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Less than a Perutah

The *Mishnah* had stated: If one steals from his fellow the value of a *perutah* and swears to him (*and later admits*), he must pursue him even to Media. If he paid him or the owner forgave him for everything except for less than the value of a *perutah* of the principal, he is not obligated to pursue him.

Rav Pappa said: This ruling can apply only where the stolen object was no more in existence, for where the stolen object was still in existence, the thief would still have to pursue him, as there is a possibility that it may rise in value (*and become worth a perutah*). Others, however, said that Rav Pappa stated that there was no difference whether the stolen object was in existence or not in existence, as in all cases he would not have to pursue him, since we are not concerned that it may rise in price. (105a1)

Rava said: If one stole three bundles that were altogether worth three *perutos*, but which subsequently fell in price and become worth only two - even if he returned two bundles, he would still have to return the third (*and if it is not in existence anymore, he would be required to pay a perutah as it was worth at the time that it was stolen*). This could also be proven from the *Mishnah* which states: If one stole *chametz* and Pesach passed over it, he may (*return it and*) say to the owner, "That which is yours is in front of you." The reason for this is that the stolen object is intact, whereas if it were not intact, even though it presently has no monetary value, he would have to pay on account of the fact that it originally had monetary value. So also in this case, though the bundle is presently not of the value of a *perutah*, since originally it was of the value of a *perutah*, he must pay for it.

Rava inquired: What would be the *halachah* where he stole two bundles amounting in value to a *perutah* and returned one? Do we say that there is not presently with him a stolen object of the value of a *perutah*, or do we say that since he did not return the stolen object which was with him (*for he did not return something worth a perutah*), he did not discharge his duty? Rava himself resolved this as follows: There is neither a robbery here (*and therefore he has no obligation to return it*), nor is there a return here (*and therefore he does have an obligation to return it*).

The *Gemora* asks: But if there is no robbery here, is it not surely because there was a return here? The *Gemora* answers: What he meant was this: Though there remains no robbery here (*and there is no "money" to return*), the *mitzvah* of returning was not performed here (*and for that reason, he must return it*). (105a1 – 105a2)

Two Hairs for a Nazir

And Rava had said: If a *nazir* shaved his head except for two hairs, he has not fulfilled the *mitzvah*. Rava inquired: If a *nazir* shaved his head except for two hairs (*not fulfilling the mitzvah*) and then (*before any hair grew back*) he shaved one of the two remaining hairs and the other one fell out, has he discharged his obligation of shaving or not (*because shaving one hair is not regarded as shaving, or perhaps he has discharged his obligation, since when he began this shaving, there were two hairs remaining*)?

Rav Acha from Difti asked Ravina: Is Rava inquiring if the shaving of one hair at a time is valid (*it certainly is! And therefore there should be no concern in this case, for two hairs remained and he shaved one, leaving only one hair remaining, why should it not be valid*)? Rather, the following

was Rava's inquiry: If a *nazir* shaved his head except for two hairs (*not fulfilling the mitzvah*) and then (*before any hair grew back*) one of the two remaining hairs fell out and he shaved the other one, has he discharged his obligation of shaving (*because every hair was shaven except for one*) or not (*the first shaving was not valid because two hairs remained and the second shaving was likewise not valid, for there was only one hair on his head when he shaved*)? Rava then resolved it: Since there is no hair here, there is no shaving!

The *Gemora* asks: If there is no hair, there was a shaving! The *Gemora* explains: Although there is no hair here, he has not fulfilled his *mitzvah* of shaving (*the first shaving was not valid because two hairs remained and the second shaving was likewise not valid, for there was only one hair on his head when he shaved*; *it is as if his hair fell out by itself, where he cannot fulfill the mitzvah*). (105a2 – 105a3)

Rava also said: It has been stated that if an earthenware barrel had a hole which was filled up with sediments, they would render it safe [and secure from becoming tamei while in a tent where a corpse of a human being was kept, as the barrel would be considered to have a covering tightly fastened upon it). Rava thereupon inquired: What would be the law where only half of the hole was blocked up? Rav Yeimar said to Rav Ashi: Is this not covered by our Mishnah? For we have learned: If an earthenware barrel had a hole which was filled up with sediments, they would render it safe [and secure while in a tent where a corpse of a human being was kept]. If it was corked up with vine shoots it would not do unless it was smeared with mortar. If there were two vine shoots corking it up they would have to be smeared on all sides as well as between one shoot and another. - Now the reason why this is so is because it was smeared, so that if it would not have been smeared this would not have been so. But why should this not be like a case where half of the hole was blocked up? — It might, however, be said that there is no comparison at all, for in that case if he did not smear it the blocking would not hold at all, whereas here half of the hole was blocked up with such a material as would hold. (105a3 – 105a4)

