

OVERVIEW of the Daf

1) Finding coins amongst purchased merchandise

Reish Lakish in the name of R' Yannai asserts that one is permitted to keep coins found amongst purchased merchandise only when it was purchased from a merchant but not when it was purchased from a non-merchant.

This same qualification was presented as a Beraisa before R' Nachman and he rejected the qualification and explained that the Beraisa was referring to a different circumstance.

2) **MISHNAH:** The Mishnah explains what halacha is derived from the Torah's use of the example שמלה—garment.

3) Clarifying the Mishnah

Rava explains the meaning of the Mishnah's phrase בכלל כל אלו.

Rava explains why it was necessary for the Torah to give four examples of lost objects.

It emerges however that the word שיה is superfluous.

A Beraisa teaches that according to Rabanan the phrase אשר תאבד teaches that a lost object must be worth a perutah. R' Yehudah asserts that the word ומצאתה teaches that a lost object must be worth a perutah.

Abaye comments that the only difference between these opinions is just a matter of different expositions.

The exchange between the two opinions is presented.

Rava suggests that they argue about a case of an object that was worth a perutah and depreciated.

This suggestion is rejected and it is suggested that the dispute relates to a case of an object that was worth less than a perutah and appreciated.

This suggestion is also rejected and the conclusion is that they argue about a case where the object was worth a perutah, depreciated and then subsequently appreciated.

4) Identifying marks

The Gemara inquires whether identifying marks are Biblical or Rabbinic.

The practical difference between these two possibilities is explained.

Three unsuccessful attempts are made to demonstrate that identifying marks are Biblical.

An unsuccessful attempt is made to prove that identifying marks are not Biblical.

Tangentially, the Gemara discusses whether there is a concern that an object was borrowed.

It is suggested that the question of whether identifying marks are Biblical or Rabbinic is subject to a Tannaic dispute.

Rava rejects this assertion and offers an alternative explanation of the Beraisa.

Two other explanations of the Beraisa are presented.

Rava questions how lost objects could be returned if identifying marks are not Biblical.

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Distinctive INSIGHT

Are **סימנים** valid **מדאורייתא** or only **מדרבנן**?

איבעיא להו סימנין דאורייתא או דרבנן

The Torah teaches that a lost object must be returned to its owner if he can prove that the object is his. Legitimate ownership can certainly be determined when witnesses testify that they recognize the item and its owner. The Gemara also knows that if there are no witnesses, the object can still be returned if the owner can identify and describe the item by providing **סימנים**. At this point, the Gemara tries to determine whether this is warranted on a Torah level (**סימנים דאורייתא**), or whether although the Torah does not consider this level of verification to be adequate, it is the rabbis who requiring the item to be returned (**סימנים דרבנן**). Based upon the discussion in the Gemara, we find that there are three categories of **סימנים**. The least meaningful is a **סימן גרוע**—a poor mark. An example of this is where the owner simply describes his item as being “long” or “short” or “red” or “white.” These descriptions obviously are not adequate to earn the return of the object, and the reason is that many people have objects that have the same size or color of other objects that are lost, so this description does not specify this man as the true owner. The second category of marks is **סימן אמצעי**—a medium type of description. This is the type of mark referred to in most of the situations mentioned in the Gemara. Finally, there is **סימן מובהק**—an outstanding identification, which undoubtedly is convincingly specific, and something which only a true owner would know. An example of this is if a document can be identified by knowing that there is a hole in the paper next to a particular letter.

The Gemara discusses whether **סימנים** are **דאורייתא** or **דרבנן**. Ramban, Ritva and Ran hold that the question of the Gemara is only in regard to the middle category of mark. However, they say that if the owner can furnish an excellent sign **סימנים** would be acceptable and reliable even **מדאורייתא** (even

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REVIEW and Remember

1. Why does the Torah specify garment?

2. What is the source that one is not obligated to return a lost object worth less than a perutah?

3. What is the practical difference whether identifying marks are Biblical or Rabbinic?

4. Why would lost items be returned if identifying marks are not Biblical?

HALACHAH Highlight

A lost object worth less than a perutah

”ומצאתה” בעיני דאית בה שיעור מצואה

“And you have found it,” means that we require that it should be the value of a perutah

Rashi¹ explains that the term **ומצאתה** implies that the lost object should be called a “lost object” and something worth less than a perutah is not called a lost object. Later authorities dispute the exact parameters of the halacha of a lost object worth less than a perutah. Sha’ar Hamishpat² maintains that one who finds a lost object worth less than a perutah is not only exempt from returning the lost object but he is even permitted to keep it. Machaneh Ephraim³ argues that the exposition of the Torah only exempts the finder from returning the lost object but he is not permitted to take it for himself. Subsequent authorities⁴ note that once there is an exemption from returning a lost object worth less than a perutah the owner will abandon hope of recovering his lost object, therefore if the object was found after the owner was aware the object was lost the finder could keep it for himself since the owner certainly abandoned hope.

