

Achsanya Shel Torah is an organization dedicated to studying and publicizing the lives and works of the Gedolim of Ashkenaz.

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Issue #48 פרשת משפטים תשפ"ה

אכסניא של תורה

לעילוי נשמת: רבקה בת אליהו ע"ה



a) Rav Yaakov Berlin was born in the city of Berlin in the year 1708. At a young age he went to the city of Frankfurt to learn in the illustrious Yeshiva of Rav Yaakov Poppers. Already at the age of 17, Rav Berlin began to write his *chidushel* Torah, which would later be published in his highly regarded sefer Baer Yaakov. While in Frankfurt, he became close to other students in the Yeshiva such as Rav Yosef Steinhart and others. Rav Yaakov never held an official position but rather spent his days in Fürth learning and writing his brilliant novella. He served on occasion in an unofficial capacity as a Dayan in Fürth. Among his various writings, Rav Berlin mentions that he has seven *seforim* which he composed, however, only two of his *seforim* have been printed to date. The sefer Baer Yaakov was published in 1767. This sefer covers all of Shulchan Aruch and contains lengthy analytical novella. His second sefer titled Zichron Yaakov was published in 1770 and has been republished since. This sefer is arranged on Chumash, however, many of the pieces are similar style to his *chidushim* on Shulchan Aruch and not simply explanations of the *pesukim*. Rav Yaakov Berlin passed away in 1750 at the young age of 42.

b) Rav Dovid Disbek was born in the year 1744 in the city of Fürth. After his *bar mitzvah*, he went to learn in Frankfurt under Rav Yaakov Poppers. Upon returning to Fürth, he was appointed to the prestigious position as Parnes because of his stature as a *talmud chacham* and his personal wealth. At that time, Fürth was a major Torah center hosting the largest Yeshiva in all of Europe. Rav Disbek's outstanding Torah knowledge quickly led to his appointment as a Dayan on the city's Bais Din as well. Such an appointment at that time was no small matter since there were many highly qualified *talmidei chachomim* in Fürth. In 1771 he was appointed as the Rav of Mering, Bavaria and the Black Forest region. Seven years later, Rav Disbek took the position of Rosh Yeshiva in Metz. At that time, the Av Bals Din of Metz was Rav Aryeh Leib Ginzberg - Wallerstein, the renowned author of Shaagas Aryeh. In 1785 Rav Disbek left Metz and became the Rav of Beyersdorf and Bayreuth. Without the distraction of *talmidim* of the Yeshiva, he set out on a monumental task to organize his writings. This complete work titled Pardes Dovid is organized according to the *parshios* and covers six thick volumes. Although he arranged them according to the *parshios*, his *chidushim* are primarily in-depth analysis of Shas and Rambam. Rav Dovid Disbek passed away at the young age of 50, on the 5th of Kislev in 1793. His monumental work Pardes Dovid was brought to print in Sulzbach in 1796. The sefer immediately became very popular due to its *lilpul* style. The famed Rav Betzalel Regensburg author of Chachmas Betzalel, wrote extensive notes on hundreds of pieces from the Pardes Dovid, amounting to a composition worthy of its own publication. As a testament to the high regard to which his sefer was held, it is worthwhile noting that it is quoted by Rav Akiva Eiger (quoted in the Pischei Teshuva) in Hilchos Sefer Torah. Rav Dovid wrote many approbations to works of other Torah luminaries of the time, among them to the sefer Yaaros Dvash of Rav Yonasan Elbshitz.

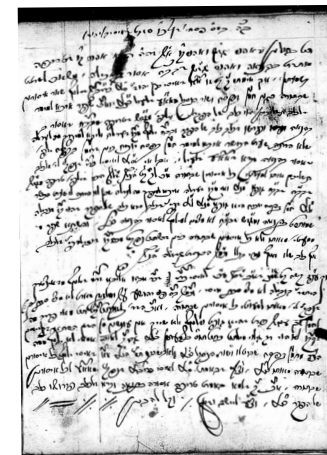
Formidable Foe

HARAV AVRAHAM BAMBERGER
ROSH KOLLEL

In this week's *Parsha*, a seemingly self-contradicting *pasuk* sheds light on an interesting topic. The Torah states: "If you see the donkey of your foe collapsing beneath its load, stop from helping him; you shall help with him". The words "stop from helping him" seem to indicate that one does not need to help his enemy unload his donkey. On the other hand, the end of the *pasuk* clearly states that one must help even under this circumstance. Rashi explains that the words "stop from helping him" are actually intended as a question – should you stop from helping him? The Torah is telling us, don't consider not to help him, rather seize this opportunity to assist. The Chizkuni points out that this explanation is alluded to by the Targum Onklos. The Targum injects a few

