

NOTES

He should pile his threshing floor – צובר גורנו: *Tosafot* ask: How could this suggestion of mixing resolve the difficulty with regard to second tithe and poor man's tithe, as the produce belonging to one year is obligated in second tithe while that belonging to the next year is obligated in poor man's tithe? In the *Tosefta* it is stated that this issue could be resolved by setting aside second tithe and redeeming it, and then setting aside a portion of the redeemed produce for the poor.

Follows the full ripening of the produce – הולך אחר גמר: The early authorities ask: How could Shmuel have issued a ruling that is not in accordance with any of the *tanna'im*? According to Rabbi Zerahya HaLevi, Shmuel ruled in accordance with the opinion of Rabbi Shimon Shezuri. Alternatively, he ruled in accordance with the opinion of Rabbi Shimon (*daf* 14b) that the *halakha* of the Sabbatical Year applies only to produce that was both grown and fully ripened at a time when it became liable to tithing, and therefore Shmuel holds leniently, that the tithe year follows the full ripening of the produce (see *Turei Even*).

ביצד הוא עושה? צובר גורנו לתובל, ונמצא תורם ומעשר מן החדש שבו על החדש שבו, ומן הישן שבו על הישן שבו.

How, then, should one act so that he not err and set aside *teruma* and tithes incorrectly? He should pile the entire stock onto his threshing floor,^N into the middle of it, mix the stock together well, and then set aside *teruma* and tithes, and consequently it will turn out that he has set aside *teruma* and tithes from the new crop in the mixture for the new crop in it, and from the old crop in the mixture for the old crop in it. Why not do the same for rice, millet, poppy, and sesame?

אמר ליה: רבי שמעון שזורי קאמר? רבי שמעון שזורי סבר: יש בילה.

Rabba said to Abaye: You are speaking of the opinion of Rabbi Shimon Shezuri? You cannot raise an objection from what he says, as Rabbi Shimon Shezuri holds that there is mixing. He assumes that the old and new were thoroughly mixed, so that the *teruma* and tithes set aside from the mixture have the same proportions of old and new crops as did the original crops.

ורבנן סברי: אין בילה.

But the Sages hold that there is no mixing; they do not assume that the old and new became thoroughly and evenly mixed. Therefore, piling the entire stock, mixing it together, and then setting aside *teruma* and tithes will not ensure that they are set aside correctly.

אמר רבי יצחק בר נחמני אמר שמואל: הלכה כרבי יוסי בן כיפר שאמר משום רבי שמעון שזורי. מתקיף לה רבי זירא: ומי אמר שמואל הכי? והאמר שמואל: לכל אין בילה חוץ מין ושמון!

Rabbi Yitzhak bar Nahmani said that Shmuel said: The *halakha* is in accordance with the statement of Rabbi Yosei ben Keifar that he said in the name of Rabbi Shimon Shezuri. Rabbi Zeira strongly objects to this: And did Shmuel actually say this? But didn't Shmuel say: There is no mixing for anything except for wine, oil, and other liquids? In the case of liquids he holds that everything is entirely mixed together, but not in the case of solids. How, then, could he have ruled in accordance with the opinion of Rabbi Shimon Shezuri?

אשתמיטתיה הא דאמר שמואל: הכל הולך אחר גמר פרי.

The Gemara answers: Rabbi Zeira forgot that which Shmuel said: In all cases, the tithe year follows the time of the full ripening of the produce.^N Therefore, all of the cowpea seeds may be tithed together, whether the plants from which they grew took root before or after Rosh HaShana. This is not due to Rabbi Shimon Shezuri's rationale that there is mixing, but because all of the beans reach full ripening at the same time, and consequently, they are all considered produce of the incoming year.

Perek I
Daf 14 Amud a

NOTES

I would have said he holds like the Sages – דוּא אמינא כרבנן: This suggestion is strange; if it were so, Shmuel's opinion would be in accordance with neither the opinion of the Sages nor that of Rabbi Shimon Shezuri. Apparently, he held in accordance with another tanna'itic source that is no longer extant (*Tosafot Yeshanim; Tosafot*).

וצריכא: דאי אשמעינן הלכה כרבי שמעון שזורי, הוא אמינא משום דקסבר יש בילה. קא משמע לן: לכל אין בילה.

The Gemara comments: It is necessary to state all three statements of Shmuel in order to clarify his position, as had Shmuel taught us only that the *halakha* is in accordance with the opinion of Rabbi Shimon Shezuri, I would have said that this is due to the fact that he holds that there is mixing even with regard to solids. Therefore, he teaches us the second statement, that there is no mixing for anything except wine, oil, and other liquids.

ואי אשמעינן לכל אין בילה – הוא אמינא כרבנן סבירא ליה. קא משמע לן: הלכה כרבי שמעון שזורי.

And had Shmuel taught us only that there is no mixing for anything except liquids, I would have said that he holds like the Sages^N with regard to tithes, that the mixture of cowpeas cannot be tithed together. Therefore, he teaches us that the *halakha* is in accordance with the opinion of Rabbi Shimon Shezuri.

ואי אשמעינן הני תרתמי – הוא אמינא קשיא דשמואל אדשמואל. קא משמע לן: הכל הולך אחר גמר פרי.

