

HALOCHOSCOPE TOI

Congregation Shaaray Tefilah, Pittsburgh, PA

This week's question:

May one shovel snow from a steeply sloping pathway on Shabbos when it is very slippery? May one pour salt there?

The issues to consider:

- (A) Is snow *Muktza* or *Nolad*?
- (B) Is there a problem with the act of shovelling or salting?
- (C) *Binkom Hezek* - what may be done to remove potential hazards on Shabbos?
- (D) Where may the snow be moved to?

(A) Muktza and Nolad

Anything that was not intended for use on Shabbos when Shabbos began, for a variety of possible reasons, can be *Muktza*. [See *HalochoScope* Vol I Nos 8, 11, 26, 27, 41.] *Nolad* is essentially a type of *Muktza*. When something is "born" on Shabbos or YomTov, one must assume that nobody had it in mind on Erev Shabbos since it did not yet exist, and it is therefore *Muktza*. There are many other cases of *Nolad*, besides a newly-born animal or egg, for example milk that was freshly milked on Shabbos, or ashes produced from a fire that was lit on Shabbos (by a gentile).

A further type generally considered *Nolad*, is where something existing had some drastic changes made to it. For example, if a gentile sews cloth into a garment, or a glass bottle is broken, to the point that it can no longer be used for its original purpose. [See *Kalkeles Shabbos*]

The question is raised: when water evaporates and becomes a cloud, and/or then condenses and falls as rain, do these changes count as *Nolad*? Assuming that in the case of rainfall it is considered the same water, is snow also slightly changed water, or is it something new?

Although the Talmud entertains the possibility that rainfall is indeed *Nolad*, it concludes otherwise. However, elsewhere the Talmud forbids crushing snow and ice to produce water. Some explain this as a look-alike to the *Melacha* of *Makeh Bepatish*, putting finishing touches to an article, since a new product is produced, while others consider it a Rabbinic ordinance to prevent *Sechita*, squeezing fruit. A third explanation for this prohibition is that the water is *Nolad*. Accordingly, those *Poskim* who assume that this is the

reason forbid melting other solids such as warming a piece of chicken that has a lot of solidified gravy on it, which will clearly melt. [see Eruvin 45b-46a. Beitza 2a, 8a. Shabbos 51b. Shulchan Aruch Orach Chaim 320:9 318:16 326:10, Rema 338:8 commentaries.]

Snow that falls on Shabbos starts out as a liquid and freezes on the way down, in which case it would be considered Nolad by some Poskim. However, although making ice-cubes is forbidden by some authorities for other additional reasons there appears to be a consensus that ice or snow that froze without human intervention on Shabbos is not Nolad or Muktzah. [See Tzitz Eliezer, 6:34, 8:12, 9:14 & 28, 12:34. Be'er Moshe 2:25. Shemiras Shabbos Kehilchasa 7:1-13 15:32. Machaze Eliyahu 68:2. Halochoscope Vol I No 27.]

(B) Salting and Shovelling

A more difficult issue is intentionally melting the snow by pouring salt over it. Here one is not melting it outright, which is forbidden, but indirectly making it melt by itself, similar to placing it in a warm place. According to the opinion cited earlier this would be forbidden. However, in extenuating circumstances we do not follow this stringent view. Furthermore, since there is no interest in the water produced and it will just flow into the gutter, it is likely that the Talmud did not forbid it. [See Sh. Ar. O.C. 318:16 Rema, commentaries.]

Another possible problem is the Melacha of *Boneh*, building. The salt thrown on the driveway will add to the surface. The Talmud forbids spreading salt on the surface of a courtyard although it was permitted in the Bais Hamikdash on the ramp leading to the Mizbe'ach. There are varying opinions on the severity of this prohibition; some say it is Scriptural, while others say it is usually Rabbinic and in a few cases is even permissible. One reason that it is probably no problem in our case is that the pathway is paved with concrete and the salt is not considered an addition to this kind of surface. Only if some is put into the cracks does the problem resurface, and here, too, many authorities say that it is not even Rabbinically forbidden. In addition, in the case referred to in the Talmud the salt is there to soak up excess water and practically resurface the ground, whereas the salt used for snow is supposed to dissolve and turn to a liquid. Therefore, it is unlikely that it can be considered building material. Moreover, here it is done indirectly, a *Gramma*. [See Eruvin 104 commentaries Sh. Ar. O.C. 313:10. Magen Avraham 17. commentaries. Machaze Eliyahu 67:4. Be'er Moshe 1:28. Halochoscope Vol I No 11.]

Shovelling, too, raises the issue of *Boneh*, or *Choresch*, plowing. One may not dig a groove in the ground; if this is done in a field it is *Choresch*, and in a house or yard, *Boneh*. When it is done only to remove the dirt it is "downgraded" from a Scriptural to a Rabbinic prohibition, called *Melacha She'eina Tzricha Legufa*, a Melacha not done for its true purpose. [See Shabbos 73b] Although, clearly, here the "groove" is intended, the real reason for shoveling is to remove the snow. Furthermore, the snow is not considered part

of the ground by many Poskim, and moving it is therefore not considered *Boneh*. It is also not usually used to build with. Accordingly, shovelling is not even Rabbinically forbidden.

