

# In Hilchos Shabbos

You have heard the shaylos . . .  
Now learn the issues & the opinions

## Relying on a Citywide Eiruv

A summary of the weekly Wednesday night shiur by **Rabbi Shmuel Stein** at the Miami Beach Community Kollel / To receive a copy send an email to [InHilchosShabbos@gmail.com](mailto:InHilchosShabbos@gmail.com)

Many people rely and enjoy using the citywide *eiruv* to carry on *Shabbos*. In the previous chapters we discussed how to make a citywide *eiruv* and some of the *halachic* challenges involved. In this chapter we will discuss whether the *poskim* encourage making a citywide *eiruv* or whether they are unfavorable towards it as well as other concerns which arise with a citywide *eiruv*.

### The custom to make an *eiruv*

The *Aruch haShulchan* writes that “for hundreds of years the custom amongst most of the cities of *Klal Yisroel* has been to build citywide *Eiruv*.” This custom emerged due to the many hardships involved with being able to have warm food for *Shabbos* and other food preparations and thus it became commonplace for a community to build an *eiruv* to permit carrying on *Shabbos*.<sup>1</sup> In this chapter we will discuss:

- 1) Is it commendable for a community to make a citywide *eiruv*?
- 2) Checking a citywide *eiruv*
- 3) What to do if the *eiruv* breaks on *Shabbos*

### Is it commendable for a community to make a citywide *eiruv*?

The *poskim* discuss and debate whether it is commendable to create a citywide *eiruv*. On the one hand it prevents people from violating the *melacha* of *Hotza* and enhances their *Shabbos*. On the other hand, there are issues which can occur due to the making of a citywide *eiruv*. We will discuss the arguments of the *poskim* on the two sides of this issue.

### *Poskim* who encourage making a citywide *eiruv*

The Chasam Sofer<sup>2</sup> was asked whether there is a *mitzva* for every community to build an *eiruv* to permit carrying on *Shabbos*. He proves from the following *Gemara* that there is indeed an *mitzva* for a community to ensure that there is a proper *eiruv*. The *Gemara*<sup>3</sup> relates:

*There was a baby who was scheduled to have a bris milah on Shabbos in the community where Abaye and Rabba lived. There had been hot water which was prepared before Shabbos for the baby but spilled on Shabbos. Rabba wanted to bring the hot water from one house to another, but he was told that there was no eiruv which was prepared and thus it was prohibited to carry from one house to another. When Rabba bar Chanan heard this, he remarked, 'Is it possible that in a community where two great Torah scholars reside that there is no eiruv to permit carrying in Shabbos?!'*

The Chasam Sofer adds that “In truth, this does not need a proof as it is obvious and logical that a community has a responsibility to make an *eiruv*. For it is known that the keeping the *halachos* of *Shabbos* properly is from the primary *mitzvos* which we have and someone who does not keep it properly is considered to rebel against the entire *Torah*.<sup>4</sup> If so, it is obvious that it is impossible for a community to entirely protect itself from anyone, including women and children, from not carrying small objects or food outside of their houses on *Shabbos*. How much hardship is placed on the men by not having an *eiruv*, especially regarding shul, as it is important to carry their *Siddurim* and *Talleisim* to shul. If so, it is obvious and logical that it is appropriate and required for each community to make an *eiruv*.

Furthermore, writes the Chasam Sofer, “The *Gemara*<sup>5</sup> states that when Shlomo HaMelech instituted *eiruvei chatzeiros*, which permits carrying on *Shabbos*, a heavenly voice came out and praised him. The *Shulchan Aruch*<sup>6</sup> also states that it is a *mitzva* to exert oneself to make an *eiruv chatzeiros* and we also recite a *beracha* on the *eiruv* to thank *Hakadosh Baruch Hu* for giving us a way to permit carrying on *Shabbos*.<sup>7</sup>

In the times of the *Rosh* (1300) there was a *Rav* in a certain community who felt that it was inappropriate to make a citywide *eiruv* in his city and forbade his community from making an *eiruv*. The *Rosh*,<sup>8</sup> which was the *Gadol Hador* at that time sent him the following letter:

