

(אלא אימא: שהעמידו דיניהם על דין תורה, ולא עבדו לפני משורת הדין) 30b → (משנה ח) 29b; 21.2.9

1. והיה העיר הקרובה אל החלל ולקחו זקני העיר ההוא עגלת בקר אשר לא עבד בה אשר לא משכה בעל: דברים פרק כא פסוק ג
2. לא תראה את שור אחיך או את שני נדחים והתעלמת מהם השב תשיבם לאחריך: דברים פרק כב פסוק א
3. זאת חקת התורה אשר צוה ה' לאמר דבר אל בני ישראל וקחו אליך פרה אדמה תמימה אשר אין בה מום אשר לא עלה עליה על: במדבר פרק יט פסוק ג
4. אפס כי לא יהיה בך אביון כי ברוך בברכה ה' בארץ אשר ה' אלהיך נתן לך נחלה לרשתה: דברים פרק טו פסוק ד
5. והזהרתה אתה את החקים ואת התולת והודעת להם את הדרך ולכן בה ואת המעשה אשר יעשון: שמות פרק יח פסוק כ

- I 'משנה ח' proper treatment of אבדה while waiting to identify owner
- a ספרים: read them once every 30 days; if incapable of reading – roll them every 30 days,
 - i But: may not study new material or study with another person
 - ii Associated ruling: if you find תפילין, sell immediately (reason – תפילין are easy to buy; ספרים are rare)
 - iii ברייתא: if someone borrows a ס"ת, may not lend to another
 - 1 Justification: no borrower may lend מצוה done with his property – owner is happy to have שאלה, ס"ת owner is happy to have
 - iv Continuation: he may open and read, but may not study new material or read with another; same applies to קדון
 - 1 But: if they opened it for him – may not read
 - 2 Explanation: if he opened it for its need, he may read – but if they opened it for him to read – may not read
 - (a) Dissent: סומכוס – if it is a new ס"ת – every 30 days; ראבי" – even an old one – every 30 days
 - (b) Note: reading w/another is challenged from ruling that 3 may not read → 2 may read
 - (i) Resolution: 2 read if they are reading separate sections; 3 may never read together (too much use)
 - b Clothing: shake it out every 30 days and open it up for its own purposes but not for personal need
 - i Challenge: shaking out regularly harms clothes, as per יוחנן ר' advice
 - 1 Answers: 1 person shaking vs. 2 people shaking; by hand vs. with a stick; wool vs. flax
 - (a) Other advice of יוחנן ד' regarding lukewarm water and ways to lose a lot of money (!)
 - 2 Question: what if he opens it up for his own need as well as need of אבדה?
 - (a) Observation: cannot prove from משנה, due to contradiction of implicated middle
 - (b) Suggestion: prove from rulings of עגלה ערופה or פרה אדומה (vv. 1, 3) –
 - (i) Rejection: those have specific and non-applicable פסוקים that guide use which invalidates
 - c Silver and copper vessels: use for their own good, but not so much that they are worn out
 - d Gold and glass vessels: do not touch (עד שיבוא אליהו)
 - i ברייתא: wood vessels – use so that they don't erode; copper – use with hot water (but not on the fire); silver vessels – use with cold water but not hot; andirons etc. – use only with soft things; gold and glass – don't use;
 - 1 Note: same applies to פקדון, if owner has gone abroad
 - e Sack, box etc. – things which are beneath his dignity to take – may leave alone as per v. 2
 - i ברייתא: v. 2 exempts כהן, if אבידה is in a cemetery, elder and it is beneath his dignity, or if the potential finder has more work than another who could take care of it
 - 1 Note: exemptions #1 and 3 are understood
 - (a) (לנפש לא יטמא...קדושים יהיו...) טומאת מת לא תעשה & עשה אבדה wouldn't trump עשה כהן
 - (b) מלאכתו מרובה v. 4 dictates that your own needs come before another's
 - 2 Answer: point is exemption #2 – if gathering the אבדה is beneath his dignity, he is exempt
 - (a) דבה even so, if you push it (the אבדה) – liable (story with אביי calling to lost goats – he was now liable)
 - (b) Question: what if his "station" allows for return in the field but not in the city?
 - (i) Lemma1: we require proper return, which is beneath his dignity → exempt
 - (ii) Lemma2: since he is liable in the field → he becomes obligated for full, proper return – תיקור
 - (c) דבא any situation that you would take your own – you are liable to return others'
 - (i) Parallel: any situation that you would load/unload your own animal – liable for פריקה וטעינה of others
- II Story with יוסי ר' ישמעאל ב"ר and the principle of acting משורת הדין (v. 5), the failure of which led to הרבן ירושלים
- a He saw someone carrying wood and the man asked for help to readjust load
 - i But: was beneath his dignity; he bought it at full value and was מפקיר; the fellow reacquired and pattern repeated
 - ii Then: he declared it הפקר to all but the original owner
 - 1 Challenge: we follow ב"ה (in פאה ה:א) that הפקר is only valid if it is available to everyone equally
 - (a) Answer: he was fully מפקיר, just stopped this one from retaking possession with his words
 - b explanation: he wasn't obligated to help at all, but did so לפנים משורת הדין as per exegesis of v. 5
 - i Note on exegesis: בן-גילוי beyond חסד ביקור חולים – even if he then gets some of illness as בן-גילוי – still must visit
 - 1 And: burial goes beyond regular חסד – even if it is beneath his dignity