And had Shmuel taught us only these two statements, I would have said in accordance with the opinion of Rabbi Zeira that it is difficult to reconcile one statement of Shmuel with another statement of Shmuel. Therefore, he teaches us that in all cases, the tithe year follows the time of the full ripening of the produce, and it is for this reason that the *halakha* is in accordance with the opinion of Rabbi Shimon Shezuri.

ואי אשמעינן הכל הולך אחר גמר פרי – היה אמינא אפילו תבואה וזיתים נמי. קא משמע לן: הלכה כרבי שמעון שזורי במאי דפליג.

And had Shmuel taught us only that in all cases the tithe year follows the time of the full ripening of the produce, I would have said that this applies even to grain and olives. Therefore, he teaches us that the *halakha* is in accordance with the opinion of Rabbi Shimon Shezuri with regard to his dispute with the Sages, i.e., with regard to beans, but with regard to grain and olives the tithe year follows the time that they reach one-third of their growth.

ולשמעינן הני תרתי: לכל אין בילה למה לי? הא קא משמע לן, דליין ושמן יש בילה.

The Gemara asks: **But let him teach us only these two statements**, that the *halakha* is in accordance with the opinion of Rabbi Shimon Shezuri and that in all cases the tithe year follows the full ripening of the fruit, which would suffice to clarify Shmuel's position. **Why do I need to be told that there is no mixing for anything?**^N The Gemara answers: **This comes to teach us** not that there is no mixing for solids, but **that there is mixing for wine, oil, and other liquids.**

תניא, רבי יוסי הגלילי אומר: "באסף מגרונך ומיקבך" מה גורן ויקב מיוחדין – שגדילין על מי שנה שעברה, ומתעשרין לשנה שעברה, אף כל שגדילין על מי שנה שעברה – מתעשרין לשנה שעברה. יצאו ירקות שגדילין על מי שנה הבאה ומתעשרין לשנה הבאה.

It is taught in a *baraita* that Rabbi Yosei HaGelili says: The verse states: "After you have gathered in from your threshing floor^N and from your winepress" (Deuteronomy 16:13). This teaches that **just as the grain that is brought to the threshing floor and the wine that is brought to the winepress are special in that they grow on the outgoing year's water**,^N i.e., the moisture in the ground from the previous winter's rain, and the *halakha* is that they are tithed in accordance with the outgoing year, so too, anything that grows on the outgoing year's water is tithed in accordance with the outgoing year. This comes to exclude vegetables, which grow on the incoming year's water, as their growth cycle is short and they are nurtured by the rain that falls while they are growing. Consequently, they are tithed in accordance with the incoming year.

רבי עקיבא אומר: "באסף מגרונך ומיקבך" מה גורן ויקב מיוחדין – שגדילין על רוב מים, ומתעשרין לשנה שעברה, אף כל שגדילין על רוב מים – מתעשרין לשנה שעברה. יצאו ירקות שגדילין על כל מים ומתעשרין לשנה הבאה.

Rabbi Akiva says: This is the way the verse should be expounded: "After you have gathered in from your threshing floor and from your winepress"; this teaches us that **just as the grain that is brought to the threshing floor and the wine that is brought to the winepress are special in that they grow on most water**,^N i.e., rainfall is sufficient and they do not require irrigation, and the *halakha* is that they are tithed in accordance with the outgoing year, so too, anything that grows on most water is tithed in accordance with the outgoing year. This comes to exclude vegetables, which grow on all water, i.e., they require irrigation as well. Consequently, they are tithed in accordance with the incoming year.

NOTES

Why do I need to be told that there is no mixing for anything – לכל אין בילה למה לי – The early authorities ask: This is not self-evident, as it would have been possible to say that although Shmuel only partially agrees with Rabbi Shimon Shezuri, nevertheless, if the produce became mixed, after the fact there is mixing. This may be what the Gemara means: Shmuel could have explained that the *halakha* is in accordance with Rabbi Shimon Shezuri because the *halakha* follows the full ripening of the produce, and from this it would have been clear that he does not agree with Rabbi Shimon Shezuri with regard to mixing (Rosh).

After you have gathered in from your threshing floor – באסף מגרונך – Rashi writes that this is not a conclusive proof but an allusion. However, the Rid questions the relevance of this verse even as an allusion to the *halakha*. He therefore presents another version of the text, according to which the proof is cited from a verse that explicitly refers to tithes: "When you set apart the

best thereof from it, then it shall be counted to the Levites as the produce of the threshing floor and the produce of the winepress" (Numbers 18:30).

That they grow on the outgoing year's water – שגדילין על מי שנה שעברה – The proof that their growth depends on the previous year's water is that if they are cut back after they have reached one-third of their growth, they will not produce more fruit. This is not the case with vegetables, which will continue to yield produce as long as they are irrigated (Rid).

That they grow on most water [rov mayim] – שגדילין על רוב מים – Rashi and others understand the words *rov mayim*, literally meaning most water, as rainwater. Rabbeinu Hananel explains that although adding water is beneficial to the plants, they do not need constant watering, since even without extra water they grow properly. Accordingly, they are sustained by most of the water that they receive and do not require all of it.

