

R' Noach Isaac Oelbaum, the famous author of the מנחת חן, [interesting, his name is נח, so he called the ספר "מנחת חן", חן is נ - ח and נח is ח - נ], asked us a startling question. I've asked this question to many of my אייניקלעך, if not all of them. For those who have heard it, it's good for חזרה. For those who haven't, it is an excellent קושיא, as I've been told by countless patients on whom I have sprung it.

Here's the case: A very ערליך Jew goes to sell his חמץ before פסח to John the גוי down the block. Everything is done correctly, כדעת וכדין, with a proper שטר, a גרטל, and a קנין. Then, in the middle of פסח, John wakes up and says, "Hey, you know, those Jews got it right. I like what they do. I think I'm going to follow in their footsteps," and he goes and becomes a גר.

Now, if you think this is improbable, you're right - it is improbable. But it has happened. In fact, there are two שאלות ותשובות addressing this exact case. The קושיא, of course, is that once John becomes a גר, all of his possessions - including my million dollars' worth of schnapps - are now owned by a Jew. The moment פסח ends, it becomes חמץ שְׁעָבַר עָלָיו הַפֶּסַח. Now what do we do?

The ones who want to answer quickly say, "Okay, you got to get rid of it." I respond, "That's easy for you to say. It's a lot of stuff to get rid of." R' Oelbaum hit us with this קושיא, and many people have told me, "Wow, what a great קושיא".

The answer to this קושיא, you can pull this on all your friends and relatives and neighbors, the answer to this קושיא is another question. And the question is, where does it say in the תורה that חמץ שְׁעָבַר עָלָיו הַפֶּסַח is אסור בהנאה? Not just באכילה אסור. You can't do anything with it. You can't sell it to another גוי. And the answer is, it's not written in the תורה. So the קושיא is, is חמץ שְׁעָבַר עָלָיו הַפֶּסַח אסור דאורייתא, or אסור מדרבנן? This is not a מחלוקת ראשונים. This is not a מחלוקת ראשונים. This is not even a מחלוקת אמוראים. This is a מחלוקת תנאים. It's a בפירוש משנה in פסחים, רבי יהודה says it's אסור בהנאה מדאורייתא, and the חכמים says it's אסור בהנאה מדרבנן. Why? Because it is a קנס that the רבנן imposed. If a person is such a low person that not only does he not keep פסח, but he doesn't even get rid of his חמץ before פסח - doesn't destroy it, doesn't sell it - the חכמים placed a קנס on his חמץ, making it אסור לעולם. But in this case, the man did sell his חמץ. Therefore, מדרבנן, we do not impose this קנס, and his חמץ remains מותר.

So, have a very כשר פסח, and make sure that the גוי to whom you sell your חמץ does not become a גר. Good Yom Tov!