words to the simple explanation of the *pasuk*; "If you see the donkey of your foe collapsing beneath its load and you decide not to help him, remove your ill feelings from your heart and help him". The Chizkuni explains that the words "remove your ill feeling from your heart" is consistent with Rashi's explanation.

Chazal ask an objective question on this *pasuk*.¹ How can the Torah discuss a person who has an enemy, is it not prohibited to hate



Manuscript of the shiur given by Rav Tevele Scheuer in 1776

The Shiur of 1776

HARAV ELIYAHU SIMCHA HELLMANN
ROSH KOLLEL

Rav Dovid Tevele Scheuer was born in 1712 in Frankfurt. At that time, the preeminent Yeshiva in Europe was headed by Rav Yaakov Poppers in Frankfurt. This Yeshiva boasted more than 400 *talmidim*, among them many future *poskim* of Europe. Rav Poppers is most well-known for his volume of *teshuvos* spanning the *Arba Chelkei Shulchan Aruch*. First printed

in Frankfurt in 1702 under the titled Shev Yaakov, he gained recognition as one of the fundamental *poskim* among the *Gedolei Achronim*. As an aside, despite the prominence of this sefer, a much-needed new edition has not been produced in more than 300 years. Mechon Achsanya Shel Torah is working diligently on a new edition, as well as additional *teshuvos* from manuscript and an entire composition on Chumash

titled Kol Yaakov also still in manuscript. The *yartzeit* of the Shev Yaakov is this week: 22 of Shevat.

The Yeshiva of the Shev Yaakov in Frankfurt attracted the brightest minds in Europe, making this Bais Medrash a hotbed for *halachic* debate. Many discussions found in *teshuvos seforim* from that era, can be traced back to a debate between the *talmidim* of the Shev Yaakov, often based on a *chiddush* shared by the Shev Yaakov himself. Among his

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Formidable Foe Continued

another Jew, as it says "You shall not hate your brother in your heart"?² Chazal explain that the *pasuk* is referring to a specific case where a person witnessed a fellow Jew commit a sin, with no possible permissible explanation. The witness cannot bring this matter before Bais Din to testify against him, since he is only a single witness. All he can do is bear ill feelings towards him because of his transgression. The Torah here is informing us that even such a person you should help under this circumstance.³

In a separate *gemara*, Chazal provide an explanation for the core reason behind this *mitzvah*.⁴ In Sefer Devarim, the Torah states: "You shall not watch your friend's donkey or ox falling on its way and ignore it, [rather] help him lift it up".⁵ When contrasting these two *pesukim*, Chazal explain that this latter *pasuk* is discussing helping with reloading an animal whose packages fell off, while the former is discussing unloading an animal with a heavy burden. Additionally, the *mitzvah* to help unload is given with the instruction to provide help without help of the owner, while the *mitzvah* to help load an animal is only when the owner is helping "with him". Chazal explain, the reason behind the commandment to unload is the concept of not causing pain to an animal and therefore despite the personal transgressions of the owner, the observer must provide assistance – even without the owners assistance.⁶ However, in the case of helping to load an animal, there is no pain which the observer is relieving through this action and therefore it only applies to a "friend" and when he is assisting.

The above *gemara* discusses a case where a bystander has an opportunity to assist his enemy unload his donkey or help a friend reload his donkey. The *gemara* concludes that one should help the enemy since by doing so he is working on his *middos*. Tosfos asks, if as stated above the "foe" is indeed a person who is permissible to hate, why is helping him considered "working on your *middos*", is this hatred not correctly directed?⁷ Tosfos answers that even though it is permissible to hate him, based on the concept *כמים פנים לפנים כן לב האדם לאדם*, the permissible hatred will cause the wrongdoer