NOTES

Seedless onions – בצלים הקרסין: When these onions do not receive enough water, they are no longer treated as vegetables but as legumes (Rid).

Rashi suggests two contradictory explanations: He first explains that the mishna is in accordance with the opinion of Rabbi Yosei HaGelili. Then he offers an alternative explanation that it is in accordance with the opinion of Rabbi Akiva. The author of the Arukh LaNer claims that the second explanation is a marginal note that was later inserted into his commentary. Rabbi Shimshon of Saens agrees with Rashi's first explanation. However, Rabbeinu Hananel, Tosafot, Rabbi Zerahya HaLevi, Rashba, and the Ritva all explain that this mishna was taught in accordance with the opinion of Rabbi Akiva. This seems to depend on how the opinions of Rabbi Akiva and Rabbi Yosei HaGelili are understood. Rambam explains that after not having received enough water, these onions must be watered again in the incoming year, and so in fact they grow on most water and on water of the incoming year.

On the first of Shevat – באחד בשבט: The Ran explains at length, and it is also indicated in Tosafot, that since there is an allusion in the Torah that the new year for trees is not determined by Rosh HaShana, the Sages established that the new year for trees depends on the time of the formation of their fruit. With regard to the reason for setting this date, some explain that it is the day by which most of the rainy season has passed. Accordingly, it may be suggested that the tanna'im disagree whether the rainy season should be counted from the seventeenth of Marheshvan until Nisan, or from Sukkot until Nisan (see Rabbeinu Hananel). Others connect this to the dispute between Rabbi Meir and Rabbi Yehuda (Bava Metzia 106b) that defines six seasons: seedtime, winter, cold months, harvest, summer, and hot months. According to one opinion, winter ends on the first of Shevat, and according to the other it ends on the fifteenth of Shevat (Penei Yehoshua). The author of the Meiri explains that this date was set in the middle of the rainy season.

Alternatively, the opinions of Beit Shammai and Beit Hillel may be based on a dispute as to when the sap rises in a tree (see Rashi). Another explanation is that according to Beit Shammai, the beginning of a year cannot be in the middle of a calendar month, based on the midrashic exposition of the words: The months of the year, in the Jerusalem Talmud. According to Beit Hillel, the reality of when the sap rises in the tree defines the year for the tree, regardless of the calendar date.

BACKGROUND

Seedless onions – בצלים הקרסין: All agree that seedless onions are onions that do not produce flowers, as the flowering impairs both the size and the quality of the crop.

According to Rabbeinu Hananel, the reference here is to onions whose flowers were crushed so that the bulbs would grow more. According to others (see Rashi), it is referring to onions that are planted when they are very small, with a diameter of up to 15 mm and weighing up to 2 g, and in a season when changes in the weather prevent the onions from flowering.

Most of the year's rains – רוב גשמי שנה: Although it is clear from the talmudic sources that in the time of the Talmud the rainy season in Eretz Yisrael began earlier than it does today, even nowadays more than 50 percent of the annual rain in Eretz Yisrael falls before February, so that most of a year's rain usually falls before the fifteenth of Shevat.

מאי ביניהו? אמר רבי אבהו: בצלים הקרסין ופול המצרי איכא ביניהו. דתנן: בצלים הקרסין ופול המצרי שמונע מהן מים שלשים יום לפני ראש השנה – מתעשרין לשעבר, ומותרין בשביעית. ואם לאו – אסורין בשביעית, ומתעשרין לשנה הבאה.

”באחד בשבט ראש השנה לאילן.” מאי טעמא? אמר רבי אלעזר אמר רבי אושעיא: האיל ויצא רוב גשמי שנה, ועדיין רוב תקופה מבחוץ.

מאי קאמר? הכי קאמר: אף על פי שרוב תקופה מבחוץ, האיל ויצא רוב גשמי שנה.

תנו רבנן: מעשה ברבי עקיבא שליטת ארתוג באחד בשבט, ונהג בו שני עישורין.

The Gemara asks: What is the practical difference between the opinions of Rabbi Yosei HaGelili and Rabbi Akiva? Rabbi Abbahu said: There is a practical difference between them with regard to seedless onions^{NB} and cowpeas, as we learned in a mishna: Seedless onions, which are cultivated for their greens and not for their bulbs or seeds, and the cowpea plant, which was planted to be eaten as a vegetable, from which one withheld water for thirty days before Rosh HaShana, so that their green portions stopped growing and they began to grow for seed, are tithed in accordance with the outgoing year, and they are permitted if the new year is the Sabbatical Year. And if not, they are prohibited if it is the Sabbatical Year,^H and in ordinary years they are tithed in accordance with the incoming year.^H Therefore, the halakha depends not on the species of plant but on whether the crop is in fact nurtured by the previous year's water or the new year's water, and this mishna is taught in accordance with the opinion of Rabbi Yosei HaGelili.

S The mishna taught: On the first of Shevat^N is the new year for trees, according to the statement of Beit Shammai. The Gemara asks: What is the reason that the new year for trees was set on this date? Rabbi Elazar said that Rabbi Oshaya said: The reason is since by that time most of the year's rains have already fallen, and most of the season, i.e., winter, is yet to come, as it continues until the spring equinox, which usually occurs in Nisan.

