



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
Tzvi Gershon ben Yoel (Harvey Felsen) o”h

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Lost and Found

[The Torah mandates that one return a lost item to its owner. This obligation is limited to items which the owner has a chance of recovering, due to some identifying sign. The *Mishnah* lists lost items that one may keep, due to their having no identifying sign, and lost items that one must announce, to fulfill the obligation to return the lost item to its owner.]

These finds belong to him, and these finds he is obligated to announce. The *Mishnah* lists the finds that one may keep:

1. Scattered produce
2. Scattered coins
3. Bundles of grain, when found in the street
4. Pressed dried figs, in a standard round container
5. Bakery loaves of bread
6. Fish, hanging off a string
7. Meat slices
8. Standard bundles of wool
9. Bundles of linen
10. Purple strips of wool

All these belong to the finder; these are the words of Rabbi Meir. Rabbi Yehudah says that any item that is out of the ordinary must be announced. How so? If one finds a container of pressed dried figs, but in it is a piece of clay, or a loaf of bread, containing embedded coins, he must

announce the item. Rabbi Shimon ben Elazar says that if one finds *anporya* (new) utensils, he need not announce them. (21a3)

Scattered Produce

The *Mishnah* had stated: if one found scattered produce.

How much is that? Rabbi Yitzchak defines scattered produce as a *kav* of produce that is spread in an area of 4 square *amos*.

But what kind of a case is meant? If [the produce appears to have been] dropped accidentally, then even if there is more than a *kav* [it should] also [belong to the finder]. And if it appears to have been [deliberately] put down, then even if there is a smaller quantity it should not [belong to the finder]? — Rav Ukva bar Chama answered that Rabbi Yitzchak says the *Mishnah* is discussing a case where one left some grain in the threshing floor. [To collect] a *kav* [scattered over a space] of four *amos* is troublesome, and, as people do not trouble to come back and collect it, [the owner also] abandons it, but if it is [spread over] a smaller space [the owner] does come back and collect it, and he does not abandon it.¹

Rabbi Yirmiyah inquired: How is it [if one finds] half a *kav* [scattered over the space] of two *amos*? Is the reason why a *kav* within four *amos* [belongs to the finder] that it is troublesome [to collect], and therefore half a *kav* within

seem to have been purposely left, one may never take them, while if they look lost, one may always take them, independent of the amount.

¹ If he left a *kav* over an area of 4 square *amos*, the produce is not significant enough to warrant the effort to collect it, and he therefore relinquishes it. In a standard case of lost fruit, if they



two amos, which is not troublesome to collect, is not abandoned [and should not belong to the finder], or is the reason [in the case of a kav within four amos] that it is not worth the trouble of collecting [when spread over such a space], and therefore half a kav within two amos, which is still less worth the trouble of collecting, is abandoned [and should belong to the finder]?

[What would be if one finds] two kavs [scattered over the space] of eight amos? Is the reason why a kav within four amos [belongs to the finder] that it is troublesome to collect, and therefore two kavs within eight amos, which are still more troublesome to collect, are even more readily abandoned [and should certainly belong to the finder], or is the reason [in the case of a kav within four amos] that it is not worth the trouble [of collecting], and therefore two kavs within eight amos, which are worth the trouble [of collecting] are not abandoned [and should not belong to the finder]?

[What would be if one finds] a kav of sesame seeds [scattered over a space] of four amos? Is the reason why a kav [of produce] within four amos [belongs to the finder] that it is not worth the trouble [of collecting], and therefore sesame seeds, which is worth the trouble [of collecting] is not abandoned [and should not belong to the finder], or is the reason [in the case of a kav within four amos] that it is troublesome [to collect], and therefore sesame seeds, which is even more troublesome [to collect], is abandoned [and should belong to the finder]?

[What would be if one finds] a kav of dates within four amos, or a kav of pomegranates within four amos? Is the reason why a kav [of ordinary produce] within four amos

[belongs to the finder] that it is not worth the trouble of collecting, and therefore a kav of dates within four amos, or a kav of pomegranates within four amos, which also is not worth the trouble [of collecting] is abandoned [and should belong to the finder], or is the reason [in the case of a kav within four amos] that it is troublesome to collect, and therefore a kav of dates within four amos or a kav of pomegranates within four amos, which are not troublesome [to collect], are not abandoned [and should not belong to the finder]? — The questions remain unanswered.² (21a4 – 21a5)

Realizing the Loss

[A fundamental concept of returning a lost item is *ye'ush* – the lost item's owner despairing of retrieving it. When an item has no identifying sign, we assume that the owner despairs of retrieving it.]