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The Shiur of 1776 Continued

more than 400 *talmidim* include: Rav Dovid Frankel author of *Korban Haeida* on Talmud Yerushalmi, Rav Elchonon Ashkenazi author of *Sidrei Tahara*, **Rav Yaakov Berlin**^{a)} author of *Baer Yaakov*, **Rav Dovid Disbek**^{b)} author of *Pardes*



Sefer Baer Yaakov printed in 1767

Dovid, Rav Dovid Tevele Schiff Chief Rabbi of London and author of *Lashon Zahav*, Rav Schneuer Ziskind Gundersheim author of *Mekor Chaim Tiferes Tzvi*, Rav Yosef Steinhardt author of *Zichron Yosef*, Rav Nosson Maz author of *Binyan Shlomo*, and most importantly for this article, Rav Tevele Scheuer.

After learning by the Shev Yaakov, Rav Tevele served as a Dayan under Rav Yehoshua Falk the famed author of *Pnei Yehoshua*, in Frankfurt. The Pnei Yehoshua succeeded the Shev Yaakov as the Av Bais Din and Rosh Yeshiva of Frankfurt in 1741. In 1759, Rav Tevele succeeded his father-in-law as the Rav of Bamberg and in 1767 he became the Rav and Rosh Yeshiva of Mainz.

Rav Tevele was considered one of the leading Roshei Yeshiva of the time, and his *shiurim* were repeated and analyzed by *talmidim* and contemporaries alike. Apparently, at some point before 1750, Rav Tevele had a discussion with his childhood friend Rav Yaakov Berlin about an important *sugya* in Meseches Pesachim. Rav Yaakov Berlin was an outstanding scholar, who served as a Dayan in Furth. Their discussion was regarding the *pasuk* in Parshas Mishpatim which states "ובשר בשדה טרפה לא תאכלו, לכלב תשליכו אותו", "Do not eat flesh torn off of an animal in the field by a predator; cast it to the dogs".¹³ Flesh torn from a live animal as well as the animal (with a mortal wound) is called a *treifa*. The Gemara in Pesachim points out that the specification that a *treifa* should be thrown to the dogs, teaches us that other food which is forbidden to eat or derive benefit from (such as *Chameitz* on Pesach) may not be thrown to a dog.¹⁴ Rashi explains that one may have thought that since the dogs in Egypt did not bark when *Klal Yisroel* were leaving, they are supposed to receive a special reward. It would have been assumed that the reward is that all forbidden food should be given to a dog, and the Torah expressed this concept here by *treifa* as an example. Therefore, the Torah uses specific wording to qualify this concept to apply only that a *treifa* is given to a dog. Rashi brings this explanation based on a Mechilta. Based on this Gemara and Mechilta, as well as other calculations beyond the scope of this article, a debate emerges regarding whether or not feeding a *treifa* or *chometz* to a wild dog is considered derived benefit (*הנאה*). The *sefer* Kneses Hagedola authored by Rav Chaim Benveniste of Izmir, quotes Rav Shimon ben Tzemach Duron of Algeria, known by the acronym Tashbeitz, who concluded that even feeding a wild dog is considered a derived benefit. The Kneses Hagedola argues that based on this Mechilta it is clear that without the specification of the Torah that only a *treifa* should be given to a dog, one would have inferred that all forbidden foods can be given to a dog, clearly meaning that feeding a wild dog is not enough of a benefit to be considered a derived benefit.¹⁵

On this nuanced debate, Rav Tevele Scheuer asked a penetrating question whereby he upends the proof of the Kneses Hagedola and sides

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1) Pesachim 113b.

2) Vayikra 19:17.

3) An alternative explanation is that the "foe" in reference is referring to a gentile. The Torah is therefore commanding us to help in this situation because of the pain being caused to the animal. Indeed, the Gemara in Bava Metzia quoted below concludes that this is the true reason for this *mitzvah*.

4) Bava Metzia 32a.

5) Devorim 22:4.

6) צער בעלי חיים.

7) Pesachim *ibid*.

8) This *pasuk* in Mishlei (27:19) is understood to mean that all feelings transfer from one person to another on a subconscious level.

9) Chidushei Chasam Sofer to Gitin 55b. Also brought in Toras Moshe Shemos 23:5.


10) See Tosfos in Bava Metzia 30b that learns both reasons are from Rav Yochanan.

11) *Ibid*.

12) *Ibid*.

