

Guarding money – שְׂמירת כֶּסֶפִים: The only acceptable way to guard money, i.e., in order for an unpaid bailee not to be responsible if it is stolen, is to bury it in the ground one handbreadth deep (*Shulhan Arukh, Hoshen Mishpat 291:15*).

One who unwittingly eats *teruma* – הָאוֹכֵל תְּרוּמָה בְּשׁוּגָג: One who unwittingly eats *teruma* must pay the original value of the *teruma* and an additional fifth, as stated in the Torah (*Rambam Sefer Zera'im, Hilkhot Terumot 10:1*).

NOTES

If one unwittingly eats...he must pay – הָאוֹכֵל...בְּשׁוּגָג: This payment is an opportunity for atonement provided by the Torah to the unwitting transgressor. It therefore does not belong to the priest, and the transgressor is obligated to pay even if the priest is willing to forgo the payment. For this reason, one is required to reimburse the priest for leavened bread eaten during Passover, despite the fact that it is valueless. This is not the case with regard to one who intentionally eats *teruma*, as such a person is punished in the same way as any other thief, and one who steals a worthless item is exempt from payment (*Tosefot Rid*).

In the Jerusalem Talmud, a dispute is recorded with regard to who receives payment for this *teruma*, as on Passover leavened bread is considered to be ownerless. Some say that he must repay the priest whose *teruma* he ate, while others suggest that he should repay the priestly tribe in general.

Additional fifth – חֻמֶשֶׁת: An additional fifth of the value of an article added to its price as a penalty or fine, or to emphasize its importance. For example, when a person redeems his own second tithe, he must add an extra fifth of its value (*Leviticus 27:31*).

אָמַר לֵיהּ רַב אֲחָא בְּרִיהּ דְּרַב יוֹסֵף לְרַב אֲשִׁי: הָא דְאָמַר שְׂמוּאֵל כְּסָפִים אֵין לְהֵם שְׂמִירָה אֲלָא בְּקֻקְעָא – מִי בְּעֵינָן שְׂלִישָׁה טַפְחִים אוּ לֹא? אָמַר לֵיהּ: הֲכָא מְשׁוּם רִיחָא – בְּעֵינָן שְׂלִישָׁה טַפְחִים, הֲתָם מְשׁוּם אִיכְסוּיִי מְעִינָא הוּא, וְלֹא בְּעֵי שְׂלִישָׁה. וְכַמְּהָ? אָמַר רַפְרָם בַּר פַּפָּא מְסִיכְרָא: טַפְתָּ.

Rav Aha, son of Rav Yosef, said to Rav Ashi: With regard to that which Shmuel said, that deposited money is considered to be guarded securely by an unpaid bailee, who would nonetheless not be responsible if it were stolen, only when it is buried in the ground, is it necessary to bury this deposited money three handbreadths deep, comparable to leavened bread, or not? He said to him: Here, with regard to Passover, the concern is that the dog will find the food due to its smell, and therefore three handbreadths are required. There, in the case of money, it is necessary to bury the money in order to conceal it from view. Therefore it is not required to bury it three handbreadths deep, as animals will not search for it and people will not see it. The Gemara asks: If this is the case, then how deep is one required to bury it? Rafram bar Pappa from the city of Sikhra said: One handbreadth is sufficient for the money to be considered concealed.<sup>h</sup>

מֵתַנִּי הָאוֹכֵל תְּרוּמַת חֲמִץ בְּפֶסַח, בְּשׁוּגָג – מְשַׁלֵּם קָרֵן וְחֻמֶשֶׁת, בְּמוֹד – פְּטוֹר מִתְּשַׁלְּמוֹת וּמִדְּמֵי עֲצִים.

**MISHNA** If one unwittingly eats *teruma* of leavened bread on Passover, not realizing that the food was *teruma*, then he must pay<sup>n</sup> the principal and an additional fifth.<sup>n</sup> This is because one who unwittingly eats *teruma*<sup>h</sup> must compensate the priest for the value of the *teruma* and add a fifth of the value, even though the *teruma* is considered to be valueless on Passover. If he intentionally ate the *teruma* then he is exempt from payment; as he is liable to receive the severe punishment of *karet*, he is therefore exempt from the lesser punishment of payment. If he ate impure *teruma* in this manner then he is not even required to pay its monetary value in wood, for one who derives benefit from impure *teruma* calculates its value by treating it as though it were fuel for burning. While impure *teruma* can be used in this manner during the rest of the year, one may not derive any benefit from leavened bread on Passover, and therefore such *teruma* is worthless.

גַּמְ' תַּנְּן הֵתָם: הָאוֹכֵל תְּרוּמָה בְּשׁוּגָג – מְשַׁלֵּם קָרֵן וְחֻמֶשֶׁת, אֶחָד הָאוֹכֵל, וְאֶחָד הַשּׁוֹתֶהּ.

**GEMARA** We learned in a mishna there, in *Terumot*: One who unwittingly eats *teruma* pays the principal and an additional fifth, both one who eats it, and one who drinks it.

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וְאֶחָד הַפֶּךָ, אֶחָד תְּרוּמָה טְמֵאָה וְאֶחָד תְּרוּמָה טְהוֹרָה – מְשַׁלֵּם חֻמֶשֶׁת וְחֻמֶשֶׁת דְּחֻמֶשֶׁת אֶחָד.

