



May one include in his *Mishloach Manos* a bottle of *Esrog* liqueur made from an *Esrog* of *Shvi'is*, the seventh agricultural year?

The issues:

- (A) Drinks sent for *Mishloach Manos*
  - (B) Use of *Shvi'is* produce and its holiness
  - (C) Using them for *Mishloach Manos*
- (A) *Drinks for Mishloach Manos*

The term *Manah* used by the Megilah to obligate us in the Mitzvah of *Mishloach Manos* is normally used to describe a portion of food. Thus, the ideal *Manah* suggested is a portion of meat. This is called a *Manah* by the Torah. The Poskim maintain that in keeping with the description of a *Manah*, the item must be food. It should be cooked, or ready to be eaten. [This is disputed by some, who cite a Scriptural reference to *Manah* describing raw meat.] *Manah* is not used to describe a drink. This would imply that one does not fulfill his obligation by sending drinks. However, the Poskim maintain that drinking is the same as eating in regard to many Halachos. Accordingly, they say that one may send two portions of drink or one of food and one of drink, if he so wishes. A proof is cited from a passage in the Talmud. The Talmud records an incident in which meat and wine were sent for *Mishloach Manos*. This implies that the term *Manah* can apply to drinks as well. In fact, one interpretation of the passage is that in it one sage introduces this novel idea to another sage. It is then accepted as a conclusive ruling. However, there is another version to this passage. According to the alternative reading, on the contrary, only *Matanos La'evyonim* is fulfilled by giving wine (if the recipient is poor). According to this version, the original gift was only wine, and the sage informs his colleague that it is inappropriate for *Mishloach Manos*.

We follow those who allow drinks to be sent. However, it would appear that water would not be considered a drink for purposes of *Manah*. It is a mineral and is not regarded as regular food for many Halachic applications. The same applies to salt. It is also possible that the Talmud allows wine specifically, since it is considered a food, so much so that the notion is entertained that it is the same as bread. It is also possible that the kind of

drinks referred to are substantial in some other way. For example, they might be pure fruit juices, milk, or alcoholic beverages. These are not necessarily taken simply to quench thirst, but to satisfy a hunger of sorts as well. Maybe soda pop or other watery beverages (albeit flavored, sweetened and colored) do not constitute a Manah.

In our case, however, the though not usually drunk in large usually drunk indicates that it is quenching drink. It would then might qualify it as a Manah. [See



drink is an alcoholic beverage, amounts. In fact, the amount of it indeed more than a thirst have the additional value that Megilah 7a-b, (Rach, Maharsha) Poskim. Tur Shulchan Aruch Orach Chaim 695:4, Taz, M.A., Pri Chadash, etc. Mikra'ei Kodesh Purim 38. (Kuntres Tavlin by this author.)]

### **(B) Use of Shvi'is produce and its sanctity**

Known as the Sabbatical year, the seventh year of the Torah agricultural cycle is a Shabbos for the land. Work is forbidden on the land in Eretz Yisroel. Nowadays, it is forbidden Rabbinically. The land rests, and we may not deal commercially with its produce. This is to demonstrate our trust in Hashem being our Provider. A number of Mitzvos deal with work on the land and a few on the use and sanctity of its produce and its disposal. The produce that grows anyhow may be taken from anyone's property. It is considered *Hefker*, ownerless. It may be eaten, but must be treated with care. The produce has a measure of sanctity and may not be disposed of carelessly. Any part of the food that can be eaten has this sanctity. Thus, many peels and shells are not disposed of in the regular garbage, until they have reached an inedible stage.

One may not deal in Shvi'is produce commercially. It is even forbidden to sell it for the purposes of a Mitzvah. If it is indeed sold, the money exchanged for it assumes the same sanctity. It, too, must be treated with care and spent on certain things. The items purchased with it, in turn, assume *Kedushas Shvi'is*. It should not be removed from Eretz Yisroel. One reason Esrogim of Shvi'is are permitted to be exported is that they are not being transported for commercial reasons, but for the Mitzvah. Some people return them after Sukos to prove that they were only needed for the Mitzvah. Others eat them, since once they have been removed already, the best thing to do is to eat them.

When the fruit is no longer available in its natural form in the fields for wild animals to eat (i.e., its season is truly over), there is a Mitzvah of *Biur*. According to some, based on such indications in the Mishna, this means to destroy all remaining such fruits in one's possession. Others maintain that all

that is required is to dispossess oneself of it. First one shares out as much as he can to friends and family members. Then the remainder is left out for anyone to take, *Hefker*. After the public has been given its chance, the original owner may reclaim it. If *Biur* was not done, most Poskim maintain that it is forbidden to eat it, but it retains *Kedushas Shvi'is*. There is a Talmudic debate on doing *Biur* outside Eretz Yisroel. This could be an additional reason for the practice of returning the Esrogim to Eretz Yisroel. Each food has its own time of *Biur*, based on its presence in the fields.

