

## כל הנלקט מזה יהא מחולל –

### Whatever was picked from these shall be redeemed

#### OVERVIEW

The משנה, cited in our גמרא, stated that the צנועין would set aside money and say that any fruit of רבעי which was picked should be redeemed with this money. The גמרא concluded that the צנועין actually said any fruit which will be picked should be redeemed with this money. תוספות discusses the practicality of these statements.

תוספות asks:

תימה מתי היו אומרים דלמה שמלקטים אחר אמירה לא היה מועיל<sup>1</sup> -

**It is astounding! When would the צנועין say, יהא מחולל, since regarding the fruit which was gathered after this statement, it would not be redeemed -**

ואם כן וכי בכל שעה היו אומרים כן בלי הפסק -

**Therefore, is it then feasible that the צנועין would continually say it without interruption!?**

תוספות anticipates a possible solution:

וכי תימא שבכל ערב היו אומרים<sup>2</sup> כן כמו גבי עניים בסמוך<sup>3</sup> -

**And if you will say; that the צנועין would make this statement every evening, just like regarding the poor, which the גמרא mentions shortly –**

תוספות rejects this solution:

מכל מקום לא היתה תקנה למה שאכלו קודם אמירה<sup>4</sup> -

**Nevertheless, it would not remedy that which was eaten during the day, before the statement** (of כל הנלקט וכו') was made at night. The question remains when would the

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<sup>1</sup> The צנועין would set aside money and state, 'any fruit which was gathered should be redeemed with this money', and therefore fruit which are picked after this statement was made is not redeemed. So when did they say it?

<sup>2</sup> Every evening, when we can be reasonably assured that no one will gather any more fruits, the צנועין would say whatever was picked today is redeemed.

<sup>3</sup> דוסא ר' maintains that every evening the בעה"ב would proclaim, 'whatever the poor gathered today (from לקט) should be הפקר' (so even if the poor took more than they are allotted, it will not be גזל).

<sup>4</sup> The actual חילול takes place in the evening (when they say הנלקט); however many people would have already eaten the fruit by day (right after it was picked), and then it was still רבעי כרם. Regarding the rule of דוסא ר', who is discussing עניים who are gathering grain, the הפקר can be done at night, since the עניים will not eat the grain in the field until it brought home and ground, etc., however by fruit (the case of the צנועין), they usually eat it as soon as it is picked (see תוספות רבינו פרץ).

כל הנלקט וכו' make this statement of צנועין

answers: תוספות

ואומר רבינו יצחק דכל הנלקט לאו דוקא ממש אחר לקיטה -

And the ר"י answered; that the statement וכו' כל הנלקט, was not made precisely immediately after the gathering -

אלא מניח מעות בעוד שלא נלקט -

But rather he (the צנועין) puts aside the money before any fruit was gathered -

ואומר<sup>5</sup> כרם רבעי זה לכשיהיה נלקט יהיה מחולל אחר הלקיטה<sup>6</sup> -

And he says, this כרם רבעי, when it will be gathered, it should be redeemed, with this money, after it was gathered.

תוספות responds to an anticipated difficulty:

והא דקאמר רבי דוסא לעיתותי ערב<sup>7</sup> אפילו מן השחרית היה יכול לעשות כן כמו שפירשתי<sup>8</sup> -

And regarding this דוסא ר' stated that the owners would proclaim towards evening time, 'כל שלקטו העניים היום יהא הפקר'; they could have done it even in the morning as I explained<sup>9</sup> -

אלא עצה טובה קא משמע לן שלא יתפקרו עניים ללקט הרבה כיון שהפקיר<sup>10</sup> -

But rather דוסא ר' is offering sound advice that the owner should not be מפקיר in the morning, in order that the עניים should not allow themselves to gather more (than is normally permitted) since the owner was מפקיר whatever they gather -

תוספות offers an alternate explanation why דוסא ר' insists that the הפקר is in the evening:

אי נמי לעיתותי ערב דוקא אבל שחרית גזרינן שמא לא יפריש<sup>11</sup> דלאחר לקיטה יחול ההפקר -

Or you may also say that דוסא ר' meant specifically the evening time, but not in the morning, out of concern that perhaps he will not explicitly state that the הפקר should take place after the gathering,<sup>12</sup> but rather he will state, 'whatever they

<sup>5</sup> The צנועין would do this in the morning before anyone had a chance to pick the grapes.

