

Eilu Metzios In Charts

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לזכר נשמת הרב אהרן שאול בן ר' שרגא זלמן שינענסקי זצ"ל

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by Noson S. Yanofsky

21a) Mishna: Objects The Finder Keeps And Objects That Must Be Called Out.

If a person finds a lost object, can he keep it or must he call out to find the owner. The Mishna gives three opinions about what type of object can be kept and what type of object must be called out.

Our Mishna		
These are the objects that can be kept, and these are the objects that must be called out.		
R' Meir	R' Yehudah	R' Shimon ben Elazar
<ul style="list-style-type: none"> • Scattered produce • Scattered coins • Small sheaves in public places • Round cakes • Pressed figs • A baker's loaves • Strings of fish • Pieces of meat • Fleeces of wool brought from their province • Bundles of flax • Tongues of purple wool <p>All these belong to the finder.</p>	<p>Any object with an unusual feature must be called out.</p> <p>For example:</p> <ul style="list-style-type: none"> • A round cake with a piece of pottery inside • A loaf with coins inside 	<p>Any <i>anporya</i> vessel can be kept by the finder.</p>

21a) Scattered Produce.

The Gemara wants to determine what are the circumstances of the Mishna's law on scattered produce.

The Mishna:	<p>Our Mishna</p> <p>Scattered produce belongs to the finder.</p>	
A question:	How much is considered scattered?	
A ruling:	<p>R' Yitzchak says</p> <p>A <i>kav</i> spread over four <i>amos</i> is scattered and can be kept by the finder. If the produce is more concentrated, then the finder must call it out.</p>	
Possible circumstances of the ruling:	<p>If the produce looks like it fell</p> <p>Then even if it is more concentrated, the finder would be permitted to keep it because the owner was <i>meyayish</i>.</p>	<p>If the produce looks like it was put down</p> <p>Then even if it was less concentrated, the finder would have to call it out because the owner plans on coming back for it.</p>
Rav Ukva bar Chama explanation of R' Yitzchak's ruling:	<p>The produce was left behind at the time of the clearing of the threshing floor. The effort needed for the owner to collect the produce is too much so the owner will abandon it. But if it was more concentrated in a smaller area the owner would come back for it.</p>	

21a) Four Cases About Concentration of Scattered Produce.

R' Yirmiyah poses four cases about how much concentration is needed for R' Yitzchak's ruling to apply. The answer depends on two possible reasons that the owner might have for abandoning the *kav* in four *amos*.

Case	Possible Reason	
	Effort	Value
	The owner abandons the scattered produce because too much effort is required to retrieve it from the four <i>amos</i> . Therefor the finder can keep the produce.	The owner abandons the scattered produce because one <i>kav</i> is not valuable enough for the owner to return for it. Therefor the finder can keep the produce.
Half a <i>kav</i> in two <i>amos</i> ?	Two <i>amos</i> does not demand as much effort as four <i>amos</i> . The owner will not abandon it, and the finder must call it out. חייב להכריז	Half a <i>kav</i> is less value than a <i>kav</i> , The owner will definitely abandon it, and the finder can keep it. מציאות שלו
Two <i>kav</i> in eight <i>amos</i> ?	Eight <i>amos</i> demands more effort than four <i>amos</i> . The owner will definitely abandon it, and the finder can keep it. מציאות שלו	Two <i>kav</i> is worth more than one <i>kav</i> . The owner will not abandon it, and the finder must call it out. חייב להכריז
A <i>kav</i> of sesame seeds in four <i>amos</i> ?	Sesame seeds are smaller and harder to retrieve than produce. The owner will definitely abandon it, and the finder can keep it. מציאות שלו	Sesame seeds have more value than produce. The owner will not abandon it, and the finder must call it out. חייב להכריז
A <i>kav</i> of dates or pomegranates in four <i>amos</i> ?	Dates and pomegranates are easier to retrieve than grain. The owner will not abandon it and the finder must call it out. חייב להכריז	Dates and pomegranates have the same value as produce. The owner will definitely abandon it, and the finder can keep it. מציאות שלו

The Gemara concludes with *Taiku*, the questions stand.

21b) A Major Dispute About Abandonment Without Knowledge.

There is a major dispute that will be discussed in the coming pages. If the owner does not know that he lost an object, is the object still considered abandoned?

Abaye	Rava
יאוש שלא מדעת לא הוי יאוש Abandonment without knowledge IS NOT abandonment.	יאוש שלא מדעת הוי יאוש Abandonment without knowledge IS abandonment.

21b) Three Cases of a Lost Object.

The Gemara goes three cases to understand where the conflict between Abaye and Rava is. The last case is where the conflict occurs.

Case	Abaye	Rava
	Abandonment without knowledge IS NOT abandonment.	Abandonment without knowledge IS abandonment.
The object has an identifying mark:	There is no real abandonment by the owner because of the identifying mark. Therefore the finder must call it out. חייב להכריז	
The object has an identifying mark but was swept away to sea or in a river:	The object is essentially ownerless, and the finder can keep it. מציאות שלו	
The object does not have an identifying mark:	Until the owner knows about the lost object, it is not really abandoned, and must be called out. חייב להכריז	Although the owner does not know about the lost object, when he does learn about it, he will abandon it because it does not have a sign. Therefore, it is abandoned from now. מציאות שלו

21b) Abandonment Without Knowledge (part one).

The Gemara goes through many proofs to show that either Rava or Abaya is correct. Each attempted proof mentions a ruling from a Tanna (Mishna or Baraisa). An inference is made from the ruling. And finally, an objection to the inference is made.

	Ruling	Inference	Objection to Inference
For Rava:	Our Mishna Scattered produce can be kept by the finder.	Since the owner does not know that he lost it, and the ruling says the finder can keep it, this is abandonment without knowledge and is considered abandonment.	Rav Ukva bar Chama explained that the Mishna was discussing the remains left at the threshing floor and the owner knows he will lose objects. This is not without knowledge.
For Rava:	Our Mishna Scattered coins can be kept by the finder.	Since the owner does not know that he lost the coins, and the ruling says that the finder can keep the coins, this is abandonment without knowledge and is considered abandonment.	R' Yitzchak says that a person always checks his purse. He will be aware of the missing coins very soon after losing them. This is not without knowledge.
For Rava:	Our Mishna Round cakes of pressed figs, and a baker's loaves can be kept by the finder.	Since the owner does not know that he lost them, and the ruling says that the finder can keep them, this is abandonment without knowledge and is considered abandonment.	Since these objects are heavy, the owner is aware of them soon after losing them. This is not without knowledge.
For Rava:	Our Mishna Tongues of purple wool can be kept by the finder.	Since the owner does not know that he lost the wool, and the ruling says that the finder can keep it, this is abandonment without knowledge and is considered abandonment.	Since they are valuable, the owner will constantly be checking them (like R' Yitzchak about money). He will be aware of the missing wool very soon after losing them. This is not without knowledge.

21b) Abandonment Without Knowledge (part two).

The Gemara continues its list of attempted proofs for Rava or Abaya.

For Rava:	<p style="text-align: center;">A Baraisa</p> <p>Coins found in a synagogue, or a study hall, or where there is a large number of people, can be kept by the finder.</p>	<p>The owner would abandon the coins in such places. Since the owner does not know that he lost the coins, and the ruling says that the finder can keep them, this is abandonment without knowledge and is considered abandonment.</p>	<p>R' Yitzchak says that a person always checks his purse. He will be aware of the missing coins very soon after losing them. This is not without knowledge.</p>
For Rava:	<p style="text-align: center;">Mishna Pe'ah 8:1</p> <p>The finder can keep <i>leket</i> after the rummagers go through the field.</p> <p>(The poor have the right to the <i>leket</i>. The last of the poor are the rummagers. Once they are done, anyone can take from the <i>leket</i>.</p> <p>Who are the rummagers? 1. R' Yochanan: old poor people who use a cane. 2. Reish Lakish: those poor who glean after the gleaners.)</p>	<p>The poor from the around the field have given up. What about the poor from other places? They have subconsciously given up on the <i>leket</i> so the finder can take it. Since the poor from other places did not know about the <i>leket</i>, it is abandonment without knowledge and is considered abandonment.</p>	<p>The poor from other places think that the local poor will get the <i>leket</i>, so the poor from other places abandon it. This is not without knowledge.</p>

21b) Abandonment Without Knowledge (part three).

The Gemara continues its list of attempted proofs for Rava or Abaya. This is an attempted proof for Abaya.

A Mishna:	Mishna Maasros 3:4	
Who does this agree with:	Dried figs from the side of the road spread out to dry, or the side of the road, or a fig tree extended over a road are permitted to be taken. Taking them is not stealing and one does not have to pay <i>maaser</i> . One can take them.	Olives or carobs found like that are not permitted to be taken.
R' Abahu's defense of Rava:	This makes sense in terms of Abaye because the figs are significant. The owner constantly checks on them and when they are gone, he knowingly abandons them. Abaye says that we can take objects that are knowingly abandoned.	This does not make sense in terms of Rava. The owner does not check all the time (because they are not expensive) and will eventually abandon them when he sees them. Rava would say it is like abandoned from the beginning without knowledge. So the finder can keep it. Yet the finder cannot keep them, it must be that abandonment without knowledge is not abandonment.
A question on R' Abahu:	Maybe the fig is also recognizable by the owner and the finder should not be able to keep it?	An olive's appearance is recognizable as belonging to the owner. So the owner does not abandon them. That is why the finder cannot keep the olives.
Rav Pappa's explanation as why figs are different than olives:	Figs are not good after falling to the ground. So, although they might be recognizable, the owner still abandons them.	

This is not a valid proof for Abaye.

21b) Abandonment Without Knowledge (part four).

The Gemara continues its list of attempted proofs for Rava or Abaya. This is an attempted proof for Rava.

<p>A Baraisa:</p>	<p style="text-align: center;">A Baraisa</p> <ul style="list-style-type: none"> • A thief (<i>ganiv</i> - someone who robs secretly) who took from one and gave to another, or • a robber (<i>gazlin</i> - someone who robs openly) who took from one and gave to another, 22a) or • the Jordan river, that took from one person and gave to another person. then the receiver can keep the objects. 	
<p>Who is this Baraisa like:</p>	<p>This makes sense for</p> <ul style="list-style-type: none"> • a robber and • the Jordan river <p>because the owner sees the objects taken away and knowingly abandons them.</p>	<p>But for</p> <ul style="list-style-type: none"> • a thief, <p>the owner does not know that the objects are gone and cannot abandon them. Since the receiver can keep them, the Baraisa must accept that not knowing abandonment is abandonment. This is like Rava.</p>
<p>Rav Pappa’s criticism of Rava and defense of Abaya:</p>	<p>A “thief” here means an “armed robber”. So, the owner immediately knows when it is gone and abandons the object. That is why the receiver can keep the objects.</p>	
<p>A question for R’ Pappa:</p>	<p>An armed robber is like a robber. Why would the Baraisa list it again?</p>	
<p>R’ Pappa responds:</p>	<p>The Baraisa lists two types of robbers.</p>	

This is not a valid proof for Rava.

22a) Abandonment Without Knowledge (part five).

The Gemara continues its list of attempted proofs for Rava or Abaya. This is an attempted proof for Abaye.

A ruling from a Baraisa:	<p style="text-align: center;">A Baraisa</p> <p>If a river washed away beams, wood, or stones, and put them in someone else's field, the finder may keep them because the owner abandoned.</p>
An inference:	<p>This implies that if the owner does <u>not</u> knowingly abandoned, the owner may <u>not</u> keep the objects. That is, if the owner might not know about them, then we cannot say he abandoned them. Another way to say this is that abandonment without knowledge is not abandonment.</p>
A clarification about the inference:	<p>We are talking about a case where the owner can save them. Therefore this is not abandonment.</p>
The end of the Baraisa and a question:	<p style="text-align: center;">The end of the Baraisa</p> <p>If the owner was running after the objects, the finder must return them.</p> <p>Question: If we are dealing with the case where the owner can save the objects, then what is the second part of the Baraisa adding to the discussion? The owner does not abandon the objects even if he does not run after them. In both cases he is not abandoning.</p>
An answer:	<p>We deal here with a case where the owner is able to save the objects <u>with difficulty</u>. In such a case, if the owner does not run after the objects, they are abandoned. If the owner does run after the objects, then he has not abandoned the objects.</p>

This is not a valid proof for Abaye.

22a) Abandonment Without Knowledge (part six).

The Gemara continues its list of attempted proofs for Rava or Abaya. This is an attempted proof for Rava.

<p>A ruling of a Baraisa:</p>	<p style="text-align: center;">A Baraisa</p> <p>When do we say that a person who separates produce for <i>terumah</i> without the owner’s consent, is considered <i>terumah</i>?</p> <p>It is the case where the person entered the owner’s field and separated <i>terumah</i> without the owner’s permission. If the owner objects because it is robbery, it is not <i>terumah</i>. If the owner does not object, then it is <i>terumah</i>.</p> <p>How can you tell if the owner thinks it is robbery or not? The owner comes and finds the person separating <i>terumah</i> and says you should have taken it from the better produce.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> <p><u>If better produce is found, then the owner is sincere, and it is <i>terumah</i>.</u></p> </td> <td style="width: 50%; padding: 5px;"> <p>If no better produce is found, then the owner was being sarcastic, and it is not <i>terumah</i>.</p> </td> </tr> </table> <p>If the owner gathers and adds to what the person separated, then it is <i>terumah</i>.</p>	<p><u>If better produce is found, then the owner is sincere, and it is <i>terumah</i>.</u></p>	<p>If no better produce is found, then the owner was being sarcastic, and it is not <i>terumah</i>.</p>
<p><u>If better produce is found, then the owner is sincere, and it is <i>terumah</i>.</u></p>	<p>If no better produce is found, then the owner was being sarcastic, and it is not <i>terumah</i>.</p>		
<p>Inference that is like Rava:</p>	<p>From the underlined, we see that even though the owner was not aware of it at the time it was taken, it is considered <i>terumah</i>. Similarly, abandonment without knowledge is considered abandonment.</p>		
<p>A rejection of the proof:</p>	<p>Rava explained the Baraisa like Abaye. The person who separated the produce was an agent of the owner. The owner knew it would happen. It is not without knowledge.</p> <p>How does one know that an agent can take off <i>terumah</i>? Because it says:</p> <p style="text-align: center;">Bamidber 18:28</p> <p style="text-align: center;">אֲשֶׁר תִּקְחוּ מֵאֵת בְּנֵי יִשְׂרָאֵל; וַנְּתַתֶּם מִמֶּנּוּ אֶת-תְּרוּמַת, כֶּן תְּרִימוּ גַם-אֲתֶם, תְּרוּמַת יְהוָה, מִכֹּל מַעֲשְׂוֹתֵיכֶם יְהוָה, לְאַהֲרֹן הַכֹּהֵן.</p> <p>“You also shall set apart a gift unto Hashem of all your <i>terumah</i>, which you receive of the children of Israel; and therefor <u>you also</u> shall give the gift which is set apart for Hashem to Aaron the kohen.”</p> <p>The extra “you also” means to include an agent. The agent can separate <i>terumah</i> with your knowledge.</p>		

22a) Abandonment Without Knowledge (part seven).