Denial

And Rava said: The *Mishnah* had stated: If one stole *chametz* and Pesach passed over it, he may (*return it and*) say to the owner, "That which is yours is in front of you." Rava inquired: What would be the *halachah* where (*instead of availing himself of this plea*) the thief took a false oath that he never stole the *chametz*? Shall we say that since if the *chametz* were to be stolen from him he would have to pay for it, there was therefore here a denial of money (*and he would be liable to bring an asham*), or perhaps since the *chametz* was still intact and was considered as mere ashes (*for it is forbidden for benefit*), it is not regarded as if there was any denial of money here?

The *Gemora* notes: It appears that this matter, on which Rava was doubtful, Rabbah was pretty certain about, for Rabbah stated: If one man says to another, "You have stolen my ox," and the other one says, "I did not steal it at all," and when the first asks, "What then is it doing by you?" the other replies, "I am an unpaid custodian regarding it." If he affirms this claim with an oath and then he admitted his guilt, he would be liable (*to bring a korban asham*) for by this false claim (*although he was not denying that it did not belong to him*) he would have been able to release himself from liability in the case of theft or loss. So also where his false claim was "I am a paid custodian regarding it," he would similarly be liable, as he would thereby have released himself from liability in the case where the animal broke its leg or died. And again, even where the false claim was that "I am a borrower regarding it," he would be liable, for he would thereby have released himself from any liability were the animal to have died merely because of the usual work performed with it. Now, this surely proves that though the animal now stands intact, since if it were to be stolen, the statement would amount to a denial of money, it is even now considered to be a denial of money. So also here in this case, though the *chametz* presently is regarded as mere ashes, yet since if it were to be stolen, he would have to pay

him with a genuine amount of money (*its worth at the time that it was stolen*), even now it is regarded as if there is a denial of actual money.

Rabbah was once sitting and repeating this teaching when Rav Amram challenged Rabbah from the following *Baraisa*: It is written: *And he denied it*. This excludes a case where there is admission to the substance of the claim, as where one says to his fellow, "You have stolen my ox," and the other one says, "I did not steal it at all," and when the first asks, "What then is it doing by you?" the other replies, "You sold it to me," or "You gave it to me as a gift," or "Your father sold it to me," or "Your father gave it to me as a gift," or "The ox was running after my cow," or "It came on its own to me," or "I found it straying on the road," or "I am an unpaid custodian regarding it," or "I am a paid custodian regarding it," or "I am a borrower regarding it." If he affirms this claim with an oath and then he admitted his guilt, you would have thought that he should be liable, it is therefore stated: *And he denied it* to exclude a case like this where there is an admission to the substance of the claim!?

Rabbah replied: Your argument is confused, for the *Baraisa* there dealt with a case where the defendant immediately (*after admitting*) says, "Here, it is yours" (*and there is no possibility of being liable in the future*), whereas the ruling I made refers to a case where the animal was standing in a swamp.

But what admission in the substance of the claim could there be in the defense of "You have sold it to me"? — It might have application where the defendant said to him, 'As I have not yet paid you its value, take your ox back and go." - But still what admission in the substance of the claim is there in the defense of "You gave it to me as a gift or your father gave it to me as a gift"? — It might be [admission] where the defendant said to him, "[As the gift was made] on the condition that I should do you some favor and since I did not do anything for you, you are entitled to take your ox back and go." - But again, where the defense was, "I found it straying on the road," why should the plaintiff not claim, "You surely have had to return it to me"? — But the father of Shmuel said: The defendant was alleging and confirming it by an oath: "I found it as a lost article and was not aware that it was yours to return it to you." (105a4 – 105b2)

Denying Testimony

The *Gemora* cites a *Baraisa*: Ben Azzai said: The following three false oaths (*taken by a single witness*) are subject to one *halachah*: [*He swore that he had no information regarding the case*.] He had cognizance of the lost object, but not of the person who found it. He had cognizance of the person who found it but not of the lost object. He did not have cognizance of the lost object or its finder.

