

O.C. *siman* 677 : The Halachos of a "Guest" concerning Chanukah Candles**The development of: *Se'if* 1**

The Shulchan Aruch's ruling for *se'if* 1 (with Rema) follows the development of five subjects:

THE BASIC PRINCIPLE OF BEING A "GUEST" ON CHANUKAH (i.e. the difference in whether one is married)

The Gemara (*Shabbos* 23a¹):

Rav Sheishes said: A "guest" is obligated in the Mitzvah of a Chanukah "candle".¹

R' Zeira explained: At first, when I was in yeshiva², I would "join [in partnership] with coins"³ with my host. After I got married [and sometimes I was a guest in order to learn Torah (Rashi)], I said: "Now I certainly don't need to 'join', because they're lighting for me in my home."

The *Mishnah Berurah* brings from the Maharshal^o that for one to be *yotzei* because "others are lighting for him", it depends on his own *knowledge* that they're doing that (i.e. the objective fact of them *doing* it is not enough by itself), because without that knowledge - the automatic assumption is that he only wants to be *yotzei* with his own lighting, "and so by natural consequence, the Rabbinical decree is applied to *him*." (In the *Sha'ar HaTziyun*, he brings the implication of the *Terumas HaDeshen*^o, that it is sufficient even if all he knows is that his wife or household *know the Halacha* "that the wife must light in her home - because the Mitzvah is incumbent on who[ever] is [actually] in the home." In any case, the *Mishnah Berurah* concludes with the position of the *Magen Avraham*^o, that one does not say a *bracha* when he lights because of the Maharshal's stringency.)

[The following sub-subjects need to be clarified: Whom are we calling a "guest"? How does he "join"? In what circumstances could there be "suspicion", if a guest wouldn't light on his own? These subjects will be discussed next. (In addition, more details about "others lighting for him" will be in *se'if* 3.)]

It should be noted now, that it's very possible to say that any guest *can* light "separately"; i.e. the idea of "joining" or "falling back on the household" could mean only that this is all he's *obligated* to do.

We can ask: Does the idea that "they're lighting for me in my home" only work between a wife and a husband? (It certainly seems that either way, if the one "back home" is anyone other than a spouse, then the one "away from home" will have the "enhancement" of "everyone in the household lighting separately" [see above 671:2]). Also: Does it work when the spouses are far enough apart to have a significant time-difference between them? [i.e. what if when it's *night* where *one* is, it's *day* where the *other* is?]

¹ The word "*ner*" is traditionally translated "candle", but the earlier sources generally do not use the word to refer to solid candles. Rashi explains that in the days of the Gemara, earthenware "lamps" were used; his full description is brought above (671:3).

² source's wording: "the house of the teacher".

³ source's wording: with "*perutos*" (which are small coins; see below under "what is this joining?").

WHO IS A "GUEST"?

The *Mishnah Berurah* writes (here and also above [see the end of 671:2]) that anyone who is permanently "eating at the head of the household's table" [i.e. they are provided for by him] (like a boarder or servant) is *automatically* included in the household and does not need to "join". (Of course, that's only referring to the basic one-candle-per-night obligation, but everyone certainly lights separately if they want to do the "enhancement" of "a candle for each household member" [again, see above 671:2].) Accordingly, the Halacha of a "guest" is referring to someone who is *not* "eating by him" in a permanent way, and that is why the guest is *not* part of "a candle for a man and his household" (without the "coins"). However, in the *Bi'ur Halacha* and *Sha'ar HaTziyun*, he brings (and supports somewhat) the position of the *Pri Chadash*⁴, that anyone with any aspect of being a guest at all⁴ has to "join" [the *Bi'ur Halacha* backs this especially strongly with respect to yeshiva students at least, but on the other hand, above (671:2) he does not mention the *Pri Chadash's* stringencies at all].

The *Bi'ur Halacha* brings a disagreement about two independent "householders" who share one common-room residence; some hold they can "join" together (just like guests "join" with their hosts), and some hold they have to light separately (i.e. and the leniency of "joining" was only granted to someone who's *really* just a "guest").

If someone eats in one place and sleeps somewhere else, we will see soon that the eating place is considered where he's living, and therefore he can have the Halacha of a "guest" *there*. However, the *Mishnah Berurah* writes that this is only if he is eating there on a regular basis [for example, if has no "real home" of his own, or he does but it's in a distant city]; but if someone is merely eating by someone else "now and then" - and he has a *true* home in the same city - then he is obligated to light in his true home. (The *Mishnah Berurah* explains that if he has a wife who's home anyway, then he could ask her to do the lighting and represent him, but "Mitzvahs are best done by oneself and not a representative" [see "Principles"].) On the other hand, he refers to the *Bi'ur Halacha*, where he adds (from the *Pri Chadash*): "But if he and his entire household are going to the house of his father or his father-in-law [to live there] in a permanent fashion for the eight days of Chanukah, [then] the issue is clear: Since he is dining and sleeping there all the days of Chanukah - even if during the day he eats at home in a 'momentary' way - [still] he lights only by the house in which he eats and sleeps at night [which apparently means he's a 'guest' there]; for since there isn't a [single] person at home - for whom would he light [there]? - and all the more so 'nowadays that it's recognizable [basically only] for the members of the household' [see above 671:5]."

To summarize: (1) Anyone who is *permanently* "eating at the head of the household's table" does not *need* to "join" (except according to the *Pri Chadash*, who holds that anyone with *any* aspect of being a guest has to

⁴ I do not have a clearer description for this. It seems clear that family members living at home are obviously not "guests", and the greatest "innovation" of the *Pri Chadash* is to consider as a "guest" a son who at least *sleeps* away from his father's house. On the other hand, we will see soon that where one sleeps is not considered to be an indicator of where one lives at all. A suggestion: Perhaps the *Pri Chadash* is referring to (1) someone who *shows signs* of considering "somewhere else" as his "home" [and *that* would be the significance of the son sleeping elsewhere], or (2) anyone who is totally independent from the "head of the household" *financially*. [If so, then even when a foster child is not fully adopted (for example, the public may still be responsible for the child in some respects - some perhaps even concerning the child's support), nevertheless the *Pri Chadash* may agree that the child would not have to "join", as long as nowhere *besides* his foster parents' house could be considered a "real" home for him (thus proving that *this* must be his only real home), and the child is also not completely independent financially.]