This is a continuation of the last page.

<p>A reinterpretation of the Baraisa:</p>	<p style="text-align: center;">A Baraisa</p> <p>The owner made the person an agent and said to him, “Go and set apart the <i>terumah</i>.” However, the owner did not tell the agent which type of produce to take for <i>terumah</i>. Usually, the owner takes from the medium kind. The agent took from the better type. When the owner arrived and found the agent, the owner said to him, “You should have taken from the even better kind.”</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;"> If a better kind can be found the <i>terumah</i> is good </td> <td style="width: 50%; padding: 2px;"> If the better kind is not found, the <i>terumah</i> is not good. </td> </tr> </table> <p>The main point is that the agent did not do anything without the owner’s knowledge. So, this is not a valid proof for Rava.</p>		If a better kind can be found the <i>terumah</i> is good	If the better kind is not found, the <i>terumah</i> is not good.
If a better kind can be found the <i>terumah</i> is good	If the better kind is not found, the <i>terumah</i> is not good.			
<p>A related incident:</p>	<p>Ameimar, Mar Zutra. and Rav Ashi once entered the orchard of Mari bar Isak. The owner’s sharecropper brought out dates and pomegranates for the visitors. Ameimar and Rav Ashi ate them, but Mar Zutra did not eat them. Later Mari bar Isak arrived, and he said to his sharecropper, “Why did you not bring for the Rabbis some of those better kinds?” However, Mar Zutra still did not eat.</p>			
<p>Ameimar and Rav Ashi describe a contradiction:</p>	<p style="text-align: center;">Our Baraisa</p> <p>“If better ones can be found, the offering is valid” Even though the owner did not abandon, the agent was permitted to take it because the owner will want him to.</p>	<p style="text-align: center;">The above story</p> <p>Mar Zutra is not eating because he does not think that sharecropper has the right to serve that produce even though the owner eventually said to take from the better produce.</p>		
<p>Mar Zutra answered them by explaining the difference between the two cases and why he is not eating:</p>	<p>Rava said “You should have gone and taken better ones” has been declared to be a valid observation only in regard to <i>terumah</i>, because <i>terumah</i> is a <i>mitzvah</i>, and the owner really wishes to offer from the best.</p>	<p>Here the owner really did not want to give the best but may have said it out of courtesy to Ameimar, Mar Zutra. and Rav Ashi. Since owner really did not have the intention to give it, the sharecropper had no right to give it.</p>		

22a) Abandonment Without Knowledge (part eight).

The Gemara continues its list of attempted proofs for Rava or Abaya. This is an attempted proof for Abaya.

From the Torah:	<p>Vayikra 11:38 וְכִי יִתֵּן מַיִם עַל-זֶרַע, וְנָפַל מִנְבֵּלָתָם עָלָיו--טָמֵא הוּא, לָכֶם “And if water is placed on the seed, and carcass (of a <i>sheretz</i>) fall on it, it is unclean for you.”</p>			
A ruling:	<p>A Baraisa</p> <table border="1"> <tr> <td>If the dew was on the plant and the owner was pleased, then the laws of “placed water” can be applied. The fruit can be unclean.</td> <td>If the plant had dried even before the owner knew about it, and even if the owner was pleased, 22b) the laws of “placed water” cannot be applied. The fruit will remain clean.</td> </tr> </table>		If the dew was on the plant and the owner was pleased, then the laws of “placed water” can be applied. The fruit can be unclean.	If the plant had dried even before the owner knew about it, and even if the owner was pleased, 22b) the laws of “placed water” cannot be applied. The fruit will remain clean.
If the dew was on the plant and the owner was pleased, then the laws of “placed water” can be applied. The fruit can be unclean.	If the plant had dried even before the owner knew about it, and even if the owner was pleased, 22b) the laws of “placed water” cannot be applied. The fruit will remain clean.			
Inference for Abaye:	<p>The reason why the “placed water” law does not apply is that we do not say the following: When he knew about it he was pleased, therefore before he knew about it, he would have been pleased. Similarly, just because an owner would abandon when he knew about it, does not mean that there is a valid abandoning before he knew about it. This means Abaya is correct.</p>			
A rejection of the proof for Abaye:	<p>The <i>posuk</i> says “And if water is placed” so that it becomes unclean only when the owner puts the water on.</p>			
A challenge to the rejection:	<p>Here also the produce should only be able to be unclean when the owner places the water on the produce. So why here is the produce able to be unclean?</p>			
R' Pappa explains:	<p>It is written “And one (the owner) puts water” but it is read “And if water is put (by anyone).” How is this reconciled? They must be comparable. Just like when the owner places water, it has to be with his knowledge, so too, when it gets wet from dew it has to be with the owner’s knowledge. It has to still be wet to be unclean.</p>			

22b) Abandonment Without Knowledge (part nine).

The Gemara concludes its list of attempted proofs with a valid proof for Abaye.

<p>A teaching:</p>	<p style="text-align: center;">R' Yochanan said in the name of R' Yishmoel ben Yehotzadak</p> <p>How do you know that an object swept away by the river is permitted for any finder to keep? The <i>posuk</i> says about a lost object:</p> <p style="text-align: center;">Devorim 22:3</p> <p style="text-align: center;">וְכֵן תַּעֲשֶׂה לְשִׁמְלֹתָיו, וְכֵן תַּעֲשֶׂה לְכָל-אֲבֵדֹת אָחִיךָ אֲשֶׁר-תִּאֲבֹד מִמֶּנּוּ, וּמִצָּאֵתָהּ: לֹא תִוָּכַל, לְהִתְעַלֵּם.</p> <p>“And so you should do with his donkey; and so you should do with his garment; and so you should do with every lost object of your brother's, which he has <u>lost from him</u>, and you found; you should not hide yourself.”</p> <p>Only objects that are lost to the owner but anyone else can find must be returned. However, objects that are lost to everyone may be kept. This is the case of the river taking something away. Since it is lost to everyone, the finder may keep it.</p>
<p>An inference:</p>	<p>The laws of an object forbidden to the finder (objects the finder must return) are like the laws of objects that are permitted to the finder (objects the finder can keep.) Just as in a case where something is swept away by the river, he can keep it whether it has identifying marks or not, so too an object that must be returned can have identifying marks or not. But why should a person have to return something that does not have an identifying mark? It must be that without identifying marks it is abandoned by the owner. But it is abandoned without knowledge. Abandoning without knowledge is not really abandoned.</p>
<p>The conclusion:</p>	<p>Abaye is right. יאוש שלא מדעת לא הוי יאוש. Abandonment without knowledge IS NOT abandonment.</p>

The Gemara concludes that this is one of only six times when the halacha follows Abaye and not Rava.

22b) Abandonment Without Knowledge (part ten).

Now that we proved that certain types of abandonment is not real abandonment, Rav Acha wonders why people still act as if fallen produce is abandoned.

<p>Rav Acha the son of Rava points out a seeming contradiction to Rav Ashi:</p>	<p style="text-align: center;">Rav Ashi</p> <p>Abandonment without knowledge is not abandonment.</p>	<p>People take wind-blown dates even though the owner does not know about the dates to abandon them.</p>
<p>Rav Ashi's explanation:</p>	<p>In general, abandonment without knowledge is not abandonment.</p>	<p>When the dates fall, vermin and crawling animals eat it, so the owner abandons them from the beginning.</p>
<p>Questions by Rav Acha and Answers by Rav Ashi:</p>		<p>Question: What about orphans that are minors who cannot abandon their rights to the dates?</p> <p>Answer: you don't have to assume every field is owned by a orphan minor.</p>
		<p>Question: what if we know that the tree is owned by a minor orphan who cannot abandon, or the tree is surrounded by a fence to keep the animals away, and the owner did not abandon?</p> <p>Answer: in those cases, one is not permitted to take the dates because they were not abandoned.</p>

22b) Identifying Marks (part one).

Objects with identifying marks need to be returned. Here the Gemara discusses identifying marks that might have been destroyed.

Our Mishna:	Our Mishna Small sheaves in public places belong to the finder.	
Amorim disagreeing about this:	Rabbah said the finder can keep it even if there are identifying marks on it. (Because the owner does not think that the identifying marks will survive and hence, he will abandon it.)	Rava said that the finder can only keep it if there are no identifying marks. If there are identifying marks on it, then the finder should try to find the owner.

The Gemara concludes with the following *machlokis*:

Rabbah	Rava
סימן העשוי לידרס לא הוי סימן	סימן העשוי לידרס הוי סימן
An identifying mark that tends to be trampled IS NOT an identifying mark.	An identifying mark that tends to be trampled IS an identifying mark.

Another version of this Gemara learns this *machlokis* on its own without reference to the Mishna.

22b) Identifying Marks (part two).

Here we prove that Rabbah is correct and trampled identifying marks are not identifying marks.

Two Mishnahs:		Our Mishna	The next Mishna
		Small sheaves in public domain belong to the finder.	Small sheaves in a private domain must be called out.
The circumstances of the case:	There are no identifying marks:	The finder can keep it.	What can he call out? So the Mishna must not be talking of when there is no identifying marks.
	There are identifying marks:	If there are identifying marks why does the Mishna say that the finder can keep it?	Call out the identifying marks.
Conclusion for Rabbah:		The reason why the finder can keep it is because the Mishna must agree with Rabbah that trampled identifying marks are not identifying marks.	
Rava's refutation of the proof:			It could be a case where there no identifying marks and the next Mishna is talking about where the finder calls out the location of the sheaves.
Rabbah's problem with the refutation:			Rabbah does not believe that location is an identifying mark.

The Gemara concludes with the following *machlokis*:

Rabbah	Rava
מקום לא הוי סימן	מקום הוי סימן
Position IS NOT an identifying mark.	Position IS an identifying mark.

22b) Identifying marks (part three).

The Gemara presents a Baraisa about the halachas for small and large sheaves found in a public domain and a private domain. The Gemara then explains the Baraisa according to both Rabbah and Rava.

A Baraisa		
	Public domain	Private domain
Small	מציאות שלו	חייב להכריז
Large	חייב להכריז	

The Baraisa as explained by Rabbah and Rava:

Rabbah Sheaves have identifying marks		
	Public domain	Private domain
Small	מציאות שלו because 23a) the sign could be trampled.	חייב להכריז because the sign is not trampled.
Large	חייב להכריז Signs on large sheaves are not trampled because they are tall.	

Rava Location is a identifying mark		
	Public domain	Private domain
Small	מציאות שלו It was probably moved so position cannot be used as a sign.	חייב להכריז It was not moved so position can be used as a sign.
Large	חייב להכריז They are too big to move and position can be used as a sign.	

22b) Identifying marks (part four).

The Gemara attempts to prove that an identifying mark that tends to be trampled is still an identifying mark.

<i>A machlokis:</i>	Rabbah סימן העשוי לידרס לא הוי סימן An identifying mark that tends to be trampled IS NOT an identifying mark.	Rava סימן העשוי לידרס הוי סימן An identifying mark that tends to be trampled IS an identifying mark.
A ruling and an inference:		Our Mishna A baker's loaves may be kept by the finder. (Because they have no identifiable marks.) Homemade loaves must be called out because they have identifiable marks. If homemade loaves were found in a public domain, then the identifying mark would be ruined. Nevertheless, they must be called out because they are still identifying marks.
Rabbah responds:	In public the identifying mark would not be ruined because people who pass would pick it up because it is food. So, the sign is not ruined.	
Rava responds:		We are talking of a public place with gentiles who might not pick up the bread. So, the sign would be ruined.
Rabbah responds:	Gentiles also pick up bread because of witchcraft. So, the sign is not ruined.	
Rava responds:		Livestock and dogs would ruin the sign. So, the sign would be ruined.
Rabbah responds:	We are talking about a place where there are no livestock and dogs. So, the sign is not ruined.	

The proof fails.

23a) Homemade Loaves with Identifying Marks (part one).

There is the following *machlokis* in our Mishna:

Our Mishna	
A round cake with a piece of pottery inside	
Tanna Kamma	R' Yehudah
מציאות שלו	חייב להכריז

There are three questions that are central to this case.

- Whether the pottery that was accidentally put inside the cake IS OR IS NOT an identifying mark
- Whether people who pass the cake in a public place WILL OR WILL NOT pick up the cake.
- Whether identifying marks that tends to be trampled IS OR IS NOT still an identifying mark.

The Gemara discusses whether identifying marks that tends to be trampled IS OR IS NOT still an identifying mark. First the Gemara says the *machlokis* is like a *machlokis* of tanayim. Then the Gemara says that the *machlokis* can be seen in other ways.

23a) Homemade Loaves with Identifying Marks (part two).

There are two versions of this Gemara. Here is the first part of the first version.

- **First Version.**
 - **As a Dispute Between Rabbah and Rava.**

The Mishna presents the *machlokis* between Rabbah and Rava as a *machlokis* of tanayim.

	Tanna Kamma and Rabbah	R' Yehudah and Rava
An identifying mark that came on its own	IS An identifying mark.	
Passing food without picking it up	IS permissible. So, an identifying mark can be ruined.	
Identifying marks that tends to be trampled	IS NOT an identifying mark מציאות שְׁלוֹ Objection: Rav Zevid said in the name of Rava that this ruling is contradicted by the Mishna.	IS an identifying mark חייב להכריז (What should be called out if the <i>simanim</i> are ruined?)

Because of the objection, the Gemara looks for another way of seeing the *machlokis* of Rabbah and Rava.

23a) Homemade Loaves with Identifying Marks (part three).

The Gemara will now present the Mishna according to Rava and Rabba.

○ **According to Rava**

Rava wants to show that both the Tanna Kamma and R' Yehudah agree with him.

	Tanna Kamma	R' Yehudah
An identifying mark that tends to be trampled	IS An identifying mark.	
Passing food without picking it up	IS permissible. So, an identifying mark can be ruined.	
Identifying marks that came on its own.	IS NOT an identifying mark מציאות שלו	IS an identifying mark חייב להכריז (What should be called out if the <i>simanim</i> are ruined?)

○ **According to Rabbah.**

Rabbah wants to show that both the Tanna Kamma and R' Yehudah agree with him.

	Tanna Kamma	R' Yehudah
An identifying mark that tends to be trampled	IS NOT an identifying mark.	
Passing food without picking it up	IS NOT permissible. So, an identifying mark can be ruined.	
Identifying marks that came on its own.	IS NOT an identifying mark מציאות שלו	IS an identifying mark חייב להכריז (What should be called out if the <i>simanim</i> are ruined?)

23a) Homemade Loaves with Identifying Marks (part four).

There is a second version of this entire discussion.

- **Second Version.**
 - **As a Dispute Between Rabbah and Rava.**

	Tanna Kamma and Rabbah	R' Yehudah and Rava
An identifying mark that came on its own	IS An identifying mark.	
An identifying mark that tends to be trampled	IS NOT an identifying mark.	
Passing food without picking it up	מציאות שלו IS permitted. Therefor the food will get trampled and loose its identifying marks. (Rav Zevid says in the name of Rava that this ruling is contradicted by the Mishna.)	חייב להכריז IS NOT permitted. Therefor the food will be picked up and not get trampled. Its identifying marks remain.

