is 4 eggs.) And a half of its half (*a quarter of the loaf*) is the amount of *tamei* food eaten that will render someone unfit to eat *terumah*. And a half of a half of the loaf is the amount required to contract food *tumah*.

The *Gemora* asks: How much food is required for two meals?

Rav Yehudah citing Rav replied: Two peasant loaves. Rav Adda bar Ahavah explained that those loaves are equivalent to two Nehar Pappisean loaves.

Rav Yosef said to Rav Yosef the son of Rava: With whose view does your father's agree?

He replied: His view is in agreement with that of Rabbi Meir.

Rav Yosef said: I am also in agreement with the view of Rabbi Meir, for if one were to agree with Rabbi Yehudah, there would arise the difficulty of the popular saying: There is always room for a tasty dish.

INSIGHTS TO THE DAF

Is a Stroll a Mitzva?

If a person wishes to walk beyond the two-thousand amah *t'chum* that surrounds his city, he may do so by means of an *eiruv t'chumin*. However, the Gemara stipulates that an *eiruv t'chumin* may only be set for the sake of a mitzva, such as going to console a mourner, or to share in wedding festivities. The *Poskim* question whether a relaxing stroll is also considered a mitzva. Clearly, this is not an obligatory mitzva, on par with tefillin or lulav. However, perhaps it is included in the mitzva of *oneg Shabbos* – to take pleasure in Shabbos. If a person takes pleasure in a leisurely walk, perhaps this should be enough to justify an *eiruv t'chumin*.

Since there is no clear answer to this in our own sugya, the Poskim draw a comparison to other leniencies that were made for the sake of a mitzva. For example, it is forbidden to set sail on a boat during the three days preceding Shabbos (Shabbos 19a). However, for the sake of a mitzva it is permitted to do so. It is also forbidden to carry on Yom Tov, if not for some personal need, even if it is a minor one, or for the sake of a mitzva (Beitza 12a, Rosh 1:18, Shulchan Aruch O.C. 518:1).

Rabbeinu Tam (cited by Mordecahi, Shabbos 258 et. al.) rules that traveling to conduct business or to visit a friend is also considered a mitzva, for which one may set sail immediately before Shabbos. Although many Rishonim argue with this ruling (see Beis Yosef O.C. 248), the Rema rules that one who relies on Rabbeinu Tam "should not be chastised."

Rabbeinu Tam (cited by Rosh, Beitza 1:18, et. al.) also rules that if a father wishes to take a leisurely stroll on Yom Tov, and he cannot leave his young child behind, he may carry him, since strolling is included in the mitzva of *simchas Yom Tov* – rejoicing with Yom Tov. The Terumas HaDeshen (77) learns from here, that if someone has an orchard outside of the t'chum, and he wishes to stroll there on Yom Tov, he may set an *eiruv t'chumin* since strolling on Yom Tov is a mitzva.

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The Terumas HaDeshen is one of the primary sources of Ashkenazic legal custom, from which the Rema consistently draws. Here too, the Rema (415:1) cites the Terumas HaDeshen's ruling, but with a slight variation. "One may only set an *eiruv t'chumin* for the sake of a mitzva, for example… if he wishes to stroll through an orchard on Yom Tov or Shabbos. Since he finds joy (*simcha*) in this, it is considered a mitzva." Although the Terumas HaDeshen referred only to Yom Tov, the Rema applied his ruling to Shabbos. If enjoying oneself on Yom Tov is a mitzva, presumably the same is true on Shabbos.

However, the Tosefos Shabbos (s.k. 6) challenges this presumption. Had the *Terumas* HaDeshen been written like any other responsa-sefer, we could assume that the question was written to him concerning Yom Tov, so he responded in turn. However, it is known that the Terumas HaDeshen himself wrote both the questions and the answers in his sefer, rendering it in a responsa format (see Shach Y.D. 196 s.k. 9 et. al.). If the Terumas HaDeshen posed the question regarding Yom Tov, it is entirely possible that he referred only to Yom Tov, and not to Shabbos. On Yom Tov there is a mitzva of *simcha* - joy*;* on Shabbos there is a mitzva of *oneg* - pleasure (see Taz O.C. 553).

Perhaps a leisurely stroll may be defined as *simcha,* but it is not necessarily *oneg*. Therefore the Terumas HaDeshen's ruling cannot be applied freely to Yom Tov.

Nonetheless, the Poskim support the Rema's ruling, and make no distinction between Shabbos and Yom Tov. In both cases, a stroll is considered a mitzva sufficient to justify setting an *eiruv t'chumin* (see Aruch HaShulchan; Kaf HaChaim).

Techum for a Slave

A person can make an eiruv include his children who are minors or his Canaanite slaves. Being that they are totally under his authority, they must consent to what he does for them. Even if they protest the eiruv, it is still valid.

The Keren Orah has difficulty understanding the mechanics of this law. If eiruv techumin is a Torah law, meaning that a Canaanite slave is commanded to observe the laws, how can his eiruv be valid if he protests it? If you will say that the slave is simply considered "connected" to his master, why does he need a portion in the eiruv at all?

Additionally, the Gemora implies that his master can even make the slave an eiruv which the master himself will not be using, and even if the master is making an eiruv for himself in a different direction. What are the mechanics of this law?

The Keren Orah says that one must say that where a slave lives is determined by his master. When a master makes an eiruv for a slave, it is as if he sent him to live in a certain place. This becomes the house of the slave regarding techumin.

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