

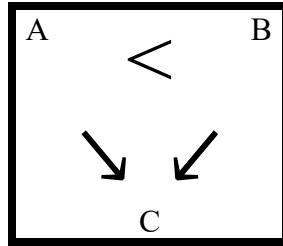
Hakoneis In Charts

Noson S. Yanofsky

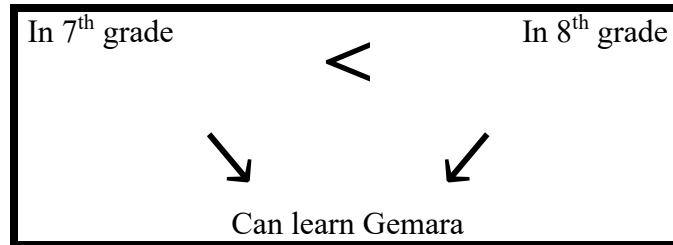
לזכר נשמת הרב אליעזר בן ברוך זאב ארנפרייס זצ"ל

I am grateful to several people for comments and helpful editing.

A *kal ve'chomer* will be described as follows:



This is read as “A is less (<) than B. If A implies (\rightarrow) C, then B definitely implies (\rightarrow) C.”
For example:



Should be read as: “Being in 7th grade is less than being in 8th grade. If one can learn Gemara in 7th grade, then one can definitely learn Gemara in 8th grade.”

Please send criticisms, comments, and requests to noson.yanofsky@gmail.com.

Other parts of “Gemara in Charts” can be found on my web page.

Feel free to copy and distribute.

First edition © December 2023 by Noson S. Yanofsky.

55b) Mishna: Damaging Sheep.

The Mishna discusses how one must prevent their sheep from doing damage to someone else's property.

The Mishna	
A man brought his sheep into a pen, and it escaped and damaged another's property.	
If the man closed the gate properly פטור	If the man did not close the gate properly חייב
If the walls were broken or robbers broke the walls, and the animals did damage פטור (Tosafos: Even the robbers are פטור.)	If robbers took the sheep out, and the animals did damage the robbers are חייב
If the man left the sheep in the sun and the sheep got agitated, or if he gave it to a deaf-mute, a deranged person, or a child, and the escaped sheep did damage, חייב	
If he gave it to a shepherd, the shepherd is responsible	
If the man's sheep fell into another's garden (accidentally) and benefited, The man must pay for what was benefited.	If the man's sheep went down to another's field and did damage, The man must pay for damages.
How much does the man have to pay to the owner of the field?	
Tanna Kamma He pays the amount that the value of the field decreased. This means: The value of an undamaged <i>beis se'ah</i> (a measure of land) minus The value of the damaged <i>beis se'ah</i>	R' Shimon If the sheep ate unripe produce, then he pays the same as the Tanna Kamma said. If the produce was ripe, he pays for what the sheep damaged. For example: if the sheep damaged a <i>se'ah</i> , he pays a <i>se'ah</i> . If the sheep damaged two <i>se'ah</i> , he pays two <i>se'ah</i> .

55b) How Much Guarding Is Needed.

The Mishna said the gate must be closed properly. The Gemara gives rules as to what it means for the gate to be closed properly. The Gemara also determines whose opinion is this rule.

The Mishna:	If the man properly closed the gate, פטור.										
An explanation:	A Baraisa							What is closed properly and what is not properly?			
	Properly closed	Not properly closed									
A comparison with another Mishna:	It can withstand a usual wind.	It cannot stand a usual wind									
				Bava Kamma Mishna 4:9 An owner tied his ox with a rope, or <u>he properly closed the gate</u> . If the animal got out and it did damage,							
					R' Meir	R' Yehudah	R' Eliezer				
				Tam	חייב	חייב					
Muad	חייב	פטור Shemos 21:36 וְלֹא יִשְׁמְרוּ, בְּעֵלְיוֹ-- שְׁלָם יִשְׁלָם “and its owner did not guard it. He will surely pay” This is a minimal watching and it is enough.	The only way to guard a Muad is to kill it.								
One way of looking at the Mishna:	The Baraisa is like R' Yehudah of the Mishna because they both think that lesser guarding is needed. In the Baraisa, the wall does not need to withstand a strong wind. R' Yehudah also believes that one is פטור if he does a little guarding.										
Another way of looking at the Mishna:	The Baraisa can be like R' Meir of the Mishna also. The reason why the Mishna seems different from R' Meir is that the Baraisa is talking about sheep. The Mishna is talking about an ox. R' Meir can also believe that lesser guarding is needed for sheep.										

