



HEMDAT YAMIM

יְהוָה יְחִיד

Parashat Hashavua

Vaetchanan, Av 13 5784

Harav Shaul Israeli zt"l
Founder and President

Hear, O Israel
Harav Yosef Carmel

Sefer Devarim uses the pair of words *Shema Yisrael* (Hear, O Israel) five times, one of them being the famous declaration that we say twice a day and so many Jews have uttered as the last words of their lives. The words *Shema Yisrael* were, among other distinctions, the words that Chief Rabbi Herzog used to locate Jewish children hidden in monasteries after WWII. It is therefore no surprise that the expression *mipi hashemu'ah* (see Sukka 28a, among many sources) is a reference to a tradition passed on from previous generations by leading scholars. There is no need here to expound upon the importance of traditions in Judaism.

Last time we highlighted two *p'sukim* that demonstrate the centrality of hearing even above seeing. One is Hashem's assertion that at Sinai we "heard the sound of words" instead of seeing pictures (Devarim 4:12). The other is from Tehillim (40:7-8): "You formed ears for me ... **then** I said, I come with a book written about me."

We continue along these lines with ideas from Rav David Cohen (the *Nazir*). He cites the Spanish philosophers who were influenced by Plato, who preferred the sense of seeing (aesthetics) over the sense of hearing. In contrast, the Jewish scholars of the *Mussar* Movement preferred hearing to seeing, "because the heard word is more clear and clean." The *Nazir* cites also Rabbeinu Yona of Gerona (several *Rishonim* lived in this Spanish city) in Shaarei Teshuva, who says that "the eye is very important, but the ear is more important." Rabbeinu Bachyei (Kad Hakemach 7) writes similarly and connects it to the *halacha* that one who makes someone deaf must compensate the person's full worth (Bava Kama 85a). See similar opinions in the Yaavetz (Avot 6:2) and the introduction of Orchos Tzaddikim.

The *Nazir* explains that what makes these senses special is that they help one acquire intellectual matters, which make a person complete. This is in line with the *pasuk* in Mishlei (20:12): "The ear hears and the eye sees, Hashem did both of these," mentioning the ear first. A similar phenomenon is found in Mishlei 15:31, and in Shir Hashirim 2:14, it says "...for your voice is sweet," and only afterward, "your appearance is pleasant."

We started our discussion with hearing the voice of the one G-d, and we finish our discussion with the sweet voice of *Am Yisrael*. We will continue with those themes next week.

As we have mentioned in the past, both from a biological and a linguistic perspective, the ear has a connection with balance. When extreme people do not listen to each other properly, dangerous situations develop. There is a need to find a balance between belief in Hashem and belief in the special qualities of the whole Jewish nation, as the Rabbis teach us: "All of Israel has a portion in the World to Come."

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Ask the Rabbi

by Rav Daniel Mann

A Child Removing a Suction-Held Divider on Shabbat

Question: I use a divider, which is held in place by suction cups, on our counter. I rarely moved it, but my young son now likes pulling it off and playing with it. May I allow him to do so on Shabbat, and may I return it when he is finished?

Answer: The *melacha* of *boneh* (building) classically applies to the ground and things attached to it, e.g., buildings and their walls, floors, etc. It includes acts of building that are not done strongly (Shabbat 102b). (Although “there is no *boneh* for movable objects” (see Beitza 22a), in some cases, it applies also to them – Shulchan Aruch, Orach Chayim 314:1). A counter is attached to the house and therefore is subject to strict laws of *boneh*.

Attaching things, e.g., nails, screws, to a building is forbidden, although it is not a simple question whether it violates *boneh* or *makeh b'patish* (see Shabbat 102b; Mishna Berura 314:8). When putting something together is *boneh*, removing one from the other is under the *melacha* of *soter* (Shulchan Aruch *ibid.*). Yet the Terumat Hadeshen (I,64; see Shulchan Aruch, OC 314:12) in discussing removing a knife wedged in a wall, is concerned only with the possibility that in so doing, he will widen the hole. Why isn't its removal from the wall *soter*? Also, the *gemara* (Shabbat 138a) says that one may hang a curtain on Shabbat. Since it must be attached to something that is attached to the house, why is it not *boneh*? These are among many indications that not every connection is forbidden.