*I have already written to you regarding making a citywide eiruv which has been accepted by all of the Jewish communities to permit carrying by making a Tzuras haPesach, but you have forbidden your community from making an eiruv. I have already told you that you must retract from this and tell your community to make an eiruv just as is done in all communities based on the Gedolim. It has been made known to me that you still stand in your rebellion and do not allow the making of an eiruv and cause your community to stumble and violate Shabbos. I decree upon you, that if you do not retract and make an eiruv within two weeks of receiving this letter that you be placed in excommunication. If you would be living in the times of Sanhedrin you would be put to death [as a Zakein Mamrei] for you come to uproot the words of the Gemara and argue with all of the Gedolim, both those who have died and those who are alive. Therefore, retract and do not forsake the Torah of Moshe of teacher.”<sup>10</sup>*

Similarly, the *Tashbatz*<sup>11</sup> writes:

*I was asked whether it is a sin to make an eiruv? G-d forbid. Rather someone who is vigilant and makes an eiruv is praiseworthy. Someone who is concerned about making an eiruv, either he is a simpleton, or he is a heretic. It is a great zechus for the one who makes the eiruv as he prevents the community from carrying on Shabbos.*

### An *eiruv* protects the city

It is cited in the name of the Chasam Sofer<sup>12</sup> that a community-wide *eiruv* serves as a protection from bad occurrences and from enemies.

### Should one be stringent and not carry in the citywide *eiruv*?

The Bnei Yissaschar<sup>13</sup> would intentionally carry a key outdoors on *Shabbos* in an area which was surrounded by an *eiruv* as he did not want to be included in the group of people who do not admit that an *eiruv* (permits carrying on *Shabbos*).<sup>14</sup> However, *Migdanos Eliyahu*<sup>15</sup> writes that regarding a citywide *eiruv* (which has streets wider than 16 *amos*) certainly one may be stringent and not carry in the *eiruv* as the *Mishna Berura*<sup>16</sup> writes, “a *yarei shamayim* (G-d fearing individual) should be stringent upon himself and not rely on a citywide *eiruv* to carry on *Shabbos*.”

### Contributing to the community *eiruv*

The *Shulchan Aruch*<sup>17</sup> writes that it is permissible to force the people of the community to contribute towards the citywide *eiruv*. The *Aruch haShulchan*<sup>18</sup> adds that even someone who is strict on himself and does not rely on the citywide *eiruv* is obligated to contribute to the costs of the *eiruv* since it has been accepted that one may make a citywide *eiruv* (in a small city) and this is a need of a city.<sup>19</sup> Although the Chason Ish was extremely careful not to rely on the city-wide *eiruv* in Bnei Brak, to the point that if food was brought to him on *Shabbos* through the use of the *eiruv* he would not eat it on *Shabbos*, he was nevertheless concerned that the city-wide *eiruv* should be fixed and functional. He was asked why he was so concerned if he himself did not permit using the *eiruv* to carry? He responded simply that ‘a city needs an *eiruv*.’<sup>20</sup>

### *Poskim* who discourage making a citywide *eiruv*

On the other hand, when Rav Moshe Feinstein<sup>21</sup> was asked about whether it is a *mitzva* to make a citywide *eiruv* he expressed his discontent in making a citywide *eiruv*. He writes “Nowadays, there is no need to have an *eiruv* since everything that one needs for the entire *Shabbos* is readily available in one’s home.” He explains,<sup>22</sup> “This that the *Gemara*<sup>23</sup> writes that there is an obligation upon the *Rav* of the city to ensure that there is a proper *eiruv* and so has been the custom of all the Jewish cities for all generations, does not apply nowadays when every necessity is easily available in one’s home. Only in the earlier generations when it was difficult to prepare all of one’s *Shabbos* needs in his own home was there an obligation to make a citywide *eiruv*, but not nowadays.” Reb Moshe<sup>24</sup> continues, “Although making a citywide *eiruv* adds *Oneg Shabbos* especially for parents with young children as they will not need to be locked up in their houses over *Shabbos*, certainly this is a need but not to the extent that it was needed in earlier generations [and is not enough of a need to create an obligation to make an *eiruv*.]”<sup>25</sup>

### Important reasons not to create a citywide *eiruv*

Reb Moshe<sup>26</sup> continues to explain that in fact “there is a very important reason that one should not make a citywide *eiruv*, because this will cause people to entirely forget about the *melacha* of *Hotza*.<sup>27</sup> This is the greatest prohibition possible: to forget a *halacha* of the *Torah*. When a citywide *eiruv* is made, the majority of the residents are not aware and do not even recognize the *eiruv*. Very often only the individuals who are involved in the construction of the *eiruv* recognize the *tzuras ha’pesach* which are used. Accordingly, although we cannot create our own decrees, in light of this concern there is certainly no obligation to make a citywide *eiruv*.”<sup>28</sup>

