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A TRAIL OF TWO CITIES

Tefillat HaDerech in Suburban Driving

Adapted from a shiur by Rabbi Ari Stauber

When the lonely road gets crowded.

Hachamim instituted a prayer, *Tefillat HaDerech*, to be recited by travelers for protection from the dangerous conditions inherent in travel.

To say it, one must first be a traveler. A traveler is one who has departed his city. A person traveling within his city never says *Tefillat HaDerech*.

Even if he is leaving the city and thus qualifies as a traveler, only one who is exposed to the dangers of the road says *Tefillat HaDerech*. The twin dangers to which *Hachamim* addressed the *Tefilla* are bandits and wild animals. Because both types of creatures fear large groupings of people, they tend to avoid population centers. The *Rosh* explains that *Hachamim* identified the distance from cities at which *Listim* – robbers, and *Hayot Ra'ot* – dangerous animals, become an issue as one “*Parsa*”, which Rav Moshe Feinstein converts to 2.7 miles.

Because the *Parsa* is only a measure of danger, a place that is *Muhzak B'Sakana* – assumed to be dangerous – has no distance requirement. For example, soldiers on patrol outside city gates in wartime are vulnerable travelers the moment they step outside the gates, and they must say *Tefillat HaDerech*. Traveling in a heavy snowstorm qualifies as well.

The *Bi'ur Halacha* considers the question of one who is traveling the requisite *Parsa* from

his city, but the road to his destination is dotted with other settlements. Because the entire stretch of road is within a *Parsa* of one town or another, none of it is suitable for *Listim* or *Hayot Ra'ot* infestation, so there is no danger that would mandate the *Tefilla*. But perhaps we ought to apply a “*Lo Ploug*” – the general principle that *Hachamim* don't differentiate in the application of their enactments among situations, even where the underlying reason doesn't pertain.

The picture the *Bi'ur Halacha* paints is representative of most metropolitan areas today. In the New York suburbs, one would be hard-pressed to find a spot that isn't within a 2.7-mile radius of any settled area, so a jaunt from Monsey or Brooklyn to Lakewood, for example, would be subject to the *Bi'ur Halacha's* dilemma. So why do people say *Tefillat HaDerech* on these trips? Given that *Safek Berachot L'Hakel*, shouldn't we refrain?

Hacham Ovadia Yosef is of the opinion that as long as one rides for the duration of a *Parsa* (72 minutes) between two cities, even if the road is dotted with settlements and towns, one should recite a complete *Tefillat HaDerech* with Hashem's name. If, however, one rides between two cities for less than that amount, then one should recite *Tefillat HaDerech* without Hashem's name.

However, according to Hacham Ben Tziyon Abba Shaul, this is only if it is a remote road when cars often drive alone or are poorly lit, in which there is a greater danger, then Hashem's name is recited.

It is interesting to note that Rav Yaakov Kamenetzky distinguishes between the *Berachot* of *Tefilla* and other *Berachot*.

In *Tefilla*, it is preferable that one pray by himself rather than listen

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By Dayan Shlomo Cohen

TRADING IN FUTURES

In this week's Parasha we read about the selling of the firstborn rights by Esav to Yaakov.

Our Sages debate whether one can sell something that doesn't exist, and will only come to existence in the future (*Davar SheLo Ba La'Olam*). According to Ribbi Akiva this is possible, whereas according to *Hachamim* it is not.

There is a discussion whether the problem with purchasing a nonexistent item is because one cannot possibly have fully informed consent at the time of the transaction or is it because one can simply not exercise a transaction on something that doesn't exist (although, if one did sell a future product and it came into being, if the customer took it to himself, we assume that the seller would be interested in keeping his word and the buyer may keep it).

The *Rivash* asks how was Yaakov able to buy the firstborn rights if they didn't exist yet. He answers that this was possible because the Torah wasn't given yet. However, according to

spotlight

Did you know that the Bet HaVaad Kehilla Division has an active center in the Midwest? Under the leadership of Rabbi Dovid Aron Gross, shlit'a, a prominent community rav in Cleveland, the Midwest division fills a gaping void in the area of business Halacha and Halachic conflict resolution. In the few short months since its inauguration, the Midwest center has responded to countless requests for assistance.

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to the Hazzan and employ *Shomea' K'Oneh* (hearing the *Beracha* is like reciting it yourself). If one has the ability, one doesn't even have a choice: *Hazarat HaShatz* was established only for people unable to pray on their own, because everyone should develop a personal relationship with his Creator. Not so with other *Berachot*, which anyone can hear from another.

Therefore, in the case of a *Tefilla* we don't say *Safek Berachot L'Hakel*. One who is unsure if he said *Ya'aleh V'Yavo* in his *Yom Tov* prayers, must pray again, as Ribbi Yohanan says (*Berachot 21a*): "If only a man would pray all day long..."

Accordingly, just like with the *Shemone Esre*, if one knows how to recite *Tefillat HaDerech*,

he shouldn't rely on someone else's recitation, and there would be no problem of reciting it out of doubt.

The *Hazon Ish* maintains that this is not an issue regardless: The *Parsa distance* doesn't apply at all to automobile travel, because riding in a vehicle is inherently dangerous due to the risk of collision. In his opinion, as long as one is driving outside the city, he must say *Tefillat HaDerech*. He is challenged by the Brisker Rav and Rav Shlomo Zalman Auerbach, who argue that only dangers that existed in the times of *Hachamim* can create an obligation to recite *Tefillat HaDerech*.

May we always reach our destinations *L'Hayim, L'Simha, Ul'Shalom!*

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our previous reasons for this law it would seem that it doesn't depend

on Torah law but is rather a logical law.

The *Ketzot HaHoshen* suggests that it wasn't a real transaction, but rather Esav "removed" himself from the firstborn rights ("Siluk"), which works even on a nonexistent item.

Some suggests that it functions as a *Situmta* – a customary transaction – meaning, that if merchants have a custom to conduct business a certain way and trade in certain entities, even if according to basic *Halacha* the trans-

action shouldn't work, nevertheless, it works as per the merchants' custom. [This concept seems to prove that the problem with buying nonexistent property is only that there is no consent, and not because it is impossible.]

A modern-day example of a *Situmta* – customary transaction – is the custom of the Antwerp diamond dealers to exclaim "*Mazal U'Bracha*" to seal a deal. This would constitute a binding transfer of ownership in such a scenario.

Accordingly, the *Hattam Sofer* writes that if the custom in the marketplace is to buy future merchandise, as is the reality today, it works also in *Halacha*. Similarly, although



מסכת מנחות

This Week's Topics

RAV ARYEH FINKEL

- דף צ"א Libations in Limbo
- דף צ"ב Semicha Studies
- דף צ"ג Confessing the Sins of Others
- דף צ"ד The Shulchan & It's Accessories
- דף צ"ה Desert Departure Time
- דף צ"ו The Shulchan on Display
- דף צ"ז Assembly Required: the Shulchan on Shabbos

copyrights and trade names etc. are abstract things which have no value in *Halacha*, nevertheless, since in our day they are traded, they are considered to be a valid transaction of *Situmta*.

FROM THE BET HAVAAD HOTLINE

Interesting questions* from our halacha hotline

Our father passed away recently leaving a valuable gold seder plate for all five of us. It is sold in the stores as a seder plate for approximately \$12,000, but the gold dealers will only pay us around \$7,000 for the value in gold. One of our brothers wants to buy it off the rest of us for \$7,000 and he will give the money now. However, another brother wants to pay \$12,000 but he will pay it in installments.

What should we do?

* identifying details changed



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