The Gemara asks: What is he saying? The Gemara explains: This is what he said: Even though most of the winter season is yet to come, nevertheless, since most of the year's rains^B have already fallen, it is considered the end of the previous year of rain, and anything that grows from then on is considered produce of the next year.

The Sages taught in a baraita: There was once an incident involving Rabbi Akiva,^P who picked an etrog on the first of Shevat and set aside two tithes. This occurred in the second or the fifth year of the Sabbatical cycle. In the second and fifth years one sets aside second tithe, whereas in the third and sixth years one sets aside poor man's tithe. Rabbi Akiva set aside both second tithe and poor man's tithe because he was in doubt about the halakha.

HALAKHA

Onions and cowpeas in the seventh year – בצלים ופול בשביעית: Seedless onions and cowpeas that were not watered during the thirty days before Rosh HaShana of the Sabbatical Year are treated like sixth-year produce. If they were not watered for a shorter period of time, they are treated like after-growths [sefifin] and are prohibited, in accordance with the mishna here (Rambam Sefer Zera'im, Hilkhot Shemitta VeYovel 4:17).

Seedless onions with regard to tithes – בצלים הקרסין במעשרות: Seedless onions that were not watered for thirty days before Rosh HaShana are tithed together with produce of the outgoing year. If they were not watered for a shorter period of time, then even if they began to dry up before Rosh HaShana, they are tithed like produce of the incoming year. With regard to cowpeas, see daf 13b (Rambam Sefer Zera'im, Hilkhot Ma'aser Shenit 1:9).

PERSONALITIES

Rabbi Akiva – רבי עקיבא: Akiva ben Yosef was one of the greatest of the tanna'im. He lived from just after the destruction of the Second Temple until the bar Kokheva revolt. Rabbi Akiva was one of the leading Sages of Yavne during the period that Rabban Gamliel II was Nasi, and he was the primary teacher of Rabbi Yosei, Rabbi Yehuda, Rabbi Shimon, Rabbi Meir, and Rabbi Elazar, who are the most widely cited tanna'im in the Mishna.

Rabbi Akiva systematized and arranged the many oral traditions, and it was the Mishna of Rabbi Akiva as received by his disciple, Rabbi Meir, that ultimately served as the basis for the Mishna redacted by Rabbi Yehuda HaNasi and his disciples.

Among Rabbi Akiva's students were Shimon ben Azzai, Shimon ben Zoma, and Elisha ben Avuya, with whom he entered the orchard (see Hagiga 14b), meaning that they studied esoteric,

mystical elements of the Torah. Only Rabbi Akiva emerged from the experience unscathed.

According to legend, Rabbi Akiva began his studies at the age of forty, when Rachel, the daughter of the wealthy Kalba Savua, agreed to marry him on condition that he would go to study Torah. Rabbi Akiva became the student of Rabbi Eliezer ben Hyrcanus and Rabbi Yehoshua ben Hananya; he ultimately became a prominent scholar with twenty-four thousand students.

Toward the end of his life, Rabbi Akiva actively supported bar Kokheva's revolt against the Roman authorities, declaring him to be the Messiah. After the repression of the revolt, when the emperor Hadrian decreed that Torah study be prohibited, Rabbi Akiva continued gathering Jews and teaching Torah until he was captured and tortured to death. He is counted among the ten martyrs whose execution is described in liturgy.

אָחד כְּדַבְּרֵי בֵּית שְׁמַאי, וְאָחַד כְּדַבְּרֵי בֵּית הִלֵּל.

One tithe was in accordance with the statement of Beit Shammai^N that the new year for trees is on the first of Shevat, in which case it was already the third or sixth year, when one must set aside poor man's tithe; and one tithe was in accordance with the statement of Beit Hillel that the new year for trees is on the fifteenth of Shevat,^B so it was still the second or fifth year, when one must set aside second tithe.

רַבִּי יוֹסֵי בַר יְהוּדָה אָמַר: לֹא מִנְהַג בֵּית שְׁמַאי וּבֵּית הִלֵּל נִהַג בָּהּ, אֶלָּא מִנְהַג רַבֵּן גַּמְלִיאֵל וְרַבִּי אֱלִיעֶזֶר נִהַג בָּהּ.

Rabbi Yosei bar Yehuda^N says: He did not act as he did in order to conform with the conflicting practices of Beit Shammai and Beit Hillel. Rather, he acted as he did in order to conform with the conflicting practices of Rabban Gamliel and Rabbi Eliezer.

דָּתָנּוּ: אֶתְרוֹג שְׂוֵה לְאֵילָן בְּשָׁלֶשֶׁה דְּרָכִים, וְלִירֵק בְּדֶרֶךְ אֶחָד. שְׂוֵה לְאֵילָן בְּשָׁלֶשֶׁה דְּרָכִים: לְעֵרְלָהּ, וְלִרְבִּיעִי, וְלִשְׁבִיעִית. וְלִירֵק בְּדֶרֶךְ אֶחָד שְׁבַעֲשַׁע לְקִיטָתוֹ עִישׂוֹרוֹ, דְּבָרֵי רַבֵּן גַּמְלִיאֵל.