- **According to Rava.**
Same as first version.
- **According to Rabbah.**
Same as first version.

This entire *sugya* can be summarized by the following chart:

	First Version	Rava	Rabbah	Second Version
An accidental <i>siman</i> :	Is a <i>siman</i>	Disputed	Disputed	Is a <i>siman</i>
Passing by food:	Permissible	Permissible	Prohibited	Disputed
A <i>siman</i> that gets rampled:	Disputed	Is a <i>siman</i>	Is not a <i>siman</i>	Is not a <i>siman</i>

23a) Rava's General Rules About Lost Objects.

Rav Zevid gave some general rules about lost objects.

The first rule is about abandonment: When an owner said “Woe to me that I lost my object” he has abandoned it and a finder can keep it.

More rules:

	Without an identifying mark	With an identifying mark
Small sheaves in a public domain.	מציאות שלו	חייב להכריז
Small sheaves in a private domain as if they fell.	מציאות שלו	
Small sheaves in a private domain as if they were placed there.	חייב להכריז	

23b) A String of Fish.

The Gemara discusses the next topic of the Mishna.

Our Mishna:	A string of fish can be kept by the finder.
A question:	Let the knot that the fish is held by be a <i>siman</i> to call out.
An answer:	Everyone uses the same fisherman's knot, and it is not distinctive.
A question:	Let the number of fish on the string be a <i>siman</i> .
An answer:	Everyone has the same number of fish per string, and it is not distinctive..

23b) Number as an identifying mark.

In the last Gemara we talked about number as a *siman*. Here we discuss the general case.

A question asked to Rav Sheishess:	Is number of items a good <i>siman</i> or not?
Rav Sheishess response:	<p>We learned it in A Baraisa</p> <p>If one found</p> <ul style="list-style-type: none"> • silver vessels, • copper vessels, • fragments of lead, • and any metal vessels, <p>The finder should keep them until the person who claims them gives a <i>siman</i> or tells its weight.</p> <p>Since weight is a <i>siman</i>, so too number is a <i>siman</i>.</p>

23b) Pieces of Meat.

The Gemara discusses the next idem in the Mishna.

Our Mishna	Pieces of meat may be kept by the finder.
A question:	Let the weight of the meat be a <i>siman</i> ?
An answer:	All the weights are the same and so it is not distinctive.
A question:	<p>Let the type of meat be the <i>siman</i> (for example, the neck, the thigh.) After all, there is</p> <p style="text-align: center;">A Baraisa</p> <p>If one found</p> <ul style="list-style-type: none"> • <u>cuts of fish,</u> • or a fish that was bitten, <p>he has to call it out.</p> <p>If one found</p> <ul style="list-style-type: none"> • barrels of wine, • barrels of oil, • barrels of grain, • barrels of dried figs, • barrels of olives, <p>The finder can keep them.</p> <p>We see that cuts of fish --- and similarly meat --- are an identifying mark.</p>
An answer:	The Baraisa was talking about strangely cut fish. This is like Rabbah bar Rav Huna who used to cut his meat in a triangle. The Baraisa even hints that the fish was strangely cut because it makes an analogy with fish that was bitten. However, regular cut meat is not a <i>siman</i> .

23b) Barrels Of Wine Or Oil.

The last Baraisa mentioned barrels of wine and oil. The next Mishna seems to conflict with this Baraisa. Several resolutions of this conflict are offered.

A Baraisa and a seemingly conflicting Mishna:	A Baraisa	The Next Mishna
A resolution from R' Zeira said in the name of Rav:	If one found <ul style="list-style-type: none"> • barrels of wine, • barrels of oil, the finder can keep them.	If one finds <ul style="list-style-type: none"> • barrels of wine • barrels of oil the finder must call them out.
A problem with the resolution:	If these barrels are open, then the finder can keep them because the owner intentionally abandoned them. So why does the Baraisa have to teach this law.	
A restatement of the resolution:	Rav Hoshaya said that these were covered barrels (so not abandoned) but not sealed (so no <i>siman</i> .)	
Abaye's resolution:	These are resealed barrels. Here is after the storehouses are open and everyone has seals. So, sealed containers are common and not a <i>siman</i> . The finder can keep them.	These are resealed barrels. Here is before the storehouses are opened. At such a time, sealed containers are rare, so it is a <i>siman</i> and must be called out.

The Gemara concludes with a case where the halacha is like the Baraisa.

23b) Location as An Identifying Mark?

Every lost object is found in a certain location. Can that location be used as Identifying mark so that the owner can reclaim it?

Rav Bivi questioned Rav Nachman:	Can we consider the location of a found object as an identifying mark?
Rav Nachman answers:	<p>No. We can derive it from the following:</p> <p style="text-align: center;">A Baraisa</p> <p>If one found a keg of wine, or of oil, or of grain, or of dried figs, or of olives, the finder can keep it. (Because there are no identifying mark.)</p> <p>If location was an identifying mark, then the finder could use the location to find the owner. Since the finder can keep the keg, it must be that location is not an identifying mark.</p>
Rav Zevid rejects this proof:	This case is talking about when the keg was found at the riverbank.
Rav Mari explanation or Rav Zevid:	The reason why the riverbank is not a good location is because a lot of goods are there. So, one person or another can claim it. The finder might as well keep it.
Another version of Rav Mari's explanation of Rav Zevid:	The reason why the riverbank is not a good location is because a lot of goods are there. So, one person claiming an exact location, and another can claim an exact location, and we still would not know whose it is (Rashi). The finder might as well keep it.

24a) A Place With Many People (part one).

A ruling from R' Shimon ben Elazar about finding an object amongst a large group of people is stated. The Gemara asks five questions on this ruling. The questions depend on each other as shown below. For each question there are two possible answers. This gives us ten possible positions (1), (2), (3),... ,(10). For each position, we must determine the halachas. Later the Gemara will go through various proofs about which position we follow.

Ruling: R' Shimon ben Elazar (RSbE) said the finder can keep anything found in a place where there is a large number of people.		
Question 1: Who is the majority?		
Majority Canaanites (1) RSbE: majority Cann keep	Majority Jews (2) RSbE: Majority Jews - מציאות שלו and certainly Majority Canaanites - מציאות שלו	
Question 2: Do the Rabbis agree with R' Shimon ben Elazar?		
	Rabbis agree (3) RSbE and Rabbis: Majority Jews - מציאות שלו and certainly Majority Canaanites - מציאות שלו	Rabbis disagree (4) RSbE: Majority Jews - מציאות שלו and certainly Majority Canaanites - מציאות שלו Rabbis: Majority Jews - חייב להכריז
Question 3: Do the Rabbis disagree about Canaanite majority also?		
	Rabbis agree about Canaanite majority. (5) RSbE: Majority Jews - מציאות שלו and certainly Majority Canaanites - מציאות שלו Rabbis: Majority Jews - חייב להכריז Majority Canaanites - חייב להכריז	Rabbis disagree about Canaanite majority also (6) RSbE: Majority Jews - מציאות שלו and certainly Majority Canaanites - מציאות שלו Rabbis: Majority Jews - חייב להכריז Majority Canaanites - מציאות שלו

24a) A Place With Many People (part two).

Question 4 and 5 are here.

Question 4: Does the halacha follow R' Shimon ben Elazar?		
No Halacha follows the Rabbis (7)	Yes Halacha follows R'SbE (8)	
	Question 5: Does halacha follow R' Shimon ben Elazar when Jews are majority also?	
	No Halacha follows R'SbE: Majority Jews (9)	Yes (10)

24a) A Place With Many People (part three).

Variou rulings are offered. For each ruling, an inference about what position is believed. There , are, of course , objections to such rulings.

Ruling	Inference for Position (2)	Objections. For Position (1)
Baraisa: If one finds coins in a beis knesses) or study halls or places where there are a lot of people, the finder may keep it.	Since the Baraisa is talking about places where there are a lot of people, it must agree with R' Shimon ben Elazar. Since it is talking about beis knesses and study halls, it must be talking about Jewish majority.	We are really talking about scattered coins without identifying marks. That is the reason why the finder can keep them. But if they were not scattered, then he would have to call them out. This is following Position (4)
	If we are dealing with scattered coins, why mention that large number of people? The finder would be able to keep them even if they were not found in places with a lot of people. It must not be scattered coins.	Really, we are talking with bound coins with identifying marks. However, we are not talking about places with a majority Jews. which is Position (2) Rather the beite knesses (assembly places) are Canaanite.
	The ruling also talks of study halls (beite medroshim) which is clearly Jewish.	Yes, there are Jews in the study halls. However, the guards are Canaanite and not Jews. (We can say the same about beite knesses. They are mostly Jewish but there are Canaanite guards.)

This is not a valid proof of Position (2).

24a) A Place With Many People (part four).

Here are more potential proofs of various positions.

Ruling	Inference	Objections.
Mishna Machshirin 2:8 If an object is found in a place where there is a majority of Jews, he is obligated to call it out. If there is a majority of Canaanite, he is not obligated to call it out.	Since the Mishna is talking about places where there are a lot of people, it must be written by R' Shimon ben Elazar. The ruling is like position (1) of R' Shimon ben Elazar which says that in a city where there is a majority Canaanites, you can keep it.	No. It could be that R' Shimon ben Elazar has Position (2) and the Mishna reflects the Rabbis in Position (6).
	The Mishna really follows R' Shimon ben Elazar's Position (2) but in this case of the Mishna, even when a majority of people are Jews he has to call it out because this is a special case of a buried object [...].	24b) One can say that really the Mishna does not follow R' Shimon ben Elazar but follows the Rabbis in Position (4). However, we cannot say the Mishna follows the Rabbis in Position (6) because the Mishna does not say he can keep the object. Rather it says he does not have to call it out [...].

24b) A Place With Many People (part five).

Here are more potential proofs.

Position	Ruling	Inference	Objections.
(1)	Rav Assi: If one found a keg of wine in a city whose majority is Canaanite, you may keep the wine [...].	Since the Braisa is talking about places where there are a lot of people, it must be written by R' Shimon ben Elazar. Rav Assi is like Position (1) of R' Shimon ben Elazar.	No. It could be that Rav Assi agrees with R' Shimon ben Elazar about majority Canaanite but disagrees with him about majority Jews. So, we cannot determine from Rav Assi if he follows Position (1) or Position (2).
(7)	Rav Yehuda: If a man found four <i>zuzim</i> tied to a cloth in the Biran river, the man must call it out.	[...] Since the majority of people around the Biran river are Canaanite and the man has to call it out, this is like the Rabbis in Position (7).	No. The proof does not work because the Jews are the ones who dam the river dredge the river. The owner of the object does not abandon it. That is the reason why the finder has to call it out.
(10)	Abaye: If a vulture took a piece of meat from the market and threw it to the ground, the person can keep it.	The majority of residents were Jews so Abaye considers the halacha like Position (10).	No. The proof does not work. The real reason why the finder can keep it is because when a vulture takes something it is like the sea taking it and the owner abandons it. [...].
(10)	A slaughtered kid was found and the Sages permitted him to keep it [...]	Since the Sages let him eat it, there must have been a majority of Jews in that area (otherwise it would not be kosher). So he was able to keep it when there was a majority of Jews in the area.	No. The proof does not work. There could have been a majority of Canaanites in the area and Position (9) is correct. The reason why the rabbis let him eat it was because the majority of slaughterers in the area were Jews.

24b) Mishna: Objects That Must Be Called Out.

In the last Mishna, there was a list of objects that could be kept by the finder. Here there is a list of objects that must be called out to find the owner.

Our Mishna

These are the objects that must be called out.

- Produce inside a container
- A container by itself
- Coins inside a pouch
- A pouch by itself
- Piles of produce
- Piles of coins
- **25a)** Three coins stacked one on top of another
- Bundles of grain in a secluded area
- Homemade loaves of bread
- Wool fleeces that are taken from the house of a craftsman,
- Jugs of wine
- Jugs of oil

If one finds any of these, he must call out what he found.

25a) Produce in Front of a Container (part one).

The Mishna, discussed produce in a container. Here we discuss produce in front of a container. Two seemingly contradictory Baraisa are mentioned and four resolutions are offered.

Our Mishna:	Produce inside a container חייב להכריז	
A rule:	<ul style="list-style-type: none"> • If the produce is in the container, it must be called out. • However, if the produce is in front of the container, then the produce can be kept. 	
A Baraisa agreeing with the rule and a seemingly conflicting Baraisa:	<p>A Baraisa</p> <p>If one found an (empty) vessel (which has identifying marks) with produce in front of it (which has no identifying mark), [...] the produce [...] can be kept by the finder [...].</p> <p style="text-align: center;">מציאות שלו</p>	<p>A Baraisa</p> <p>If one found an object that does not have an identifying mark next to an object that does have an identifying mark, the finder must call out both of the objects (even the unidentifiable) [...]</p> <p style="text-align: center;">חייב להכריז</p>
Rav Zevid's resolution:	The identifiable vessel is a barrel and the produce was unidentifiable flax. Had the flax come from the barrel, some of the flax would have stayed in the barrel. Since it did not, there is no connection between the flax and the barrel. Therefore, it can be kept.	This is when the identifiable object is a basket and the unidentifiable object is the produce. Since produce usually falls out of a basket, we can assume the produce came from the basket and hence they are connected. Therefore, it must be called out.
R' Pappa's resolution:	This is about a basket and produce. No produce was found in the basket so we do not have a connection between the identifiable and unidentifiable objects. Therefore, it can be kept.	This is about a basket and produce. Some of the produce were in the basket and hence came from the basket that has an identifying mark. Therefore, it must be called out.

25a) Produce in Front of a Container (part two).

Continued from last page. The last two resolutions are offered.

The Gemara's resolution:	No produce remained in the basket. However, the opening of the basket is not facing the produce. So, there is no connection between the basket and the produce. Therefore, it can be kept.	No produce remained in the basket. However, the opening of the basket is facing towards the produce. So, there is a connection between the vessel and the produce. Therefore, it must be called out.
Another resolution off the Gemara:	The opening of the basket is facing the produce. However, the basket has a rim. If the produce came from the basket some would be stuck by the rim and there would be a connection. Since there was none, there is no connection. Therefore, it can be kept.	The opening of the basket is facing towards the produce. However, the basket does not have a rim. So the produce could have come from the rimless basket. There is a connection between the vessel and the produce. Therefore, it must be called out.

25a) Piles of Produce.

The Mishna said that piles of produce have to be called out. What can we learn from this rule?

Our Mishna:	Piles of produce and piles of coins חייב להכריז	
What we learn from this rule:	Since it must be called out, and the only property to call out is the number of piles, we conclude that the number of piles is an identifying mark.	
Objection to that inference:	Maybe the Mishna meant a single pile.	
Another law that we can learn:	Since it must be called out and there is only one pile, the only property to call out is the location. Conclude that the location of the pile is an identifying mark.	
Objection to that inference:	Maybe the Mishna meant many piles.	

The Gemara concludes that the language of the Mishna is not clear enough to make any such rule.

25a) Coins Leaning on Each Other.

Between scattered coins and coins stacked like a tower are coins leaning on each other.