Rav Yaakov Kamenetsky<sup>29</sup> writes similarly, “Aside from the *halachic* concerns involved with making a citywide *eiruv*, in my opinion it is not appropriate to make a citywide *eiruv*. We cannot compare this to the previous generations when it was imperative to make a citywide *eiruv* in order for people to have food for *Shabbos*. Nowadays making a citywide *eiruv* (is not imperative and) brings about stumbling blocks, such as *bitul torah*, mingling between men and women and *Zilzul Shabbos*. Therefore, it is appropriate to refrain from making a citywide *eiruv*.

## Checking the citywide *eiruv*

As we discussed in the previous chapters, a citywide *eiruv* generally consists of enclosing a city by constructing many *tzuras ha'pesach* which have a *halachic* status of a *mechitza*. By enclosing an entire area, it transforms the entire area into a large *reshus ha'yachid* and permits 'carrying' on *Shabbos*. Once the *eiruv* is built and is found to be valid there is technically no need to check the *eiruv* based on the principle of *chazaka*.

### The *halacha* of *Chazaka*

The principle of *chazaka* states that once something which is known to be *kosher* or *halachically* valid we can continue to assume that it remains *kosher* or valid and do not need to worry that perhaps something occurred to invalidate it. The *Gemara*<sup>30</sup> asks, "from where do we know this concept that the Rabbis taught us that we may assume something stays on its *chazaka*?" The *Gemara* answers that we know this from the *halacha* of a house which has *Tzara'as* (leprosy).

*The Torah*<sup>31</sup> states that when a house has *Tzaras*, the *Kohein* comes to the house and measures the size of the *Tzaras* he then leaves the house and closes the door behind him [and proclaims that the house has been closed off due to *Tzaras*<sup>32</sup>]. After seven days pass, the *Kohein* returns to check on the *Tzaras*: If the *Tzaras* have spread, then the *Kohein* declares that it is impure and the bricks which have *Tzaras* are removed and destroyed.

The *Gemara*<sup>33</sup> wonders that perhaps when the *Kohein* initially came and measured the size of the *Tzaras* and left the house, the size of the *Tzaras* immediately got smaller [or larger<sup>34</sup>] than what the *Kohein* measured and now when he closes the door and proclaims that the house has been closed off and his measurement is not correct? How then when he returns after seven days can he compare the new size of the *Tzaras* to the size which he measured when he was inside the house if perhaps the *Tzaras* got smaller [or larger] even before he proclaimed the house to be closed off? Thus, the *Gemara* proves that we must apply the principle of *chazaka*, the since the *Kohein* determined the size of the *Tzaras* we assume that it did not change when he left the house.

### *Chazaka* by an *eiruv*

Based on this principle, the *Doveiv Meisharim*<sup>35</sup> writes that once an *eiruv* is constructed properly we can rely on the *chazaka* that once it was a valid *eiruv* we can continue to assume that it is valid and do not need to be concerned that the *eiruv* broke and became invalid. Once the *eiruv* is set on its *chazaka* and assumed to be valid there is no need or reason to check the *eiruv*.<sup>36</sup> In fact, one time, Rav Moshe Feinstein<sup>37</sup> was asked how to deal with an *eiruv* which became invalid on *Shabbos* and before answering he admonished the individual for checking the *eiruv* in the middle of *Shabbos* as once it is set on its *chazaka* the *Torah* states that one may assume that the *eiruv* continues to be valid.

### A *Chazaka* which is susceptible to change

The *Doveiv Meisharim*<sup>38</sup> continues to clarify that a *chazaka* which is susceptible to change may not be relied upon, as the *Shulchan Aruch*<sup>39</sup> writes regarding *Mikvah*: [A *Mikvah* is only valid if it holds 40 *sa'ah* of water.] If there is a *Mikvah* whose water level is known to decrease and reach less than 40 *sa'ah*, [we cannot rely on the *chazaka*] and if someone immersed in the *Mikvah* without first checking that it is still holds 40 *sa'ah* it must be assumed that the *Mikvah* was invalid.