As we learned in a mishna: The *etrog* tree^B is like an ordinary tree in three ways^N and like a vegetable in one way. How so? It is like an ordinary tree in three ways: With regard to *orla*, that the fruit of the first three years after the tree is planted is forbidden; with regard to fourth-year produce, that the fruit that grows in the fourth year after the tree is planted must be brought to Jerusalem and eaten there or else it must be redeemed; and with regard to the Sabbatical Year, that the year is determined by the time of the formation of its fruit. And the *etrog* is like a vegetable in one way, which is that its tithe year follows the time of the picking of its fruit; this is the statement of Rabban Gamliel.^H

רַבִּי אֱלִיעֶזֶר אָמַר: אֶתְרוֹג שְׂוֵה לְאֵילָן לְכָל דָּבָר.

Rabbi Eliezer says: The *etrog* is like fruit of a tree with regard to all matters, and so its tithe year also follows the time of the formation of its fruit. Since Rabbi Akiva was in doubt whether the *halakha* is ruled in accordance with the opinion of Rabban Gamliel or Rabbi Eliezer, he set aside two tithes in order to follow both of their opinions.

NOTES

One in accordance with the statement of Beit Shammai – אָחַד כְּדַבְּרֵי בֵּית שְׁמַאי: In the Jerusalem Talmud the question is raised: How could he actually follow two opinions? Objectively, he was required to separate either the second tithe or the poor man's tithe. If he set aside the wrong tithe, not only would it have no effect, but that tithe itself would need to have the correct tithes removed from it (see *Turei Even*). Furthermore, the amount of the second tithe would be insufficient, since he would have set aside one-tenth of the remainder after separating the poor man's tithe, which is less than one-tenth of the entire measure. The answer given in the Jerusalem Talmud is that Rabbi Akiva set aside only one tithe as second tithe, which he then redeemed, and he gave that value to poor people. The later authorities ask why it was necessary to give the money to poor people if he separated it only due to doubt, since the principle is that the burden of proof falls upon the claimant. Rav Nissim Gaon writes in tractate *Eiruvin* that Rabbi Akiva acted beyond the letter of the law in order to cover all possibilities.

Rabbi Yosei bar Yehuda – רַבִּי יוֹסֵי בַר יְהוּדָה: In the Jeru-

salem Talmud Rabbi Yosei bar Yehuda's opinion is explained as follows: If the uncertainty had been with regard to the opinions of Beit Shammai and Beit Hillel, it would not have been necessary to discuss an *etrog* specifically. Therefore, the doubt is with regard to an *etrog* because of its unique status.

Like a tree in three ways – שְׂוֵה לְאֵילָן בְּשָׁלֶשֶׁה דְּרָכִים: *Tosafot* explain that the mishna does not discuss all the ways that an *etrog* tree is like an ordinary tree. For example, it does not mention that the prohibition of diverse kinds [*kilayim*] and the obligation to leave produce of the corners [*pe'a*] apply to both *etrog* trees and other kinds of trees. It mentions those differences only with regard to the time of the formation of the fruit (see *Ran*). In his Commentary on the Mishna, the Rambam explains that an *etrog* tree is like an ordinary tree with regard to the Sabbatical Year, and an orchard of *etrog* trees is treated like an orchard of fruit trees with regard to the prohibition against cultivating it from the end of the sixth year and with regard to the allowance to water it at the end of the sixth year (see *Ritva*).

HALAKHA

The *halakha* of an *etrog* – דִּין אֶתְרוֹג: Of all the various kinds of fruit, the *etrog* alone is treated like a vegetable in that it follows the time of its picking for the purposes of tithes and the Sabbatical Year. However, with regard to the Sabbatical

Year, the *halakha* adds an extra stringency: An *etrog* that was formed during the sixth year, even if it was picked only in the seventh year, is subject to the *halakhot* of tithing (*Shulhan Arukh, Yoreh De'a* 331:126).

BACKGROUND

The fifteenth of Shevat and the season – חֲמִשָּׁה עָשָׂר בְּשֶׁבֶט: Since the fifteenth of Shevat does not fall on a fixed date on the solar calendar, the relationship between the fifteenth of Shevat and the seasons varies. The fifteenth of Shevat can occur as early as the middle of January in a leap year and as late as the fourteenth of February, though in most years it occurs at the end of January or the beginning of February.

Since winter extends from the twenty-second of December until the twenty-first of March, in most years the majority of the winter is after the fifteenth of Shevat.

Etrog tree – אֶתְרוֹג: The *etrog* tree (*Citrus medica* L.) is marked by several characteristics that distinguish it from most of the fruit trees that were common in Eretz Yisrael in ancient times. First, it is in constant need of watering, like other citrus fruits that originated in tropical zones, and the winter rain is insufficient. Second, it flowers and produces fruit almost all year round, with young fruit and ripe fruit on the tree at the same time. For these reasons it makes sense to liken an *etrog* to a vegetable, since vegetables also require continual watering, and certain vegetables have no fixed season when they are picked and eaten.