We will look at three major factors in determining whether *boneh/soter* applies. 1) How firmly the addition is connected to the building – The Beit Yosef (OC 315, accepted by the Rama, OC 315:1 and Magen Avraham 315:1) says that the reason hanging curtains is permitted is that it can blow in the breeze, i.e., its attachment is weak. 2) How long it is to be connected – The Chazon Ish (OC 52:13), in arguing on the Beit Yosef's claim that the curtain's weak connection eliminates *boneh*, explains the *gemara* as referring to a case where the curtain will not remain for long. This distinction has a source in the *gemara* (Beitza 32b). It is unclear exactly how long the cutoff point is. 3) To what extent does the addition fit in as part of the edifice (stringent) or as a separate, albeit connected, entity with its own purpose (see Orchot Shabbat 8:(18); Piskei Teshuvot 313:4).

The way all the factors interact is complex. For example, something meant for a very short time or a very flimsily connection **might** be permitted by itself, whereas in more moderate cases, we **might** need and be able to combine multiple lenient factors (see Piskei Teshuvot *ibid.*).

Let us analyze your case. Contemporary *poskim* (Shemirat Shabbat K'hilchata 23:39; Orchot Shabbat 8:12) view suction cups as a **moderately** strong connector and as a candidate for it being forbidden to connect/remove. You use the divider to create a counter with separations; it has no independent utility. Therefore, grounds for leniency would have to be the length of its stay/ frequency of its removal. Even if your son takes it off frequently, the fact that this is not the intended use makes it likely that a Rabbinic extension of the prohibition, due to how the matter appears, applies (Mishna Berura 313:23).

Although a parent should not let a child who can be trained violate a *halacha* (Shulchan Aruch, OC 343:1), there is more room for leniency when he acts of his own volition and it is not fully clear it is forbidden. We have cited (see Living the Halachic Process II, C-13) the Shemirat Shabbat K'hilchata (16:(53)) as being lenient about a child's toy when we would not let an adult do so under similar circumstances. However, part of the leniency is that the Rabbis probably did not extend their prohibitions to toys, and your divider is not a toy.

In closing, you should not reattach the divider on Shabbat. Whether to allow your son to remove it depends on specifics whose permutations we cannot exhaust. If you want your son to have it, consider removing the divider, which you apparently do not need constantly, before Shabbat.

“Behind the Scenes” Zoom shiur

Eretz Hemdah is offering the readership to join in [Rabbi Mann's weekly Zoom sessions](#), analyzing with him the sources and thought process behind past and future responses. Email us at info@erezhemdah.org to sign up (free) or for more information on joining the group.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.



Igrot HaRe'aya - Letters of Rav Kook

Teimanim in Rechovot – #258

Date and Place: 16 Tevet 5670 (1909), Yafo

Recipient: The Council of Rechovot

Body: For some time now, the Teimanim (Yemenite Jews, who were workers rather than landowners in Rechovot) have been bothering me about taking care of their issues in the *moshava* (Rechovot). Although it seems to me that it is proper that the council should appoint representatives from among them to deal with the *moshava's* relations with them, it is not right to appoint spiritual leaders in a manner that is not for their benefit. It would be better and more pleasant that their adjudication and matters of their divorces and marriages, when there are any questions about them, should make use of our central services, so that their matters will be handled with greater honor.

Among [the issues at hand], they should not be allowed to take a second wife, unless they bring a letter from us (the established Rabbinat) that there is no halachic impediment to their doing so. I request of the council to inform me of the details of the matters [at hand], and what are the most important disputes they are involved in, as it is difficult for me to get clear information from them.

Regarding the dispute of the scholar Avraham, concerning his *sefer Torah*, I already decided on this matter this past summer. Three Shabbatot a month, R. Avraham will get to decide who will receive honors, and one Shabbat a month, the community will decide who receives them.

