

21.2.8

(אמר ליה זיל לא שבקו לי דאשרי לך) 29b → (משנה ו) 28a

1. יהודה וישאל רבים פחול אשר על הים לרב אכלים ושתים ושמיים: מלמדים א פרק ד פסוק כ  
 2. כל הקהל כאחד ארבע רבוא אלפים שלש מאות ששים: עזרא פרק ב פסוק סד  
 3. וישבו הפהנים והלויים והשוערים והמשררים ומן העם והנתינים וכל ישראל בעריהם ויגע החדש השביעי ובני ישראל בעריהם: נחמיה פרק ז פסוק עב  
 4. וישבו הפהנים והלויים ומן העם והמשררים והשוערים והנתינים בעריהם וכל ישראל בעריהם: עזרא פרק ב פסוק ע  
 5. ואם לא קרוב אחיד אליך ולא ידעתו ואספתו אל תוך ביתך והיה עמך עד דרש אחיד אתו והשבתו לו: דברים פרק כב פסוק ב

- I ר' משנה ו:
- a until neighbors (of spot where it was found) hear about it – ר"מ
  - b הכרזה (1 day) & return (3 days) – enough for him to return home (3 days), return (3 days) then 7 days after last רגל 3: ר' יהודה
    - i Challenge: ruling that we wait 15 days for last person to come home after סוכות before beginning משמים
      - 1 Answer1 (ר' יוסף): that referred to מקדש ראשון (large population - v. 1); our ruling - מקדש שני (v. 2)
        - (a) Challenge (אביי): opposite is reasonable – in מקדש ראשון, lots of traffic – less time for news to travel (vv. 3-4)
        - 2 Answer2 (רבא): both מקדשים – same time to get home; but רבנן didn't bother אבדה that much
          - (a) Support: רבנינא's inference that we announce (e.g.) "cloak found" and not "clothing found"
            - (i) Explanation: else, he would need an extra day back home to check through clothing
            - (ii) Rejection (רבא): could even be "clothing found" – they didn't trouble אבדה that much
    - c 1<sup>st</sup> רגל and 2<sup>nd</sup> רגל he announces "this is the 1<sup>st</sup> (or 2<sup>nd</sup>) רגל"; 3<sup>rd</sup> – announces without a number
      - i Reason: may confuse 3 for 2; (won't confuse 2 for 1, since he comes again next רגל [#3])
    - d בתי כנסת and בתי מדרש in יהודה – originally, practice was to announce in חרבן ר' יהודה – practice like חרבן ר' יהודה
      - i Until: concern of strong-arm agents of government who would seize for king – ordained that we announce to neighbors and friends and that is sufficient
        - 1 Story: ר' אמי found a bucket of gold coins, was scared; Roman officer calmed him that he wouldn't seize it for king (unlike Parthian practice)
    - e there was a location known as טוען in אבן ירושלים; "lost and found" (referenced in story of חוני המעגל) **ברייתא**
- II ז' משנה ז:
- a If: the claimant identified the אבדה but not its סימנים – we do not return it
    - i Even if: he provided סימנים but was רמאי, we do not return it without checking further as per v. 5
  - b Dispute: what is announced?
    - i רמאים – announce "אבדה" – else we need be concerned about דב יהודה
    - ii רמאי (to opportunities for רמאי) and there is no end (e.g. "cloak") – no concern for רמאים nature of item (e.g. "cloak") – announce ד' נחמן
      - 1 Support (for ר' י): our משנה – if he identifies the אבדה; meaning "אבדה" was announced and he says "cloak"
      - 2 But: according to ר"נ – if the finder announces "cloak" and the claimant states "cloak" – obviously no return
        - (a) Defense (ר' ספרא): if he identifies general סימנים but not unique סימנים (מובהקין) סימנים
  - c אבדה originally, anyone who could produce סימנים would claim **ברייתא**
    - i But: with proliferation of רמאים, they ruled that everyone must bring witnesses to his honesty
      - 1 Story: ר' פפא's father was forced to produce עדים to his honesty before claiming an אבדה
        - (a) Note: they stated "he is a fraud" but evidently meant to say "he is *not* a fraud" as no one would bring witnesses to his own detriment
- III ז' משנה ז:
- a Any אבדה which works and needs to be fed (e.g. ox, donkey) is worked and fed
    - i Duration: 12 months. Afterwards – sell it
    - ii Various animals: calves and donkey foals – 3 months; fowl – 30 days;
      - 1 Dissent: רבנן – a chicken is like a גסה (12 months)
      - 2 Supportive **ברייתא**: varies from ealire and rules that calves etc. are 30 days; geese and roosters – 3 days
        - (a) Resolution: calves/3 months – if it's near grazing area (easy care); geese/30 days – if doesn't eat much
  - b Any אבדה which does not produce should be sold, as per v. 5 – i.e. make sure to return it to him in the best way
    - i And: not to feed the calf to the calves i.e. not to sell one to feed the others
  - c Status of money:
    - i ר"ט – finder may use it → if the money is lost, he is liable
    - ii ר"ע – find may not use it → if it is lost, he is not liable

- iii *Note*: they only disagree about liability if the finder used the funds
- 1 *However*: if he didn't use them, all agree that he is exempt if they were lost
  - 2 *Suggestion*: this seems to refute יוסף ר' position that שומר אבדה = שומר שכר = חייב באבדה)
    - (a) *Contra*: רבה holds that he is deemed to be a שומר חנם
    - (b) *Defense*: all agree that he is liable for גנבה ואבדה (as ש"ש)
      - (i) *Dispute*: is in re: אונסין that only a שואל is liable for
        1. ל"ט: the finder may use it, therefore he is a שואל and liable
        2. ל"ע: the finder is not allowed to use it, therefore he is not a שואל
      - (c) *Challenge*: if all agree that he is liable for ג"א and only dispute is whether he may use them
        - (i) *Then*: why does ר"ע say "לפיכך"? he should state – "you are not allowed to use" and we'll understand that the finder is not a שואל → not liable for אונסין
        - (ii) *Answer*: parallel construction with ר"ט's "לפיכך".
        - (iii) *Question*: what is the meaning of ר"ט's "לפיכך"?
          1. *Answer*: since he may use it, he is considered to have used it (*contra* opening of this סוגיא)
          - a. *Challenge*: the משנה states אבדו, implying that he is only liable if he used them
          - b. *Answer*: as per רבה's definition – (נגנבו = armed robbers); אבדו – lost at sea
- iv *Final ruling (שמואל)*: follows ר"ט
- 1 *Story*: רחבה was holding money of יתמי and asked יוסף ר' if he could use them in the meantime
    - (a) *Answer*: as per שמואל, he may
    - (b) *Challenge (אב"י)*: ר"ט's ruling only applies to דמי אבדה, which the finder worked for (took care of and sold)
      - (i) *However*: if the money is the אבדה itself, ר"ט wouldn't permit it
      - (ii) *And*: this entrusted money is akin to אבדה עצמה → may not use it