Some Poskim forbid sweeping dirt floors on Shabbos because it will lead to smoothing the bumps which is *Boneh*, while others maintain that since it is a *Davar She'eino Miskaven*, an unintended by-product of one's actions, and might not result, it is permitted. A third opinion forbids sweeping paved floors as well. The reasons given for this are: that there is still a problem of *Boneh* in the cracks between the paving stones; that sweeping usually involves moving Muktzah; and that it is a precaution against sweeping unpaved floors that can be confused with paved floors. It is assumed that this third reason is the main one, and that it is only applicable in places where the majority of such floors are unpaved. Consequently, in our case it must be determined if the majority of driveways and paths are paved. In addition the stringent view only forbids using brooms that move the dirt itself, but not a feather-duster. A snow-shovel is not meant to move dirt and often does not rub the surface of the pathway closely. [See Tur, Sh. Ar. O.C. 337:1-2 commentaries, Biur Halacha. Machaze Eliyahu 68:2.]

With regard to *Me'amer*, the Melacha of bundling or gathering things together, which seems to apply to piling up the snow, the Talmud excludes all non-vegetables from this Melacha. However it is still rabbinically forbidden to collect things from their source, for example scraping up salt from a salt-deposit. Accordingly, making a snowball or snowman is forbidden (besides the possibility of *Boneh*). Throwing snowballs is also forbidden. However, moving the snow aside, which will form a pile, does not appear to be *Me'amer* even Rabbinically. [See Shabbos 73b Sh. Ar. O.C. 340:9 Shemiras Shabbos Kehilchasa 15:32.]

(C) Bimkom Hezek

Even if the snow is considered Muktzah, and the method of its removal Rabbinically forbidden, in hazardous situations it might be permitted. Any hazard which is Muktzah may be moved. For example, one may move broken glass off the floor. If possible it should be moved in a permissible way, such as indirectly. Other Rabbinical prohibitions are only allowed when the safety of a group is threatened - *Hezaka Derabim*. This need not be in a public place; even in a private home where a number of people will be walking, one may remove the hazard provided it does not involve a Scriptural violation. This applies to visible, as well as hidden hazards. Here, too, one should make an effort to use a permissible method. [See Shabbos 42a Sh. Ar. O.C. 308:6, Rema, 18, Biur Halacha. 334:37 commentaries. Shemiras Shabbos Kehilchasa 18:23.]

(D) Where the snow is put.

If there is an Eruv, there is no problem with letting the snow or its melt run into the street. Where there is no Eruv it is possible that if one does not actually put it into the street but causes it to go there by itself, he is not in viola-

tion of Hotza'ah. It should not be piled on the sides of the path where there is earth underneath; this causes the ground to be watered, albeit indirectly, and is considered a sub-category of *Zore'ah*, planting. [See Eruvin 88a-b Sh.Ar. O.C. 357: 336:3, commentaries.]

In conclusion: when the snow poses a hazard one may remove it. Some authorities feel that shovelling displays a lack of reverence for Shabbos; they prefer salting. In any event if a gentile is available, he should be given the job. If no gentile is available it may be done inconspicuously, to avoid arousing suspicion of Chilul Shabbos, and with a *Shinuy*, in an unusual fashion.
© 1993 Rabbi Shimon Silver

ANNOUNCEMENTS

SCHEDULE:

SHABBOS SHACHARIS	9:00 am
SHABBOS MINCHA	4:15 pm
SHACHARIS SUNDAY	8:00 am
SHACHARIS MON - FRI	7:00 am
MINCHA SUN - THURS	4:43 pm
CANDLE-LIGHTING VAYECHI	4:40 pm

SHIURIM:

GEMORA Makos-	SUNDAY 7:15 am
HALACHA B'Iyun-	MONDAY 8:30 pm
HILCHOS Shabbos	SHABBOS 8:15 am

MINCHA EREV SHABBOS:

TAANIS ASARA BETEVES Begins: 6:18 am Ends: 5:44 pm

MINCHA 4:30 pm sharp

- Junior Minyan for boys on the third floor beginning at 9:00.
- Playgroup with refreshments for preschoolers and first-grade girls on the second floor.
- Shalosh Sudos this week is a Sheva Brochos for Lenny and Erel Plotkin. Mazel Tov.

Sunday December 19, the annual Florence Rubin Memorial Lecture will take place in the Kollel at 7:00 pm. Speaker: Rabbi Mordechai Willig of Riverdale and Yeshiva University. Topic: The Jewish Family.

This issue of HALOCHOSCOPE has been sponsored by Danny Butler in honor of his wife on the occasion of her anniversary which was on Thanksgiving.

Anyone interested in subscribing to Halochoscope may send their name and address, along with a check for \$36 made out to Congregation Shaaray Tefilah, to the address below. Please note in the "memo" of the check that this is for a subscription to Halochoscope.

Comments and suggestions are welcome and can be addressed to:
Rabbi Shimon Silver
Congregation Shaaray Tefilah
5741 Bartlett Street
Pittsburgh, PA 15217 (412) 521-5419/9911