Formidable Foe Continued

to direct reciprocal hatred towards the witness of his actions. To avoid causing this reciprocal hatred, it is appropriate for the witness to overcome his *middos*.⁸


The Chasam Sofer quotes a novel idea based on this Tosfos from Rav Yaakov Worms, the Rosh Bais Din of Frankfurt.⁹ Throughout Talmud Bavli, Rav Yochanon provides multiple explanations as to why the Bais Hamikdash was destroyed. In the *gemara* in Yoma he states "*the second Bais Hamikdash was destroyed because of baseless hate*".¹⁰ In Bava Metzia Rav Yochanan says "*Yerushalayim was destroyed since they kept the laws exactly but did not go beyond the letter of law*".¹¹ In the *gemara* in Gitin, Rav Yochanan provides a third reason for the destruction: "*The dispute of Kamtza and Bar Kamtza caused the destruction*".¹² Rav Yaakov Worms explained that all three reasons are part of a larger picture. The story of Kamtza and Bar Kamtza is puzzling, why didn't the *Chachomim* sitting by the feast stand up to protect Bar Kamtza as he was humiliated publicly. The reason is because they reasoned that their host hated Bar Kamtza for a legitimate reason. As quoted from *Chazal* above, it is permissible to hate another Jew if you personally witness him doing an *aveira*. The aforementioned Tosfos explained that this is indeed the letter of the law, but one should go beyond the letter of the law and not let the hatred fester since it will cause reciprocal hatred from the transgressor. This was the mistake of the *Chachomim* at the *seuda* of Kamtza. They should have stood up and protested that at the very least in a public setting the aspect beyond the letter of the law should be practiced. Furthermore, the *Chachomim* mistakenly judged their host, Kamtza, favorably, ignoring the fact that baseless hatred among Jews was becoming common at that time. Indeed, all three of Rav Yochanan's statements are a description of one and the same defective attitude of the time. 

The Shiur of 1776 Continued

with the Tashbeitz. See footnote for the question.¹⁶ Rav Berlin pondered Rav Tevele's question, eventually recording it in his *sefer* Baer Yaakov and suggestion an answer of his own. But this discussion didn't end there; another of Rav Tevele's contemporaries, Rav Dovid Disbek, cited this question in his *sefer* Pardes Dovid and provides his own original answer. It seems this question continued to make it's rounds among the preeminent *Gedolim* of the generation, with this question quoted in numerous *seforim* as "Rav Tevele Scheuer's question".

Rav Moshe Sofer, known famously by the title of his *sefer* Chasam Sofer, had drawn close to the great gaon Rav Nosson Adler while growing up in Frankfurt. When the Chasam Sofer turned thirteen years old, Rav Nosson Adler sent him to learn in Mainz to keep him away from the distractions of the bustling city of Frankfurt. Despite his young age, his brilliance in Torah impressed all those who met him. The Chasam Sofer learned in Mainz in the years 1776 and 1777. During that time, the Av Bais Din of Mainz was Rav Tevele Scheuer who is described as a saintly and elderly man. His son, Rav Michoel Scheuer, had learned under Rav Nosson Adler, and now served as Rosh Yeshiva of Mainz. It is likely that Rav Adler sent the young Moshe Sofer to learn in Mainz since Rav Michoel Scheuer was himself a *talmid*. From his writings, it is clear that the Chasam Sofer was enamored with Rav Tevele Scheuer and considered him as one of his primary teachers despite only have spent a short time learning under him and the vast age gap between the two scholars. What is interesting to note however, is that throughout all of the extensive writings of the Chasam Sofer, only one question is said as something he heard directly from Rav Tevele. Other quotes from Rav Tevele brought in the Chasam Sofer's writings, are quoted in the name of someone else who heard from him or a quote he read in a printed *sefer*.¹⁷ The one quote which the Chasam Sofer brings as being heard directly from Rav Tevele is this question quoted above. The Chasam Sofer quotes it in his *chidushim* to Pesachim.