The *Gemora* asks: But if he did not have cognizance of the lost object or its finder, was he not swearing truthfully? The *Gemora* emends the case to where he did have cognizance of the lost object and its finder.

The *Gemora* asks: To what *halachic* decision does this statement point? Rav Ami said in the name of Rabbi Chanina: The witness will be exempt in these cases, but Shmuel said that he will be liable.

The *Gemora* explains: They are divided on the same issue as the following *Tannaim*: If a single witness was adjured and the oath was subsequently admitted by him to have been false, he would be exempt, but Rabbi Elazar the son of Rabbi Shimon says that he will be liable.

The *Gemora* explains: They argue regarding the following fundamental principle: Rabbi Elazar the son of Rabbi Shimon maintains that a matter which might cause a benefit of money is regarded as actual money (*and therefore the witness will be liable*), whereas the *Tanna Kamma* maintains that it is not regarded as actual money. (105b2 – 105b3)

Denial makes him a Thief

Rav Sheishes said: A custodian, who falsely denies a deposit is instantly regarded as a thief, and will therefore become liable for all accidents. This is also supported by the following

Baraisa: It is written: *And he denied it*. We could derive the penalty from here, but from where do we derive the warning? It is written: *Neither shall you deny falsely*. Now, does this not refer to the penalty for merely having denied the money (*even without swearing falsely*)!? The *Gemora* rejects the proof: No! It refers to the penalty for the false oath.

But, the *Gemora* asks: Since the concluding clause refers to a case where an oath was taken, it surely follows that the commencing clause deals with a case where no oath was taken, for it was stated in the concluding clause: It is written: *And he swore falsely*. We could derive the penalty from here, but from where do we derive the warning? It is written: *You shall not lie*. Now, since the concluding clause deals with a case where an oath was taken, must not the commencing clause deal with a case where no oath was taken? [*It would therefore be a proof to Rav Sheishes*!]

The *Gemora* answers: It may, however, be said that the one clause as well as the other deals with a case where an oath was taken. The concluding clause is referring to a case where the defendant admitted that he swore falsely, and the commencing clause is referring to a case where witnesses testified that he indeed stole it. Where witnesses testified, the defendant would become liable for all accidents (*if he swore falsely*), whereas in a case where he himself admitted, he would be liable to pay the principal, the fifth and the *asham*. [*The Baraisa therefore would not be a proof to Rav Sheishes.*]

Rami bar Chama raised an objection to Rav Sheishes from the following *Baraisa*: Where the other party was suspected regarding the oath *(if one was liable to take a Biblical oath, but because he was suspect to swear falsely, the Rabbis declared that the plaintiff should swear instead of him and then he collects*). How so? If the defendant previously swore falsely either an oath regarding testimony, or an oath regarding a deposit, or even an oath in vain, he is disqualified from swearing now. But, according to Rav Sheishes, shouldn't he have become disqualified from the very moment of denial (*even without swearing falsely*)?

The *Gemora* answers: It might, however, be said that we are dealing here with a case where the deposited animal was at that time standing in a swamp, so that it is not regarded as a denial, since he might have thought to himself, "I will push him off for the time being and later I will go and bring it to him." This view could even be proven from the following statement of Rav Idi bar Avin: One who falsely denies a loan is qualified to give testimony, but one who falsely denies a deposit is disqualified from giving testimony. (105b4 – 106a1)

DAILY MASHAL

It is regarded as stealing even if the amount is merely a perutah.

Rav Aharon Kotler was the driving force behind the vaad hatzalah. One evening after a meeting with the vaad and almost everyone had already left, a Rabbi noticed that Reb Aharon was staying behind. He asked him about it and Rav Kotler explained to him that he didn't have the necessary ten cents needed for the subway. Keep in mind that the Rabbi headed the vaad which dealt in millions of dollars. Also in keep mind that it was undoubtedly in the best interest of the vaad for the Rosh Yeshiva to come to meetings and to return when it was completed. Anyone could have easily made a good case for granting permission to the Rosh Yeshiva to take the needed ten cents from the vaad's coffers. A good case – yes, but to the Rosh Yeshiva, the case was not good enough. The end of the story is that the other Rabbi lent the Rosh Yeshiva twenty cents - ten cents for the subway and another ten cents just in case he took the wrong trai. (The living Mishnas Reb Aharon, by Rabbi Yitzchak Dershowitz)