The *Gemora* cites a dispute between Abaye and Rava about whether *ye'ush shelo midaas*, *ye'ush* that has not yet occurred but will occur later, is effective. Abaye says that *ye'ush* is only effective once the owner realizes he lost his item, and consciously despairs of retrieving it. Rava says that even before the owner realizes he lost an item, his future *ye'ush* is effective once the item is lost.

The *Gemora* clarifies that even Rava agrees that if someone found and took an item with an identifying sign – which one would normally not despair of retrieving – even if we later hear that the owner despairs of finding it, the finder may not keep the item, since he took it when it was prohibited. [Only *ye'ush* that is technically missing knowledge is effective, but not *ye'ush* which may not occur.] This is because [it is assumed that] when [the loser] becomes aware that he lost it he will not give up

² The *Gemora* questions whether the small amount of produce or the work involved in gathering it from this area is the reason for one to relinquish it. The cases where this question is relevant are:

1. Half a kav in 2 amos: less work, but less produce
2. 2 kavs in 8 amos: more work, but more produce

3. A kav of sesame in 4 amos: more work, but more valuable produce
 4. A kav of pomegranates or dates: less work, but less valuable produce
- All are left unresolved with a *taiku*.



the hope [of recovering it] but says [to himself], “I can recognize it by an identification mark; I shall indicate the identification mark and shall take it back.” Abaye also agrees that if an item is swept away by the tides of the sea or by the surge of a flooding river, even if it has a sign, the Merciful One permitted the finder to keep it, as we will explain below (since it is lost from everyone). The dispute of Abaye and Rava is only regarding a case of an item with no identifying sign (*which the owner will despair of retrieving but which the owner hasn’t realized he lost*). Abaye says: It is no abandonment because [the loser] did not know that he lost it; Rava says: It is an abandonment, because when he becomes aware that he lost it he gives up the hope [of recovering it] as he says [to himself], “I cannot recognize it by an identification mark,” it is therefore as if he had given up hope from the moment [he lost it]. (21a5 – 21b1)

(Mnemonic: PMG”SH MMKGT”Y KKS”Z.) Come and hear: Scattered produce — [isn’t this a case where the loser] did not know that he lost it? — Rav Ukva bar Chama has already explained that we deal here with [the remains of] what has been gathered on the threshing floor, so that [the owner] is aware of his loss.

Come and hear: Scattered money, [etc.] belong to the finder. Why? [Is it not a case where the loser] did not know that he lost it? — There also it is even as Rabbi Yitzchak said: A man usually feels for his purse at frequent intervals. So here, too, [we say:] A man usually feels for his purse at frequent intervals (and soon discovers his loss).

Come and hear: Round cakes of pressed figs, a baker’s loaves, [etc.] belong to the finder. Why? [Is it not a case where the loser] did not know that he lost it? — There

also he becomes aware of his loss, because [the lost articles] are heavy.

Come and hear: Stripes of purple [etc.] — They belong to the finder. Why? [Is it not a case where the loser] did not know that he lost them? — There also [he becomes aware of his loss] because the articles are valuable, and he frequently feels for them, as Rabbi Yitzchak said.

Come and hear from the following *Baraisa*: If one finds coins in a Synagogue or a Study hall, or any place where large numbers of people are commonly found, he may keep them, because the owner despairs of recovering them. — But he did not know that it has fallen from him? Rabbi Yitzchak says that one constantly checks his pockets (so the owner will immediately realize his loss).

Come and hear from the following *Mishnah* (in Pe’ah): When is it permitted for anyone to take produce left over from the *leket* (*dropped sheaves*, which must be left for the poor)? When the *nemushos* pass through the field. What are *nemushos*? Rabbi Yochanan identifies *nemushos* as old poor people who walk with a cane (i.e., they walk slowly and thoroughly inspect the land), while Rish Lakish identifies them as those who glean after the gleaners. — But why? Granted that the local poor give up hope [of finding any gleanings], there are poor people in other places who do not give up hope?³ — I will say: Seeing that there are local poor, those [in other places] give up hope straight away, as they say, “The poor of that place have already gleaned it.”