If so, perhaps, since it is somewhat common for an *eiruv* to break and is susceptible to change we cannot rely on the *chazaka* that the *eiruv* is still valid? The *Doveiv Meisharim* explains that this is true only in the case of the *Mikvah* where it is known that the water decreases, but in our case of an *eiruv* where it is not known that it will break, even though it is somewhat common for it to break, the *chazaka* tells us that we can assume that the *eiruv* remained valid. He concludes that this is also clear in the *Rema*<sup>40</sup> who writes "If one is unsure whether the *eiruv* fell down on *Shabbos* or not one may be lenient [as we rely on the *chazaka*<sup>41</sup>]."

### The opinion of the *Chazon Ish*

It is important to mention the opinion of the *Chazon Ish*,<sup>42</sup> who remarked that "the problem [with this ruling of the *Doveiv Meisharim*] is that each time we check the *eiruv* before *Shabbos* we find that at least in one place in the *eiruv* it is broken and needs to be fixed. To the point that we can no longer assume that the *eiruv* is valid just because it was checked before *Shabbos* as we know in our hearts that the *mechitzos* of the city are no longer valid." Thus, he would not rely on the *eiruv* in *Bnei Brak*.<sup>43</sup> *Minchas Shabbos*<sup>44</sup> writes that "there are some who do not carry in an *eiruv* and it is because they are concerned that the *eiruv* may break on *Shabbos*. Fortunate is someone who is careful with this as I have seen many times that this prevented people from carrying on *Shabbos*."<sup>45</sup>

### Checking the *eiruv* before *Shabbos*

Nevertheless, the *Doveiv Meisharim*<sup>46</sup> writes that although there is a *chazaka* that that the *eiruv* is valid "it is certainly preferable to check the *eiruv* on *erev Shabbos*." This is based on the *Rema*<sup>47</sup> who states:

[Although we generally rely on a *chazaka*] we do not rely on it when it is possible to check and verify it on our own.

Therefore, since it is possible to check the *eiruv* before *Shabbos* and ensure that it is valid we must do so.<sup>48</sup> Therefore, because of these concerns a citywide *eiruv* must be inspected regularly. Reb Moshe Feinstein<sup>49</sup> also said that there should be someone who inspects the *eiruv* each week as we have found that this is a great benefit as it protects people from stumbling.

### Who should check the *eiruv*?

*Har HaKarmel*<sup>50</sup> writes that "It is appropriate in all cities to designate one or two *Talmidei Chachamim* who walk around and inspect the *eiruv* before every *Shabbos*." Rav Shimon Eider<sup>51</sup> writes that "the one who checks the *eiruv* must be a *talmid chacham* who is knowledgeable in the *halachos* of *eruvin* or at least a person who is a *yarei shamayim* who will ask any questions which arise to a *rav*. I have seen a terrible thing in some communities where they appoint people who have no knowledge of the *halachos*, or even children, to check the *eiruv* each week, these people are not aware of the *halachos*, certainly not the intricate *halachos* of *eruvin* and if even one pole is invalid the entire *eiruv* is invalid and causes thousands of acts of *Chilul Shabbos* each week."<sup>52</sup>

### When should the *eiruv* be checked?

The *Doveiv Meisharim*<sup>53</sup> writes that if one cannot inspect the entire *eruv* on *erev Shabbos* it is sufficient to inspect part of on Thursday, as much as is needed, and complete the inspection on *erev Shabbos*. *Binyan Shalom*<sup>54</sup> writes as well that just as we can assume that if the *eiruv* was checked on Friday that the *chazaka* remains through *Shabbos*, the same is true if it was checked on Thursday as we assume that the *eiruv* remains valid. The main thing is to inspect the *eiruv* before each *Shabbos*. However, if there is a place in the *eiruv* where one notices that it breaks each week, one should check that part of the *eiruv* as close to *Shabbos* as possible with enough time to fix it if it broke.<sup>55</sup> However, one should not leave the inspecting until the last moments before *Shabbos* as then the inspection will be rushed and without enough time to fix any parts which broke.<sup>56</sup>

### Strong Winds

Although as a general rule once an *eiruv* is checked one need not second guess its validity, if something occurs which would cause us to believe that *eruv* became ruined (e.g., a severe storm), we can no longer rely on the *chazaka* and must refrain from using the *eiruv*.<sup>57</sup> Certainly, if it is known for certain that the *eiruv* has become invalid over *Shabbos*, one may not rely on the *chazaka*, and it becomes forbidden to carry on *Shabbos* until the *eiruv* is fixed,<sup>58</sup> as we will discuss.