Our Mishna:	Three coins stacked one on top of another הייב להכריז	
A qualification from R' Yitzchak Migidlaah:	This rule is true only when the coins are arranged like a tower.	
A Baraisa that supports R' Yitzchak Migidlaah:	<p style="text-align: center;">A Baraisa</p> <ul style="list-style-type: none"> • If one found scattered coins, they belong to the finder. • If they were arranged like a tower, the finder has to call them out. <ul style="list-style-type: none"> ○ And these are the ones that are arranged like a tower: one upon another. 	
Two parts of the Baraisa:	<ul style="list-style-type: none"> • If one found scattered coins, they belong to the finder. 	<ul style="list-style-type: none"> • If they were arranged like a tower, the finder has to call them out.
Implications that are conflicting:	Coins that are not scattered, such as coins leaning on each other, need to be called out.	Coins that are not arranged like a tower, such as coins leaning on each other, belong to the finder.
The resolution:	This part of the Baraisa says that only towers must be called out. All others, including leaning coins can be kept.	The Baraisa considers any coins that are not like a tower to be scattered and can be kept.

25a) Towers of Coins.

The Gemara discusses what a tower of coins means. Each coin of those times had a picture of a king. Furthermore, coins with different kings had different sizes.

Our Mishna:	Three coins stacked one on top of another, must be called out.	
A qualification from R' Chanina:	<ul style="list-style-type: none"> • This rule is true only when the coins are from three different kings. • However, if the coins were from the same king, they can be kept by the finder. 	
A criticism of the qualification:	How were the coins found?	
A restatement of R' Chanina:	<p>If they were a tower, then even from one king, they should be called out. (A tower was placed there and is not random.)</p>	<p>If they were not a tower, then three different kings also does not help and the finder can keep them. (They were scattered.)</p>
R' Yochanan's opinion:	<p>Coins that are from the same king and the same size also have to be called out. (Because the coins probably did not fall that way.)</p>	

The Gemara discusses what should be called out when coins are found. Also why is three needed and not just two. The Gemara also discusses various ways that the coins can be found. The conclusion of the *sugya* is that there are no identifying marks on coins.

25b) Finding Various Types Of Objects.

The Mishna discusses various types of objects and whether they should be taken or called out.

Our Mishna	
<p>If one found tied young pigeons</p> <ul style="list-style-type: none"> • behind a fence • behind a stone fence • in the paths of fields <p>he may not touch them (because they were placed there, and the owner will return for them).</p>	
<p>If one found a container in a garbage heap</p>	
<p>If it is concealed, he may not touch it (because the owner hid it there).</p>	<p>If it is exposed, the finder should take it and call it out.</p>

25b) Objects Found In A Garbage Heap.

The Gemara discusses what type of objects were found in a garbage heap.

A seeming contradiction:	Our Mishna	Baraisa
Rav Zevid's resolution:	<p>If one found a covered object in a garbage heap he should not touch it [...].</p> <p>Here the found objects are things like barrels and cups (big things) and must have been placed there deliberately.</p>	<p>If one found an object buried in a garbage heap he must take it and call it out because it is the nature of a garbage heap to be cleaned.</p> <p>Here the buried objects are knives and <i>hamnik</i> (small things) and must have been taken out inadvertently.</p> <p>Objection: The Baraisa says that the reason he can keep it is because it is the nature of a garbage heap to be cleaned out. Not because of smallness.</p> <p>Restatement: Here the buried objects are knives and <i>hamnik</i> (small things) and people inadvertently throw small things out to a garbage heap.</p>
Rav Pappa's resolution:	<p>Here the found objects are things like barrels and cups (big things) but the heap is not usually cleaned out, so the owner intends to return.</p>	<p>Here the found objects are things like barrels and cups (big things) but the garbage heap is usually cleaned out. The finder should take it and call it out to return it to the owner.</p> <p>Objection: The owner knew the heap gets cleaned and this is an intentional loss. The finder should be able to keep it.</p> <p>Restatement: Here the found objects are things like barrels and cups (big things) but the garbage heap is not usually cleaned out but the owner suddenly changed his mind. The finder should take it and call it out to return it to the owner.</p>

25b) Mishna: The Location of the Found Object.

The Mishna discusses various locations where the object was found. In these cases, the law depends on the location.

Our Mishna
<p>If one found an object</p> <ul style="list-style-type: none">• In a heap of stones• In an old wall• In a hole of a new wall• From the middle of the wall outward <p>Then the finder can keep them.</p>
<p>If one found an object</p> <ul style="list-style-type: none">• From the middle of the wall inwards <p>They belong to the owner of the house.</p>
<p>If he usually rents out the house, even if the objects were found in the house, they belong to the finder.</p>

26a) Objects In A House That Was Rented.

It would seem obvious that one who found an object in house that was rented should go to the most recent renter. The Mishna says otherwise. The Gemara wonders why.

Our Mishna:	If he usually rents out the house, even if the objects were found in the house, they belong to the finder.
A question:	<p>Why not give the objects to the last owner?</p> <p>Here is a Mishna which shows that found objects belong to the last person who was there.</p> <p style="text-align: center;">Mishna Shekalim 7:2</p> <ul style="list-style-type: none"> • Coins found before animal merchants in Yerushalaim are always Maaser Sheni. (Most of the animals are bought with Maaser Sheni and sacrificed as peace-offerings.) • Coins found on the Temple Mount are not holy. • Coins in the rest of Yerushalaim: <ul style="list-style-type: none"> ○ If it was found during the rest of the days of the year, it is not holy. ○ If it was found during the time of a <i>chagim</i> when everyone is there to bring Maaser Sheni, it is Maaser Sheni. R' Shemayah bar Ze'ira explains that the reason why these coins are Maaser Sheni is that the floors are cleaned every day. So, coins found probably belong to the travelers. ○ <p>In our Mishna also, the coins of earlier tenants were cleared away and the coins found probably belonged to the last tenant.</p>
An answer offered by Reish Lakish in the name of Bar Kappara:	The Mishna is talking of a house that was rented to three Jews. Since you will not be able to determine which Jew owns it, the finder may keep it.
Problem with that answer:	This would mean the Mishna follows position (10) rather than position (9) in 24a. However, the Gemara concluded that position (9) is correct.
Answer offered by Rav Menashya bar Yaakov:	The Mishna is talking of a house that was rented to three idolaters. That is why the finder can keep the object.
Answer offered by Rav Nachman in the name of Rabbah bar Avuha:	<p>The Mishna could be talking about renting it to three Jews. One of the Jews could have lost it and convinced himself that the other two took it and refuse to return. So, the one who lost it abandons it.</p> <p>The Gemara gives a similar rule from Rav Nachman.</p>

26b) A Bystander Takes a Fallen Coin.

Rava describes what sins one does by not returning a fallen coin.

Case	Transgressions		
	You shall not rob	You shall surely return them	You shall not hide
If someone saw a sela fall and took it before the owner abandoned.	*	*	*
If someone saw a sela fall and took it before the owner abandoned but had the intention to return it.		*	
If someone saw a sela fall and waited till the owner abandoned.			*

26b) Mishna: The Location of the Object Within a Store.

The location of where the object was found determines the law.

Our Mishna
<ul style="list-style-type: none">• If one found an object in a store, the finder may keep the object.• If one found an object between the counter and the storekeeper, the object belongs to the storekeeper.
<ul style="list-style-type: none">• If one found coins in front of a moneychanger, the finder may keep them.• If one found coins between the stool and the moneychanger, the coins belong to the moneychanger.
<ul style="list-style-type: none">• If one buys produce from someone or gets produce delivered and finds loose coins, the coins belong to the buyer.• If the coins are tied and bundled (identifiable), the buyer must take them and call them out.

26b) The Table of The Moneychanger.

The Mishna tells us that coins found in front of the table belong to the finder, and coins found behind the table belong to the moneychanger. The Gemara deals with the case where coins were found on the table itself.

A ruling of R' Elazar:		Coins found on top of the moneychanger's table also belong to the finder.	
An attempted proof of R' Elazar's ruling:	From our Mishna	<p>One rule in Our Mishna</p> <p>Coins found in front of the moneychanger's table belong to the finder.</p>	<p>Another rule in our Mishna</p> <p>Coins found between the stool and the moneychanger's table belong to the moneychanger.</p>
	Implications of the Mishna's parts that are conflicting:	Coins found on the table in front of the moneychanger belong to the moneychanger.	Coins found on the table in front of the moneychanger belong to the finder.
Conclusion:		We cannot prove R' Elazar's rule from our Mishna.	
Rava's two proofs for deriving R' Elazar's rule:	The Mishna says:	<p>One Proof</p> <p>Coins found between the stool and the moneychanger's table belong to the moneychanger.</p>	<p>Second Proof</p> <p>Coins found in front of the moneychanger's table belong to the finder.</p>
	The Mishna could have said:	<p>Coins found on the moneychanger's table belong to the moneychanger.</p> <p>We would have definitely learned that from the table to the stool which definitely is the domain of the moneychanger belongs to the moneychanger.</p>	<p>Coins found in the moneychanger's store belong to the finder.</p> <p>This is similar to the first part of the Mishna about a store.</p>
	Implications:	Since it did not say this, we imply that if it was found on the table it belongs to the finder.	But since the Mishna said "in front" it means that the coins found from the table to the front of the store belong to the finder.

26b) Loose Coins in Produce.

The Mishna says that loose coins found in produce belong to the finder. The Gemara discusses where did the produce come from.

Our Mishna:	If one buys produce from someone or gets produce delivered and finds loose coins, the coins belong to the buyer.			
A rule from Reish Lakish who said from R' Yannai:	<p style="text-align: center;">Reish Lakish said in the name of R' Yannai</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> 27a) When the produce came from a merchant who got the produce from many suppliers: The buyer does not know who lost the coins and is permitted to keep the coins. </td> <td style="width: 50%; padding: 5px;"> When the produce came from a private seller: The buyer must return the coins to the private person. </td> </tr> </table>		27a) When the produce came from a merchant who got the produce from many suppliers: The buyer does not know who lost the coins and is permitted to keep the coins.	When the produce came from a private seller: The buyer must return the coins to the private person.
27a) When the produce came from a merchant who got the produce from many suppliers: The buyer does not know who lost the coins and is permitted to keep the coins.	When the produce came from a private seller: The buyer must return the coins to the private person.			
A Baraisa that supports Reish Lakish's rule:	<p style="text-align: center;">A Baraisa said in front of R' Nachman</p> The rule of the Mishna only applies to a buyer that received the produce from a merchant with many suppliers. But if the produce came from a private seller, the buyer must return the coins to the private seller.			
A question of R' Nachman:		Did the private seller work with the grain himself? Maybe there were workers who worked from the private seller and they lost the coins.		
The teacher of the Baraisa responded:		Should I stop saying over the Baraisa?		
R' Nachman's response:		Say over the Baraisa but say that the buyer must return the loose coins if the private seller used Canaanite slaves who cannot own anything. In that case, the buyer must return the coins to the private seller.		

27a) Mishna: Why A Garment Is Singled Out.

The Torah says

Devorim 22:3

וְכֹן תַּעֲשֶׂה לְחֵמְרוֹ, וְכֹן תַּעֲשֶׂה לְשִׁמְלָתוֹ, וְכֹן תַּעֲשֶׂה לְכָל-אֲבֹדֹת אֲחִיךָ אֲשֶׁר-תֵּאבֹד מִמֶּנּוּ, וּמְצָאתָהּ: לֹא תוּכַל, לְהִתְעַלֵּם

“And so, you should do with his donkey; and so you should do with his garment; and so you should do with every lost object of your brother's, which he has lost from him, and you found; you should not hide yourself.”

Our Mishna
The garment was also included as an object that a finder must call out and return.
And why was the garment singled out?
To draw an analogy and say: What is special about a garment? Garments have distinguishing marks, and it has people who claim it. The finder must call it out and return it.
So too, any item that has distinguishing marks and it has people who claim it, must be called out and returned by the finder.

27a) A Found Lamb.

The Gemara goes through the many types of the lost objects that the *posuk* says. There is a discussion about why lamb is mentioned. Two reasons are given.

Reason	Objection
Lamb was included to teach that the dung of the lost animal must be also returned with the animal.	This is not true. The owner does not want the dung to be returned.
Lamb comes to teach us that identifying marks are <i>Deoraysa</i> . That is, we learn from the word “lamb” that it is returned by identifying marks and not only witnesses.	The Mishna said already that we learn this from “garment.”

27a) Deriving That The Found Object Must Be Worth At Least A Perutah.

The Gemara gives a rule that a finder does not have to worry about an object that is not worth a *perutah*. To opinions are offered as to how this rule is learned. Then the opinions are clarified.

A Baraisa					
A rule and how the rule is derived:	<p>Only an object that is worth at least a <i>perutah</i> must be returned. If the object is worth less than a <i>perutah</i>, then it can be kept by the finder.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%; text-align: center;">Tanna Kamma</th> <th style="width: 50%; text-align: center;">R' Yehudah</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Devorim 22:3 וְכֵן תַּעֲשֶׂה לְחִמְרוֹ, וְכֵן תַּעֲשֶׂה לְשִׁמְלֹתוֹ, וְכֵן תַּעֲשֶׂה לְכָל-אֲבֵדֹת אֲחִידָא אֲשֶׁר-תֵּאֲבֹד מִמֶּנּוּ, וּמִצֵּאתָהּ: לֹא תִוְכַל, לְהִתְעַלֵּם. “And so you should do with his donkey; and so you should do with his garment; and so you should do with every lost object of your brother's, <u>which he has lost</u> from him, and you found; you should not hide yourself.”</td> <td style="text-align: center;">Devorim 22:3 וְכֵן תַּעֲשֶׂה לְחִמְרוֹ, וְכֵן תַּעֲשֶׂה לְשִׁמְלֹתוֹ, וְכֵן תַּעֲשֶׂה לְכָל-אֲבֵדֹת אֲחִידָא אֲשֶׁר-תֵּאֲבֹד מִמֶּנּוּ, וּמִצֵּאתָהּ: לֹא תִוְכַל, לְהִתְעַלֵּם. “And so you should do with his donkey; and so you should do with his garment; and so you should do with every lost object of your brother's, <u>which he has lost</u> from him, <u>and you found</u>; you should not hide yourself.”</td> </tr> </tbody> </table>	Tanna Kamma	R' Yehudah	Devorim 22:3 וְכֵן תַּעֲשֶׂה לְחִמְרוֹ, וְכֵן תַּעֲשֶׂה לְשִׁמְלֹתוֹ, וְכֵן תַּעֲשֶׂה לְכָל-אֲבֵדֹת אֲחִידָא אֲשֶׁר-תֵּאֲבֹד מִמֶּנּוּ, וּמִצֵּאתָהּ: לֹא תִוְכַל, לְהִתְעַלֵּם. “And so you should do with his donkey; and so you should do with his garment; and so you should do with every lost object of your brother's, <u>which he has lost</u> from him, and you found; you should not hide yourself.”	Devorim 22:3 וְכֵן תַּעֲשֶׂה לְחִמְרוֹ, וְכֵן תַּעֲשֶׂה לְשִׁמְלֹתוֹ, וְכֵן תַּעֲשֶׂה לְכָל-אֲבֵדֹת אֲחִידָא אֲשֶׁר-תֵּאֲבֹד מִמֶּנּוּ, וּמִצֵּאתָהּ: לֹא תִוְכַל, לְהִתְעַלֵּם. “And so you should do with his donkey; and so you should do with his garment; and so you should do with every lost object of your brother's, <u>which he has lost</u> from him, <u>and you found</u> ; you should not hide yourself.”
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What does each Tanna learn from the other Tanna's part of the <i>posuk</i> ?	<p>What does the Tanna Kamma do with “and you found”?</p> <p>The Tanna Kamma learns like Rabbenai who says it is to teach that the finder does not have to return a lost object to anyone --- even if it is already in the finder's hand.</p> <p>What does R' Yehuda do with “which he is lost”?</p> <p>R' Yehudah learns like R' Yochanan who said in the name of R' Shimon ben Yochai who used this part of the <i>posuk</i> to learn that any object swept away by a river (and hence inaccessible to anybody else) can be kept by the finder.</p>				
How does each Tanna learn the rule that the other Tanna derived?	<p>How does the Tanna Kamma learn R' Yochanan's rule about objects swept away from the sea?</p> <p>He learns it from “which he has lost <u>from him</u>”. When there is no “from him” the finder can keep it.</p> <p>How does R' Yehudah derive the rule of Rabbenai?</p> <p>He learns it from “<u>and</u> you found”. The extra “and” means that it was already retrieved and in the finder's hand.</p>				
Why did R' Yehuda learn it his way and not the way the Tanna Kamma learned it?	<p>R' Yehudah does not consider “from him” to be significant.</p>				

27a) Practical Difference Between the Two Derivations of the Law.

