

21.3.9; 42a (משנה י') → 43a (ומשלם ליה דמי כיסי)

1. ונתתה בקטף וצרת הפטף בידך והלקת אל המקום אשר יבחר ה' אלהיך בו: דברים פרק יד פסוק כה
 2. יצו ה' אתך את הברכה באטמיך ובכל משלח ידך וברכך בארץ אשר ה' אלהיך נתן לך: דברים פרק כח פסוק ח

- I liability of שומר for losses to money
- a If: he tied them together and swung them over his back
 - i As per: v. 1, which alludes to the idea that even tied up money should be “in your hand”
 - ii Tangent: advice of יצחק re: watching money, diversification of investements
 - 1 And: notion that a blessing only operates on discreet things (v. 2)
 - 2 Associative advice: תפילות to be said when entering threshing floor – only before measuring them
 - b Or: entrusted them to his minor children
 - c Or: locked them up inappropriately – liable,
 - i Reason: he didn't watch in the expected fashion of שומרים
 - d However, if: he watched in the expected fashion of שומרים - exempt
- II Additional directives for watching money
- a שמואל: can only be guarded by burying it
 - i If: he was entrusted just before שבת, not liable until enough time to bury after שבת has passed
 - ii But if: the owner is a ת"ח, no need to bury immediately after שבת, as he may need his money for הודלה
 - iii Evolution: money-diviners find money in ground → hide in roof beams
 - iv Then: house-breakers proliferated → hide between bricks of wall
 - v Then: “rappers” who sense empty spaces in wall → 1st טפח of ground or 1st טפח of roof beams
 - b ר' אחא בר יעקב: compare/contrast with חמץ, which must be buried ג'ט to be considered “buried”, such that the dog can't dig it out – must block the smell
 - i But: a פקדון need only be covered from sight - 1 טפח
 - c Stories:
 - i Man entrusted money to another who placed it in a bird-trap and it was stolen
 - 1 Ruling (ר' יוסף version 1): it was proper vis-à-vis theft, but not for fire
 - (a) Therefore: as תחילתו בפשיעה וסופו באונס → liable (ordered him to pay) הלכה
 - 2 Ruling (ר' יוסף version 2): it was improper vis-à-vis fire, but not for theft
 - (a) Therefore: as תחילתו בפשיעה וסופו באונס → exempt
 - ii Man entrusted money to another and when he requested it, שומר said he didn't know where it was
 - 1 Ruling (רבא): לא ידענא is neglect and he is liable
 - iii Man entrusted money to another, who gave it to his mother, who put it in her basket – and it was stolen
 - 1 Ruling (רבא): cannot hold son liable, as all מפקידים assume that adult family members will also watch
 - (a) And: cannot hold mother liable, as son never told her that it was another's (she thought it was his)
 - (b) So: he swears that he gave it to his mother, and she swears that they were stolen from her basket → פטור
 - iv אפוטרופוס bought ox for יתומים and entrusted it to herdsman; ox didn't have some teeth, didn't eat and died
 - 1 Ruling (רמי בר חמא): cannot hold אפוטרופוס liable, as he gave it to herdsman; cannot hold herdsman liable, as he didn't know that the ox wasn't eating
 - (a) But: the herdsman was a ש"ש of the orphans and should be liable to them (and would, except...)
 - 2 correction: case was where orphans found the seller and got their money back (it was טעות)
 - 3 therefore: the seller is the plaintiff, who could argue that the אפוטרופוס should have let him know
 - (a) counter: אפוטרופוס responds that seller knew that it was a טעות – but the seller was a middleman
 - (b) Ruling: אפוטרופוס swears that he didn't know (about the teeth) and herdsman pays –value of (cheap) meat
 - v Man entrusted hops to a fellow, who had his own and directed a brewer to take “from these” for beermaking
 - 1 Event: brewer took from מפקיד's hops
 - 2 Ruling (ר' עמרם): cannot tell שומר to pay – he told brewer to use his own hops
 - (a) And: cannot tell brewer to pay, as owner didn't say “take these and not those”
 - (i) But: if the brewer waited long enough to get the further hops (פקדון), the שומר showed that he was happy with this occurrence (and he is liable) - but he didn't wait that long
 - (b) Challenge: there is no loss – it became beer
 - (c) Answer1 (ר' סמא בריה דרבא): beer turned to vineyard
 - (d) Answer2 (ר' אשי): the hops had thorns in them and making it into beer hurt it – must pay value of the thorns that enhanced the beer