<sup>6</sup> They need to say it once in the morning and it will apply to anyone who gathers fruit that day. תוספות needs to say that it will be מחולל אחר הלקיטה because at this point we assume that they said כל הנלקט, 'everything that was picked'.

<sup>7</sup> תוספות will explain why was it necessary for them to say it (only) in the evening.

<sup>8</sup> The owner could have said, 'whatever the עניים will gather, more than their allotted share, will become הפקר after they gather it'.

<sup>9</sup> Regarding דוסא ר' we cannot say that it is imprecise (as we say regarding the צנועין that it is not actually שנלקט, etc.) for דוסא ר' argues with ר"י who maintains that owners are מפקיר בבוקר and ר"ד maintains they are מפקיר בערב.

<sup>10</sup> However, if the owner is not מפקיר in the morning, but only in the evening the עניים will be careful as to what they gather because perhaps the owner will not be מפקיר and they will transgress the גזילה איסור.

<sup>11</sup> The רש"י amends this to יפרש (instead of יפריש). See also תוספות רבינו פרץ.

<sup>12</sup> If he states, whatever will be gathered today shall be הפקר after it is gathered', this is an effective הפקר (just as by [after it is] הפקר since (at the moment of הפקר), it is a proper חילול, לכשיהיה נלקט יהיה מחולל אחר הלקיטה if he says חילול

gather today shall be הפקר<sup>13</sup>.

asks: תוספות

ואם תאמר וכיון שיש חילול במחבר לקרקע כדמשמע בסמוך<sup>14</sup> למה היו הצנועים דוחקים -  
And if you will say; since חילול is effective even when the fruit is attached to  
the ground, as is indicated shortly, why did the צנועים inconvenience themselves  
by making the חילול in this manner -

למה לא היו מחללים כל הכרם בבת אחת -

Why did they not redeem the entire vineyard at one time?!

answers: תוספות

ויש לומר דשמא היו רוצים להוליך שאר הפירות לירושלים -  
And one can say; that perhaps they wanted to take the rest of the פירות to  
ירושלים -

לפיכך לא היו רוצים לחלל הכל בבת אחת -

Therefore they did not want to redeem everything at one time so they were only  
חלל the פירות which were picked by the passersby –

offers an alternate solution: תוספות

אי נמי לפי שלא היה מועיל חילול למה שיגדל אחרי כן<sup>15</sup> -  
Or you may also say that if they would make the חילול while it was still growing,  
the חילול would not be effective for that which grew after they made the חילול.

asks (on the conclusion of the גמרא):<sup>16</sup> תוספות

ואם תאמר<sup>17</sup> כי קאמר כל המתלקט הא לא היה מועיל למה שגדל אחר כך -

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gathered']) it is clear what he is being מפקר (just as it is clear what he is being מחלל after it was gathered); however if he does not explicitly say להפקר יהיה הפקר, but rather שילקטו העניים יהא הפקר, it is not a valid הפקר since at the moment of הפקר it is not specified what he is מפקר; this is called אין ברירה; we cannot retroactively verify what he meant at the time of the הפקר.

<sup>13</sup> However regarding כרם רבעי we have no choice but to say the חילול in the morning, because since it is fruit, which people may eat as soon as they pick it, they will be eating רבעי if the חילול was not already made. See footnote # 4. See מהרש"א (see מהר"ם for an alternate explanation).

<sup>14</sup> See the beginning of the following אימא ד"ה תוספות.

<sup>15</sup> The ripening process takes some time, and not all the grapes ripen at the same time. In order for the צנועים to protect the passersby from transgressing the רבעי איסור, they would have to be מחלל the פירות at the beginning of the ripening season. However (many of) the grapes are still growing and the part which grew later was not redeemed, and the people who pick the grapes later in the season will transgress the רבעי איסור for the additional growth of the grapes.