Etrog trees with fruit

ומי עבדין בתיי חומרי? והתנא: לעולם הלכה כדברי בית הלל. והרצה לעשות כדברי בית שמאי עושה. כדברי בית הלל עושה; מקולי בית שמאי ומקולי בית הלל רשע; מחומרי בית שמאי ומחומרי בית הלל – עליו הכתוב אומר: "והפסיל בחשך הולך". אלא: אי בבית שמאי בקוליהון ובחומריהון, אי בבית הלל בקוליהון ובחומריהון!

רבי עקיבא גמריה אסתפק ליה, ולא ידע אי בית הלל באחד בשבט אומר אי בחמשה עשר בשבט אומר.

"רבי יוסי בר יהודה אומר: לא מנהג בית שמאי ובית הלל נהג בה, אלא מנהג רבן גמליאל ורבי אליעזר נהג בה." באחד בשבט – בבית שמאי נהג בה!?

אמר רבי חנינא ואיתימא רבי חנניא: הקא באתרוג שחנטו פירותיו קודם חמשה עשר דאיך שבט עסקינן. ובדין הוא אפילו קודם לכן, ומעשה שהיה כך היה.

רבינא אמר: כרוך ותני; לא אחד בשבט היה, אלא חמשה עשר בשבט היה, ולא מנהג בית שמאי ובית הלל נהג בה אלא מנהג רבן גמליאל ורבי אליעזר נהג בה.

The Gemara questions Rabbi Akiva's conduct: **But do we adopt the respective stringencies of two authorities who disagree on a series of issues? Isn't it taught in a *baraita*: The *halakha* is always in accordance with the statement of Beit Hillel,^N but one who wishes to act in accordance with the statement of Beit Shammai may do so, and one who wishes to act in accordance with the statement of Beit Hillel may do so.** If he adopts both the leniencies of Beit Shammai and also the leniencies of Beit Hillel, he is a wicked person. And if he adopts both the stringencies of Beit Shammai and the stringencies of Beit Hillel, with regard to him the verse states: "The fool walks in darkness" (Ecclesiastes 2:14). Rather, one should act either in accordance with Beit Shammai, following both their leniencies and their stringencies, or in accordance with Beit Hillel, following both their leniencies and their stringencies. If so, why did Rabbi Akiva follow two contradictory stringencies?

The Gemara answers: **Rabbi Akiva** wished to act in accordance with the opinion of Beit Hillel, but he was in doubt about his tradition^N and did not know whether Beit Hillel said that the new year for trees is on the first of Shevat or whether they said that it is on the fifteenth of Shevat, and so he set aside two tithes in order to conform with both possibilities.

The Gemara further clarifies the *baraita*, which states: **Rabbi Yosei bar Yehuda** says: He did not act as he did in order to conform with the conflicting practices of Beit Shammai and Beit Hillel; rather, he acted as he did in order to conform with the conflicting practices of Rabban Gamliel and Rabbi Eliezer. The Gemara asks: Seeing that he did this on the first of Shevat, it would seem that he acted in accordance with the practice of Beit Shammai. According to Beit Hillel, both the formation of the fruit and its picking took place in the same year, as the new year does not begin until the fifteenth of Shevat, and so there would have been no need to set aside two tithes.

Rabbi Hanina said, and some say that it was **Rabbi Hananya** who said: Here we are dealing with an *etrog* tree whose fruit was formed prior to the fifteenth of the other, previous, Shevat, in the second year, and it was picked on the first of the following Shevat, in the third year. According to the opinion of Rabbi Eliezer that the tithe year of an *etrog* follows the time of the formation of its fruit, the fruit was obligated in second tithe, whereas according to the opinion of Rabban Gamliel that the tithe year of an *etrog* follows the time of its picking, it was obligated in poor man's tithe, and so Rabbi Akiva set aside two tithes. **And by right it should have taught that even if the fruit had been picked earlier, any time after the fifteenth of the previous Shevat, but the incident that took place, took place in this way, that the fruit was picked on the first of Shevat.**

Ravina said: **Combine the two statements and teach^N the *baraita*** as follows: **It was not on the first of Shevat that Rabbi Akiva** picked the fruit, **but on the fifteenth of Shevat, and he did not act as he did in order to conform with the conflicting practices of Beit Shammai and Beit Hillel, but rather, he acted as he did in order to conform with the conflicting practices of Rabban Gamliel and Rabbi Eliezer, both in accordance with the practice of Beit Hillel.**

NOTES

The *halakha* is always in accordance with the statement of Beit Hillel – לעולם הלכה כדברי בית הלל – Rashi cites tractate *Eiruvin* (daf 6b) with regard to the latter part of this statement. He explains that the permission to follow either Beit Hillel or Beit Shammai as long as one is consistent predates the establishment that the *halakha* is always in accordance with Beit Hillel. The first part of the statement, that the *halakha* is always in accordance with Beit Hillel, is referring to a later date, when the *halakha* had been determined to be in accordance with Beit Hillel. The Ritva writes that the latter section is mentioned, despite the fact that nowadays one may not act in accordance with the opinion of Beit Shammai, because it applies to similar disputes in any period. If the majority of the Sages hold a certain

opinion, but those who disagree are more incisive in their logic, as were Beit Shammai, one is permitted to decide for himself which opinion to follow.