And even with regard to one who anoints himself with the *teruma* oil, both in a case of ritually impure *teruma* as well as in a case of ritually pure *teruma*, he must pay an additional fifth if he unwittingly consumes this *teruma*. If he unwittingly consumes this fifth then he must pay an additional fifth of the fifth. The original fifth has a status comparable to *teruma* itself, and therefore one is required to pay an additional fifth for consuming it.<sup>h</sup>

אֵיבְעִינָא לְהוּ: בְּשֶׁהוּא מְשַׁלֵּם, לְפִי מִדָּה מְשַׁלֵּם אוּ לְפִי דְּמִים מְשַׁלֵּם? כָּל הֵיכָא דְּמַעֲקָרָא שְׁוִיָּא אַרְבַּעָה זוּזֵי וּלְבִסּוּף שְׁוִיָּא זוּזָא – לֹא תֵּיבְעֵי לָךְ דְּוִדָּאֵי כְּדַמְעִיקְרָא מְשַׁלֵּם לְפִי דְּמִים, דְּלֹא גָרַע מִגּוּלְוֵי. דְּתַנְּן: כָּל הַגּוּלְוֵי מְשַׁלְּמִין כְּשַׁעַת הַגּוּלָּה.

A dilemma was raised before the Sages with regard to the laws of *teruma*: When he pays for this *teruma*, does he pay according to the measure of the *teruma* or according to its monetary value? The Gemara explains the question in greater detail: Anywhere that the *teruma* is worth four zuz at the outset, i.e., at the time he consumed the *teruma*, and is worth only one zuz at the end, at the time of payment, do not raise a dilemma, for in that case he is certainly required to pay according to the monetary value at the outset. The rationale behind this ruling is that he is no worse than a thief, and therefore the law in this case is the same as if he had stolen property from another person. As we learned in a mishna: All thieves must repay what they have stolen according to the value of the stolen object at the time it was stolen,<sup>h</sup> even if its value subsequently goes down.

Deriving benefit from *teruma* – הִנָּאָה מִתְּרוּמָה: Anyone who unwittingly derives benefit from *teruma*, whether through eating, drinking, or anointing himself, both with ritually pure and ritually impure *teruma*, must repay the principal and an additional fifth. This fifth has the same status as *teruma*, and one who derives improper benefit from it must pay an additional fifth of this fifth (*Rambam Sefer Zera'im, Hilkhot Terumot 10:2*).

Thieves must repay according to the value at the time it was stolen – גּוּלְוֵי מְשַׁלְּמִין כְּשַׁעַת הַגּוּלָּה: A thief must repay the owner according to the value of the stolen property at the time of the theft (*Shulhan Arukh, Hoshen Mishpat 362:2*).

An item that buyers jump at – דִּקְפִיץ עָלֶיהָ זְבִינְיָה – With regard to repayment of debt, objects that can be more readily resold by their recipients are generally considered preferred modes of payment. In this case as well, produce that the priest can more readily resell to another priest as *teruma* is deemed preferable.

כִּי תִיבְעֵי לָךְ – דְּמַעֲקֵרָא שְׂוִיא זְוֹא  
וּלְכִסּוּף שְׂוִיא אֲרַבְעָה. מֵאֵי לְפִי מִדָּה  
מְשֻׁלָּם, דְּאָמַר לֵיהּ: גְּרִינָא אָכַל – גְּרִינָא  
מְשֻׁלָּם. אוּ דִילְמָא: לְפִי דְּמִים מְשֻׁלָּם,  
בְּזוּזָא אָכַל – בְּזוּזָא מְשֻׁלָּם?

אָמַר רַב יוֹסֵף, תָּא שְׂמַע: אָכַל גְּרוּגְרוֹת  
וְשִׁילָם לוֹ תְּמָרִים – תְּבֵא עָלָיו בְּרָכָה,  
אִי אָמַרְתָּ בְּשִׁלְמָא לְפִי מִדָּה מְשֻׁלָּם –  
אֲמַטוּ לְהִי תְּבֵא עָלָיו בְּרָכָה, דְּאָכִיל  
גְּרִינָא דְּגְרוּגְרוֹת דְּשְׂוִיא זְוֹא, וְקָא יְהִיב  
גְּרִינָא דְּתְּמָרִים דְּשְׂוִיא אֲרַבְעָה. אֲלָא  
אִי אָמַרְתָּ לְפִי דְּמִים מְשֻׁלָּם – אֲמַאי  
תְּבֵא עָלָיו בְּרָכָה? בְּזוּזָא אָכַל בְּזוּזָא  
קָא מְשֻׁלָּם!

אָמַר אַבְיִי: לְעוֹלָם לְפִי דְּמִים מְשֻׁלָּם,  
וְאֲמַאי תְּבֵא עָלָיו בְּרָכָה – דְּאָכַל מִיַּדִּי  
דְּלֵא קִפִּיץ עָלֶיהָ זְבִינְיָה, וְקָא מְשֻׁלָּם  
מִיַּדִּי דְּקִפִּיץ עָלֶיהָ זְבִינְיָה.

תַּנּוּן: הָאוֹכֵל תְּרוּמַת חֶמֶץ בַּפֶּסַח,  
בְּשׁוּגָג – מְשֻׁלָּם קֶרֶן וְחוּמֵשׁ. אִי אָמַרְתָּ  
בְּשִׁלְמָא לְפִי מִדָּה מְשֻׁלָּם – שְׁפִיר.  
אֲלָא אִי אָמַרְתָּ לְפִי דְּמִים מְשֻׁלָּם –  
חֶמֶץ בַּפֶּסַח בְּרִי דְּמִים הוּא! אֵין, הָא  
מִנֵּי – רַבִּי יוֹסֵי הַגְּלִילִי הִיא, דְּאָמַר:  
חֶמֶץ בַּפֶּסַח מוֹתֵר בְּהִנָּאָה

אִי הָכֵי, אִימָא סִיפָא: בְּמִיד פֶּטוּר מִן  
הַתְּשֻׁלוּמִין וּמִדְּמֵי עֲצִים. אִי רַבִּי יוֹסֵי  
הַגְּלִילִי, אֲמַאי פֶּטוּר מִן הַתְּשֻׁלוּמִין  
וּמִדְּמֵי עֲצִים!?