### What to do When the *eiruv* is Down

A complicated issue which can occur with a citywide *eiruv* is when it is found on *Shabbos* that the *eiruv* fell or is down. After becoming accustomed to and relying on using the *eiruv* every *Shabbos*, it is difficult to suddenly adjust to *Shabbos* without an *eiruv*. When an *eiruv* goes down on *Shabbos* a couple of questions arise:

- 1) Can one ask a non-Jew to fix the *eiruv* on *Shabbos*?
- 2) Should the public be informed that the *eiruv* is down?

#### 1) Asking a non-Jew to fix the *eiruv* on *Shabbos*

If an *eiruv* breaks on *Shabbos*<sup>59</sup> one may ask a non-Jew to fix the *eiruv* if it involves a *melacha d'Rabanan*, as the *Shulchan Aruch*<sup>60</sup> rules that one may ask a non-Jew to perform a *melacha d'Rabanan* as it is considered a *shvus d'shvus* for a *d'var mitzvah*.<sup>61</sup> For example, one may ask a non-Jew to tie a bow-knot, because tying such a knot is only prohibited *mid'Rabanan*.<sup>62</sup>

#### Asking a non-Jew to perform an *melacha d'Oraisa*

If it does not suffice to fix the *eiruv* by performing an *melacha d'Rabanan* (e.g., a new *tzuras hapesach* must be constructed<sup>63</sup>), one may ask a non-Jew to perform but a *melacha d'Oraisa*.<sup>64</sup> The *Mishna Berura*<sup>65</sup> explains that "If an *eiruv* breaks on *Shabbos*, one may ask a non-Jew to fix the *eiruv* even if it involves a *melacha d'Oraisa*, [we permit this] so that the public does not stumble [regarding the *melacha* of *Hotzah*]."<sup>66</sup>

#### 2) Informing the public that the *eiruv* is down

In a situation where the *eiruv* cannot be fixed on *Shabbos*, the *poskim* discuss whether the public be informed that the *eiruv* is down?

Many *poskim* rule that the public should not be informed for two reasons:

##### 1. Better that they a *Shogeg* than a *Meizid*

The *Gemara*<sup>67</sup> states the principle "better that someone violate a prohibition unknowingly than violate it knowingly." Which means that if someone sees another violating a *Torah* prohibition and is unaware that it is prohibited (*b'shogeg*), he should not inform the person that what he is doing is prohibited if it is clear that this person will continue to violate the prohibition even after he is informed. This is because it is better that he violates the prohibition *b'shogeg* than violate it knowing that it is prohibited (*b'meizid*). Similarly in our case many *poskim*<sup>68</sup> hold that it is better not to inform the public that the *eiruv* is down, because unfortunately it is inevitable that there will be those who continue to carry even after they are made aware that the *eiruv* is invalid and will then violate the prohibition *b'meizid*. Therefore, it is better not to inform the public that the *eiruv* is down, because this way they will only violate the prohibition *b'shogeg*. As the *Gomera*<sup>69</sup> states "Leave the Jewish people – Better that they remain a *Shogeg* and they not become a *Meizid*."

2. Someone who carries thinking that the *eiruv* is operational isn't violating *Shabbos* at all: *Melachos* of *Shabbos* are only violated if they are *Melech Machsheves* – a *melacha* which was performed with intention (i.e., he was aware of the act that he was performing).<sup>70</sup> Accordingly, in our case as well, if the public is not informed that the *eiruv* is down and continue to carry they have not violated the *melacha* at all since they have not intended to 'carry' in the *reshus ha'rabim*.<sup>71</sup> Therefore, it is preferable not to inform the public that the *eiruv* is down since it is inevitable that some individuals will continue to carry, and it is certainly better not to inform them since they are anyhow not liable for carrying while they believe that the *eiruv* is valid.

<sup>1</sup> See *Emes l'Yaakov* 345, note 402

<sup>2</sup> O.C. 99

<sup>3</sup> *Eiruv* 67b

<sup>4</sup> *Eiruv* 69a

<sup>5</sup> *Eiruv* 21b

<sup>6</sup> 366:13,14

<sup>7</sup> Chasam Sofer concludes that “We must also appreciate and give thanks to *Hakadosh Baruch Hu* for giving the non-Jewish government the thoughts to allow us to make these community *eiruvim*, which sometimes must be constructed in the center of a metropolis.”