גמריה אסתפק ליה – He was in doubt about his tradition – The same question about following two stringencies can be asked with regard to Rabbi Yosei bar Yehuda's explanation of Rabbi Akiva's behavior as well. Why didn't the Gemara explain how Rabbi Akiva could follow the stringencies of both Rabban Gamliel and Rabbi Eliezer? The author of the *Turei Even* answers that since Rabbi Eliezer was a follower of Beit Shammai, the same answer with regard to Rabbi Akiva's uncertainty as to Beit Hillel's opinion applies to Rabbi Yosei bar Yehuda's explanation as well. The Ritva writes that the question does not

arise in Rabbi Yosei bar Yehuda's explanation. The opinions of Beit Shammai and Beit Hillel comprise two contradictory stringencies, whereas the opinions of Rabbi Eliezer and Rabban Gamliel are not contradictory, and it is possible for both opinions to be valid, one for tithes and the other for the Sabbatical Year.

כרוך ותני – Combine and teach: The Ritva notes that the phrase: Combine and teach, usually means: Combine the two statements to form a single ruling. Here, however, the expression has a different meaning: Add to and thereby complete the statement of Rabbi Yosei bar Yehuda. See also the Jerusalem Talmud, where the added words are brought not as an addition but as an explanation.

The tithe year of an *etrog* – שְׁנַת הָאֶתְרוֹג לְמַעֲשְׂרוֹת – If one picked an *etrog* on the eve of the fifteenth of Shevat and then he picked another *etrog* on the fifteenth of Shevat itself, he may not set aside tithes from one for the other, as they belong to two different years and are considered old produce and new produce (*Shulhan Arukh, Yoreh De'a* 331:17).

Etrog with regard to first and second tithes – אֶתְרוֹג – לְמַעֲשֵׁר רִאשׁוֹן וְשֵׁנִי: If one picked an *etrog* on the eve of the fifteenth of Shevat, and then he picked another *etrog* on the fifteenth of Shevat, and it was the end of the third year of the Sabbatical cycle and the beginning of the fourth year, then the *halakha* is as follows: From the first *etrog* he must set aside first tithe and poor man's tithe, and from the second *etrog* he must separate first tithe and second tithe (*Shulhan Arukh, Yoreh De'a* 331:126).

אָמַר רַבָּה בַּר רַב הוּנָא: הַשְּׁתָּא דְאָמַר רַבִּין גַּמְלִיאֵל אֶתְרוֹג אַחַר לְקִיטָתוֹ עִשְׂרוֹ בְּיָרֵךְ, רִאשׁ הַשָּׁנָה שְׁלוֹ תִשְׁרֵי.

מִיתִיבֵי, רַבִּי שְׁמַעוֹן בֶּן אֶלְעָזָר אָמַר: לִיקַט אֶתְרוֹג עֶרֶב חַמְשָׁה עָשָׂר בְּשַׁבָּט עַד שֶׁלֹּא תָבֹא הַשֶּׁמֶשׁ, וְחֹזֵר וְלִיקַט מִשְׁתַּבּוֹא הַשֶּׁמֶשׁ – אֵין תּוֹרְמִין וּמַעֲשְׂרִין מִזֶּה עַל זֶה, לְפִי שְׂאִין תּוֹרְמִין וּמַעֲשְׂרִין לֹא מִן הַחֲדָשׁ עַל הַיֵּשֶׁן וְלֹא מִן הַיֵּשֶׁן עַל הַחֲדָשׁ. הִיתָה שְׁלִישִׁית נִכְנָסֶת לְרַבִּיעִית – שְׁלִישִׁית מַעֲשֵׂר רִאשׁוֹן וּמַעֲשֵׂר עֲנִי, רַבִּיעִית מַעֲשֵׂר רִאשׁוֹן וּמַעֲשֵׂר שֵׁנִי.

S Rabba bar Rav Huna said: Now that Rabban Gamliel has said that the tithe year of an *etrog* follows the time of the picking of its fruit, like a vegetable, its new year for tithing is Tishrei, like other vegetables.

The Gemara raises an objection from the following *baraita*: Rabbi Shimon ben Elazar says: If one picked the fruit of an *etrog* tree on the eve of the fifteenth of Shevat before the sun had set, and then he picked more fruit after sunset, one may not set aside *teruma* and tithes from the one for the other, as one may not set aside *teruma* and tithes from the new crop for the old or from the old crop for the new.^h If he did this when it was the third year of the Sabbatical cycle going into the fourth year, the *halakha* is as follows: From what he picked in the third year he must set aside first tithe and poor man's tithe, and from what he picked in the fourth year he must set aside first tithe and second tithe.^h

Perek I
Daf 15 Amud a

מֵאֵן שְׁמַעְתָּ לִיָּה דְאָזִיל בְּתַר לְקִיטָה – רַבִּין גַּמְלִיאֵל, וְקַתְנִי – שַׁבָּט!