"join"). (2) If two "householders" share a room, they might *have* to both light (and not just "join"). (3) Someone "eating by someone else" is only a "guest" if he's there on a regular basis - but if it's merely "now and then" he is obligated in *somebody* lighting candles in his *true* home. (4) If an entire household "goes away" for all of Chanukah, then even if their home is used for "momentary" eating during the day, their obligation is still only by their "host" [i.e. they are "guests"].

In the contemporary world, there are a number of kinds of "guest-like" arrangements, such as students studying away from home, hospital patients, and hotel lodgers. There are two main aspects to be discussed about them: First of all, in many cases, the "guest" eats in a different room (if not in a different building) from where he sleeps; how *that* affects where he lights is discussed below after the subject of "if someone is 'only eating' by a friend." The second major aspect is that so far we have only discussed being a "guest", whom the house does not belong to at all, or "sharing" a room, where both partners are complete owners; but what is the Halacha where payment is being made in exchange for the living space (and food⁵)?

So the Maharsham^o, in a responsum (4:146), writes that if someone paid for a cabin on a train (on which he's riding through the night on Chanukah), then he has to light there, "because it's considered that he has rented a home for himself." It sounds like he's saying that this makes the person like an owner, as far as Chanukah candles go. [Actually, that case involves the issue of whether Chanukah candles can only be lit by a place which is considered a "house". The Maharsham mentions that Rashi implies that one does not light on a ship [as quoted above (676:3)], which seems to be no different than a train, but he points out that Rashi could be referring to a ship with no *roof*. (It also seems that one could hold Chanukah candles *don't* need a "house" at all,⁶ and Rashi may be referring to a case where it's too windy {or dangerous} to light on the ship.)]

Note: Even if "renting is considered owning," it has to be clear whether the agreement between the school/hospital and whoever is paying for it is really comparable to renting. On the other hand, even if "renters are only considered like guests," perhaps "guests" have to light on their own if their "host" is in fact not there lighting in person (such as if the "owner" lives elsewhere or is non-Jewish or the like, as is common in such cases).

[Two *minor* aspects of these cases: (1) Maybe a "guest" doesn't need to light if a *parent* (or even a different family member) lights for him at home! (This was mentioned after the previous subject.) (2) Even if such a "guest" is *not obligated* to light (because of the above), it still could be appropriate for him to light anyway, because of "suspicion" (based on what we learn below by the subject "other aspects of suspicion").]

⁵ This is not to imply that one could be considered anything more than a guest, just by merely paying for his food. [One authority (the "*Gan HaMelech*", ~1700) even holds that R' Zeira (from our Gemara) paid for his food, and that the only reason he had to formally "join in partnership" was because he always paid for his food in an itemized fashion, whereas if a "guest" pays a lump sum for "all expenses of hosting me", then the "partnership" for the Chanukah candles is *automatic*. (The *Mishnah Berurah* ignores this position.)] Our point is merely that once one is paying for his living space, then payment for the food might *also* be a factor.

⁶ [See the *Orchos Chayim*^o quoted below in *se'if* 3; and see the footnote near the "end of the responsum" of R. Moshe Feinstein (above 676:3), where Tosafos in *Sukkah* is cited.] Note: If a "house" is not needed, then we will need to know what conditions in fact *are* required.

Rav Shmuel Vosner^o (*Shevet HaLevi* 8:158) discusses lighting on one's day of departure itself:

I have no doubt that the Halacha depends on where one's residence is when the time for lighting Chanukah candles arrives. As far as the Halacha is concerned, it makes no difference if he is going to be leaving for elsewhere that very night - or even if he is going to be leaving right away.⁷

[*We can ask*: Does this apply even if one is moving to a new permanent residence, and the movers start taking his furniture (etc.) to the new place before the lighting time? In addition, what if someone gets married on a Chanukah evening, and the bride and groom are therefore permanently leaving their previous homes, but when the lighting time comes - they are at the wedding hall? (Lighting at the wedding hall itself should depend on the mechanics of a place where one is "only eating", discussed below.)]

WHAT IS THIS "JOINING"?

The Rambam says it means to join [in partnership] "in the oil", and the *Shulchan Aruch* clarifies [as quoted soon] that this in turn refers to "the oil of the Chanukah candle". Still, what exactly is done? So, the *Mishnah Berurah* quotes "anonymously" the position that all that's necessary is for the "guest" to become a partner in the oil (monetarily), either by paying for it (at least a "*perutah*"⁸, as our Gemara implies), or by the "host" granting it to him [using one of the valid methods of acquiring (*Sha'ar HaTziyun*)].⁹ He also brings a position that [in addition to the above¹⁰], beyond the regular amount of oil which the "host" would use (such that it will burn for the right amount of time [see above 672:2]), he has to add some more because of his guest [but a little is enough - he doesn't have to *double* the necessary amount (*Sha'ar HaTziyun*)]. (In the *Bi'ur Halacha*, he adds that one such "act of acquisition" is enough in order to "join" for all eight days.) Finally, the *Mishnah Berurah* brings from the later authorities that the "guest" has to hear the *brachos* of the lighting. [The *Mishnah Berurah* brings a similar Halacha above (675:3); see above (676:3) for an analysis of it.]

A "GUEST" WHO HAS "HIS OWN SPACE"

The Rambam concludes the Halacha of a "guest" with the words: "And if he has a house of his own, [then] even if 'they light for him in his home'¹¹ - [still] he has to light in the house he's in, because of the passersby." The Tur^o says the same thing, except that he calls it "if he has an *open entrance* of his own" (and he clarifies the point that for such a person, "joining" is not enough). The *Beis Yosef* explains all this with the reason "because of suspicion", which is

⁷ R. Shmuel Vosner adds that "nowadays", when one can light with a *bracha* even late at night [as explained above 672:2], then if someone expects to reach his "true" home later that night, it could be that he should in fact wait until that point to light. [The *Aruch HaShulchan*^o says the same thing about someone "without a house" (the issue we mentioned in the middle of our previous paragraph), who expects to reach a "true" home later that night.]

