

## ספק על ספק לא על היינו בקעה –

**There is a doubt whether it entered or not; this is the same as ‘a valley’**

### OVERVIEW

When there is a doubt whether a mouse (who was holding חמץ) entered into a house or not, the גמרא states that this case is comparable to the case of בקעה. If someone enters a בקעה in the rainy season (when a בקעה is considered a ר"י regarding טומאה), and he is not certain whether he entered the area where there was טומאה, there is a dispute between ר"א (who maintains that he is טהור [since it is a ספק מגע (and not a ספק ביאה)] and the חכמים who maintain that he is טמא.<sup>1</sup> It is not clear from the גמרא what the ruling should be by ספק על,<sup>2</sup> and תוספות is perplexed by the comparison of these two cases.



תוספות asks:

**תימה לרבינו יצחק מה שייך לדמויי לבקעה –**

**The ר"י finds this comparison astounding! How is possible to compare the case of ספק על by חמץ to the case of בקעה?! תוספות explains the difference:**

**דהכא אפילו ליכא אלא ספק אחד אוקמא אחזקת בדוק כדאמרין לעיל<sup>3</sup> –**

**For here by חמץ even if there is only one doubt** (whether the mouse entered the house), nevertheless **we place the house on its presumptive status that it was searched, as we previously stated.** Therefore even if there is one ספק (whether or not the mouse entered into the house) there should be no requirement to be בדוק again, for the house is בחזקת בדוק. However by a בקעה when there is only one ספק he is deemed to be טמא (since it is a ר"י (ספק טומאה ברה"י)). This indicates that there is more reason to be lenient by the ספק of בדיקה than by the ספק of טומאה.<sup>4</sup>

תוספות states an additional difficulty:

**ולעיל<sup>5</sup> דימה אותו לספק טומאה ברשות הרבים –**

<sup>1</sup> See following ביאה ספק תוספות ד"ה ספק ביאה for an explanation of their מחלוקת.

<sup>2</sup> See following רש"י ד"ה וחכמים, who rules that by ספק על all agree there is no requirement for בדיקה since בדיקת חמץ is only ר"א of מחלוקת ספק על. תוספות disagrees and maintains that the ruling of ספק על would depend on the מחלוקת of ר"א and רבנן. It would seem that תוספות maintains that the ruling of ספק על would depend on the מחלוקת of ר"א and רבנן; according to ר"א there is no need for בדיקה (even if he was not מבטל [see מהרש"א]) and according to the רבנן the house requires בדיקה again.

<sup>3</sup> In the case of two בתים [if they do not ask אחת]. (See also 'היינו ט' (טב. בתוס' ד"ה היינו ט').)

<sup>4</sup> The question is why should we rule that according to the רבנן of בקעה (who maintain there that he is טמא), that בדיקה is required; by בקעה one ספק is surely טמא (since it is ר"י ספק טומאה ברה"י and even a ס"ס is טמא), however by חמץ בדיקת חמץ (even) one ספק is מותר.

<sup>5</sup> In the case of שבילין which was compared to צבור א' של חמץ ולפניו ב' בתים בדוקין.

**And previously** the גמרא compared a ספק by חמץ to a ספק טומאה ברה"ר which is טהור (and therefore בדיקה is not necessary by בתים ב' [even though one of the houses certainly has חמץ in it] -

**והכא מדמי לספק טומאה ברשות היחיד:**

**And here** by על ספק the גמרא compares a ספק חמץ to a ספק טומאה ברה"י, which is טהור (which would necessitate בדיקה by על ספק [even though there is the possibility that no ספק entered the house at all]).<sup>6</sup>

## **SUMMARY**

התוספות has two questions on the ruling that ספק על is comparable to בקעה. First that by חמץ there is a חזקת בדוק (but not by בקעה [which is a ברה"י]), and second, why previously חמץ בדיקה was compared to ספק טומאה ברה"ר, and here it is compared to ספק טומאה ברה"י.

## **THINKING IT OVER**

1. According to תוספות that by על ספק, a בדיקה should not be required since the house has a חזקת בדוק, why does the משנה state that גיררה חולדה וכו' אין חוששין שמא גיררה חולדה וכו' since the house has a חזקת בדוק, then חושש; אלא"ס; the משנה should have said אין חוששין since the house has a חזקת בדוק?!<sup>7</sup>

2. Why does not תוספות pose the following question<sup>8</sup> explicitly: Why should על ספק be more strict than חמץ ולפניו ב' בתים בדוקין, where the rule is that no בדיקה is required (if they did not ask בב"א)?<sup>9</sup>

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<sup>6</sup> See מהרש"א who explains that if in the case of בתים ב' where חמץ certainly entered one of the houses, nevertheless, the חזקת בדוק of each house resolves the ספק leniently and no בדיקה is required, then certainly by על ספק where we are not sure if any חמץ entered the house at all, that the חזקת בדוק should eliminate any concern and בדיקה should not be required. See 'Thinking it over' # 2.

<sup>7</sup> See אור חדש.

<sup>8</sup> See footnote # 6.

<sup>9</sup> See החמה.