The Gemara clarifies this ruling: Whom did you hear that said the tithe year of an *etrog* follows the time of the picking of its fruit? It was Rabban Gamliel. And yet this *baraita* is teaching that the new year for tithing an *etrog* is the fifteenth of Shevat, against the opinion of Rabba bar Rav Huna, who says that according to Rabban Gamliel it is the first of Tishrei.

אֵלֵא, אִי אֶתְמַר חֲכִי אֶתְמַר: אָמַר רַבָּה בַּר רַב הוּנָא, אֵף עַל גַּב דְאָמַר רַבִּין גַּמְלִיאֵל אֶתְרוֹג אַחַר לְקִיטָה בְּיָרֵךְ – רִאשׁ הַשָּׁנָה שְׁלוֹ שַׁבָּט.

Rather, if this was said, it was said as follows: Rabba bar Rav Huna said: Even though Rabban Gamliel said that the tithe year of an *etrog* follows the time of the picking of its fruit, like a vegetable, its new year is in Shevat, like a tree.

מֵאִי שָׁנָא הָתֵם דְקַתְנִי "אִם הִיתָה שְׁנִיעָה נִכְנָסֶת לְשְׁלִישִׁית" וּמֵאִי שָׁנָא הֲכָא דְקַתְנִי "אִם הִיתָה שְׁלִישִׁית נִכְנָסֶת לְרַבִּיעִית"?

The Gemara asks: What is different there, in the *baraita* with regard to one who picked vegetables on the eve of Rosh HaShana, such that it teaches the case when it was the second year of the Sabbatical cycle going into the third year, and what is different here, in the *baraita* dealing with one who was picking the fruit of an *etrog* tree on the eve of the fifteenth of Shevat, such that it teaches the case when it was the third year going into the fourth year? Why is the same example not brought in both cases?

מִילְתָּא אַגַּב אֹרְחִיָּה קָא מְשַׁמַּע לָן: דְאֶתְרוֹג קְשִׁיָּא לִיָּה יָדָא, וְאִידֵי דְמִמְשַׁמְשִׁי בֵּיה בּוֹלֵי עֲלָמָא בְּשַׁבְּעִיעִית – לֹא טַעֲיִן פְּרִי עַד תְּלַת שָׁנִין.

The Gemara answers: It teaches us a matter in passing, that it is damaging for an *etrog* when the tree is handled,^b and since everyone handles itⁿ in the Sabbatical Year, as all the orchards are declared ownerless and everyone is permitted to enter and pick produce, the tree does not bear fruit that is fit for eating for another three years.

בְּעָא מִיָּנִיה רַבִּי יוֹחָנָן מִרְבִּי יַנָּאי – אֶתְרוֹג, רִאשׁ הַשָּׁנָה שְׁלוֹ אִימְתִי? אָמַר לִיָּה: שַׁבָּט. שַׁבָּט דְחָדָשִׁים אִו שַׁבָּט דְתַקּוּפָה? אָמַר לִיָּה: דְחָדָשִׁים.

Rabbi Yoḥanan inquired of Rabbi Yannai: With regard to an *etrog*, when is its new year? Rabbi Yannai said to him: It is in Shevat. Rabbi Yoḥanan asked again: Are you referring to the lunar month of Shevat or to the Shevat of the solar season,ⁿ which begins thirty days after the winter solstice, but on a different date each year? Rabbi Yannai said to him: I am referring to the lunar month of Shevat.

בְּעָא מִיָּנִיה רַבָּא מִרְבַּ נַחְמָן, וְאָמַרִי לֵה רַבִּי יוֹחָנָן מִרְבִּי יַנָּאי: הִיתָה שָׁנָה מְעוּבָרָת, מֵהוּ? אָמַר לִיָּה: הֲלָךְ אַחַר רֹב שָׁנִים.

Rava inquired of Rav Nahman, and some say that it was Rabbi Yoḥanan who inquired of Rabbi Yannai: If it was a leap year, what is the *halakha*? Does the new year for trees then move to the First Adar, which is the penultimate month in a leap year? He said to him: Follow the majority of years. Even in a leap year the new year for trees is in Shevat.

BACKGROUND

It is damaging when the tree is handled – קְשִׁיָּא לִיָּה: Handling a tree when it is in flower or when its fruit is taking form can damage the flowers, causing them to fall or to develop improperly. In the case of an *etrog* tree, which flowers for an extended period and at different times of the year, handling it in any season of the year can cause the loss of an entire crop.

NOTES

And since everyone handles it – וְאִידֵי דְמִמְשַׁמְשִׁי בֵּיה – כּוֹלֵי עֲלָמָא: The *etrog* grows on a low tree, and since its fruit is valuable, people entering orchards touch it more than they touch other trees. Therefore, the tree is susceptible to greater damage (Rambam's Commentary on the Mishna).

The lunar month of Shevat or the Shevat of the solar season – שַׁבָּט דְחָדָשִׁים אִו שַׁבָּט דְתַקּוּפָה: See *Tosafot*, who ask why this question is not raised about the other new years as well. One can answer that the new year for trees is based not on a date given by the Torah but on the natural cycle of growth. Since the growth of the tree and development of fruit are dependent on the solar year, the question is specifically relevant to this new year more than the other new years (see Rashash).