⁸ The *Shulchan Aruch* (volume *Even HaEzer* 27:10) quotes the Rambam's definition of the value called "*one perutah*", and that is the value of pure silver with the weight of a half a grain of barley.

⁹ In the *Bi'ur Halacha* he mentions a kind of "partnership" which is *not* usable here - a deal that one of the two partners will light one day [i.e. with oil that is entirely his own], and the other will light the next day, and so on back and forth.

¹⁰ The *Magen Avraham* brings this stringency from the Bach, who makes it very clear that it's "in addition".

¹¹ The *Sha'ar HaTziyun* writes that there's a disagreement about this point in the *Me'iri*^o, but he says that obviously one cannot rely on the lenient position against the Rambam and the Tur.

something we have already learned about above (671:8), under the heading "lighting by every entrance because of suspicion." (In the *Sha'ar HaTziyun*, he points out that over there, one does not have to be concerned about "suspicion" if the "other entrance" [i.e. the one that already has a Chanukah candle] faces the same direction as the "extra" one. To address this, he explains in the *Mishnah Berurah* that here it's different - and suspicion can result even in *such* a case, since people hear about the fact¹² that the "extra" room *does* "belong" to a separate person [i.e. the "guest"].) [Note: There is more to come about "guests" lighting separately because of "suspicion".]

The *Bi'ur Halacha* mentions the case of a guest who does not have an entire "room" - but rather just a "corner" - and in that corner he has his own private entrance. The Halacha about this case would seem to depend on the different wordings of the Rambam [who required a "house" (which can't mean less than a room)] and the Tur [who only mentions the entrance]. The *Bi'ur Halacha* brings a disagreement, and does not give a clear ruling.

IF SOMEONE IS "ONLY EATING" BY A FRIEND

The *Beis Yosef* brings from a responsum of the Rashba^o (1:542) that someone who is "only eating" by a friend has the obligation of a "guest", - no more [i.e. the "eating place" is considered "where he really lives", so his "sleeping place" is exempt from lighting] and no less [i.e. he *does* have to "join" - see above by "who is a 'guest'?" regarding conditions for this]. (He brings in the name of the *Orchos Chayim* that the same goes for an independent¹³ son eating by his father, and a son-in-law by his father-in-law, "when they do not have a home such that 'they' [i.e. the households of their "own homes"] might light for them.")

On the other hand, the Tur^o writes in the name of the Rosh^o that such a person has to light in the "sleeping place" because of "suspicion".¹⁴ [Note that he does not disagree about the "main living place" being where one eats.] The Tur continues to quote: "And even for us (for we light indoors - and presumably the members of the courtyard know that he eats somewhere else), there's still 'suspicion', because the [more remote] neighbors pass to and fro in front of the [sleeping] house's entrance - and they see that he does not light."

The *Darkei Moshe* already explained above [in 671:8 under the subject of "nowadays"] that in the Tur's times "suspicion" was still relevant *only because there was still some visibility to passersby*, but in his own time lighting was in the "winter house". Consequently, here too he says that "nowadays" even the Rosh could agree that the above "suspicion" does not apply. Accordingly, after the *Shulchan Aruch* rules like the Rosh [as quoted soon], the *Rema* writes that the *minhag* is to follow the position of the Rashba (not to be concerned for "suspicion" anymore). The *Mishnah Berurah* writes that the later authorities indeed agree with the lenient reasoning of the *Darkei Moshe*. [This may of course not apply to *our* "nowadays", as noted above (671:8).]

¹² This logic resembles that of the *Kol Bo*^o, discussed above (by 671:8).

¹³ I.e. "he's not 'eating by' his father's table." [If his father *is* providing for him (in a permanent way), then he is included in "one candle for a man and his household" except according to the *Pri Chadash* (*Sha'ar HaTziyun* - see above by "who is a 'guest'?").]

¹⁴ The *Mishnah Berurah* points out that "suspicion" calls for lighting in the "sleeping place" regardless of how permanent his presence in the "eating place" is.

So the complete ruling of the *Shulchan Aruch* for *se'if* 1 is: **A guest for whom others are not lighting "at home" has to give a "perutah" to the householder [who is "hosting" him] to join [in partnership] with him in the oil of the Chanukah "candle"; [On the other hand,] if he has an open entrance of his own - [then] he has to light by his entrance, even if that "house" is only set aside [for him] for sleeping - and he eats at the table of the householder [who is "hosting" him], and the same goes for a son who is eating by his father. The *Rema* adds: [However,] some hold that nowadays - when we light totally indoors - he lights [only] in the place where he eats, and that's the *minhag*.**

As we began discussing above (by "who is a guest?"), students studying away from home, hospital patients, hotel lodgers, etc., in many cases eat in a different room (if not in a different building) from where they sleep. The issues about whether such "guests" need to light *at all* were mentioned above; the question *here* is: Assuming they *do* light, *which place* is appropriate?

(1) Rav Yitzchak Yaakov Weiss^o [*Minchas Yitzchak* 7:47] says that the principle of "following the place of eating" comes from the Halachos of *Eiruv* [for example, see O.C. 370:5], and he shows (at length) that there is no proof from there that the principle applies when the two "places" are in the same building.

Given that, he says that students whose eating place and sleeping place are in the same building should not have to light in their dining room; rather, he says, they should light wherever the candles will be seen more (because that publicizes the miracle better). [We ourselves can suggest that the same should apply to the other, similar, cases we're discussing.]

(2) Rav Moshe Feinstein^o [*Igros Moshe* O.C. 4:70:3 & Y.D. 3:14:5], possibly based on similar reasoning, says they should light in whichever place is "more set aside for the individual" [i.e. probably the sleeping quarters, and in cases where one room is shared, preferably by the individual's own bed].