Come and hear from the following *Mishnah*: If one finds dried figs on the road, even adjacent to a field of drying figs, or figs on the road under an overhanging fig tree, they are permissible with respect to the prohibition of

³ Once these pass through the field, the poor of the town despair of finding much produce there, and therefore anyone may take the remaining produce. However, the poor of other towns don’t

know when this happens, so they can’t consciously despair, yet we allow people to take the produce, indicating that unconscious despair is sufficient.



theft. He may therefore take them, and they are not obligating in any tithes. However, similar situations with olives or carob are prohibited (and not considered ownerless). Abaye can explain that the first two cases are ones where the owner consciously has despaired of his fruit: dried figs are valuable, so one constantly checks them, and one knows that figs constantly fall off a tree, and therefore relinquishes them a priori. However, he does not know about the olives and carob that fell off, and therefore does not consciously relinquish them, and therefore one may not take them. We assume that once the owner discovers any fallen fruit, he will relinquish them, so the end of the *Mishnah* therefore seems to disprove Rava. - Rabbi Avahu explains that the owner will not relinquish his olives and carobs, since people can see that the fruit came from the overhanging tree, and will not take them. – if so, even in the first case as well? Rav Pappa said: Figs that fall from a tree get dirty, and therefore the owner will relinquish them. (21b1 – 21b4)

Come and hear from the following *Baraisa*: If an item is transferred from one person to another as a result of theft, robbery, or a strong river, the recipient may keep the item. While the original owner sees a river or robber taking his item and can relinquish it, a thief takes the item without his knowledge, but the *Baraisa* still gives possession of the item to the recipient. This seems to prove Rava's position. Rav Pappa explains that the thief in this *Baraisa* is an armed robber, so the owner does know about the theft. – If so, it is the same case as a robber!? – There are two types of robbers. [He is still considered a thief since he is not brazen enough to rob without the security of a weapon.] (21b4 – 22a1)

INSIGHTS TO THE DAF

Scattered Produce

The *Gemora* asked what amount of produce is considered scattered, and Rabbi Yitzchak answered that the limit is a *kav* of produce in an area of 4 square *amos*. The *Gemora*

then proceeds to challenge the premise of the discussion, saying that if the produce was purposely placed, any amount should not be taken, and if the produce was dropped, any amount should be taken. The *Gemora* explains that Rabbi Yitzchak was discussing a case of one leaving leftover produce after threshing, and not a standard case of lost produce.

Tosfos (21a v'kama) explains that Rabbi Yitzchak was the one who asked the question, and therefore the *Gemora* challenges the premise of the question itself. Rabbi Yitzchak did not understand the *Mishnah* as a case of produce that was left by accident, since he holds like Abaye on the issue of *yeush shelo midaas*. Therefore, if the scattered produce was a standard lost item, the finder could not take it, since the owner may not have realized the loss and despaired.

The Rambam (Gezeila v'aveida 15:8), however, rules that if scattered produce was dropped, the finder may keep it.

The Tur (HM 262) challenges this ruling, since we follow Abaye, and therefore should not allow the finder to take the scattered produce.

The Ramban explains that Rabbi Yitzchak felt compelled to limit the case of the *Mishnah* to the leftover grain on the threshing floor, only before the *Gemora* deflected the later cases of the *Mishnah* with the statement that one immediately realizes the loss of heavy items. Once the *Gemora* introduced the concept that one immediately realizes the loss of a heavy item, this will allow us to apply the *Mishnah's* statement of scattered produce to a standard lost item as well.

Two Halves make a Whole?

The *Gemora* questioned how to apply Rabbi Yitzchak's measure to other situations. The first set of cases are different measures – instead of one *kav* in 4 *amos*, there are $\frac{1}{2}$ a *kav* in 2 *amos*, or 2 *kavs* in 8 *amos*. Tosfos (21a

chatzi) asks why the *Gemora* considered these different than the case of 1 *kav* in 4 *amos*. If Rabbi Yitzchak is indicating that the grain owner does not consider the cost of collecting produce over 4 *amos* in order to earn 1 *kav* to be worthwhile, the same cost benefit ratio applies to half that amount or double that amount. Tosfos points out that a *kav* in 4 *amos* is just two subareas, each one of $\frac{1}{2}$ a *kav* in 2 *amos*. If one would consider it worth the effort to collect the $\frac{1}{2}$ *kav* in 2 *amos*, he would do the same for a *kav* in 4 *amos*. Tosfos offers two answers:

1. Psychologically, one is overwhelmed by a large job more than by a smaller job, even when proportionally the cost benefit ratio is the same. When one sees a manageable area of 2 *amos*, he will consider the job easily done, and worthwhile, and therefore do it. When he sees a larger absolute area of 4 *amos* – even with proportionally the same benefit for the work in terms of produce – he will consider the job too large, and abandon it. [One may take a lesson for heavenly matters, that the key to accomplishing large tasks is to isolate them into smaller steps, so as not to become overwhelmed and discouraged.]
2. The areas discussed are always in square *amos*. Therefore, the case of $\frac{1}{2}$ a *kav* is in 2 square *amos*, which is only a quarter of 4 square *amos*. The *Gemora* was asking whether the smaller area compensates for the less produce.