Looking for Students for Rav Kook's Future Yeshiva – #259

Date and Place: 3 Shevat 5670 (1910), Yafo

Recipient: Rav Yaakov Moshe Charlop. Rav Charlop, who became very close with Rav Kook, was an outstanding scholar in Yerushalayim and the rabbi of the Shaarei Chesed neighborhood. He later became the Rosh Yeshiva of Merkaz Harav.

Body: I have a request of you, concerning my hope for the sake of Hashem's Name, that I will succeed in establishing a group of talented young men here, in the holy city [of Yafo]. The plan is to lead them in the ways of Hashem, in true fear of Heaven with a healthy course of study, and prepare them to have an impact in matters of holiness, with an approach of rectitude of the heart, a brave spirit, internal serenity, and charm and honor in their approach to life.

At this point, we will be able to accept four young men [from Yerushalayim], if they are talented enough. Together with some talented young men on some level who are here (Yafo and/or the region), there will be a foundation to gather everyone together for this holy undertaking with divine grace. I am turning to you, my respected friend – if there are not pressing matters that prevent this, such as the current situation (ed. note- I am unaware what specifically he was referring to), to please write to me the names of some talented young men that you know, especially if they are likely to agree to come. Then we can try to bring the matter to fruition, and the merit that the masses will have will be credited to you.

We daven for a complete and speedy *refuah* for:

Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
Tal Shaul ben Yaffa

Neta bat Malka
Meira bat Esther

Together with all *cholei* Yisrael

P'ninat Mishpat

Who Pays for an Unexpected Tax? – part II

(based on ruling 83095 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) and the defendant (=def) were interested in selling pl's house to def, but the sale could not be completed because def was not yet a member of the *yishuv* in which the property is found. Def moved into the house under a rental agreement, which was replaced by a sales contract months later, when the *yishuv* approved def. After the second contract was signed, it became known that a recent change in urban planning rules made it possible to add three rather than two housing units to the house. This fact added significantly to the *mas hashbacha* (betterment tax at the time of sale), which pl lowered by negotiation to 72,672 NIS. Pl argues that for all practical purposes, the sale took place **before** the tax was levied, and it is unfair that this tax, which was levied due to a technicality caused by def, should fall on pl when only def will benefit from the regulation change. Def responds that since the original arrangement was indeed a rental, the tax falls on pl, and, in any case, there is no reason for one who is not selling to pay a sales tax. Def adds that he does not plan to build the extra unit and might not have bought the house if he would have had to reimburse pl this extra amount.

Ruling: [*Last time we saw that the first agreement was a rental, not a sale. We started considering pl's claim of mekach ta'ut (transaction based on misinformation) since pl did not know about the tax.*]

When something quantitative is missing in a sales item, so that even real estate sales can be nullified, some Rishonim say that if the seller can provide that which is missing, this is done; if he cannot provide it, the sale is void. Others say that even when it cannot be provided, the sale stands, and the price difference is returned.

Is lack of knowledge about building rights/taxes comparable to something missing/wrong with a property? Contemporary *Acharonim* dispute this matter. Rav Yehuda Silman (Hayashar V'hatov X, pp. 85-93) compares a case similar to ours to a blemish in a property. In both cases, the buyer can opt out of the sale. Along these lines, the Maharsham (III:181) says that if the seller did not know about a significant tax, he can nullify the sale. Rav Levin (Yerushalayim Rulings XI, p. 310) brings a *machloket* whether changes in rights are grounds for nullifying a sale, but concludes that if it was known that building rights were a possibility, not being aware of the tax considerations does not nullify the sale. Rav Nussbaum (Mekabtz'el XXX, p. 375), discussing a case where the buyer has to inform the seller of rights that the seller does not know about, opined that the lack of knowledge would not nullify the sale but the buyer would violate the prohibition of benefitting from mispricing and would be obligated to return the difference.

In our case, the first two opinions would say that pl can nullify the sale, and the third would say that he would be obligated to return the extra value of the property. In this case, pl is asking for less than that, allowing def to enjoy the new rights and asking only to reimburse for the fraction of that difference, to reimburse for the added tax, and he should be able to do so.

We will bring the final considerations next time.

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