(3) Rav Moshe Shternbuch^o [*Teshuvos VeHanhagos* 2:343] reports a ruling that the preferred choice is to light in the "sleeping place" - but also to eat one or two meals there so that it can be considered his "eating place" as well; and he also brings a different authority who ruled that the "eating place" is indeed always the place to light.

[(4) As we learned above (671:5), the most basic place to light is at the outer *entrance* to the residence. The above rulings seem to assume that one cannot light there. Perhaps they are talking about areas where *no one* lights outdoors [see above *ibid.*]. Alternatively, it could be that one cannot light at the entrance of a building if that entranceway is not part of "his residence" at all. In that case, in the case of a school, if the financial arrangement is such that the students are considered (at least technically) to be "joint owners" of the entire *building*, then perhaps they *should* light outdoors.

Of course, *all* the above is assuming that the locations mentioned have been deemed safe for lighting candles, by the relevant supervising authorities.]

OTHER ASPECTS OF "SUSPICION"

As mentioned, the Rambam expresses concern only by someone who has "his own space" (and that's how the *Shulchan Aruch* and *Rema* rule [as quoted above]). However, the *Magen Avraham*^o brings the Maharil^o, who says that "nowadays that we light indoors" [as discussed above 671:5], *all* guests have to actually *light* to prevent "suspicion"

[because the household sees this person (who is not part of "one candle for a man and his household", as explained under "who is a 'guest'?" above) - and they wonder why they do not see him lighting¹⁵]. In addition, the *Darkei Moshe* writes in the name of the *Mahari Veil* that nowadays everyone does the "enhancement" of having everyone in the household light [as explained above 671:2], and consequently anyone who does less than that is also cause for "suspicion", which would similarly obligate all guests;¹⁶ but the *Darkei Moshe* himself rejects that, because the *Sefer HaMinhagim*^o says that one can "join" even "nowadays".

Now, the *Bi'ur Halacha* points out that the Maharil's saying that "our lighting indoors" is a reason for *more* "suspicion" seems to be the exact opposite of the reasoning of the *Sefer HaTerumah*^o [brought above 671:8] that "our lighting indoors" is a reason for *less* "suspicion". Therefore, he finds the *Rema* here difficult, because if he holds like the Maharil then he should write here to be *more* stringent "nowadays" (i.e. even for "guests" with *no* "space of their own"), and if indeed he rejects that [as would seem clear from what he said in the *Darkei Moshe*] and holds instead like the *Sefer HaTerumah* [like he in fact ruled above], then why doesn't he write here that "nowadays" there is no concern of "suspicion" (i.e. even by "guests" who have an *entirely* separate room of their own)?

In practice, in the *Mishnah Berurah* he quotes the *Magen Avraham's* "compromise", that one only needs to be stringent if he does have "a room of his own".¹⁷ But the *Mishnah Berurah* *himself* writes that if the "guest" has a candle, it's more correct for him to *always* be stringent and light separately - rather than to "join"; and it's certainly better to light separately - even just a single candle¹⁸ - than to rely on "others lighting for him at home" (since that would also create the complication of possible having to say the *bracha* of "seeing" [discussed below in *se'if 3* - see there]).

SAYING BRACHOS WHEN LIGHTING BECAUSE OF "SUSPICION"

The *Mishnah Berurah* writes that in a case where "even without the suspicion" he would have had to "join", then once he's lighting on his own (even though *that* is only because of "suspicion") he's clearly *not* "joining", and therefore his lighting is the only thing that's accomplishing his Mitzvah, so he can say the *bracha*. Conversely, in a case where someone would not have needed to do *anything* "if not for the suspicion" - because "others are lighting for him at home", the *Mishnah Berurah* brings a position that his lighting is considered "only because of suspicion" -

¹⁵ The *Mishnah Berurah* implies that the reasoning of "nowadays we light indoors" only creates "suspicion" for someone relying on "others lighting for him at home," and not for someone who "joins" with the host. It seems that such a reading is only possible after the *Bi'ur Halacha* points out that the Maharil himself actually wrote *two* reasonings (as explained in a footnote below) [so then the *other* reason can be why he rejects "joining"]. Still, I have not seen anyone who holds in *practice* that "nowadays", having "others light for him" creates "suspicion", but to "join" does not.

¹⁶ Actually, the *Magen Avraham* says that the *Mahari Veil's* reason is "our lighting indoors" (like the Maharil's reasoning, and *not* like what the *Darkei Moshe* says the *Mahari Veil* said). The collected "Halachos of the *Mahari Veil*" (31) confirms the *Magen Avraham's* version. Ironically, the *Bi'ur Halacha* points out that from the Maharil's writings [responsum 145 and "*Minhagim* of Chanukah" no. 8], we see that *he* "adds" the reasoning that "nowadays everyone in the household always lights." In any case, it seems clear that the *Darkei Moshe* intends to reject *any* reason for "all guests needing to light" - in favor of the *Sefer HaMinhagim* which says clearly that one can "join" even "nowadays".

¹⁷ In the *Bi'ur Halacha*, he brings one explanation that here the phrase refers to "a separate eating room" even *without* a "separate entrance", but he does not clearly adopt that explanation.

¹⁸ The wording implies that in this case, even the trouble of *getting hold of the candle* is called for.

so he does *not* say the *bracha* [like what we learned above in 671:8] (and in the *Sha'ar HaTziyun*, he makes it sound like a "doubt about *brachos*" [see "Principles"]).

IF MANY PEOPLE LIVE TOGETHER IN ONE COURTYARD

The Tur^o writes in the name of "Rav Sar Shalom" [one of the *Gaonim*]:

*In the case of many people who live in one courtyard: The strict Halacha is that they join [in partnership] in the oil, and they are all yotzei with one "candle". However, as an "enhancement" of the Mitzvah, each one lights for himself by the entrance of his house. [On the other hand,] if someone opens a [separate] gate for himself - he is **obligated** to light [there], because of "suspicion".*

[The authorities do not seem to deal with this subject; I don't know why.]