סָבַר לָהּ כְּרַבֵּי נְחוּנְיָא בְּן הַקָּנָה. דְּתַנּוּא:  
רַבִּי נְחוּנְיָא בְּן הַקָּנָה הִיא עוֹשֶׂה אֶת  
יוֹם הַכִּפּוּרִים כְּשֶׁבֶת לְתַשְׁלוּמִין וְכוּ'.

You can raise the dilemma, however, with regard to a case where it was worth one *zuz* at the outset, when it was consumed, and at the end, at the time of the payment, it was worth four *zuz*. What is the ruling in that case? Does he pay according to the measure of *teruma*, as the treasurer of the consecrated property can say to him: You ate a *se'a* and you must pay a *se'a*, even if the value of the *teruma* has increased, or perhaps he must repay according to the monetary value, and if he ate a *zuz* worth of *teruma* then he must pay a *zuz*?

Rav Yosef said: Come and hear an answer to this question from what was taught in a *baraita*: One who ate dried figs that were *teruma* and paid the priest with dates, may a blessing rest upon him, as dates are worth more than dried figs. Granted, if you say that one must repay according to the measure of *teruma* he ate, it is due to this that a blessing should rest upon him, as he ate a *se'a* of dried figs that are worth one *zuz* and gave in return a *se'a* of dates worth four *zuz*. However, if you say that he must repay according to the monetary value of the *teruma*, then why should a blessing rest upon him? He ate a *zuz* worth of *teruma* and he paid a *zuz* worth as compensation; what is laudatory about his payment?

Abaye said: Actually one can explain that he must repay according to the monetary value of the *teruma*, and why is it stated that a blessing should rest upon him? This is because he ate an item that buyers don't jump at, i.e., it is undesirable to buyers, but paid with an item that buyers jump at.<sup>N</sup> Consequently, although the produce he gives is worth no more than the produce he ate, the priest still prefers this type of payment, as he can more easily resell this produce.

The Gemara seeks proof with regard to this dispute: We learned in the mishna: One who unwittingly eats *teruma* of leavened bread on Passover must pay the principal and an additional fifth. Granted, if you say that he must pay according to the measure of *teruma* that he ate, it is well. As he ate a *se'a* of *teruma* he must also repay a *se'a*. However, if you say that he must pay according to the monetary value of the *teruma*, this is difficult, for is leavened bread on Passover of any monetary value? Certainly it is not worth anything, given that it is forbidden to benefit from this food. The Gemara answers: Yes, this leavened bread does indeed have monetary value. In accordance with whose opinion is this mishna? It is in accordance with the opinion of Rabbi Yosei HaGelili, who said that it is permissible to derive benefit from leavened bread on Passover.

The Gemara challenges this suggestion: If that is so, then say the latter clause of the mishna, where it is stated: If he consumes the *teruma* intentionally, then he is exempt from payment and from paying the priest for its monetary value as wood. But if this follows the opinion of Rabbi Yosei HaGelili, then why is he exempt from payment to the priest for the value of the *teruma* and for its monetary value in wood? Although he is exempt from paying the additional fifth as he acted intentionally, he nonetheless should be required to compensate the priest for the financial loss he caused him, as in any other case of theft.

The Gemara answers: He holds in accordance with the opinion of Rabbi Nehunya ben HaKana, as it was taught in a *baraita*: Rabbi Nehunya ben HaKana rendered the status of Yom Kippur the same as that of Shabbat with regard to payment. In his opinion, not only a person who committed a transgression punishable by a court-administered capital punishment, like one who desecrated Shabbat, is exempt from monetary payment incurred at the time of the transgression. Even one who is deserving of a divinely administered capital punishment, such as one who desecrates Yom Kippur and is punished with *karet*, is exempt from monetary payment for property he damaged in the course of such an act. Therefore, since one who consumes another person's leavened bread during Passover is deserving of *karet*, he is exempt from monetary payment incurred by this act.

**תְּרוּמַת חֶמֶץ – Teruma of leavened bread on Passover – בְּפֶסַח:** A non-priest who eats *teruma* of leavened bread on Passover violates two transgressions, the prohibition against a non-priest eating *teruma* and the prohibition against eating leavened bread on Passover. Both prohibitions involve a severe punishment when violated intentionally, i.e., *karet* for eating leavened bread on Passover and death at the hand of Heaven in the case of eating *teruma*. There is some dispute between the authorities as to whether it is necessary to make a distinction between the nature of his intentions when violating these prohibitions, i.e., is it necessary for him to have intention with regard to the leavened bread, the *teruma*, or both?

## HALAKHA

**תְּרוּמַת חֶמֶץ – Teruma of leavened bread on Passover – בְּפֶסַח:** A non-priest who eats *teruma* of leavened bread during Passover is exempt from payment, regardless of whether he did so intentionally or unwittingly, and whether it was ritually pure or ritually impure. This follows the opinion of Rabbi Akiva and Rabbi Eliezer ben Ya'akov, for the *halakha* is in accordance with their opinions in disputes with their contemporaries (*Kesef Mishne*; Radbaz; Rambam *Sefer Zera'im*, *Hilkhot Terumat* 10:6).

**הָאוֹכֵל תְּרוּמָה טְמֵאָה – One who intentionally eats impure *teruma* –** One who intentionally eats impure *teruma* must repay its value as firewood to the priest. However, if he ate impure *teruma* that could not be used for fuel, he is exempt from payment (Rambam *Sefer Zera'im*, *Hilkhot Terumat* 10:5).