We just earned that only an object worth a *perutah* must be returned. There were two different ways of deriving this rule from the Torah. One way focuses on when the object was lost and one focuses when the object was found. The Gemara looks at three possible cases where the difference in deriving the rule have a practical difference.

Case	Tanna Kamma “...which is lost”	R’ Yehudah “...and you found it”	Objection
Rava: A lost object that was worth a <i>perutah</i> but its value went down when it was found.	Since it was worth a <i>perutah</i> when it was lost, it must be returned.	Since it was not worth a <i>perutah</i> when it was found, it can be kept by the finder.	Since the Tanna Kamma also has the verse “...and you found it”, he would also insist that the object be worth a <i>perutah</i> when it is found. He would also say the finder can keep it.
A lost object worth less than a <i>perutah</i> and its value went up when it was found.	Since it was not worth a <i>perutah</i> when it was lost, it can be kept by the finder.	Since it was worth a <i>perutah</i> when it was found, it has to be returned.	Since R’ Yehudah also has the verse “...which is lost”, he would also insist that the object be worth a <i>perutah</i> when it was lost. He would also say it can be kept by the finder.
A lost object that was worth a <i>perutah</i> but its value went down and then it went up before it was found.	Since it was worth a <i>perutah</i> when it was lost and found, it has to be returned.	Since it was not worth a <i>perutah</i> <u>continuously</u> which violates the “..and..”, the object can be kept.	

27a) The Status of Identifying Marks.

The Gemara wonders whether using identifying marks (*simanim*) are *Deoraysa* or *Rabonin*. It then offers a case where a practical difference depends on the answer.

Two possibilities:	Identifying marks are <i>Deoraysa</i>	Identifying marks are <i>Rabonim</i>
<p style="text-align: center;">A case</p> <p>A man sends a <i>get</i> (divorce) to his wife with a messenger and the messenger loses it. The <i>get</i> is found and the messenger describes the <i>get</i> with identifying marks.</p>	<p>The <i>get</i> should be returned to the messenger and the messenger can give the <i>get</i> to the woman and she is free.</p>	<p>The <i>get</i> should not be returned to the messenger because the Rabanim can only effect momentary issues and not have a woman released from a marriage.</p>

27b) Proofs of The Status of Identifying Marks.

The Gemara goes through various proofs as whether identifying marks (*simanim*) are *Deoraysa* or *Rabonin*. for each proof, a ruling is given, an inference is made, and then there is an objection to the proof.

	Ruling	Inference	Objection to proof
For <i>Deoraysa</i> :	Our Mishna said that the reason why the word לְשִׁמְלָתוֹ “garment” was used is because it has identifying marks and people can claim it.	Since we derived a rule about identifying marks from a word in the Torah, it must be <i>Deoraysa</i> .	Perhaps the garment was used because there are people who claim it. Maybe the fact that garments have identifying marks is not important. Only witnesses are important.
For <i>Deoraysa</i> :	A Baraisa says that a donkey לְהַמְרוֹ “donkey” must be returned to someone who claims it provided that they give identifying marks for the saddle.	Since we derived this rule from “donkey,” which is a word in the Torah, it must be <i>Deoraysa</i> .	Perhaps the donkey is being returned because of witnesses who recognize the saddle and this has nothing to do with identifying marks.
For <i>Deoraysa</i> :	A Baraisa says that you should דָּרַשׁ “inquire” of the person who claims the object to see if you should return the object.	How does one inquire? See if the one who claims knows the identifying marks. Since “inquire” is a word in the Torah, it must be <i>Deoraysa</i> .	Perhaps the inquiry is made by seeing if witnesses (not identifying marks) say the object belongs to the one who claims it.
For <i>Rabonin</i> :	Witnesses can only testify about the identity of a person from his face. Not identifying marks on the body or clothes.	We see that identifying marks are not used to release a woman from marriage. The identifying marks are <i>Rabonin</i> and therefore we cannot release a woman with the identifying marks..	Perhaps we do not use identifying facts about the body because they are too general (e.g. tall and short) or the clothes were borrowed. Or alternatively, the identifying marks on the clothes are too general (e.g. white or red.)
28a) For <i>Deoraysa</i>	[...] A Baraisa says that you should דָּרַשׁ “inquire” of the person who claims the object to see if you should return the object.	How does one inquire? See if the one who claims knows the identifying marks. Since “inquire” is a word in the Torah, it must be <i>Deoraysa</i> .	(Although this proof was rejected before, it is now accepted.)

27b) Identifying Marks Are Deoraysa Or Rabonin.

The Gemara relates the *machlokis* about the status of identifying marks to a *machlokis* of Tanoyim. Other explanations for the *machlokis* of Tanoyim are also offered.

A Baraisa about identifying marks:	A Baraisa	
	Tanna Kamma	Elazar Ben Mehavai
	Witnesses may not testify on the identity of a dead husband for a wife to remarry based on a wart	Witnesses may testify on the identity of a dead husband for a wife to remarry based on a wart
An explanation:	<ul style="list-style-type: none"> Identifying marks are <i>Rabonin</i>. That is why she is not released if one testifies about an identifying mark like a wart. 	<ul style="list-style-type: none"> Identifying marks are <i>Deoraysa</i>. That is why she is released if one testifies about an identifying mark like a wart.
Rava's criticism and another explanation:	<ul style="list-style-type: none"> Identifying marks are <i>Deoraysa</i>. A wart is commonly found and not an identifying mark. That is why she is not released with such a testimony.	<ul style="list-style-type: none"> Identifying marks are <i>Deoraysa</i>. A wart is not commonly found and it is an identifying mark. That is why she is released with such a testimony.
Another explanation:	<ul style="list-style-type: none"> A wart is not commonly found and it is an identifying mark. Warts change color. That is why she is not released with such a testimony.	<ul style="list-style-type: none"> A wart is not commonly found and it is an identifying mark. Warts do not change color. That is why she is released with such a testimony.
Yet another explanation:	<ul style="list-style-type: none"> Warts do not change color. Identifying marks are <i>Rabonin</i>. But warts are not unique identifying marks. That is why she is not released with such a testimony.	<ul style="list-style-type: none"> Warts do not change color. Identifying marks are <i>Rabonin</i>. But warts are unique identifying marks. That is why she is released with such a testimony.

27b) Why Identifying Marks Work.

Assuming that Identifying marks are *derabonim*, the question is asked why it works. In other words, if it is not *deoraysa*, why did the Rabonim make such a rule that we believe the person who gives *simanim*?

Reason	Objection
Rava: The finder is happy to give up the object so that when he loses an object, it will be returned.	Rav Safra: He might give it to the wrong person because of identifying marks. The finder is doing himself a favor. Why do we care about his happiness?
Rava: The owner is happy to provide identifying marks because he thinks he is the only one who knows it.	<p>Rav Safra: The person who lost the object is not always happy when objects are returned to its rightful owner. For example Mishna Bava Metzia 1:8 Rabban Shimon ben Gamliel</p> <p>If one found documents about loans of one person who borrowed money from three people, the finder must return them to the borrower (because the dept was probably paid off already when they were lost.) If the documents are about loans of three people who borrowed money from one person, the finder must return them to the single lender, (because the loans were probably not paid off and in the lender's possession when lost.)</p> <p>In the second case, the borrower is not happy that the record of his dept is returned to the lender.</p> <p>Rava responds: In this case of the Mishna, it is not about the <i>simanim</i>. The finder returns it to the borrower or the lender for logical reasons.</p> <p>Rav Safra: Here is another case where the borrower is not happy because of the return of documents because of <i>simanim</i>: Mishna Bava Metzia 1:8 If one found a roll of documents or a bundle of documents, he must return them.</p> <p>Rava accepts this criticism.</p>
Rava: Really <i>simanim</i> is <i>deoraysa</i> from the <i>posuk</i> עַד דֵּרֵשׁ אֶתְּיָדָהּ. How does one look into their brother? By making sure they are honest. How does one do that? By seeing if the one who claims it, has the right <i>simanim</i> .	

28a) Which Claim Is Stronger.

Rava goes through a list of cases where two people are claiming a lost object. The finder is told what to do with the lost object.

One Claim	Another Claim	Halacha and Reason
<i>Simanim</i> /Identifying marks	<i>Simanim</i> /Identifying marks	Since both claims are the same, the finder may keep the object.
<i>Simanim</i>	Two witnesses	The one with two witnesses get the object because two witnesses are stronger than <i>simanim</i> .
<i>Simanim</i>	<i>Simanim</i> and a single witness	The finder keeps the object because a single witness adds nothing.
Witness to the garment's weaving	Witness to the garment falling from the owner	Give it to the witness who saw it fall. The weaver probably sold it.
Witness to the garment's length of a garment	Witness to its breadth of a garment.	Give it to the one who saw the length. Because it is easier to tell the breadth of the garment.
Witness to the garment's length and its breadth	Witness to the garment's length plus the garment's breadth	Give it to the witness that knows both the length and breadth. Because he knows more information
Witness to the garment's length and its breadth	Witness to the garment's weight	Give it to the witness who gave the weight. Because in order to tell the weight, it must have been held and not just seen.
The husband gives <i>simanim</i> on a <i>get</i>	The (ex) wife gives <i>simanim</i> on a <i>get</i> Question: What type of <i>simanim</i> did she give? If you say that she the length and the breadth of the get, she might have seen it. Answer: She gives exact <i>simanim</i> like saying there is a hole by this letter.	Give it to her. Because he definitely knows the <i>simanim</i> . If she knows it, then it was already delivered.

The Gemara concludes with two more questions about the exact nature of the *simanim* for a get.

28a) The Mishna: How Long Must A Finder Call Out An Object.

How long must a finder call out the object before he is permitted to keep it?

Our Mishna	
Question: How long must a finder call out the object?	
R' Meir	R' Yehudah
Until the neighbors know about it.	For three <i>regalim yom tovim</i> and then for seven more days. The extra seven days is because: <ul style="list-style-type: none"> • three days to go to his home, and then to be certain that he lost the item, • three days to return to Jerusalem, and • one day to announce his loss.

28a) The Longest Possible Traveling Time (part one).

There are two Mishnas that give different traveling times to get to the most distant places. The Gemara offers several ways of resolving this conflict.

<p>Two seemingly conflicting Mishnas:</p>	<p>Mishna Taanis 1:3</p> <p>Rabban Gamliel</p> <p>One starts to request rain on the seventh of Marḥeshvan, which is fifteen days after the festival of <i>Sukkot</i>. We wait so that the last Jewish traveler can reach the Euphrates River without being inconvenienced by rain on his journey home.</p>	<p>Our Mishna</p> <p>R' Yehudah</p> <p>(The finder must wait 7 days because) the most distant border is a 3 day journey.</p>
<p>Rav Yosef's resolution:</p>	<p>This ruling is for the time of the first Beis Hamigdash when there were a lot of Jews and the borders were further away as it says</p> <p>Melochim I 4:20</p> <p>וְהַיְהוּדָה וְיִשְׂרָאֵל רַבִּים, כַּחֲזוֹל אֲשֶׁר-עַל-הַיָּם לְרֹב, אֲכָלִים וְשָׂתִים, וּשְׂמָחִים.</p> <p>“Yehudah and Israel were many, as the sand which is by the sea in number, eating and drinking and making merry.”</p>	<p>This ruling is for the time of the second Beis Hamigdash when there were fewer Jews and the border closer as it says</p> <p>Nechemya 7:66</p> <p>כָּל-הַקְּהָל, כְּאֶחָד--אַרְבַּע רְבוּא, אַלְפִים שְׁלֹשׁ-מֵאוֹת וְשִׁשִּׁים.</p> <p>“The whole congregation together was forty two thousand, three hundred and sixty.”</p>
<p>Abaye's criticism of Rav Yosef:</p>	<p>In the time of the second Beis Hamigdash there were fewer Jews but they settled the same lands as the time of the first Beis Hamigdash as it says</p> <p>Ezra 2:70</p> <p>וַיָּשְׁבוּ הַכֹּהֲנִים וְהַלְוִיִּם וּמִן-הָעָם וְהַמְּשֻׁרְרִים וְהַשׁוֹעֲרִים, וְהַנְּתִינִים--בְּעָרֵיהֶם; וְכָל-יִשְׂרָאֵל בְּעָרֵיהֶם.</p> <p>“So the koyhanim, and the Leviim, and some of the people, and the singers, and the porters, and the Nethinim, lived in their cities, and all Israel in their cities.”</p>	<p>In the time of the second Beis Hamigdash there were fewer Jews but they settled the same lands as the time of the first Beis Hamigdash as it says</p> <p>Ezra 2:70</p> <p>וַיָּשְׁבוּ הַכֹּהֲנִים וְהַלְוִיִּם וּמִן-הָעָם וְהַמְּשֻׁרְרִים וְהַשׁוֹעֲרִים, וְהַנְּתִינִים--בְּעָרֵיהֶם; וְכָל-יִשְׂרָאֵל בְּעָרֵיהֶם.</p> <p>“So the koyhanim, and the Leviim, and some of the people, and the singers, and the porters, and the Nethinim, lived in their cities, and all Israel in their cities.”</p>

28a) The Longest Possible Traveling Time (part two).

Two more resolutions are offered here.

Another resolution:	This ruling is for the time of the second Beis Hamigdash when there were fewer Jews and caravans did not run day and night so travel time was longer.	This ruling is for the time of the first Beis Hamigdash when there were a lot of Jews and caravans ran day and night so travel time was shorter.
Rava's resolution:	It is a 15-day journey to the most distant border.	It is a 15-day journey to the most distant border but the Rabbis did not want to burden the finder to wait that long.