The development of: **Se'if 2**

"A MINOR WHO HAS REACHED [THE STAGE OF] 'TRAINING' LIGHTS"

The *Beis Yosef* quotes the *Orchos Chayim*^o as saying those words - and as explaining: "because it's a Rabbinical Mitzvah."

Accordingly, the *Shulchan Aruch* rules: **A minor who has reached [the stage of] "training" has to light.**

The *Mishnah Berurah* analyzes this: According to the ruling of the *Shulchan Aruch* himself [above 671:2] that a family only lights one "*menorah*" by their home's entrance - consequently the "minor" he's referring to *here* must have a residence of his own. On the other hand, according to the *Rema* (that "everyone in the household lights"), it should follow that if a minor is obligated in the Mitzvah - then he, too, will light separately (*even in one house* that he lives in together with his parents), and the *Rema* in fact ruled that way [above at the end of 675:3]. However, the *Mishnah Berurah* concludes by mentioning the position of the *Shiltei HaGiborim*^o and the *Me'iri*^o - that it is *not* necessary to include a minor in the "enhancement" of "a candle for everyone". So here, he seems to lean in favor of that lenient position [but see further by 675:3, where this was also discussed in the *Mishnah Berurah* and *Bi'ur Halacha*].

The development of: **Se'if 3**

DETAILS ABOUT WHEN "OTHERS LIGHT FOR HIM AT HOME"

The *Beis Yosef* quotes the following three authorities:

(1) The *Mordechai*^o:

Even though if "others light for him at home" then he does not have to light on his own, he still needs to **see** a Chanukah "candle"¹⁹, as we see from the Gemara's statement [brought above at the beginning of *siman* 676]: "One who sees - on the first day he says two brachos and from then on he says one." Similarly, "the Ri" says that the *minhag* of people who go to the trade fair (in a city where no Jew lives) is to light in the house of the non-Jew [where they stay]²⁰.

(2) The *Orchos Chayim*^o [the *Beis Yosef* brings R. Yitzchak Abouhav^o as quoting him]:

In the case of someone who goes to a village where there are no Jews, and stays there overnight on Chanukah: We heard that the *minhag* of "haRav R' Meshulam" was to light with a bracha, even if he had no house of his own, as a commemoration of the miracle. [The *Darkei Moshe* says the *Kol Bo*^o says this as well.]

[Likewise,] someone who is traveling on a boat, or is in a house of non-Jews: He [too] lights with brachos, and he puts the candle on his table. This is not comparable to a "guest", about whom we say that "if they're lighting for him in his home he doesn't have to join [in partnership]," because there it's different - for there is a publicizing of the miracle [anyway] in the lighting of his "host".

(3) The *Terumas HaDeshen*^o:

If a married "guest" wants to light with a bracha as an "enhancement": That's just fine [as long as he has in mind - before the time of his wife's lighting - that he doesn't want to be *yotzei* with her lighting (*Mishnah Berurah*)].

The *Beis Yosef* disagrees with the *Terumas HaDeshen*, and says not to rely on his words "to make an unnecessary bracha." [The subject of an inappropriate bracha is mainly discussed in the Halachos of brachos (O.C. 215:4).] Other than that, he does not object to these sources for a "guest" whose wife is back home "lighting anyway" for the *other* reasons given above. The *Darkei Moshe*, on the other hand, agrees even with the *Terumas HaDeshen* (and he says that the *Maharil*^o and the *minhag* are also on his side), and he even brings an authority who says the *minhag* is that *all* such "guests" *should* light on their own [perhaps because of the "other aspects of suspicion" (discussed above in *se'if* 1), and also to take into account the position that they would have to say a bracha regardless - because of "seeing"].

Accordingly, the *Shulchan Aruch* rules: **Some hold that even if "they're lighting for him in his home", [still,] if he is in a place where there are no Jews, [then] he lights with brachos.** The *Rema* adds: **Because he is obligated**

¹⁹ The word "*ner*" is traditionally translated "candle", but the earlier sources generally do not use the word to refer to solid candles. Rashi explains that in the days of the Gemara, earthenware "lamps" were used; his full description is brought above (671:3).

²⁰ Since his source is the Gemara about the brachos, it seems clear that the *Mordechai* means that these people can even say a bracha.

to see the "candles"; and this is [in fact] the *minhag*; [Furthermore,] even if he is among Jews and sees the "candles" - [there is still a basis for saying²¹ that] if he wants to be stringent with himself and to light on his own, [then] he may light [his own "candles"] and say the *bracha* over them, and that [too] is [in fact] the *minhag*.

Note that there are two levels here: (1) "Voluntarily" lighting on one's own with a *bracha* (based on the *Terumas HaDeshen* - which requires intent not to be *yotzei* otherwise [as mentioned]), and (2) Being *obligated* to say a *bracha* because of seeing (based on the other two sources - which do *not* mention having any special intent). The *Gra* points out that regarding level (2), the *Shulchan Aruch* [above 676:3] already brought the position of the Rashba^o and the Ran^o "anonymously" - that one *cannot* say a *bracha* over "seeing" if "they're lighting for him at home" (*not* like our Mordechai)! The *Mishnah Berurah* points out that regarding the *Shulchan Aruch* himself this is not so hard to deal with, because all it means is that his words "some hold" here are not to be taken as *authoritative*; on the other hand, the *Rema* - who "*rules*" like this "some hold" - is really contradicting what he accepted quietly above!²² In practice, the *Mishnah Berurah* writes that one in fact may *not* say a *bracha* in such a case, unless he adds in the leniency of level (1) - i.e. he has *especially in mind*²³ not to be *yotzei* with his wife's lighting.

