

4.1.8

9b (תיקו) → 10b (תשע צבורין)

Note: there are numerous Halakhic principles used to determine the status of an item regarding which a doubt has arisen. The general rule of רוב (majority as a determinant) only applies when a unit has separated from a group; if the circumstance creating the doubt happened at the stationary point of the possible איסור, it is considered a 50/50 probability. For example, if a piece of meat was found on a street where there are 10 butchers, 9 of whom sell שחטה and one נבלה, the meat is considered שחטה and is permissible. If, however, the person entered one of the butchers shops and doesn't remember which, it is prohibited based on the principle כל הקבוע כמחצה על מחצה דמי.

I. Series of circumstantial questions re: בדיקת חמץ

- a. פריש וקבוע 9 piles of מצה and 1 (indecipherable) of חמץ:
 - i. If a mouse took 1, it is קבוע – 50% chance that he took חמץ (and brought it into the house)
 - ii. But if: 1 pile got separated first and then the mouse took it – כל דפריש מרובא הוא דפריש and we assume it to be מצה
- b. “אני אומר”: 2 piles – 1 חמץ / 1 מצה and each was taken into 1 of 2 houses, 1 checked, 1 not yet checked
 - i. Assume: מצה went into checked house, based on “אני אומר” from תרומה-חולין (יא) (תוספתא תרומות ו:א)
 1. Reasoning: בדיקת חמץ is דרבנן – and it is only applied to תרומה דרבנן
- c. גת אחת/זה אחר זה: 1 pile of חמץ and 2 homes (both checked) we don't know which house was “infected”
 - i. Apply: rule of 2 paths (טהרות ה:) – as long as both homeowners don't ask simultaneously – no need to check
- d. ספק ביאה: 1 pile and 1 house – unclear if the mouse walked in at all
 - i. Apply: rule of בקעה (טהרות ו:ה) – א – (ספק ביאה טהור: ר"א - טהרות ו:ה); even רבנן allow, since בדיקת חמץ דרבנן
- e. חזוקת טומאה: 1 pile, 1 house and the mouse certainly took it in – we checked and didn't find it
 - i. Dispute: טומאה ר"מ/חכמים (נה: ט) re: searching for טומאה
 1. However: ר' מאיר would agree here since בדיקת חמץ דרבנן
- f. Variation on “אני אומר”: 1 pile, 1 house and the mouse certainly took it in – we check and found it
 - i. Dispute: רשב"ג/רבי re: the “lost” grave that was found
- g. Finding more than were left: 9 piles – and he found 10
 - i. dilemma: original 9 plus a new one, or are the 9 gone and the house must be rechecked?
 1. Dispute: רבי/רבנן (תוספתא מע"ש ה:ז) re: 1 סלע מע"ש and found 2 סלעים
- h. Finding fewer than were left: 10 piles – and he found 9
 - i. Question: must only 1 be found in rechecking or all 10? (same dispute רבי/רבנן would apply here)
- i. Dislocation: If he left the חמץ in one corner and found it in another
 - i. Dispute: (ברייתא) רשב"ג/רבנן re: the misplaced shovel (טומאה)

II. ארבה's line of questioning re: mouse and rat

- a. Premise: if a mouse enters w/ חמץ in its mouth and you find crumbs, still have to check – mice don't make crumbs
 - i. However: this is not true about a child – who does make crumbs
 - ii. Question: if a mouse carried it in and a mouse was seen carrying it out – is it the same ככר?
 1. את"ל: it's the same – what if the 2nd mouse is certainly a different one (e.g. black)– did he take it from him?
 2. את"ל: that mice don't take from each other; what if a rat came out with חמץ – same piece?
 - a) Perhaps: it's not the same piece, else the mouse would be in its mouth as well
 - i. If you accept that argument, what if the rat comes out with חמץ and עכבר in חולדה's mouth?
 1. If: he took it from him, חמץ should still be in עכבר's mouth
 2. Or: the rat scared the mouse and he dropped it - תיקו

III. ארבה's line of questioning re: checking in inaccessible places

- a. Rafters: since it won't fall down on its own, no need
 - i. Or: Since it may fall – should check
 - ii. את"ל: that you have to check שמי קורה – do you need to check a pit; it certainly won't come out on its own
 1. Or: Since he may go down for his own needs and may inadvertently eat חמץ found there
 2. את"ל: the latter concern, do you have to check the mouth of a snake (hire a snake charmer)?
 - a) Note: there is no reason that he would otherwise “look” in there - תיקו