בְּתַנְאִי: הָאוֹכֵל תְּרוּמַת חֶמֶץ בְּפֶסַח – פְּטוּר מִן הַתְּשׁוּלוּמִין וּמִדְּמֵי עֵצִים, דְּבָרֵי רַבִּי עֲקִיבָא. רַבִּי יוֹחָנָן בֶּן נוּרִי מְחַיֵּיב. אָמַר לוֹ רַבִּי עֲקִיבָא לְרַבִּי יוֹחָנָן בֶּן נוּרִי: וְכִי מָה הִנָּאָה יֵשׁ לוֹ בָּהּ? אָמַר לוֹ רַבִּי יוֹחָנָן בֶּן נוּרִי לְרַבִּי עֲקִיבָא: וּמָה הִנָּאָה יֵשׁ לְאוֹכֵל תְּרוּמָה טְמֵאָה בְּשָׂאָר כָּל יְמֹת הַשָּׁנָה, שְׂמֵשְׁלִים?

The Gemara comments: The question of whether one must repay according to the measurement or the monetary value of the *teruma* is like a dispute between *tanna'im*, as it was taught in the *Tosefta*: **If one eats *teruma* of leavened bread on Passover,**<sup>NH</sup> whether intentionally or unwittingly, then **he is exempt from payment and for its monetary value in wood; this is the statement of Rabbi Akiva.** Whereas Rabbi Yoḥanan ben Nuri deems him liable to pay. **Rabbi Akiva said to Rabbi Yoḥanan ben Nuri: What benefit can he derive from this? What benefit could the priest have derived from this *teruma* as it is prohibited to benefit from this *teruma* and the *teruma* is therefore worthless? Rabbi Yoḥanan ben Nuri said to Rabbi Akiva: What benefit can one derive from eating ritually impure *teruma* on the rest of the days of the year, and yet nevertheless the non-priest is still obligated to pay for what he has taken.** Despite the fact that a priest may not eat impure *teruma*, a non-priest must reimburse the priest for the principal of the *teruma* and add an additional fifth if he eats it.

אָמַר לוֹ: לֹא אִם אָמַרְתָּ בְּתְרוּמָה טְמֵאָה בְּשָׂאָר יְמֹת הַשָּׁנָה, שְׂאָף עַל פִּי שְׂאִין לוֹ בָּהּ הֵיטֵר אֲכִילָהּ – יֵשׁ לוֹ בָּהּ הֵיטֵר הַסֵּקָה, תֹּאמַר בּוֹזָה – שְׂאִין לוֹ בָּהּ לֹא הֵיטֵר אֲכִילָהּ וְלֹא הֵיטֵר הַסֵּקָה. הֵא לְמָה זֶה דּוּמָה – לְתְרוּמַת תּוֹרֵים וְעִנְבִים שְׂנִטְמְאָה, שְׂאִין לוֹ בָּהּ לֹא הֵיטֵר אֲכִילָהּ וְלֹא הֵיטֵר הַסֵּקָה.

Rabbi Akiva said to him: **No**, a distinction can be made between these two cases: **If you say that he is obligated to pay in a case of ritually impure *teruma* on the rest of the days of the year, that although it is not permissible to eat it, the priest is nevertheless permitted to burn it and derive benefit from the heat generated as a result of this burning, shall you also say the same with regard to this, *teruma* of leavened bread during Passover, that is not permitted to be eaten or burned?**<sup>H</sup> Rather, **to what may this be compared? It is similar to *teruma* of berries and grapes that became ritually impure, which is not permitted to be eaten or burned, as berries and grapes are unfit for firewood.**

בְּמַפְרִישׁ אֲמוּרִים – בְּמַפְרִישׁ תְּרוּמָה וְהַחֲמִיצָה, אֲבָל מַפְרִישׁ תְּרוּמַת חֶמֶץ – דְּבָרֵי הַכֹּהֵן אֵינָה קְדוּשָׁה.

The *Tosefta* adds: **In what case is this statement said, that these *tanna'im* disagree about the reimbursement for *teruma*?** It was said with regard to a case where **he separated *teruma* in a permitted manner and it became leavened during Passover. However, if he separated the *teruma* from leavened bread during Passover, then everyone agrees that it is not consecrated, as it is worthless.**

תַּנְיָא אִידִן: "וְנָתַן לַכֹּהֵן אֶת הַקֹּדֶשׁ" – דְּבַר הָרְאוּי לְהִיטֵר קֹדֶשׁ, פָּרַט לְאוֹכֵל תְּרוּמַת חֶמֶץ בְּפֶסַח, שְׂפִטּוּר מִן הַתְּשׁוּלוּמִים וּמִדְּמֵי עֵצִים, דְּבָרֵי רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב. וְרַבִּי אֱלִיעֶזֶר חֲסָמָא מְחַיֵּיב. אָמַר לוֹ רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב לְרַבִּי אֱלִיעֶזֶר חֲסָמָא: וְכִי מָה הִנָּאָה יֵשׁ לוֹ בָּהּ? אָמַר לוֹ רַבִּי אֱלִיעֶזֶר חֲסָמָא לְרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב: וְכִי מָה הִנָּאָה יֵשׁ לוֹ לְאוֹכֵל תְּרוּמָה טְמֵאָה בְּשָׂאָר יְמֹת הַשָּׁנָה, שְׂמֵשְׁלִים?