Like all forbidden foods, *Shvi'is* produce cooked with other food imparts a *Taam*, flavor, of the restricted food. The mixture then assumes the properties of the *Shvi'is*. Thus if the Esrog is cooked with a lot of sugar and a syrup is made of the water it was cooked in, the syrup has the status of the Esrog. If this syrup is then mixed with alcohol, the liqueur resulting is treated with *Kedushas Shvi'is*. This is especially true if the entire purpose of the mixture is to retain the Esrog flavor. [The Esrog itself is eaten on Tu B'shevat by many people.] It requires *Biur* at the time that Esrog has *Biur*, and must be treated with the respect of *Kedushas Shvi'is*. It may not be dealt with commercially either. [See *Mishnayos Shvi'is* 1-8, *Tosefta*, commentaries. *Shmita Kehilchasa* esp. 3.]

### **(C) Sending Shvi'is produce for Mishloach Manos**

If the time of *Biur* has passed, those who require destruction, such as burning the produce, would consider the produce forbidden to benefit from. The usual measure of permissible or forbidden benefit is *Kidushin*, the first stage of Jewish marriage. The groom gives the bride something of value, and says that with it he takes her as his wife. Technically, he "acquires" her as in a monetary transaction. This only works if he owns the item of value. If it is forbidden to benefit from, he does not own it to all intents and purposes. The Talmud says that if one used produce of *Shvi'is* to do a *Kidushin* transaction it is effective. Presumably, this must be before the time of *Biur*, according to this view. According to the other view, we will assume that after *Biur* has been done legally, he may retake the item from *Hefker* and use it at his own discretion, for *Kidushin* or any other use.

The issue at hand is a rule that one may not discharge an obligation with money or goods that do not belong to him, even if there is no obvious owner. Thus, says the Talmud, one may not use *Maaser*, produce or money set aside for one's tithes, or *Shvi'is* or money exchanged for *Shvi'is*, to pay off a debt. The same applies to any monetary undertaking, such as tuition for one's children's Torah study, or a Halachic obligation. Thus, one may not pay *Matanos La'evyonim* from his regular *Tzedaka* money, once it has been dedicated to the

fund. [See last issue.] The Poskim apply the same rule to Mishloach Manos, since it, too, is an obligation. However, if one has already fulfilled the basic Mitzvah by sending one Mishloach Manos, he should be permitted to send additional sets from Shvi'is. In addition, if he wishes to add Shvi'is to the basic two Manos, he should be allowed. [He must inform the recipient that it has Kedushas Shvi'is.]

The Talmud adds, one may not pay *Gomlin*, repayment of a voluntary gift. The typical example in Talmudic times was the equivalent of a modern bridal shower. Anyone receiving gifts for his own wedding was expected to return the gesture. The Poskim maintain that the same is true where the accepted practice is to send Mishloach Manos to anyone who sent one them.

The reason for this seems to be the restriction on commerce. This is derived from the same words that restrict disposal, *Le'achla*, for you to eat, and not to destroy, and not to deal with commercially. Though one may give the produce as gifts to others to eat, he may not use them in a commercial way. This includes paying off obligations with them. Having paid off his obligations with them, he has gained financially from the Shvi'is produce. Accordingly, even though it is for a Mitzvah, one may not use the produce for his Mishloach Manos obligation.

However, some Poskim raise the possibility that it is permitted. They maintain that while Maaser may not be used, this is not due to its sanctity, but to its not belonging to the sender. It belongs to the Levite or the poor. Shvi'is belongs to the sender. He may eat it himself, and he is allowed to give it away as a gift. The distinction can be shown by comparing the two in regard to Kidushin. While one can not effect Kidushin using Maaser, when using Shvi'is produce it takes effect. A Levite or poor person can use the Maaser he receives for Kidushin. Thus, it is evident that Shvi'is is considered belonging to the sender. Nonetheless, the lenient view is not conclusive. [See References in Minchas Yitzchok X:57, Piskei Teshuvos 695:10, notes.]

In conclusion, one should not send the Esrog liqueur as the main Mishloach Manos, (☹) but may add it to the basic two foods. (☺)

*Matanos La'evyonim is being collected as usual for Keren Y and Y. Please call Rabbi Silver before 11:00 p.m., Monday night.*

**A Freilichen Purim!**