It is clear from the words of the Chasam Sofer that Rav Tevele was still discussing this question at least thirty years after he first asked it!¹⁸ While it's not clear from the Chasam Sofer in what setting he heard this question from Rav Tevele, either in a personal discussion or in a public *shiur*, a comprehensive research revealed something astonishing. A few manuscripts from Rav Tevele and his son are still extant, stored in various collection around the world. In a personal notebook of Rav Tevele's son, Rav Michoel, he transcribed two *shiurim* his father said, apparently copying from notes his own father had written (they are copied using first person). One *shiur* covers twelve pages of this manuscript and is a lengthy *pilpul* about the *sugya* in Pesachim.¹⁹ As the *shiur* winds to a close, Rav Tevele circles back to discuss the *gemara* about giving a *treifa* to a dog. He then poses this world-famous question and ends the *shiur* with the words "v'tzarich iyun". Among the *talmidim* listening to this *shiur* was the young Chasam Sofer who would carry this question of his elderly Rebbe with him into the next century. He too poses an answer to his Rebbe's query, while quoting earlier answers such as the Baer Yaakov as well.

This unbelievable intertwining debate has been collected and arranged in an organized format. Additionally, this original *shiur* of Rav Tevele has been redacted from the manuscript as well as other related manuscript material. This fine collection is scheduled to be featured in the upcoming Pesach edition of the Achsanya Journal. The *zechus* of these *Geonei Olam* should be *meilitz yoshar* for all of *Klal Yisroel!* 

13) Shemos 22:30.

14) See Pesachim 22b and continued discussion here.

15) See Kneses Hagedolah to YD siman 29 entry 14.

16) הוא מהש"ס יידן מוכח דמקרי איסור הנאה דאם לא כן מנא לן להוכיח מבבילה דכל איסורים שבתורה אסורים בהנאה דילמא מותרים והא דאיצטרך היתר הנאה מבבילה הוא דאי לא כתיב קראי הו' אמרינן דנבילה אסור בהנאה מקל וחומר דטריפה כיון דהוה אמינא דאיסור גבי טריפה הוא של הפקר דוקא משום כך כתיב היתר בבבילה אבל לעולם בכל התורה גם כן מותר אלא דאי

דאי אפשר לומר כלל דמותר לתת איסור הנאה לכלב של הפקר

17) For example, on Pesachim 46b he quotes a question from Rav Tevele, however, in Beitza 4a he writes that he heard it from someone. In a response (vol. 7 siman 16) he clarifies that he heard it from a *bachur* who asked him in the name of Rav Tevele.

18) Rav Yaakov Berlin had passed away already in 1750.

19) Sugya of Ise ben Yehuda on 26b.

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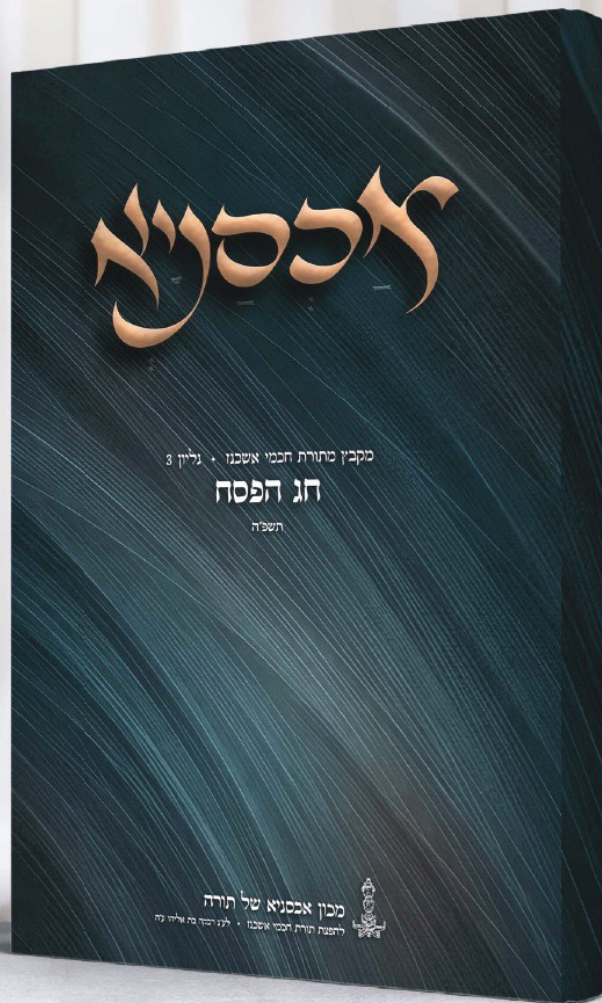
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