<sup>8</sup> 21:8

<sup>9</sup> The Gemara (Beitza 16b) calls a Rav who tries to prohibit making an *eiruv* is not being stringent but is ‘someone who is ruining the community,’ because it causes the people to stumble in the melacha of Hotza.

<sup>10</sup> The Avnei Neizer (266:4) also wrote regarding a citywide *eiruv* “It is obvious that the *eiruv* in the city is valid and someone who is persistent and wishes to prevent the *eiruv* from being made is causing the public to sin and will be judged for his actions. In fact, I am very happy that there has not been anyone thus far who wishes to protest the making of the citywide *eiruv*.”

<sup>11</sup> 2:76

<sup>12</sup> *Otzros HaSofer* 13, p. 53 from Reb Bentzion Yadler

<sup>13</sup> *Nimukei Orach Chaim*, 394

<sup>14</sup> The Vilna Goan would not carry even in a courtyard which was surrounded by an *eiruv* (Maase Rav, 141). However, one time Rav Moshe Feinstein was visiting a city and he carried outdoors in a courtyard which was surrounded by an *eiruv*. Rav Meir Karelitz (The brother of the Chazon Ish) was there and asked Reb Moshe why he carried if the Vilna Goan was careful not to carry in a courtyard which as an *eiruv*? Rav Moshe answered that I do not believe that this is what the Vilna Goan held as someone who does not carry in an *eiruv* is like a Tzidukei who does not believe in *eiruv*. Rather, the Vilna Goan meant that he did not carry anything in his *pocket* due to the halacha that ‘one must check his garment on erev Shabbos’ and certainly this applies to Shabbos as well (See Chapter Twenty-Five, Postscript).

<sup>15</sup> 76 (p. 186)

<sup>16</sup> *Biur Halacha* 345:7, *d”h sh’ain*; *Mishna Berura* 345:23; *Biur Halacha* 364:2, *d”h v’achar*

<sup>17</sup> *Choshen Mishpat* 162:1

<sup>18</sup> *Choshen Mishpat* 162:1

<sup>19</sup> Shevet HaLevi 9:302:1 writes that this ruling is correct

<sup>20</sup> *Teshuvos v’Hanhagos* 2:152.

Rav Shlomo Zalman Auerbach related a story which occurred in the early 1900’s when the *eiruv* in Yerushalayim was established. The *eiruv* was made and was secretly funded by the *Aderet* (Reb Elyahu Dovid Rabinowitz-Tumim) for four years until he passed away. At that time, Reb Shmuel Salant, who was the Ashkenazi Chief Rabbi of Yerushalayim, decided to undertake upkeep of the *eiruv*. Since the Jewish community was divided between Ashkenazim and Sephardim, he went to his friend Rav Yaakov Shaul Elyashar, who was the Rishon l’Tzion at the time to see if he would be interested in splitting the costs of the *eiruv*. At first Rav Yaakov Shaul agreed but then retracted due to the fact that Sephardim are stringent and follow the opinion of the Bais Yosef (*Shulchan Aruch* 362:9) [who does not allow a *Tzuras Hapesach* which is wider than 10 amos] and are not permitted to rely on the citywide *eiruv*. Thus, Rav Shmuel Salant and the Ashkenazi community took responsibility of undertaking the upkeep of the citywide *eiruv*. Rav Shlomo Zalman Auerbach concluded the story with a testament, “Those who did not participate in the *eiruv*, most of their children strayed from the path of Yiddishkeit, but from those who upheld the *eiruv* their children became *Gedolei Yisroel*.” (*Mishna Halachos* 13:64 from Rav Menashe Klein who directly from Rav Shlomo Zalman Auerbach. He concludes that “At the time that Rav Shlomo Zalman told this story it was recorded on a tape by my son who is now a Rav in Yerushalayim. Bikurei Elazar (20, n. 1) also writes that Rav Simcha Bunim Leizeron (author of *Halichos Shlomo*) said that Rav Shlomo Zalman Auerbach said over this story many times.)

<sup>21</sup> O.C. 5:28:21, 5:29

<sup>22</sup> O.C. 5:29

<sup>23</sup> *Eiruv* 67b

<sup>24</sup> O.C. 5:28:21

<sup>25</sup> O.C. 5:29

<sup>26</sup> O.C. 5:28:21

<sup>27</sup> Rav Elazar Menachem Man Shach (cited in *Bikurei Elazar* p. 533) said that in Europe, some communities made an *eiruv* and some communities did not make an *eiruv* for the Chinuch of their children. Similarly, Rav Yaakov Kamenetzky said that if a city must have an *eiruv* they should ensure that at least one area is not enclosed in the *eiruv* so that the halachos of Hotza will not be forgotten (*Bikurei Elazar*, *ibid*).