28a) Should One Announce The Type of Object?

We had the *machlokis* if the finder should announce the type of article that was lost. Ravina offers a proof that the type of article is announced from R' Yehudah's rule about someone going home and checking his possessions.

	Announce the type of object	Do not announce the type of object
Ravina's proof:	<p>R' Yehudah: Wait three festivals and then</p> <ul style="list-style-type: none"> • 3 days to go home, • 3 days to return and • 1 day to talk to finder. <p>It does not say</p> <ul style="list-style-type: none"> • 3 days to go home • 1 day <u>to look over all his objects</u> • 3 days to return and • 1 day to talk to the finder. <p>From this we learn that the owner knew what type of object it was. So, the type was announced.</p>	
Rava's reason why the proof fails:		That proof does not work. Maybe the type was not announced and we only wait 7 days because the Rabbis did not want to burden the finder.

28b) Mishna: Determining The Owner.

The Mishna discusses to whom one should return the lost object.

Our Mishna	
First rule:	If someone names the lost object, but does not give identifying marks, the finder should not give it to him (because he is probably lying).
Second rule:	If the person claiming the object is known to be dishonest, even if he describes the identifying marks, do not give it to him.
A proof for the second rule:	<p style="text-align: center;">Devorim 22:2</p> <p>וְאִם-לֹא קָרֹב אֶחָיִךְ אֵלֶיךָ, וְלֹא יִדְעָתוּ--וְאִסְפָּתוּ, אֶל-תּוֹךְ בֵּיתְךָ, וְהִיָּה עִמָּךְ עַד דֵּרֵשׁ אֶחָיִךְ אֹתוֹ, וְהִשְׁבַּתוּ לוֹ.</p> <p>And if your brother does not live near you and you do not know who he is, you shall bring it home to your house, and it shall stay with you <u>until your brother seeks it</u>. Then you shall return it to him.</p> <p>Rather than translate it as “until your brother seeks it”, translate it as “until you seek out (determine) who your brother is.” Is he honest or dishonest?</p>

28b) Calling Out the Lost Object (part one).

Two opinions as to how one should call out a lost object are discussed.

Two opinions on how to call out a lost object:	Rav Yehudah The finder should not be specific and just say that he found a lost object.	Rav Nachman The finder should be specific and say that he has a garment.	
Their reasons:	If you call out the specific type of object, dishonest people will say it is theirs.	You should not worry about dishonest people, because if you do, it would never end. There will always be people lying to get things that are not theirs.	
Our Mishna:			Our Mishna If someone names the lost object, but does not give identifying marks, the finder should not give it to him (because he is probably lying).
How our Mishna compares with the two opinions:	If the finder is not specific and the person who claims the object does not say what the object is, then it makes sense not to give the object to the person claiming it.	If the finder said garment and the person who claims it says garment, so what identifying marks should he say. This implies that the Mishna disagrees with Rav Nachman.	

28b) Calling Out the Lost Object (part two).

This continues from last page.

Rav Safra defense of Rav Nachman:		Really the finder says garment and the finder says garment.	The case of the Mishna is where the one who claims it fails to give a way of identifying which garment.
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The Gemara concludes the discussion of the Mishna by saying that it used to be that people claiming a lost object would give identifying objects and they would get the object. At some point, there were a lot of dishonest people and Rabbis made claimers of lost objects bring witnesses that they are not dishonest. The Gemara concludes with a short, related incident that happened with the father of R' Pappa.

28b) Mishna: Caring for a Lost Animal.

How is one to care for a lost object? May one sell the lost object and then eventually give the owner the money?

Our Mishna			
Two rules:	If the lost animal could work and eat (like an ox or a donkey), then it should work (pay for itself) and eat.	If the lost animal does not work, but eats (like a rooster or a calf), then it should be sold, and the money should be held for the owner.	
What can be done with the money?		<p>R' Tarfon</p> <p>The finder may use the money, and therefore if he loses the money, then he is responsible.</p>	<p>R' Akiva</p> <p>The finder may not use the money, and therefore if he loses the money, then he is not responsible.</p>

28b) Caring for a Lost Animal.

How long must one keep the animal before selling it?

Our Mishna:	If the lost animal works and eats, then it should work and eat.		
A question:	Does he have to keep it forever?		
A rule:	Rav Nachman in the name of Shmuel		
	He has to keep it up to 12 months (before selling it.)		
A proof from a Baraisa:	Anything that works and eats must be cared for		
	Cow or donkey Up to 12 months	Calves and young donkey Up to 3 months	Ganders and roosters Up to 30 days
	After that, one sells them and puts the money away.		
A related rule:	Rav Nachman the son of Yitzchok		
	A hen (which a small animal) is like a big animal (cow or donkey) and must be held for 12 months because the hen can pay for its feed from its eggs.		

28b) Caring for a Lost Animal.

There are two Baraisas with seemingly conflicting rules about the length of time the finder must keep the animals.

Two Baraisas with seemingly contradictory parts:	First Baraisa			Second Baraisa		
	Anything that works and eats must be cared for			Anything that works and eats must be cared for		
	Cows or donkeys	Calves and young donkeys	Ganders and roosters	Hens and large animals	Calves and young donkeys	Ganders and roosters and anything whose care cost more than it earns
	Up to 12 months	Up to 3 months	Up to 30 days	Up to 12 months	Up to 30 days	Up to 3 days
	After that, one sells them and puts the money away.			After that, one sells them and puts the money away.		
Resolving the first conflict:		These can graze in pastures and are not so expensive.		These need to be fed and are expensive.		
Resolving the second conflict:			These animals are small and do not eat a lot.		These animals are large and eat a lot.	

28b) Caring for a Lost Animal.

What about the finder selling some of the lost animals to pay for food for the rest of the lost animals?

Our Mishna:	If the lost animal does not work, but eats, then it should be sold and the money should be held for the owner.
A Baraisa:	<p>The posuk says</p> <p style="text-align: center;">Devorim 22:2</p> <p style="text-align: center;">וְאִם-לֹא קָרוֹב אֶחָיִךָ אֵלֶיךָ, וְלֹא יָדַעְתָּ--נֹאֲסַפְתּוֹ, אֶל-תּוֹךְ בֵּיתְךָ, וְהָיָה עִמָּךְ עַד דָּרַשׁ אֶחָיִךָ אֹתוֹ, וְהָשִׁבְתּוֹ לּוֹ .</p> <p>And if your brother does not live near you and you do not know who he is, you shall bring it home to your house, and it shall stay with you until your brother seeks it. <u>Then you shall return it to him.</u></p> <p>This means that the finder should not feed the value of a calf to the rest of the calves, or the value of a young donkey to the rest of the donkeys, or the value of young donkey to the rest of the donkeys.</p>

28b) The Status of a Finder of a Lost Animal (part one).

What is the status of someone who finds a lost object. He must care for it, but he is not paid. Is he permitted to use it? The Gemara discusses this.

Keep this chart in mind while going through the arguments. The highlighted boxes arise in the discussion.

	Can he use it?	פשיעה	אבידה גניבה	אנס
שמר חנם	No	חייב	פטור	פטור
שמר שוחר	No	חייב	חייב	פטור
שוכר	Yes	חייב	חייב	פטור
שואל	Yes	חייב	חייב	חייב

Our Mishna:	If the lost animal does not work, but eats (like a rooster or a calf), then it should be sold and the money should be held for the owner.		
	R' Tarfon	R' Akiva	
	The finder may use the money, and therefore if he loses the money, then he is responsible.	The finder may not use the money, and therefore if he loses the money, then he is not responsible.	
An inference:	29a) If the finder did not have the right to use the money, then both R' Tarfon and R' Akiva would say that if he lost the money, he is exempt. פטור אבידה.		

29a) The Status of a Finder of a Lost Animal (part two).

The discussion continues.

<p>An argument of Amorim where R' Tarfon and R' Akiva seems to disagree with R' Yosef:</p>			<p>A finder of a lost object</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td data-bbox="937 436 1190 768" style="text-align: center; vertical-align: top;"> <p>Rabbah</p> <p>The finder is like an שמר חנם (unpaid shomer)</p> </td> <td data-bbox="1190 436 1438 768" style="text-align: center; vertical-align: top;"> <p>R' Yosef</p> <p>The finder is like a שמר שוחר (paid shomer). Such a shomer is חייב for אבידה (loss).</p> </td> </tr> </table>		<p>Rabbah</p> <p>The finder is like an שמר חנם (unpaid shomer)</p>	<p>R' Yosef</p> <p>The finder is like a שמר שוחר (paid shomer). Such a shomer is חייב for אבידה (loss).</p>
<p>Rabbah</p> <p>The finder is like an שמר חנם (unpaid shomer)</p>	<p>R' Yosef</p> <p>The finder is like a שמר שוחר (paid shomer). Such a shomer is חייב for אבידה (loss).</p>					
<p>How R' Yosef understands the Mishna:</p>	<p>R' Tarfun</p>	<p>R' Akiva</p>				
	<p>With respect to אבידה גניבה both agree that he is חייב.</p>					
<p>A question for R' Yosef:</p>	<p>The finder is permitted to use the object like a שואל (borrower). He is חייב for אנס</p>	<p>The finder is not permitted to use the money, so he is not like a שואל (borrower). He is אנס for פטור</p>				
	<p>Why does R' Akiva in the Mishna say “therefore”? If the argument is about אנס, there is no reason to say “therefor”.</p>					
<p>A defense of R' Yosef:</p>	<p>R' Akiva in the Mishna says “therefore” because R' Tarfun said “therefore” so to keep the language symmetric, it said it here.</p>					

28b) The Status of a Finder of a Lost Animal (part three).

The discussion continues.

A question for R' Yosef:	Why does R' Tarfun in the Mishna say "therefore? If the argument is about דָּנָא, there is no reason to say "therefor".			
A defense of R' Yosef:	Even though the Mishna uses the word "lost", 29b) R' Yosef would say that the object was "lost at sea" which is an "accident".			

The Gemara concludes that the law is like R' Tarfun. A related incident is told of someone who was watching money for orphans.

29b) Mishna: Caring for Lost Objects.

The Mishna describes various actions to care for lost objects.

Our Mishna	
For lost books:	<ul style="list-style-type: none"> • The finder should read them once in 30 days to air them out. • If he cannot read, he should roll them. • He should not study with them for the first time (because that is too much wear and tear). • He should not read them with another person (because there will be pulling and tugging)
For garments:	<ul style="list-style-type: none"> • The finder should shake out the garment once every 30 days. • The finder should spread out the garment for the garment's needs and not the finder's needs.
For silver and copper utensils:	<ul style="list-style-type: none"> • The finder can use them for their own sake but make sure not to erode them.
For gold or glass utensils:	<ul style="list-style-type: none"> • The finder should not touch them till Eliyahu haNavi comes and tells you who the owner is.
For a sack or container:	<ul style="list-style-type: none"> • If the item is not his type or below his dignity, he does not need to take it.

29b) Found Tefillin.

The Gemara discusses what to do with found tefillin.

Ravina points out a seeming contradiction:	<p style="text-align: center;">Shmuel</p> <p>One who finds tefillin should see how much they are worth and sell them.</p>	<p style="text-align: center;">Our Mishna</p> <p>For a lost book, one should keep it and roll it out every 30 days. He does not sell it.</p>
Abaye's resolution of the contradiction:	Tefillin are easy to rebuy (at the house of Bar Chavu).	A book is rarer and hard to buy again.

29b) A Torah Scroll.

The laws of a torah scroll are discussed. A Baraisa is repeated, and each law is analyzed.

A Baraisa	Analysis
<p>If one borrows a torah scroll from a friend, he may not lend it to another.</p>	<p>Question: Why does he say that for a torah scroll, he cannot lend it to another. This is true for any object. R' Shimon ben Lakish said from Rebbe that a borrower is not permitted to lend to another, and a renter is not permitted to rent to another. Answer: The law about a torah scroll must be stated because if it was not stated one would think that since one is doing a mitzvah by lending a torah to another, it is permitted. It is not.</p>
<p>He may open and read from it but not study from it the first time.</p>	<p>Question: It is obvious that he is permitted to read it. What other reason would someone borrow a scroll for? Answer: It was stated for the second part of the law about reading it the first time.</p>
<p>A second person should not read from it with him.</p>	
<p>If one leaves a torah scroll with a friend, the shomer should roll it every 12 months. He may open it and read from it, but he is not permitted to open it for his own purpose.</p>	<p>Question: What right does he have to read it? Furthermore, there is a conflict: one the one hand he is permitted to read it, and on the other hand he is prohibited to read it. Answer: It is meant that he should roll it. While he is rolling it, he is permitted to read it. But he is prohibited to read from it for his own purposes.</p>
<p>Sumchas say that a new torah scroll should be rolled every 30 days; and an old one every 12 months.</p>	
<p>R' Eliezer Ben Yaakov says a new or old torah scroll should be rolled every 12 months.</p>	<p>Question: This is the same as the tanna before who said "If one leaves a torah scroll with a friend, the shomer should roll it every 12 months." Answer: The Baraisa should say "R' Eliezer Ben Yaakov says a new or old torah scroll should be rolled every 12 months 30 days."</p>

29b) Many People Reading from A Scroll.

When are two people permitted to read from one scroll?

	Our Mishna	A Baraisa
A seeming contradiction:	<ul style="list-style-type: none"> • He should not study with the scrolls for the first time. • He should not read the scrolls with another person. 	<ul style="list-style-type: none"> • One should not read a portion of the scroll and review it. • Nor should he read a portion and translate it. • He should not open more than three columns at a time. • <u>And three should not read from one volume at one time.</u> <p>Implying that two <u>can</u> learn from the scroll at the same time.</p>
Abaye's resolution:	Here two people are prohibited from reading one passage because of pulling and tugging.	Here two people are permitted to read as long as they are reading from different passages.

29b) Shaking Out a Garment.

The Mishna said that a garment should be shaken out every 30 days. Another ruling says that this is not good for the garment.

A seeming contradiction:	Our Mishna	R' Yochanan
Four possible resolutions:	Every 30 days is beneficial.	However, every day is harmful.
	One person shaking it out is beneficial.	However, two people is not.
	Shaking it by hand is beneficial.	However, with a stick is not.
	The garment is made of linen.	The garment is made of wool.

The Gemara then mentions a few other sarcastic sayings of R' Yochanan.

30a) The Finder's Needs and The Object's Needs (part one).

The Mishna says that the finder should be concerned about the garment and not himself. The Gemara wonders about doing something for the garment and for himself. Proofs are brought to show that this is not permitted.