It was taught in another *baraita*: With regard to the verse "And if a man eats a sacred thing in error, then he shall add a fifth part in addition to it, and shall give to the priest the sacred item" (Leviticus 22:14), the Sages expound as follows: **He must give the priest an item that is fit to be consecrated, to the exclusion of one who eats *teruma* of leavened bread on Passover, who is exempt from payment of the *teruma* and even from paying its monetary value as wood; this is the statement of Rabbi Eliezer ben Ya'akov. Rabbi Elazar Ḥisma deems him liable to reimburse the priest for these items. Rabbi Eliezer ben Ya'akov said to Rabbi Elazar Ḥisma: What benefit can the priest derive from this *teruma* of leavened bread, as it is prohibited to benefit from it? Rabbi Elazar Ḥisma said to Rabbi Eliezer ben Ya'akov: What benefit can one derive from eating ritually impure *teruma* on the rest of the days of the year, and yet a non-priest who eats it must pay the priest.**

אָמַר לוֹ: לֹא אִם אָמַרְתָּ בְּתְרוּמָה טְמֵאָה בְּשָׂאָר יְמֹת הַשָּׁנָה – שְׂאָף עַל פִּי שְׂאִין לוֹ בָּהּ הֵיטֵר אֲכִילָהּ יֵשׁ לוֹ בָּהּ הֵיטֵר הַסֵּקָה, תֹּאמַר בּוֹזָה – שְׂאִין לוֹ בָּהּ לֹא הֵיטֵר אֲכִילָהּ וְלֹא הֵיטֵר הַסֵּקָה! אָמַר לוֹ: אַף בּוֹזָה יֵשׁ לוֹ בָּהּ הֵיטֵר הַסֵּקָה, שְׂאִים רָצָה לְכַהֵן מְרִיצָה לְפָנָי כְּלָבוֹ אוֹ מִסִּיקָה תַּחַת תְּבִשְׁלוֹ.

Rabbi Eliezer ben Ya'akov said to him: **No**, a distinction can be made between these two cases: **If you say he is obligated to pay in a case of ritually impure *teruma* on the rest of the days of year, that although it is not permissible to eat it, the priest is nonetheless permitted to burn it and derive benefit from the heat generated as a result of this burning, shall you say the same with regard to this, *teruma* of leavened bread during Passover, that is not permitted to be eaten or burned? Rabbi Elazar Ḥisma said to him: Even *teruma* of leavened bread on Passover is permitted to be burned, for if the priest wishes, he may throw it before his dog or burn it under his food, for Rabbi Elazar Ḥisma agrees with the opinion of Rabbi Yosei HaGelili that one may derive benefit from leavened bread during Passover.**

NOTES

**All hold** – **כולהו סבירא להו**: Generally, when the Gemara cites a series of Sages who share the same line of reasoning and uses the phrase: They all hold, this line of reasoning is called a *shita*, and there is an ancient tradition that the *halakha* does not follow the line of reasoning presented in this form. However, that principle cannot be applied in this case because not all of the *tanna'im* who hold by this principle are mentioned; for example, Rabbi Yehuda and Rabbi Shimon are omitted. Rather, this statement is cited here in order to clarify the points of agreement and dispute between the *tanna'im* listed (Maharam Halaawa).

**Must pay...an additional fifth** – **משלם חומש**: Some say that the dispute between Abba Shaul and the Rabbis is related to another dispute that is recorded in the Jerusalem Talmud with regard to the nature of this additional fifth. According to one view, the obligation to pay an additional fifth stems from the sanctity of the *teruma* and therefore applies immediately when it is set aside. According to the other opinion, this payment is because one has stolen from a priest, in which case one would be obligated to make this payment only if the *teruma* came into the possession of the priest. This serves as the basis for the dispute as to whether the phrase: "And he shall give" refers to the original giving of the *teruma* to the priest and the establishment of the minimal amount of that gift, or if it refers to the paying of the fine (*Tov Re'iva*).

**The opinion of Abba Shaul and the Rabbis** – **דעת אבא שאול**: Some say that according to the conclusion of the Gemara, it is the opinion of the Rabbis that requires that two criteria be fulfilled in order to demand the payment of the additional fifth: One must have eaten an olive-sized amount of the *teruma*, so that his action is actually considered to be eating, and the amount he ate must be worth at least a *peruta*, as less than this amount does not require payment (Maharam Halaawa).

**Peruta** – **פרוטה**: A copper coin, which was the smallest unit of currency. For halakhic purposes, the *peruta* is defined as the value of half a barleycorn's weight of pure silver. Traditionally this is about 24 mg of silver. The halakhic value of all coins is linked to the price of silver.

**To exclude one who damages teruma** – **פָּרַט לְמִיּוֹק**: The early commentaries disagree with regard to the interpretation of this phrase. According to Rashi and *Tosafot*, this refers to one who damages a priest's property without deriving benefit from it. However, others say that this refers to one who harms himself by eating the *teruma*, e.g., by excessive eating (*Me'iri*; see also Rambam).

HALAKHA

**One pays according to the monetary value** – **לְפִי דְּמֵים מְשָׁלֵם**: If a non-priest eats *teruma*, he must reimburse the priest according to the value of the *teruma* at the time when he ate it, regardless of whether its value subsequently increased or decreased. This ruling is based on the Gemara's understanding of the opinion of Rabbi Akiva, as the *halakha* follows his opinion (Rambam *Sefer Zera'im, Hilkhot Terumat* 10:26).

**A non-priest who eats an olive-bulk of teruma** – **הָאוֹכֵל כְּזַיִת**: If a non-priest eats an olive-bulk of *teruma*, he is required to pay the priest the principal value of the *teruma* he ate and an additional fifth of this amount, whether or not the *teruma* is worth a *peruta*. If he ate less than an olive-bulk of *teruma*, he is required to pay the principal value of what he ate but he is not required to pay an additional fifth, in accordance with the unattributed mishna (Rambam *Sefer Zera'im, Hilkhot Terumat* 10:2).