<sup>28</sup> See *Har Tzvi* 2:24 who disagrees with this concern since we cannot create our own degrees. However, Reb Moshe (*ibid*) argues that since we have already found that Chazal were concerned that ‘people may forget the halachos of *eiruvei chatzeiros*’ (*Gemara Eiruv* 71b; *Shulchan Aruch* 387), we are not creating a new decree rather it is an extension of what Chazal were already concerned about.

<sup>29</sup> *Emes l'Yaakov* 345, note 402

<sup>30</sup> *Chulin* 10b

<sup>31</sup> *Vayikra* 14:33-57

<sup>32</sup> See *Mishna l'Melech* 14:5

<sup>33</sup> As explained by Rashi s.v. v'Yatzah haKohein

<sup>34</sup> *Tosfos* s.v. elah lav

<sup>35</sup> 2:28

<sup>36</sup> Rav Chaim Vital wrote “I saw my Rebbe [the Ariza”l] who on Shabbos morning would walk from his house to shul carrying his *tallis* and *chumash* and he would not be concerned or check on the *eiruv* (i.e., the *Tzuras Hapesach*) which was made in the city of Tzfas.” (*Shaar Hakavanos*, introduction to *Shaar Shabbos*; see *Nimukei Ohr HaChaim* 397:1).

<sup>37</sup> Cited in the *Laws of an Eruv* p. 180

<sup>38</sup> 2:28

<sup>39</sup> Y.D. 201:65

<sup>40</sup> 365:7

<sup>41</sup> *Mishna Berura* 365:36

<sup>42</sup> *Teshuvos u’Kesavim*, 85

<sup>43</sup> *Orchos Rabbeinu* 1, p. 311 The Chazon Ish once told Rav Dovid Frankel “When I say that it is prohibited to carry on Shabbos, who can say that it is permitted? I say that there is no kosher *eiruv* in the world. Every time we check the *eiruv* it is invalid (*Zichron l’Dovid* vol. 1 p. 348).” Other times he remarked that it pains him to walk outside on Shabbos as he sees people pushing strollers [relying on the *eiruv*] and are being Mechalel Shabbos (*Zichron l’Dovid* vol. 2 p. 140; *Dinim v’Hanhagos* 15:1).

<sup>44</sup> *Kitzur Shulchan Aruch* 82:6

<sup>45</sup> *Bikurei Elazer* (21:1) writes that other poskim rule that although it is common when checking the *eiruv* to find a break in the *eiruv* in at least one place, it is nevertheless permitted to rely on the *chazaka* for a number of reasons: 1) Rav Moshe Feinstein explained that since the *eiruv* breaking is dependent on an action occurring, it does not need to be assumed that this action will occur and thus we can still rely on the *chazaka*. 2) Although if we look at the *eiruv* in its entirety we find that there is at least one break each week, but this is not so if we look at each *tzuras hapesch* on its own, as it is not likely for each *tzuras hapesch* to break every week. 3) Rav Shlomo Miller added that since we typically find only one break in the *eiruv* that means that a break occurs on only one of the days of the week and thus we do not need to assume that it occurred on Shabbos.

<sup>46</sup> *Ibid*

<sup>47</sup> *Rema* Y.D. 1:1

<sup>48</sup> Additionally, the Dovev Meisharim (*ibid*) writes that when an *eiruv* is checked closer to Shabbos it strengthens the *chazaka* of the *eiruv*.

<sup>49</sup> *Bikurei Elazer*, 21:1

<sup>50</sup> O.C. 18

<sup>51</sup> Cited in *Bikurei Elazar* 21:3

<sup>52</sup> He adds that if a *rav* does not have the proper time to check the *eiruv* himself and relies on others to inspect the *eiruv*, he can test to see if

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they are doing a proper job by going during the week and intentionally ruin the eiruv in one of the places and see of those inspecting the eiruv realize that it is invalid.