Our Mishna	The finder should spread out the garment for the garment's needs and not the finder's needs.		
Question:	Can the finder use it for his own needs as well as the garment's needs?		
Two parts of the rule and their implications:	<p>The finder should spread out the garment for the garment's needs.</p> <p>Implication: For the garment's needs, yes. But not for his own needs <u>and</u> the garment's need.</p>	<p>... not the finder's needs.</p> <p>Implication: For the finder's needs no. But you are permitted for both the finder's needs <u>and</u> the needs of the garment.</p>	
Conclusion:	We cannot learn the answer to the question from our Mishna.		
A potential proof that one is not permitted to spread the garment for both uses:			<p style="text-align: center;">A Baraisa</p> <ul style="list-style-type: none"> • The finder is not permitted to spread it out over a bed or on a peg for his needs. • The finder should spread it out over the bed and on a peg for the garment's needs. • <u>If guests come, he should not spread it out over a bed nor on a peg for his needs nor for the garment's needs.</u> <p>Implication: one should not do for his needs and for the garment's needs.</p>
Why the proof fails:	Maybe one is permitted to spread the garment for his needs and the garment's needs.	But here it is different and not permitted. The reason why it is not permitted here in front of the guests is because the guests might give it the evil eye or because it exposes the garment to potential thieves.	

30a) The Finder’s Needs and The Object’s Needs (part two).

<p>Another potential proof that one is not permitted to spread the garment for both uses:</p>		<p style="text-align: center;">A Baraisa</p> <p>Consider a calf that is not permitted to work.</p>	
<p>Why the proof fails:</p>	<p>Maybe one is permitted to spread the garment for his needs and the garment’s needs.</p>	<p>If the calf is joined in multiple harnesses to nurse (for his own good) and it also thrashes (for the owner’s good), then the animal is considered is good because this is not considered work.</p>	<p>If the calf is joined to nurse (for his own good) and to thrash (for the owner’s good), then the animal is considered worked and is not good.</p> <p>Implication: one is not permitted to do something for the object’s good and the person’s good.</p>
<p>A problem with that reasoning:</p>		<p>Since we infer that the <i>posuk</i> means no work at all, why in this case is it permitted?</p>	<p>But here there is a <i>posuk</i> that strictly prohibits work done on the animal.</p> <p style="text-align: center;">Devorim 21:3</p> <p style="text-align: center;">וְהָיָה הָעֵיר, הַקְרֵבָה אֶל-הַהֶלֶל-- וְלָקְחוּ זָקְנֵי הָעֵיר הַהוּא עֹגְלוֹת בָּקָר, אֲשֶׁר לֹא-עָבְדוּ בָהּ, אֲשֶׁר לֹא-מִשְׁכָּה, בְּעֵל.</p> <p>“Then the elders of the city nearest the victim shall take a heifer that has never been yoked or used for work”</p>
<p>An explanation why the Barisa permits this case:</p>		<p style="text-align: center;">Mishna Parah:24</p> <p>If a bird rests on a <i>para adumah</i>, it remains fit (because that is not what the owner intended). If a male mounts the <i>para adumah</i>, it becomes unfit (because this was permitted for the owner’s benefit.)</p>	

The *sugya* concludes with a *dikduk* explanation from Rav Puppa as why the Mishna in Parah has this rule.

30a) Caring for Different Types of Objects.

The Gemara brings down a Baraisa with several rules about caring for different types of objects.

Our Mishna:	<ul style="list-style-type: none"> • For silver and copper utensils: the finder can use them for their own sake.
A related Baraisa:	<ul style="list-style-type: none"> • One who finds wooden utensils must use them, so that they will not fall apart. • For copper utensils, he should use them with hot water, but not on the fire, because that erodes them. • For silver utensils, he should use cold water, but not with hot water, because hot water tarnishes. • For rakes or axes, he may use them with soft objects but not with hard objects because hard objects damage them. • If one found gold or glass utensils, which do not deteriorate due to lack of use, he may not touch them until Eliyahu haNavi comes and tells us who the owner was. <p>Although these rules are said about lost objects, <u>they also go for objects that are given to a shomer to watch.</u></p>
A question:	What does a shomer have to do with these objects? Why should the shomer be caring for them? The owner should care for these objects.
An answer given by Rav Ada bar Chama in the name of Rav Shaishes:	This Baraisa is talking about an owner who is traveling overseas and asked the shomer to care for the objects.

30a) A Found Object that is Undignified.

The Mishna taught that one does not have to take an object that is below the finder's dignity. The Gemara wants to know where this law comes from.

Our Mishna:	If a sack or container is not his type or below his dignity, he does not need to take it.
A Baraisa that supports the Mishna:	<p>The <i>posuk</i> says:</p> <p style="text-align: center;">Devorim 22:1</p> <p style="text-align: center;">לֹא-תִרְאֶה אֶת-שׁוֹר אֶחָיִךְ אוֹ אֶת-שֵׂיוֹ, נִדְחִים, וְהִתְעַלְמָתָּ, מֵהֶם: הֲשִׁב תְּשִׁיבָם, לְאֶחָיִךְ</p> <p>“You shall not see your brother's ox, or his sheep wandering <u>and hide from them</u>; you shall return them to your brother.”</p> <p>There are times when you may hid and there are times when you may not hide from them. Consider the following cases:</p> <ul style="list-style-type: none"> • You are a Kohen and the lost object is in a cemetery. • You are a sage or an old man and the object is not good for your honor. • Your work is worth more than the value of the object. <p>You may “hide from them” and not pick up the object.</p>
Question:	For which case is the <i>posuk</i> needed to learn the law?
One possible answer:	The <i>posuk</i> is not needed for the Kohen case because it is obvious. A kohen should not be <i>tomai</i> is negative commandment and a positive commandment. Returning a lost object is a positive commandment. We do not disregard a negative and a positive commandment for a positive commandment. Furthermore, we do not disregard a ritual commandment for a commandment about money.
Another possible answer:	<p>The <i>posuk</i> is not needed for the case where your work is more valuable than the item. We know this from what Rav Yehudah said in the name of Rav. The <i>posuk</i> says:</p> <p style="text-align: center;">Devorim 15:4</p> <p style="text-align: center;">אֲפָס, כִּי לֹא יִהְיֶה-בְּךָ אֶבְיוֹן: כִּי-בָרַךְ בְּרַכָּהּ, יְהוָה, בְּאֶרֶץ, אֲשֶׁר יְהוָה אֱלֹהֶיךָ נָתַן-לְךָ נַחֲלָה לְרִשְׁתָּהּ.</p> <p>“There 30b) must be no poor people among you because Hashem is surely going to bless you in this land that Hashem, your God, is giving you as an inheritance, your very own land.”</p> <p>This teaches that your concern is more important than everyone else's.</p>
Conclusion:	The <i>posuk</i> is needed to teach us the rule about the sage or old man.

30b) Partially Returning A Lost Object.

The Gemara discusses various cases where the finder partially returns an object.

A ruling:	<p style="text-align: center;">Rabbah said</p> <p>If an elderly person hit an animal to go towards its owner, the elderly person must finish the job and bring it to his owner.</p> <p>The Gemara tells a story of Abaye in front of the Rabbah having to finish returning an animal.</p>	
A halacha was asked about a case:	A man usually wants to return an object to a field --- where there are not a lot of people --- and not to the city --- where there are a lot of people.	
Two possibilities:	We require him to do a complete action and since he will not take it back to the city, he does not do it at all.	Or, since he will take it to the field and partially fulfill the requirement, he should complete the task and take it back to the city.

The Gemara leaves the halacha as *Taiku*, let it stand.

30b) An Undignified Object.

The Gemara discusses many topics concerning objects that are undignified to return or help load on an animal.

A ruling:	<p style="text-align: center;">Rava said</p> <p>An object that someone would return if it was his own, he must return if it is his friend's. Furthermore, any bundle that he would unload or load if it was his own, he must also do if it was his friend's.</p>			
A story:	<p>R' Yishmael the son of R' Yose was traveling. He met a man who was carrying a load of wood. The man put the wood on the ground and told R' Yishmael, "Load that wood on top of me." R' Yishmael did not want to deal with the wood so he bought the wood off the man and declared the wood <i>hefker</i>. The man then went and took the wood. R' Yishmael then bought the wood again and said that the wood was <i>hefker</i>. The man went to get the wood again but R' Yishmael said the wood is <i>hefker</i> to everyone except you.</p>			
A seeming contradiction:	<p>In the story, R' Yishmael makes the wood <i>hefker</i> for everyone but the man.</p>	<p style="text-align: center;">Mishna Pe'ah 6:1</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Beis Shami says</p> <p>One can make an object <i>hefker</i> for poor people only.</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Beis Hillel says</p> <p>One can make an object <i>hefker</i> only if it is <i>hefker</i> for both the poor and for the rich (everyone, as in <i>shmitta</i>).</p> <p>The halacha follows Beis Hillel.</p> </td> </tr> </table>	<p>Beis Shami says</p> <p>One can make an object <i>hefker</i> for poor people only.</p>	<p>Beis Hillel says</p> <p>One can make an object <i>hefker</i> only if it is <i>hefker</i> for both the poor and for the rich (everyone, as in <i>shmitta</i>).</p> <p>The halacha follows Beis Hillel.</p>
<p>Beis Shami says</p> <p>One can make an object <i>hefker</i> for poor people only.</p>	<p>Beis Hillel says</p> <p>One can make an object <i>hefker</i> only if it is <i>hefker</i> for both the poor and for the rich (everyone, as in <i>shmitta</i>).</p> <p>The halacha follows Beis Hillel.</p>			
A resolution:	<p>Really R' Yishmael the son of R' Yose made the wood <i>hefker</i> for everyone. He just told the man that he should not take it. The man did not have to listen to him.</p>	<p>We follow Beis Hillel and demand that only something that is <i>hefker</i> for everyone is really <i>hefker</i>.</p>		

30b) An Undignified Object.

The Gemara continue the discussion of the story of R' Yishmael ben R' Yose.

A question:	R' Yishmael was an old man and did not have to pick up the wood because it was not dignified. Why did he pick it up?	
An answer:	By law, R' Yishmael did not have to pick up the wood because he was old and it was undignified. But he felt the obligation because he went beyond the letter of the law.	
A Baraisa where it teaches about going beyond the letter of the law:	Rav Yosef taught this <i>posuk</i> as follows Shemos 18:20 וְהִנְחַרְתָּ אֹתָם, אֶת-הַחֻקִּים וְאֶת-הַתּוֹרָה; וְהוֹדַעְתָּ לָהֶם, אֶת-הַדְרָךְ יֵלְכוּ בָהּ, וְאֶת-הַמַּעֲשֵׂה, אֲשֶׁר יַעֲשׂוּן. “And you should teach them (to make a living) the statutes and the laws and should show them the way (kind deeds) where they must walk (visit the sick) in it (help bury people), and the work (the law) that they must do (beyond the letter of the law).”	
Analysis of the Baraisa:	The Baraisa	Analysis
	And you should teach them (to make a living) the statutes and the laws, and should show them the way (kind deeds) where they must walk (visit the sick)	<p>Question: Isn't visiting the sick a special case of kind deeds?</p> <p>Answer: This is said only for someone visiting the same type of person as the sick. Then the visitor gets one-sixtieth of the illness. One would think that the visitor does not have to go. So, the <i>posuk</i> must say to go.</p>
	in it (help bury people),	<p>Question: Isn't helping bury people a special case of kind deeds?</p> <p>Answer: This is stated because an old person might say that he does not have help bury because it is undignified. In fact, the elderly do need to help bury people.</p>
and the work (the law) that they must do (beyond the letter of the law).	<p style="text-align: center;">Rabbi Yochanan says</p> <p>Yerushalayim was destroyed only because they judged cases based on the Torah law.</p> <p>Question: What else should they have done?!? Should they rather have judged cases based on other ways [דמגיזחא]?!?</p> <p>Answer: They established their rulings based on Torah law, and did not go beyond the letter of the law.</p>	

30b) Mishna: Determining If an Object is Lost; and Getting Paid for Returning an Object.

The Mishna lists several laws about when an animal is considered missing and must be returned. It also discusses what --- if any --- financial compensation a finder should receive.

Our Mishna
What is considered lost property?
If one found a donkey or a cow grazing on the road, it is not lost. (Because the owner probably knows where the animal is.)
If one found a donkey with its gear overturned, or a cow that ran through a vineyard, it is lost. (Because the owner probably does not know where the animal is.)
<p>If someone returned the lost animal and it ran away, and he again returned it and it ran away again, even if this repeats itself four or five times, he should return it each time, because it says:</p> <p style="text-align: center;">Devorim 22:1</p> <p style="text-align: center;">לֹא-תִרְאֶה אֶת-שׁוֹר אֶחָיִךְ אוֹ אֶת-שֵׂי, נִדְחִים, וְהִתְעַלְמָתָּ, מֵהֶם: הֲשִׁבְתָּשִׁבָם, לְאֶחָיִךְ</p> <p>“You shall not see your brother’s ox, or his sheep wandering and hide from them; you shall <u>surely return</u> them to your brother.”</p>
The finder did not work because he was taking care and returning the lost object. If the finder could have earned a <i>sela</i> from work, he should not say to the owner of the item: “Give me a <i>sela</i> to compensate me for my lost income.” Rather, the owner gives him his wage as if he were a worker (less than a <i>sela</i>).
If there are three men who can make a beis din, he may say before the beis din that he will return the item if he receives full compensation for lost income. If there is no beis din to tell this to, his financial interests come first, and he does not need to get the lost object.

30b) Clarifying What Is a Lost Object.

The Gemara clarifies certain aspects of the Mishna.

Our Mishna:	What is considered lost property?
A question:	Are the objects listed in the Mishna the only ones? What about all the objects we learned in this <i>perek</i> already?
Rav Yehudah answers:	<p>The Mishna is setting up general rules:</p> <ul style="list-style-type: none"> • “If one found a donkey or a cow grazing on the road, that is not lost property.” So, anything the owner knows where it is, is not lost. • “If one found a donkey with its gear overturned, or a cow that ran through a vineyard, it is lost.” So, anything where the owner does not know where it is, is lost.
Another question:	If an animal is gazing forever on the road, is it still considered property that is not lost?
Rav Yehudah answers in the name of Rav:	<p>We say the owner knows where the animal is only for three days. If the animal is still on the side of the road, it is considered lost.</p> <p>Question: How is one to count these three days? If the animal is seen at night there, then it must be lost. If the animal is seen during the day there, then even for more than three days it is not lost.</p> <p>Answer: The three-day rule is if the finder saw the animal grazing early in the morning or late at night. For the first three days, one can say that the animal is not lost and just grazing at unusual times. However, after three days, we consider it lost.</p>
In support of the three-day rule:	<p style="text-align: center;">A Baraisa</p> <ul style="list-style-type: none"> • If one found a cloak or an ax 31a) on a main thoroughfare, or a cow running through a vineyard, that is lost property. • If one found a cloak alongside a fence, or an ax alongside a fence, or a cow grazing among the vineyards, that is not lost property. • <u>If one sees these items for three consecutive days, that is lost property.</u> • If one saw water that is flowing and coming to inundate another’s field, he must establish a barrier before the water in order to preserve the field.

31a) Protecting a Field.

There is a discussion as to saving property as opposed to finding objects.