There is an important disagreement between later authorities whether the value of the object is assessed from the perspective of the owner or the finder. For example, if one finds a single shoe or a family picture which for the finder is worth less than a perutah but for the owner it is worth more than a perutah, is

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to identify a **גט** which would lead to a married woman’s now being able to remarry). Meiri (שיטה אחרת) and Ritva (אית) say that the Gemara’s inquiry whether **סימנים** are **דאורייתא** or **דרבנן** is only in regard to an excellent mark. However, a middle-range sign would certainly only be valid **מדרבנן**.

Finally, **ריב”א** holds that the question of the Gemara is both in regard to excellent and middle-quality signs. This is also the conclusion of Ketzos HaChoshen (259:2). ■

there an obligation to return that lost object? Nesivos Hamishpat⁵ asserts that an object is appraised according to its market value and thus an object that has value only to its owner does not have to be returned. Chazon Ish⁶ disagrees and writes that as long as the object is worth a perutah to the owner there is an obligation to return the object. Kuntres Hashavas Aveidah⁷ writes that Rav Moshe Feinstein and Rav Yosef Shalom Elyashiv also subscribe to the position that the lost object’s value is set by the owner rather than by calculating its market value. ■

1. רש”י ד”ה ומצאתה

2. שער המשפט סי’ ו’

3. מחנה אפרים גזילה סי’ א’

4. ע’ מתיבתא לב”מ ח”ב ילקוט ביאורים כ”ז. ד”ה האם אבידה

5. נתה”מ סי’ קמ”ח סק”א

6. חזו”א חו”מ ב”ק סי’ ו’ סק”ג

7. ע’ ספר השבת אבידה כהלכה פ”א הע’ י”ט ■

STORIES Off the Daf

The lost sheep

שה דאבידה לדברי הכל קשיא

On the first day of the summer zeman, in 1976, the then Rebbe of Pupa, zt”l, gave the following inspiring lesson:

“We are now learning Bava Metzia 27. We find that the Torah’s inclusion of the word ‘seh’ (sheep) in the subject of hashavas aveidah is difficult to understand. Although we do not have a halachic answer, we can explain it in aggadaic terms, based on the verse, **תעייתי כשה אובד בקש עבדך כי**, **מצייתך לאשכחתי**—I have wandered as a lost sheep. See out Your servant, for I have not forgotten Your commandments.”¹ It is very well known that every person has a mission in life that he must fulfill. Each day offers opportunities to fulfill mitzvos and avoid aveiros. When someone fails in his

daily mission, he has lost a chance to sanctify himself.

“Chazal taught us that Hashem fulfills the entire Torah.”² Since returning a lost object is a mitzvah, Hashem surely fulfills this in some manner. Now we can understand why the word sheep appears in the verse regarding hashavas aveidah. It refers to klal Yisrael, as we see in the verse, **שה**—Yisrael is a scattered sheep...³ When Dovid Hamelech laments that he has strayed like this lost sheep, he asks Hashem to seek him out. Now, we know that the halachah is that if one despairs, a lost object need not be returned. Similarly, one who sees that he has sinned or has not really learned as he should have, may feel very tempted to give up. After all, he will never be a talmid chacham at this late date, so why should he learn even what he can? G-d forbid that anyone should say this! A person in this situation must understand that if he gives up, Hashem will

have no need to return what he has lost!

The rebbe concluded, “This explains the end of the verse. Dovid Hamelech explains why Hashem should restore to him all of his lost opportunities: **כי מצותיך לא**—For I have not forgotten Your commandments.’ Even though I have failed to fulfill my potential and have stumbled, I have not given up on myself. I have not decided to forget about all my lost opportunities since I believe that You can still help me do teshuvah and rectify everything!”⁴ ■

1. תהילים קי”ט

2. ויקרא רבה ל”ה ג’

3. ירמיהו נ’

4. פתח טוב ע’ רכ”ה

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One rationale is suggested.

This suggestion is rejected and Rava offers another rationale.

Rava’s explanation is unsuccessfully challenged. ■