<sup>53</sup> Dovev Meisharim (2:28) writes

<sup>54</sup> Tikun Eiruvim, 5

<sup>55</sup> Rav Shimon Eider (cited in Bikurei Elazar 21:2) writes that he was once asked, on a year that Yom Kippur fell out on Monday and the eiruv was checked the Friday before, was it necessary to check the eiruv again on Sunday, erev Yom Kippur? Similarly, a community which finds it difficult to check the eiruv each week due to weather conditions, is it absolutely required to inspect the eiruv each week? Although it is certainly appropriate to the eiruv each week before Shabbos, in these circumstances I advised that each week after the eiruv is checked they keep a record of which parts of the eiruv are susceptible to break and which places never break. Those places which never break may be relied upon that it remains on its *chazaka* and then check the places which are susceptible to break.

<sup>56</sup> Bikurei Elazar 21:2

<sup>57</sup> Laws of an Eruv p. 180

<sup>58</sup> Rema 365:7

<sup>59</sup> If the eiruv broke right before Shabbos without enough time to fix it before Shabbos, one may ask a non-Jew to fix the eiruv on Shabbos. However, the Biur Halacha (374:1 s.v. v'Nistam) writes that if this was the *first week* that the eiruv was made and the *eiruv chatzeiros* was never yet used for a Shabbos, the *eiruv chatzeiros* is not effective since in the onset of Shabbos it was never valid.

<sup>60</sup> 307:5

<sup>61</sup> See Chapter Seven for an extensive discussion on the halachos of *Amira l'Akum*.

Similarly, although it is generally prohibited *mid'Rabanan* to erect a *mechitza hamateres*, a *mechitza* which permits carrying on Shabbos (see Volume Two, Chapter Thirteen), since it is only prohibited *mid'Rabanan* one may ask a non-Jew to build the *mechitza hamateres* on Shabbos (Eiruvei Halv v'Hashecheinus p. 83).

<sup>62</sup> See Biur Halacha 302:1 s.v. *mechitza*. In truth, *Shevet HaLevi* (6:49) wonders why this knot is even prohibited *mid'Rabanan* to tie on Shabbos as if one's intention is to untie the knot within twenty-four hours it is

entirely permitted. Certainly, the case of the *Biur Halacha* (*ibid*), to ask a non-Jew to tie a slip knot is entirely permitted. If so, why is it not permitted for a Jew to tie the knot on Shabbos? He answers that tying these knots are prohibited *mid'Rabanan* because they complete the *mechitza* and are prohibited as a *mechitza hamateres* which may not be made on Shabbos (Shulchan Aruch 315:1; see Volume Two, Chapter Thirteen). Although it is generally permissible to "add on" to a *mechitza hamateres*, in this case he explains that since the breach in the *mechitza* entirely invalidates the eiruv it is not considered "adding on" to the *mechitza*.

<sup>63</sup> See 39 *Melochos* p. 1006

<sup>64</sup> Biur Halacha 302:1 s.v. *mechitza*

<sup>65</sup> 276:25

<sup>66</sup> *Shaarim Hametzuyanim b'Halacha* (94:22) writes that even preventing two or three people from stumbling is considered a *mitzva d'Rabbim*.

<sup>67</sup> *Beitza* 30a; Shulchan Aruch and Rema 608:2

<sup>68</sup> *Nesivos haShabbos* 15, note 103; *Shmiras Shabbos k'hilchaso* 17, n. 109. However, according to Rav Moshe Feinstein (*Igros Moshe* O.C. 2:36) this principle might not apply, since some people would adhere to the announcement that the *eiruv* is down and refrain from carrying.

<sup>69</sup> *Shabbos* 148b

<sup>70</sup> See Chapter Twenty-Five

<sup>71</sup> Rav Chaim Brisker (quoted in *The Contemporary Eruv* p. 101); Rav Shlomo Zalman Auerbach (*Shmiras Shabbos k'hilchaso*, *ibid*) seemed to have such a possibility as well. However, Rav Shmuel Auerbach (*Orchos Shabbos* 23, n. 157) and Rav Moshe Sternbach (*Teshuvos v'Hanhagos* 5:102) argue that this case is considered a *Melech Machsheves* since they are aware that they are carrying from their house to the street they are just not aware that the eiruv is invalid. See *Moadim u'Zmanim* 8:21) argues that this principle cannot be applied in our case, but argues that there may be other reasons why they may not be liable in this case. 'carrying' while thinking that the *eiruv* is up is not an *aveira* at all. Others also suggest that since the person carried relying on a *chazaka* that the *eiruv* is up, he is considered an *oneis* (beyond one's control) and he therefore did nothing wrong by 'carrying'