<p>A ruling:</p>	<p style="text-align: center;">Rava</p> <p>says that the <i>posuk</i></p> <p style="text-align: center;">Devorim 22:3</p> <p style="text-align: center;">וְכֵן תַּעֲשֶׂה לְחִמְרוֹ, וְכֵן תַּעֲשֶׂה לְשִׁמְלֹתָו, וְכֵן <u>תַּעֲשֶׂה לְכָל-אֲבֵדֹת אֶחָיִךְ אֲשֶׁר-תִּאֲבֹד מִמֶּנּוּ,</u> וּמִצֵּאתָהּ: לֹא תוֹכֵל, לְהִתְעַלֵּם.</p> <p>“And so you should do with his donkey; and so you should do with his garment; <u>and so you should do with every lost object of your brother's,</u> which he has lost from him, and you found; you should not hide yourself.”</p> <p>This means to include land that might be destroyed. One has the obligation to try to save such land.</p>	
<p>Rav Chananyah brings a Baraisa in support of Rava’s rule:</p>		<p style="text-align: center;">A Baraisa</p> <p>If one saw water that is flowing and coming to inundate another’s field, he must make a barrier before the water in order to preserve the field.</p>
<p>Rava says that this Baraisa does not support his rule:</p>	<p>This rule is about the land itself.</p>	<p>This Baraisa is about sheaves that are on the land.</p>
<p>An objection to this understanding of the Baraisa:</p>		<p>Why does the Baraisa need to give this rule? It is obvious that sheaves on land which are about to get destroyed are considered lost objects and need to be returned.</p>
<p>A defense of this understanding:</p>		<p>A rule is needed to be said about the sheaves because it is required for a case where the sheaves need the land. One might have said that in such a case, the sheaves are like the land and there is no obligation to protect the sheaves. The rule is saying that such sheaves are still considered lost objects.</p>

31a) A Grazing or Running Animal.

Certain implications of the rules of the Mishna are made and discussed.

Two parts of our Mishna:	If one found a donkey or a cow grazing on the road, it is not lost.	If one found ... a cow that ran through a vineyard, it is lost.
Seemingly contradictory inferences:	If the animal was running by the road, or if the animal was grazing by a vineyard, it is considered lost property.	If an animal is running by a road, or grazing by a vineyard, it is not considered lost.
Abaye's resolution:	This part of the Mishna is talking about grazing. All grazing animals are not lost.	This part of the Mishna is talking about running. All running animals are lost.
Rava's criticism of Abaye's resolution:	If Abaye's resolution was correct, this would have been a better way of the Mishna to state all the laws:	
	If one found a donkey or a cow grazing by a vineyard is not lost. From this we would know that if the cow was grazing by the road, it is definitely not lost property. (If the owner lets the animal graze by the vineyard, then he definitely would let the animal graze by the road.)	If one found ... a cow that ran through a road, it is lost. From this we would know that if the cow was running through a vineyard it is lost. (The owner might let the cow by the road but would not let him go through a vineyard.)
Rava's resolution about running:	Here, the inference about running, is a case where the animal was running away from his owner and towards the wilderness. In such a case, the animal is considered lost.	Here, the inference about running, is a case where the animal was running towards the city where its owner lives. In such a case, the animal is not considered lost.
Rava's resolution about grazing:	Here, the inference about grazing by a vineyard, we are worried about the land which the animal is destroying. In such a case, the animal is lost and should be returned.	Here, the inference about grazing by a vineyard, we are only worried about the animal. Grazing in a vineyard is not dangerous for the animal. Only running through a vineyard is dangerous for the animal. In such a case, the animal is not considered lost.
What about the last case:	Question: In the case where the animal is grazing in a vineyard and is safe, but the vineyard is not safe, maybe the finder should return the animal to protect the field. Answer: The field is owned by a Cussie, so one does not need to protect the field. Objection: The Cussie will kill the animal, so it should be returned to make sure the animal is not killed. Answer: We are in a place where they do no kill animals unless they first warn the owner. Objection: Maybe the owner was warned already. Answer: In that case the owner does not care about the animal, and it is not lost but <i>hefker</i> .	

31a) What We Learn from Double Language of Torah (part one).

The Mishna said that one must return an animal many times because the Torah used a double language. The Gemara goes through many cases where the Torah uses a double language. In each case we learn different laws from the double language.

Topic	We would have thought...	The double language tells us...
Where to return a found object הָשִׁיב תְּשִׁיבָם	Only to the owner's house.	To any place that the owner owns.
<i>Shluach Hakan</i> שְׁלַח תְּשַׁלַּח	You must send away the mother only for mundane purposes.	You must send away the mother for <i>mitzvas</i> also.
Rebuking another person הוֹכַח תּוֹכִיחַ	Only a teacher can rebuke a student.	Anyone can rebuke anyone.
Helping unload a donkey. עֲזֹב תִּעְזֹב	You only must help if the owner is also unloading.	You must help even if the owner is (too old or sick and hence) not helping.
Helping load a donkey הִקָּם תִּקָּם	You only must help if the owner is also loading.	You must help even if the owner is (too old or sick and hence) not helping. [...] ¹
Killing a convicted murderer מוֹת-יוֹמַת הַמֵּכָּה	You can only kill the murderer in the way he is supposed to get killed.	You can kill him in any way that you are permitted to.
31b) Destroying a city of idolaters הִכָּה תִּכָּה	You can only kill with the sword.	You can kill the residents with any method.
Returning a collateral item. (This is about a garment worn during the night.) הָשִׁיב תְּשִׁיב	You can only return it with the permission of the court.	You can return the item without the permission of the court.
Returning a collateral item. (This is about a garment worn during the day.) חָבַל תִּחְבֹּל	You can only return it with the permission of the court.	You can return the item without the permission of the court.

¹ The Gemara goes through a side *sugya* here. It will be presented after this list.

31b) What We Learn from Double Language of Torah (part two).

The Gemara continues going through many cases where the Torah uses a double language.

Topic	We would have thought...	The double language tells us...
Giving charity to the poor פְּתַח תְּפֹתָח	You only must give charity to the poor of your own town.	You must give charity to the poor in other towns also.
Giving charity to the poor בְּתוֹן תְּמוֹן	You only must give a large gift if you can afford it.	You must give a small gift if you can only afford that.
A severance gift for a departing servant הַעֲנִיִּק תַּעֲנִיִּק	You only must give a severance gift if the household was blessed with the servant.	You always must give a severance gift to a servant. Question: What is the rule according to according to Rabbi Elazar ben Azaryah, who says: If the house is blessed because of the slave, one gives him gifts, and if the house is not blessed because of the slave, one does not need to give him gifts? Why do I need the double language? Answers: The Torah speaks in the language of people.
Lending money to those that are in need הַעֲבִט תַּעֲבִיטוּ	You should lend money to those that are in need and don't have their own money.	You should lend money to those that have their own money. Question: What is the rule according to Rabbi Shimon, who said that in a case where he has money and does not want to support himself with his money, we do not need to lend him money? Why do I need the double language? Answers: The Torah speaks in the language of people.

31a) Why We Need Laws About Unloading and Loading.

While discussing the double language about helping load an animal, the Gemara discussed the need to state the laws for both loading and unloading. It also asks why one needs both the laws of loading/unloading as well as returning a lost object.

If it only said...	We would not know...
<p>The laws of unloading, one would have thought that since unloading</p> <ul style="list-style-type: none"> • takes away pain from the animal, and • saves money for the owner, <p>therefor the Torah requires it. But ...</p>	<p>The laws of loading does not have these two positive aspects, maybe one does not need to do it. So, the Torah needed to say it.</p>
<p>The laws of loading, one would have thought that this is done with the owner paying the helper, therefor the Torah requires it, But ...</p>	<p>The laws of unloading, since unloading is done for free and there is no obligation. So, the Torah needed to say it.</p> <p>Question: According to R' Shimon who says that even loading the animal should be done for free, why does one need both statements?</p> <p>Answer: It is not clear which words in the Torah mean loading and which mean unloading. If only one set of laws were stated, we would not know which it is and say it is the more obvious one: unloading. We would not know loading.</p>
<p>The laws of unloading and loading, one would have thought that since loading and unloading</p> <ul style="list-style-type: none"> • saves the owner from anguish, and • takes away pain from the animal, <p>therefor the Torah requires it. But...</p>	<p>The laws of returning a lost object does not</p> <ul style="list-style-type: none"> • save the owner anguish and does not • save the object from pain, <p>maybe one does not need to return the object. So, the Torah needs to say it.</p>
<p>The laws of returning an object, one would think that since this is done because the owner cannot find it on his own therefor the Torah requires it. But ...</p>	<p>31b) The laws of unloading and loading because I would think that the laws are only for objects that the owner cannot do by himself (find a lost object that he is not close to) but loading and unloading he can do by himself. So, the Torah needs to say it.</p>

32a) Mishna: Lost Objects And Loading Or Unloading An Animal.

The Mishna lists many halachos about returning objects and loading and unloading an animal.

Our Mishna	
If one found an animal in a barn, he does not need to return it to its owner.	
If he found it in a public domain, he must return it to its owner.	
If the animal was lost in a cemetery and a kohen found it, he may not become <i>tamei</i> to return it.	
If the kohen's father said to him: become <i>tamei</i> ; or in a case where one must return the animal and his father said to him: do not return it, he must not listen to his father (Because following the Torah is more important than honoring your father.)	
If one unloaded a burden from an animal and then later loaded it onto the animal, and later unloaded and loaded it again, even if this happens four or five times, he must continue unloading and loading. This is because it says	
Shemos 23:5	
כי-תרצה חמור שנאף, רבץ תחת משאו, וחדלת, מעזב לו--עזב תעזב, עמו	
“If you see the donkey of him that hates you collapsed under its burden, you should not pass him by and you should help him.”	
It is derived from the posuk that one must perform the action as needed, even several times.	
If the owner sat, and said to someone passing by: “Since there is a mitzva for you to unload the burden, if it is your wish to unload the burden, unload it”, in such a case the one who is passing is exempt, because it says “You shall help with him,” with the owner of the animal.	
If the owner was old or sick, the one who is passing should unload the burden alone.	
There is a mitzva in the Torah law to unload a burden,	
Tanna Kamma	R' Shimon
There is no mitzva to load a burden.	There is a mitzva to load the burden.
R' Yose HaGlili	
If there was a burden upon the animal greater than its typical burden, one does not need not help it, as it is stated: “Under its burden,” i.e., the mitzvah is with regard to a burden that the animal can bear.	

32a) Finding An Animal In A Barn.

The Mishna contrasts finding an animal in a barn and finding it in a public place. R' Yitzchok qualifies the rules. We learn several halachas from this qualification. This Gemara comes in two versions with differing halachos.

First Version		
Our Mishna		
<ul style="list-style-type: none"> • <u>If one finds an animal in a barn, leave it.</u> • In a public place, return it. 		
R' Yitzchok qualifies the underlined part: Only within the <i>techum</i> .		
The laws can be summarized as follows:		
	In a barn	In a public place
Within the <i>techum</i>	Leave it	Return
Outside the <i>techum</i>	Return	Return

Second Version		
Our Mishna		
<ul style="list-style-type: none"> • If one finds an animal in a barn, leave it. • <u>In a public place, return it.</u> 		
R' Yitzchok qualifies the underlined part: Only outside the <i>techum</i> .		
The laws can be summarized as follows:		
	In a barn	In a public place
Within the <i>techum</i>	Leave it	Leave it
Outside the <i>techum</i>	Leave it	Return

32b) Causing Animals To Suffer (part one).

The Gemara asks if the prohibition to cause animals to suffer is *Deoraysa* or *Rabonin*. Many proofs are presented. For each proof, a ruling is mentioned, an inference is made, and then an objection to the proof is offered.

	Ruling	Inference	Objection to proof
For <i>Deoraysa</i> :	It is an obligation to help load an animal.	Had it only said this, we would know from a <i>kol vechomer</i> that you must help unload an animal because an animal with a load is suffering.	If a bystander does not load an animal, the owner does not lose money. If a bystander does not load, the owner does lose money. Maybe we would learn the <i>kol vechomer</i> as follows: since the bystander has to help load where there is no money involved, surely he has to help where there is money involved. Objection: There is monetary loss both ways.
For <i>Deoraysa</i> :	It is an obligation to help unload an animal even if the animal is overloaded.	The first opinions in the Mishna must be saying this because they believe that suffering of an animal is <i>Deoraysa</i> .	One need not make this inference.
For <i>Rabonin</i> :	If the owner walks away and says to the bystander that he should unload, the bystander does not have to unload.	If there was a <i>Deoraysa</i> commandment to help a suffering animal, the bystander would be obligated.	Perhaps the bystander is exempt from unloading for free, but he still has the <i>Deoraysa</i> obligation to help (for a fee).
For <i>Deoraysa</i> :	You must help unload a non-Jew's animal.	Why would you say that you have to help unless there is an obligation to relieve the suffering of the animal.	Maybe the real reason is that you have to help is that you do not make the non-Jew an enemy. [...]

32b) Causing Animals To Suffer (part two).

The attempted proofs continue.

	Ruling	Inference	Objection to proof
For <i>Rabonin</i> :	If the animal belongs to a non-Jew and the package belongs to a Jew, then the bystander might refrain from helping.	If there was a <i>Deoraysa</i> commandment to help a suffering animal, the bystander would be obligated.	Maybe this is a case of loading and that is why the bystander does not have to help. [...]
For <i>Rabonin</i> :	[...] One is obligated to help load an enemy's animal to defeat their <i>yetzer hora</i> .	If there was a <i>Deoraysa</i> obligation to help the animal then you would not need to help make the animal suffer.	Maybe it is <i>Deoraysa</i> , but defeating their <i>yetzer hora</i> is more important.
For <i>Rabonin</i> :	One is obligated to help load a Jewish enemy's animal.	If there was a <i>Deoraysa</i> command, what would be the difference if the animal that needs to be helped was owned by a Jew or a non-Jew? There must not be a <i>Deoraysa</i> command.	Maybe this ruling qualifies the last ruling. A bystander must help his enemy if he is a Jew. But in either case he is helping the animal because it is <i>Deoraysa</i> .

33a) Mishna: Finding The Objects Of Two People.

Our Mishna
If one finds his lost object and his father's lost object, taking care of his own lost object goes first.
If one finds his lost object and his teacher's lost object, taking care of his own lost object goes first.
If one finds his father's lost object and his teacher's lost object, taking care of his teacher's lost goes first, because his father brought him into this world, and his teacher, who taught him wisdom, brings him to the World-to-Come.
If his father is also wise, then his father's lost object goes first.
If his father and his teacher were each carrying a burden, he first places his teacher's burden down and then places his father's burden down.
If his father and his teacher were in captivity, he first redeems his teacher and then redeems his father.
If his father is a Torah scholar, he first redeems his father and then redeems his teacher.

33a) The Definition of a Rebbe.

A question:	What is a Rebbe?		
Three answers:	<p style="text-align: center;">R' Meir</p> <p>The teacher that taught him wisdom (not Mikra nor Mishna)</p>	<p style="text-align: center;">R' Yehudah</p> <p>The teacher who taught him the majority of his wisdom.</p> <p>Rav Yitzchak bar Yosef in the name of Rav Yochanan says this is the halacha.</p>	<p style="text-align: center;">R' Yose</p> <p>The teacher who taught him even one Mishna [...]</p> <p>Rav Acha bar Rav Huna in the name of Rav Sheishess says this is the halacha.</p>