אמר אבוי: רבי אליעזר בן יעקב, ורבי עקיבא. ורבי יוחנן בן נורי, כוליהו סבירא להו: חמץ בפסח אסור בהנאה. ובהא פליגי: דרבי עקיבא סבר: לפי דמים משלם, ורבי יוחנן בן נורי סבר: לפי מדה משלם.

פשיטא! מהו דתימא: רבי יוחנן בן נורי נמי פריבי עקיבא סבירא ליה, דאמר לפי דמים משלם. והתם היינו טעמא דקא מחייב – משום דסבר לה פריבי יוסי הגלילי, דאמר: חמץ בפסח מותר בהנאה, קא משמע לן.

ואימא הכי נמי! אם בן נהדר ליה רבי יוחנן בן נורי לרבי עקיבא כי היכי דמהדר ליה רבי אליעזר חסמא לרבי אליעזר בן יעקב.

תנו רבנן: האוכל כזית תרומה – משלם קרן וחומש, אבא שאול אומר: עד שיהא בו שוה פרוטה. מאי טעמא דתנא קמא? אמר קרא: "ואיש כי יאכל קדש בשגגה" – ואכילה בכזית.

ואבא שאול מאי טעמא? אמר קרא: "ונתן" – ואין נתינה פחות משוה פרוטה. ואיך נמי הא כתיב "ואכל"? ההוא – פָּרַט לְמִיּוֹק הוא דאתא.

ותנא קמא, הכתיב "ונתן"? ההוא מיבעי ליה לדבר הראוי להיות קדש (פָּרַט לְאוֹכֵל תְּרוּמַת חֶמֶץ בפסח).

Abaye said: Rabbi Eliezer ben Ya'akov, Rabbi Akiva, and Rabbi Yoḥanan ben Nuri all hold<sup>n</sup> that it is forbidden to derive benefit from leavened bread during Passover. And they disagree with regard to the following issue: Rabbi Akiva holds that one pays according to the monetary value,<sup>h</sup> and therefore he need not pay anything for consuming *teruma* of leavened bread during Passover. And Rabbi Yoḥanan ben Nuri holds that one pays according to the measure of *teruma* that he consumed, such that even if he ate *teruma* of leavened bread on Passover he must repay this amount.

The Gemara asks: Isn't this obvious? There does not seem to be another way to explain these opinions. The Gemara rejects this question: This statement is necessary lest you say that Rabbi Yoḥanan ben Nuri also holds in accordance with the opinion of Rabbi Akiva that states that one must pay according to the monetary value of the *teruma*. And there, in the case of leavened bread, this is the reason that Rabbi Yoḥanan ben Nuri deems him liable to pay for the *teruma* because he holds in accordance with the opinion of Rabbi Yosei HaGelili, who said: It is permissible to derive benefit from leavened bread during Passover. Therefore, he teaches us that Rabbi Yoḥanan ben Nuri agrees that one may not derive benefit from leavened bread during Passover.

The Gemara suggests: And say it is indeed so, that Rabbi Yoḥanan ben Nuri accepts Rabbi Yosei HaGelili's position. The Gemara rejects this possibility: If this was the case, then Rabbi Yoḥanan ben Nuri should have responded to Rabbi Akiva in the same way that Rabbi Elazar Hisma responded to Rabbi Eliezer ben Ya'akov, by saying that this leavened bread may be fed to a dog thus deriving benefit from it. Since he did not offer this answer, it is clear that he agrees that deriving benefit from leavened bread during Passover is forbidden.

After mentioning cases where a person damages *teruma*, the Gemara continues with a discussion of this topic. The Rabbis taught: A non-priest who eats an olive-bulk of *teruma*<sup>h</sup> must pay the principal value of the *teruma* itself and an additional fifth.<sup>n</sup> Abba Shaul<sup>n</sup> says: He is not required to pay unless the *teruma* he ate is worth a *peruta*.<sup>n</sup> The Gemara explains: What is the reason for the opinion of the first *tanna*? It is because the verse states: "And if a man eats a sacred item in error, then he shall add a fifth part in addition to it, and he shall give to the priest the sacred item" (Leviticus 22:14). The minimal amount that is halakhically considered eating is an olive-bulk.

And what is the reason for the opinion of Abba Shaul? The verse states: "And he shall give," and giving less than the value of a *peruta* is not legally considered to be giving. The Gemara asks: And according to the other one, Abba Shaul, too, isn't it written: "Eats," implying that there must be at least an olive-bulk portion? The Gemara answers: That verse comes to exclude one who damages *teruma*<sup>n</sup> without deriving benefit from it, such that he is exempt from the requirement to add an additional fifth. This is derived from the fact that the verse specifies that only one who eats is required to add a fifth.

And according to the first *tanna*, one can ask: Isn't it written "And he shall give"? The Gemara answers: That phrase is necessary to teach the requirement that *teruma* must be an item that is fit to be consecrated, as an item cannot become *teruma* unless it has some value. This is meant to exclude one who eats *teruma* of leavened bread on Passover, since it is worthless and therefore cannot be designated as *teruma*.

תנו רבנן: האוכל תרומה פחות מבית – משלם את הקרן ואינו משלם את החומש. היכי דמי? אי דלית ביה שוה פרוטה – קרן נמי לא לישלם, ואי דאית ביה שוה פרוטה – חומש נמי לישלם! לעולם דאית ביה שוה פרוטה. ואפילו הכי, בין דלית ביה בית – משלם את הקרן ואינו משלם את החומש.

אמרו רבנן קמיה דרב פפא: הא דלא באבא שאול, דאי באבא שאול – האמר: בין שיש ביה שוה פרוטה, אף על גב דלית ביה בית! אמר להו רב פפא: אפילו תימא אבא שאול, אבא שאול תרתי בעי.