On the other hand, as far as level (1) itself goes, the *Mishnah Berurah* mentions that the *Beis Yosef* is stringent about it, and concludes that therefore it's better to do one's lighting in a way that takes this into account, meaning either (1) to hear the *brachos* from someone else (and have in mind to be *yotzei* with them, and answer "*amein*"), or (2) to arrange that his own lighting (where he is) should take place *before* his wife's lighting (at home). And in the *Bi'ur Halacha*, he brings the *Chayei Adam*^o, who says that someone traveling until late at night should not rely totally on his own lighting; rather, he should make sure his wife lights at home on time. (The *Chayei Adam* says he shouldn't say a *bracha* [i.e. even if he manages to light *before* it's too late for a *bracha* - see above 672:2]; rather, he at most should hear a *bracha* from someone who *clearly* can say one. The *Bi'ur Halacha* says that's because he holds like the *Beis Yosef* [which seems difficult: even the *Terumas HaDeshen* {who is lenient} requires "having in mind not to be *yotzei* with her," and this man *cannot* have that in mind - because of the timing issue!²⁴].)

The above-quoted *Mordechai* and *Orchos Chayim* indicated that the *normal* obligation of lighting does *not* apply to someone who is among non-Jews, with no house of his own. *We can ask*: Which part is the main reason? Are they saying that the regular Mitzvah is only for someone with "his own house" [an issue we mentioned above by "who is a

²¹ These words were added "to make sense" out of the *Rema*'s ending - "and that is the *minhag*".

²² In the *Sha'ar HaTziyun*, he brings the resolution of the *Ma'amar Mordechai*^o, that above (676:3) the "guest" is among Jews, so he can see candles *without doing the act of lighting* (which is the most important Mitzvah act), and that's why the *Shulchan Aruch* said there that there's no *bracha*; but over here, since due to the lack of Jews, the "guest" *must* do an act of *lighting* (in order to be able to see); over *that*, the *Shulchan Aruch* admits that there *is* a *bracha*. The *Sha'ar HaTziyun* comments that this is difficult to accept, and one certainly cannot rely on it.

²³ source's wording: "unless he'll say". [Presumably that means to "have especially in mind".]

²⁴ A "forced" answer could be that the man only has in mind to be *yotzei* with his wife's lighting "on the condition that he in fact arrives too late," but as for the possibility that he'll manage to light on his own - in *that* case he never wanted to be *yotzei* with her at all.

guest?", in the middle of a paragraph], or that the regular Mitzvah is only for someone whose candles will be seen by other Jews [see the *Mishnah Berurah* and *Sha'ar HaTziyun* cited above (672:2), under the subject of "the end of the lighting time for nowadays"?²⁵

[For more about the issues of this *se'if*, see the analysis brought above (676:3).]

The development of: **Se'if 4**

THE LEFT-OVER OIL AND WICKS

The Midrash (*Tanchuma* to *Naso* {chapter 29} and *Pesikta Rabasi* {beginning of section 3}):

If a Chanukah "candle"²⁶ had oil left over in it on the first day, [then] one adds a bit to it and lights it for the second day. If it [had oil] left over on the second day - [then] one adds to it for the third day and lights it; and so on for the other days. However, if it [had oil] left over on the eighth day - [then] one makes a significant fire for it ["and burns it" (Pesikta & the authorities' version)] by itself. Why? Once it was set aside for the Mitzvah - it's assur to make use of it.

The *Beis Yosef* says that the *Mordechai*^o brings this Midrash (and that the *Rosh*^o brings it in the name of the [Gaonic] *She'iltos*); and it's also brought in *Tosafos* (to *Shabbos* 44a). [The *Tur*^o says the same about the wicks as well.²⁷]

However, there are difficulties with this Halacha, as discussed by the *Ramban*^o (to *Shabbos* 21b):

(PROBLEM #1) [*The Rif*^o said (as discussed above 672:2 by "the amount of oil") that the *Gemara's* words "as a {time} specification" tell us that it's muttar to make use of the light of a Chanukah "candle" - or to put it out - once it has burned for the "specified" amount of time.]

That should prove that if a "candle" had oil left over in it, [then] it's muttar - even by the first day itself - to use the left-over oil²⁸ (unlike the above [which he brought in the name of the Gaonim]). For once we say that it's muttar to make use of its light [i.e. after "the time"] even while it is still burning²⁹ - [then] all the more so [it's clear] that it's muttar if it goes out!

*One might answer by saying that these words [of the *Gemara* and the *Rif*] are only said about "oil which went beyond the specification" [i.e. the lighter put in extra oil, and the **extra** is muttar after the time*

²⁵ Actually, even if the obligation itself applies even to someone whose candles won't be seen by *anyone*, we still need to know whether publicizing the Chanukah miracle to non-Jews is really considered "publicizing" it, because that will decide whether there's any preference for someone living among non-Jews to light in the window (as discussed above in 671:6). **R. Moshe Feinstein**^o [*Igros Moshe* O.C. 4:105:7] says it's not considered "publicizing" at all (and so does R. Moshe Shternbuch^o [*Mo'adim U'Zmanim* 2:141], as quoted above in 672:2).

²⁶ The word "*ner*" is traditionally translated "candle", but the earlier sources generally do not use the word to refer to solid candles. Rashi explains that in the days of the *Gemara*, earthenware "lamps" were used; his full description is brought above (671:3). In any case, the reference here is clearly to the container inside of which the oil burns (so oil can be "left over in it").

²⁷ The *Beis Yosef* brings such a version from the *Ran*^o as well, but it's not clear that the *Ran* himself *rules* like our Halacha at all [as we see soon]. The *Kitzur Shulchan Aruch*^o (139:20) does rule that the wicks are to be included in our Halacha.

²⁸ source's wording: "it's muttar even by the first day - even to put it out and to use the left-over oil." The words we left out seem difficult to fit into the *Ramban's* argument clearly.

²⁹ source's wording: "even while it's still burning like its Mitzvah [is to burn]". The intent of the words we left out seems unclear.

passes (Beis Yosef's version)]; but if it went out **during** its time period [so it's the **necessary** amount which was "left over" (Beis Yosef's version), for example if he **only put in that amount** (Mishnah Berurah)] - **then** it's assur forever, for it was set aside for the Mitzvah.³⁰

(PROBLEM #2) **We can still ask:** Why isn't it comparable to **Shabbos candles**, where everyone agrees that the left-over oil is muttar after Shabbos [as seen in O.C. 265:3 and 279:1]?