Taiku in Lost and Found

The *Gemora* leaves the further scenarios of Rabbi Yitzchak's case unresolved as a *taiku*. A *taiku* is considered a bona fide doubt in *halachah*, and the general rules of doubtful situations apply.

The Rishonim disagree on how to deal with such a doubt regarding a lost item. Rosh says that one should be stringent, and take the item and announce its loss to find the owner. The Rambam (Gezeila v'aveida 15:12) rules that one should treat the doubt with passivity. The finder

should not take the item, since it may not be a lost item, or it may be an item that he can keep.

The Noda Be'yehudah explains that the Rosh does not consider a finder to be in possession of the lost item, and therefore the standard rules of doubt applies, and the finder must be stringent. However, the Rambam considers the finder to be in possession of the item once he took it, and therefore, he need not announce it, since in monetary *halachah*, one who tries to remove an item from its current possession has the burden of proof. The finder can maintain that he is allowed to keep it, and the owner must prove otherwise. The Noda Be'yehudah maintains that even the Rambam does not allow the finder who took the item to use it. He must keep it in escrow until Eliyahu Hanavi comes.

Yeush Shelo Midaas

The Raavad suggests that the dispute of Abaye and Rava is simply a dispute over *bereirah* – retroactively applying a clarification. Since we know the owner will despair on discovering his loss, Rava says *bereirah* allows us to consider him despaired now, while Abaye hold that *bereirah* is not effective, and the despair can only take effect at the time of discovery.

The Ritva disagrees, and says that Rava considers the item despaired, even if the owner never does despair. The situation of an item for which there truly is no hope of recovery is sufficient, even if the owner never reaches this realization. See Chidushei Rabbi Shimon Shkop (BM 20) for further discussion of the mechanism of *yeush* and why Abaye requires it to be actualized to be effective.

How Important

The *Gemora* explicitly discussed, according to Abaye, why five out of the ten items in the *Mishnah* are taken by the finder. The *Gemora* omitted:

1. Bundles of grain, when found in the street

2. Fish, hanging off a string
3. Meat slices
4. Standard bundles of wool
5. Bundles of linen

The Rosh (siman 2) says that fish and meat are important items (like coins), since they are food, and we assume their owner is constantly checking for them. Bundles of linen and wool are expensive items, and one will also constantly check them. Our text of the *Gemora* says that loaves of bread and pressed figs are heavy, and their owner therefore immediately realizes their loss.

The Gra suggests the Rosh had a text in our *Gemora* that explained that loaves of bread and pressed figs are *important*. The Rosh understood this to be due to their being food items, and applied this to meat and fish. The Rosh then applied the concept of money, with its intrinsic value, to the bundles of wool and linen. The Gra explains, based on Tosfos (21a krichos) that bundles of grain are a case where we assume the owner placed them there on purpose and forgot them there, and will realize his loss immediately.

DAILY MASHAL

All or nothing

We have learnt in our sugya that an owner of a kav of fruit (according to Chazon Ish, 2.4 liters or, according to Rav Chayim Noeh, 1.38 liters) that have scattered within four square amos abandons hope of gathering them and anyone may claim them. However, the Gemara then raises the question of half a kav within 2 square amos.

At first thought, the proportion between the cases is identical, both as to the amount of fruit and their manner of being scattered. What could be the difference? Tosfos (s.v. "Chatzi") explain that a person may make an effort to gather half a kav whereas a large amount is troublesome

to gather. Still, we may wonder: If so, why may the finder take the entire kav scattered in four amos? Why do we assume that the owner of the fruit would not bother to gather half of the amount lying within only two amos?

HaGaon Rav Chayim Berman wisely remarks that the question shows a deep comprehension of human nature. Someone who sees a tremendous chore before him starts to feel lazy or even does not begin. This tendency may also trouble a person who decides to finish Shas in the Daf HaYomi program. He may suddenly ask himself, "Finish the whole Shas? Now that's really too much!" He thus gets discouraged and eventually may not even finish one tractate. "The wise", however, "have their eyes in their heads". He must make up his mind to learn one tractate first. He thus succeeds in gathering half a kav and, with HaShem's help, proves the blessing "Taste and see that HaShem is good" (Tehillim 34:9), earning renewed strength to finish the whole Shas.