ומי בעי אבא שאול תרתי? והא תנו, אבא שאול אומר: את שיש בו שוה פרוטה – חייב בתשלומין, את שאין בו שוה פרוטה – אינו חייב בתשלומין. אמרו לו: לא אמרו שוה פרוטה אלא לענין מעילה בלבד, אבל לתרומה – אינו חייב עד שיהא בו בית. ואם איתא, בין שיש בו בית מביעי ליה! תיובתא.

ואף רב פפא הדר ביה, דתנא: "והטא בשגגה" – פרט למזיד. והלא דין הוא, ומה שאר מצות שחייב בהן כרת – פוטר בהן את המזיד, מעילה שאין בה כרת אינו דין שפטר את המזיד?

לא, אם אמרת בשאר מצות – שכן לא חייב בהן מיתה, תאמר במעילה שחייב בה מיתה, תלמוד לומר: "בשגגה" – פרט למזיד.

The Sages taught in a *baraita*: One who eats less than an olive-bulk of *teruma* must pay the principal, but is not required to pay the additional fifth. The Gemara asks: What are the circumstances of this case? If there was not the value of a *peruta* of *teruma*, then he should also not be required to pay for the principal either, because that is less than the amount for which one is obligated to pay. But if there was the value of a *peruta* of *teruma*, then he should be required to pay the additional fifth as well. The Gemara explains the case: Actually, it should be understood that there was the value of a *peruta* of *teruma*, and nonetheless, since the food was not at least an olive-bulk, he is required to pay only the principal, but he does not pay the additional fifth.

The Sages said before Rav Pappa that this *halakha* is not in accordance with the opinion of Abba Shaul. As, if it were in accordance with the opinion of Abba Shaul, didn't he say: One is obligated to pay because there is the value of a *peruta*, even if it is not at least an olive-bulk? Rav Pappa said to them: This is no proof, as even if you say that this *halakha* is in accordance with the opinion of Abba Shaul, Abba Shaul requires two conditions: That the *teruma* be at least an olive-bulk in volume, and that it be worth at least a *peruta*.

The Gemara asks: Does Abba Shaul actually require two conditions? Didn't we learn in the mishna that Abba Shaul says: For that food which is at least the value of a *peruta* of *teruma*, one is liable to pay compensation to the priest, but for that food which does not contain the value of a *peruta* of *teruma*, he is not liable to pay compensation to the priest? The Rabbis said to Abba Shaul: They said that the item must be worth a *peruta* only with regard to misuse of consecrated items; however, with regard to *teruma*, one is liable to reimburse the priest only when he eats an olive-bulk or more. And if it is so, that Abba Shaul requires both conditions, and this is a case where there is an olive-bulk, then the Rabbis should have worded their objection differently. They should have said: Since it is at least an olive-bulk, he is liable to pay, even though it is not worth a *peruta*. The Gemara concludes: Indeed, this is a conclusive refutation, and Rav Pappa's position is rejected.

The Gemara notes that Rav Pappa himself also retracted this explanation. As it was taught in a *baraita* with regard to the verse: "If any one commits a trespass, and sins through error, in the sacred items of the Lord, then he shall bring his guilt-offering to the Lord, a ram without blemish from the flock, according to your valuation in silver shekels, after the shekel of the sanctuary, for a guilt-offering" (Leviticus 5:15), the *baraita* explains: The phrase "and sins through error" excludes one who sins intentionally through misuse of consecrated property. Could this not be derived through an *a fortiori* inference, as follows: Just as with regard to other mitzvot for which one is liable to receive *karet* the verse exempts one from bringing an offering when the transgression was committed intentionally, is it not right that with regard to misuse of consecrated property, which does not incur the punishment of *karet*, it should exempt one who acts intentionally?

The *baraita* rejects this claim: No, if you say that this is true with regard to the rest of the mitzvot, even those for which one is liable to receive *karet*, for which one is not liable to receive the death penalty if he violates them, shall you also say that this is the case with regard to misuse of consecrated items, for which one is liable to receive the death penalty, as this offense is punishable by death at the hand of Heaven?<sup>n</sup> Since one cannot logically deduce this principle, the verse states "through error" to exclude one who acted intentionally.

NOTES

Misuse of consecrated items, for which one is liable to receive the death penalty at the hand of Heaven – מעילה שחייב בה – מיתה: It is generally accepted that *karet* is considered more stringent than a divinely enacted penalty. As such, how is it possible to derive such an *a fortiori* argument? Some explain, based on

the Jerusalem Talmud, that when one is punished with death at the hand of Heaven his property is also destroyed, unlike one who is punished with *karet*. Therefore, in this regard, death at the hand of Heaven is indeed more stringent than *karet* (Tosefot Rabbeinu Peretz).

וְאָמַר לִיהֵא רַב נַחְמָן בַּר יִצְחָק לְרַב  
חֵיִיא בַּר אַבִּין: הֲאִי תַנָּא, מַעֲיָקְרָא  
אֲלִימָא לִיהֵא בְּרַת, וְלִבְסוּף אֲלִימָא  
לִיהֵא מִיְתָה?!