<sup>16</sup> The גמרא concluded that the צנועים did not say כל הנלקט וכו' (whatever was picked), but rather כל המתלקט (whatever will be picked).

<sup>17</sup> This question is based on the last answer just given that the צנועים were not מחלל the כרם because it would not include any future growth of the grapes after the חילול was made. The same question can be asked on the מסקנא of the

**And if you will say; when the צנועין said, 'whatever will be picked should be מחולל, etc.', that would not be effective for that which will grow afterward.<sup>18</sup>**

answers: תוספות

**ויש לומר דמכל מקום מה שהיו יכולין לתקן היו מתקנים<sup>19</sup> -**

**And one can say; that nevertheless the צנועין corrected whatever they were able to correct –**

offers an alternate solution: תוספות

**ועוד דשמא היה בטל ברוב<sup>20</sup> -**

**And additionally, perhaps this miniscule additional growth was nullified by the majority of the grape which was already (almost fully) grown –**

responds to an anticipated difficulty: תוספות

**ואף על גב דדבר שיש לו מתירין<sup>21</sup> אפילו באלף לא בטיל<sup>22</sup> מכל מקום<sup>23</sup> מדאורייתא<sup>24</sup> בטיל:**

**And even though that a דבר שיש לו מתירין is not בטל even one part in a thousand, nevertheless it is בטל מן התורה (even if it is a מתירין).**

## **SUMMARY**

When the צנועין said מחולל, כל הנלקט, it was in the morning and they said that whatever will be picked today will be redeemed by the set aside money, when the fruit will be picked. They were not מחלל the entire כרם initially either because they wanted to bring the fruit to ירושלים, or the חילול would not include future growth.

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כל המתלקט וכו', צנועין said, that the גמרא

<sup>18</sup> The grapes would grow (somewhat) after the צנועין were מחלל (in the morning, or on previous days); there would be no חילול for that additional growth. See 'Thinking it over'.

<sup>19</sup> Perhaps they said it every day, or perhaps they waited until the grapes were fully ripe, but in any event they prevented the איסור רבעי, from that which they were מחלל (even though they were not able to prevent it entirely).

<sup>20</sup> We are discussing passersby who may pick the grapes. They will obviously pick the ripe grapes which are already matured. Therefore there will usually be only a miniscule additional growth between the time of the proclamation of the צנועין and the time the passersby eat the grapes. That small amount of רבעי is בטל ברוב in the redeemed grape. This is not comparable to what תוספות asked previously that they should be מחלל the entire כרם (see the text by footnote # 14), for there תוספות asked that they should be מחלל at the beginning of the ripening (see footnote # 15), so that by the end of the ripening season the additional growth on (some of) the grapes will not be בטל ברוב (see מהרש"א הארוך).

<sup>21</sup> A דבר שיש לו מתירין (a thing which will be permitted) refers to any איסור which can eventually become מותר. This case of כרם רבעי is a prime example. Right now before חילול (or bringing it to ירושלים), the grapes are איסור; however once there was חילול (or they are brought to ירושלים), they are מותר to be eaten.

<sup>22</sup> One of the reasons it is not בטל is because we say, why eat it now when it is still איסור (albeit בטל), when you have the option of eating it later when it will be completely מותר.

<sup>23</sup> This rule of בטל ברוב is only מדרבנן, however מדאורייתא it is בטל לא באלף.

<sup>24</sup> Therefore the צנועין were protecting the passersby from transgressing an איסור דאורייתא.

### **THINKING IT OVER**

asks on what the גמרא states that the צנועין said 'וכו' כל המתלקט וכו', but nevertheless the חילול would not be effective on the future growth.<sup>25</sup> Why cannot we answer that they said כל המתלקט should be redeemed by this money immediately prior to the לקיטה (similar to what תוספות said previously that they said, in advance, this money should be מחלל whatever was picked) so there is no issue of future growth?!

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<sup>25</sup> See footnote # 18.

<sup>26</sup> See אוצר מפרשי התלמוד # 135-36.