However, the answer is: Because **that** oil is "made use of" even in the duration of its Mitzvah [itself], because that's what it's there for from the start; consequently, the Halacha of "being assur to benefit from" does not "rest on it" [i.e. become applicable to it].

The truth of the matter is: I would not have thought so [i.e. that by Chanukah it's any different], because the only reason a Chanukah "candle" becomes assur while it's lit is out of disgrace to the Mitzvah [as explained above 673:1]; therefore, once it goes out, it's logical that it should then be muttar, for its Mitzvah is already complete.

(PROBLEM #3) **One might also ask:** Why are "candles" different from **sukkah decorations** - which are only considered "set aside for the Mitzvah" **during** Sukkos, and are Muttar afterwards [as is explicit in Shabbos (22a)³¹]?

Actually, it's clear why that's different: In that case, **from the start** he placed them there only for the holiday Mitzvah, and his mind is [still] on them for afterwards. Conversely, a person does not sit waiting for his **candle** to go out [i.e. expecting to have left-over oil to use!]³²

So if it's a tradition - then we'll accept it, and we will say that once one puts in oil and sets it aside such that it be used up through the Mitzvah - it becomes assur to him forever as if he "dedicated it to Heaven" [i.e. vowed to donate it for Sanctuary use].

The Beis Yosef says the *Ran*^o holds that problem #1 is in fact a contradiction (i.e. the Rif cannot agree with our Halacha "of the *Gaonim*"), but the Rosh³³ and the Tur *do* rule like our Halacha (though they *also* ruled like the Rif). Accordingly, the Beis Yosef brings the same answer that the Ramban wrote (but in the name of the *Hagahos Maimonios*^o, who says it more "confidently"³⁴). He also brings a different answer from R. Yitzchak Abouhav^o, that normally *all* of the oil becomes *assur*, and the Rif only means that if someone originally *had in mind* that he intends to dedicate to the Mitzvah only the *required* amount of oil, *then* the rest of the time (and the oil) is *muttar*.

³⁰ The Ramban actually rejects this answer, saying "and I do not hold [of] this," but that does not seem to affect his conclusion.

³¹ It seems that this question is strengthened by the fact that in the same Gemara which says one may not "hold money out toward Chanukah candles" [quoted above 673:1], the Halacha of *sukkah* decorations being "set aside" on Sukkos is brought as a parallel source!

³² In *Shabbos* (46b), the Gemara says R' Shimon holds that left-over Shabbos oil is *muttar* even *on Shabbos*, because "a person sits and waits for his candle to go out." The Ramban's approach here is that *we*, who do *not* rule like R' Shimon about that, hold the *opposite*. In *Tosafos* (to *Shabbos* 44a), it says that *even R' Shimon* agrees in the case of a Chanukah candle, because "its main purpose is not for pleasure - but [rather] to publicize the miracle, [so] because of how dear the miracle is [to him] - he does not wait for it to go out, but rather he sets it aside completely for the Mitzvah."

³³ The Rosh does not say explicitly that the Halacha follows "the *Gaonim*", but if he understood that it's a disagreement [and he only means to bring "the *Gaonim*" as an "additional" position], he would have written the two statements near each other [for contrast] (*Beis Yosef*).

³⁴ Others say that this answer is in the above *Mordechai* itself. Furthermore, the Beis Yosef says that the above solution to problem #3 is found in *Tosafos* (to *Shabbos* 44a), and that the above solution to problem #2 is found in the *Ran*.

Accordingly, the *Shulchan Aruch* starts the *se'if* by ruling: **What's left over on the eighth day - of the oil needed for the specified amount of burning [time] - one makes a significant fire for it and burns it by itself, for it was set aside for its Mitzvah.** [The rest of the *se'if* follows the last subject of the *siman*.]

On the other hand, see above [672:2 by "the amount of oil to use"], where we learn that the *Mishnah Berurah* says it's best to take R. Yitzchak Abouhav's approach into account as well. (In addition, in the *Bi'ur Halacha* here, he brings that it's possible for the oil to be *assur* even if someone "set aside" *more* than necessary "by mistake"; i.e. if he thought that what he used would last only the required amount, but actually it lasted longer).

We can ask: (1) When dealing with the issues of "lighting from one candle to another" (above *siman* 674), we discussed whether we can be lenient about lighting candles of a "different Mitzvah" (such as Shabbos candles) from Chanukah candles. How would we approach the parallel question here: Should it be *muttar* for left-over oil from Chanukah candles to be used to light Shabbos candles?

(2) It says in Tosafos (*Sukkah* 45a) that the concept of being "set aside for a Mitzvah", which makes it *assur* to eat an *esrog* on the seventh day of Sukkos, applies to the *esrog* of a minor as well. Should the same apply to the left-over oil in a minor's Chanukah "*menorah*"?

CAUSING THE OIL TO BECOME ASSUR BY MERELY "PREPARING IT IN ADVANCE"

The *Mishnah Berurah* above (673 n21) says that "preparing it in advance" is nothing [because it's not more stringent than a *sukkah* - about which the *Rema* (O.C. 638:1) already ruled leniently (*Sha'ar HaTziyun*)], until the definitive act (of lighting) is done. [The *Bi'ur Halacha* here, on the other hand, only rules leniently about "extra oil left in a pitcher" (which could have been *assur* according to R. Yitzchak Abouhav if we were concerned about such a "preparing in advance"), which seems to imply that being poured into the "*menorah*" in fact *can* make it *assur*.]