And Rav Nahman bar Yitzhak said to Rav Hiyya bar Avin in wonderment with regard to this *baraita*: **This *tanna* initially considers the punishment of *karet* to be stronger by assuming that misuse of consecrated property was less severe because it was not punished by *karet*, and subsequently he considers the punishment of death at the hand of Heaven to be stronger by stating that one cannot deduce this principle from other sins whose punishment is not death at the hand of Heaven.**

וְאָמַר לִיהֵא; הֲכִי קָאָמַר: לֵא, אִם  
אֲמַרְתָּ בְּשֵׂאָר מִצְוֹת – שְׂכֵן לֹא חַיִּיב  
בְּהֵן מִיְתָה בְּפָחוּת מִכֹּזֵיב, תֹּאמַר  
בְּמַעֲלָה – שְׂחַיִּיב בְּהֵן מִיְתָה בְּפָחוּת  
מִכֹּזֵיב. וְאָמַר לִיהֵא: תְּנַחַח דְּעֵתְךָ  
שְׂהַנְחַתְּ אֶת דְּעֵתִי וְאָמַר לִיהֵא: מֵאִי  
נִחְוֵתָא? דְּרַבְהֵא וְרַב שְׁשֶׁת שָׂדוּ בֵּיה  
נִרְגָא: מֵאֵן שְׂמַעְתָּ לִיהֵא דְאָמַר

And Rav Hiyya bar Avin said to him that it is possible to maintain the accepted position that *karet* is more stringent by explaining that this is what he is saying: **No, these are incomparable for the following reason: If you say that one is exempt from an offering when he violates the rest of the mitzvot, for which one is not liable to receive death at the hand of Heaven if he eats less than an olive-bulk of a forbidden substance, shall you also say that this is the case with regard to misuse of consecrated property, for which one is liable to receive death at the hand of Heaven if he eats less than an olive-bulk?** Rav Nahman bar Yitzhak said to him: **May your mind be settled, as you have settled my mind and put it at ease by answering this question that was troubling me.** Rav Hiyya bar Avin said to him: **What is settling about this explanation? Rabba and Rav Sheshet threw an axe at my answer; i.e., they reject my explanation, as follows: Who did you hear that said**

Perek II  
Daf 33 Amud a

HALAKHA

One who intentionally misuses consecrated items – *הַזֵּיד בְּמַעֲלָה*: One who intentionally misuses consecrated property violates a negative commandment and is flogged (Rambam *Sefer Avoda, Hilkhot Me'ila* 1:3).

NOTES

Sin with regard to misuse of consecrated items and sin with regard to *teruma* – *חֲטָא חֲטָא מִתְרוּמָה*: The Rabbis accept this verbal analogy and use it to derive other laws. However, they also have other derivations that teach that one who intentionally misuses consecrated property is not punished with the death penalty (*Tosefot Rabbeinu Peretz*).

הַזֵּיד בְּמַעֲלָה בְּמִיתָה – רַבִּי הִיא.  
דְּתַנָּא: הַזֵּיד בְּמַעֲלָה, רַבִּי אָמַר:  
בְּמִיתָה, וְחֻכְכֵּים אֲמָרִים: בְּאִזְהָרָה.

that one who intentionally misuses consecrated items<sup>H</sup> is liable to receive death at the hand of Heaven? It is Rabbi Yehuda HaNasi. As it was taught in a *baraita*: With regard to one who intentionally misuses consecrated items, Rabbi Yehuda HaNasi says that he is liable to receive death at the hand of Heaven. The Rabbis say: he violates a warning, a standard prohibition, and is flogged.

מֵאִי טַעְמָא דְרַבִּי? אָמַר רַבִּי אַבְהוּ:  
גָּמַר חֲטָא חֲטָא מִתְרוּמָה, מִהֵן תְּרוּמָה  
בְּמִיתָה – אִף מַעֲלָה בְּמִיתָה.

The Gemara asks: **What is the reason for the opinion of Rabbi Yehuda HaNasi?** From where does he derive his opinion? **Rabbi Abba Shaul said: He derives it by means of a verbal analogy between the word sin stated with regard to misuse of consecrated items and the word sin stated with regard to *teruma*.**<sup>N</sup> With regard to misuse of consecrated items, the verse states: “If any one commits a trespass, and sins through error, in the sacred items of the Lord” (Leviticus 5:15); with regard to *teruma*, the verse states: “Lest they bear sin for it, and die due to it, if they profane it” (Leviticus 22:9). Rabbi Yehuda HaNasi makes the following comparison: **Just as eating *teruma* is punishable by the death penalty, so too, misusing consecrated items is punishable by the death penalty.**

וּמִיָּנָה, מִהֵן תְּרוּמָה בְּכֹזֵיב – אִף  
מַעֲלָה בְּכֹזֵיב.

From this verbal analogy, the comparison between *teruma* and misuse of consecrated property can be extended to other issues as well: **Just as one is punished only for eating at least an olive-bulk of *teruma*, so too, one is punished for misusing consecrated items only if there is at least an olive-bulk of consecrated items.** This indicates that the *baraita* cannot be explained in accordance with the opinion of Abba Shaul, who requires that the item be worth at least a *peruta*.

וּמִתְקִיף לֵהּ רַב פַּפָּא: מִמָּאִי דְרַבִּי  
כְּרַבְּנֵן סְבִירָא לִיהֵא? דִּילְמָא כְּאֲבָא  
שְׂאוּל סְבִירָא לִיהֵא, דְאָמַר: יֵשׁ בְּהֵן  
שְׂוָה פְּרוּטָה – אִף עַל גַּב דְּלִית בְּהֵן  
כֹּזֵיב.

Rav Pappa strongly objects to Rav Sheshet and Rabba’s rejection of the explanation of the *baraita*: **From where do you know that Rabbi Yehuda HaNasi holds in accordance with the opinion of the Rabbis that one is only punished after eating an olive-bulk of *teruma*? Perhaps he holds in accordance with the opinion of Abba Shaul, who said one is liable for eating *teruma* provided the food contains the value of a *peruta* of *teruma*, even if it is less than an olive-bulk.** As the *halakhot* of misuse of consecrated items are derived from *teruma*, one is liable for eating both *teruma* and consecrated items only if the object is worth at least a *peruta*. As such, Rav Hiyya bar Avin’s explanation of the *baraita* should not be rejected.