SAVING THE ABOVE OIL FOR NEXT CHANUKAH

When the Tur^o brings the Halacha of the left-over oil (in the name of the Maharam^o of Rottenburg), he continues: "It's also *assur* to keep it around for the next year's Chanukah 'candle', because we are concerned [that] he may eventually come to derive benefit from it - once he is keeping it around for [such] a long time." Now, one *could* have thought that there would be a way around this: putting the oil into a "repulsive container", as it says in *Pesachim* (33b) [about *terumah* oil which became impure - see "oil that is to be burned" in 673:1 above]; but the Tur continues to say that even *then*, "we are [still] concerned." The *Mishnah Berurah* explains why: because one still might light with it, whereas in *Pesachim* it's talking about using the oil for *eating* [since *that* kind of oil is *assur* for eating and *not* for lighting (see above *ibid.*)], and one would not take oil from a "repulsive container" for *that*.

IF THE ABOVE OIL GOT MIXED UP WITH OTHER OIL

Above (at the end of 673:1), we gave an introduction to how something *assur* becomes "*batel*" [i.e. "nullified" or "cancelled"] in a mixture, and we mentioned there that the Halacha of a mixture of *oil* depends on whether there's sixty times the *assur* amount (as opposed to solids, where a mere *majority* is enough).

Having said that, let's see what the Tur writes about our case:

If any of the above assur oil gets mixed together with other oil, and there isn't sixty times as much [muttar oil] to make the assur oil "batel": The Maharam^o (of Rottenburg) wrote that one may not add more [muttar oil] to the mixture in order to make the assur oil "batel". And it's not comparable to the case in Beitzah (4b), where branches fell from a palm tree [directly] into an oven on Yom Tov [and are assur to cook with, because they were not "prepared"], and there we say that one may add prepared logs until there is a majority³⁵ and [thereby] make the "unprepared" wood "batel". The difference is: Over there, the person does not derive benefit from the wood mixture until after it is burnt up; but here, one derives benefit from the oil mixture at the very time when the candle burns³⁶.*

Accordingly, the *Shulchan Aruch* concludes the *se'if* by ruling: **[Furthermore,] if it got mixed together with other oil, and there isn't sixty [times as much] to make it "batel", "there is someone who holds" that one may not add [more] to it in order to make it "batel".**

Now, "there is someone who holds" generally is *Shulchan Aruch* language for a reliable source (which just happens not to be so strongly supported or corroborated). However, the authorities point out a problem:

In volume *Yoreh Dei'ah* (99:6), the *Shulchan Aruch* rules [based on the Rashba^o and others (*Beis Yosef* there)]: "[In the case of] something which is Rabbinically *assur*: If it fell on its own³⁷ into something *muttar*, of which there wasn't enough to make it '*batel*': one may add [more of what's *muttar*] to this and make it '*batel*'." Well, making use of Chanukah candles, and cooking with unprepared wood on *Yom Tov*, are Rabbinically *assur*. Therefore, according to the above Maharam, the rule in *Yoreh Dei'ah* should be that adding more is only *muttar* concerning something "from which the person will not derive benefit until after it's gone." Instead, the *Shulchan Aruch* ruled *there* that it's *muttar* [presumably always³⁸] - even more simply and clearly than he ruled *here* that it's [generally] *assur*!

³⁵ source's wording: "multiply prepared logs against them."

³⁶ It is at this point that the Tur goes on (as in the previous subject): "It is also *assur* to keep it around," etc. His final word (after negating both "solutions") is: "Consequently, there is no solution for it [to be able to be used]."

³⁷ In between, the *Shulchan Aruch* says that "one may not mix it together *by hand* in order to make it '*batel*'; and if he did so on purpose - it [therefore remains] *assur*." (These points are not so essential to our subject.)

³⁸ In other words, according to the authorities which the *Shulchan Aruch* in *Yoreh Dei'ah* is following, the above Gemara in *Beitzah* is telling us that this is *muttar* in *all* cases of something Rabbinically *assur* (the exact opposite of the Maharam's approach).

The *Mishnah Berurah* explains: The weaker language which the *Shulchan Aruch* used here ("there is someone who holds") is *hinting to the fact* that there is a differing position [i.e. the Rashba and the other authorities, whose position the *Shulchan Aruch* (in *Yoreh Dei'ah*) accepted as the Halacha].³⁹

A few points remain to point out about this subject:

(1) The *Sha'ar HaTziyun* above [as brought at the end of 673:1] explained that even though R. Yitzchak Abouhav's position is to be stringent even about candles that go out *after* the "main time period" ends; nevertheless, one need not be stringent about that with respect to a *mixture*.

(2) The *Bi'ur Halacha* here points out that if someone followed the lead of our *se'if's* Midrash (i.e. each day he "adds a bit to it - and lights it" on the following night), and then on the last night he added a lot of oil - and the candles burned for the entire "main time period" and *then* went out, then what's left is a mixture of *assur* oil (from the earlier nights) and a lot of *muttar* oil [i.e. what was extra by the last night]. He writes that here, too, the mixture is *muttar* if he is sure that the *muttar* oil is "sixty times more".⁴⁰

(3) Remember that by solids, a majority is enough to make something *assur* become "*batel*". However, above (at the end of 673:1) we learned that regarding a mixture of solid Chanukah candles, it's questionable whether the *assur* ones can become "*batel*" at all. [To conclude: We saw above in this *se'if* that some sources include the wicks in this general Halacha (of "left-overs" being *assur*). *We can ask*: based on the reasonings of the two sides of the disagreement in *siman* 673, should the same disagreement apply to wicks?]

³⁹ This does not, of course, solve everything satisfactorily, because (1) the *Shulchan Aruch* should have made clear in both places that there is a disagreement, and (2) the *Beis Yosef* here does not mention that there is any disagreement at all. The *Magen Avraham*^{*} proposes a way of "splitting" the Halachos (that in cases which are more comparable to Chanukah it's *assur*, but in other cases it's *muttar*), but the *Sha'ar HaTziyun* rejects that [presumably because that cannot fit with the Maharam, who said the *opposite*].

⁴⁰ Note that the *Bi'ur Halacha* seems to be considering this a "mixture that happened unintentionally," even though the person clearly could have foreseen that his "adding a lot of oil for the eighth night" might accomplish this.