55b) Reduced Guarding.

The Gemara now goes through four cases where one does not need to be strict about guarding. A reduced amount of watching is good enough.

R' Elazar and some say a Baraisa		
There are four cases where the Torah reduced the level of guarding: a pit, a fire, <i>shein</i> , and <i>regel</i> . In these cases if he does a little guarding, he is פטור.		
	The <i>posuk</i> says...	Which implies that...
Pit	Shemos: 21:33 וְכִי-יִפְתַּח אִישׁ בּוֹר, אוֹ כִי-יִכְרֶה אִישׁ בֵּר—וְלֹא יִכְסֶנּוּ “And if a man will open a pit, or if a man will dig a pit and not cover it.”	If he covers the pit, he is פטור. Even though a cover is a lesser protection than filling in the pit.
Fire	Shemos 22:5 שְׁלֹם יִשְׁלֹם, הַמִּבְעֵר אֶת-הַבְּעֵרָה “The one who set the fire will surely pay.”	If he took basic precautions about the fire, he is פטור.
<i>Shein</i>	Shemos 22:4 וּבִעַר בְּשָׂדֵה אֲחֵר “and it eats in another man's field”	If he did not cause the animal to go to eat in that field or act in that way, he is פטור.
<i>Regel</i>	Shemos 22:4 וַיִּשְׁלַח “And he sent”	If he did not send the animal, but the animal just went, he is פטור.

55b) The Definition of *Shein* and *Regel*.

The last Gemara said that *Shein* is eating and *Regel* is trampling. Now the Gemara states a Baraisa and supporting *posukim* to prove it.

	<i>Posukim</i>	A Baraisa	Supporting <i>posuk</i>
<i>Shein</i>	Shemos 22:4 וּבָעַר בְּשָׂדֵה אֲחֵר “and it eats in another man's field”	<ul style="list-style-type: none"> • וְשָׁלַח “And he sent” means <i>Regel</i>. • וּבָעַר “and it eats” means <i>Shein</i>. 	Yeshaya 32:20 אֲשֶׁר יִכֶּם, זֶרְעֵי עַל-כָּל-מַיִם; מִשְׁלַחַי רֶגֶל-הַשּׂוֹר, וְהַחֲמוֹר. “Happy are you that sow beside all waters, that <u>send forth</u> freely the feet of the ox and the donkey.”
<i>Regel</i>	Shemos 22:4 וְשָׁלַח “And he sent”		Melochim I 14:10 כַּאֲשֶׁר יִבְעַר הַגִּלְל עַד-תָּמוֹ. “As the tooth consumes till its end”

55b) *Shein* and *Regel* in Our Mishna.

The Gamara previously showed that the Baraisa that explains our Mishna can be seen as agreeing with R’ Yehudah or R’ Meir. In saying that it was R’ Meir, the Gemara said that our Mishna was about *Shein* and *Regel*. Now the Gemara gives more proofs to say that.

Rabbah’s proof:	The previous Mishna’s were all about oxen. Our Mishna is different because it is about sheep. And <i>keren</i> (horns/goring) is not written.
Gamara concludes:	Learn from this that <i>shein</i> and <i>regel</i> are always muad.

55b-56a) The Laws of Man and the Laws of Heaven (part one).

The Gemara quotes a Baraisa that tells of four cases where a man is פטור by the laws of man but is חייב by the laws of Heaven. The circumstances of the cases are presented. Then there is a list of five other cases. The Gemara then returns to these four cases and explains that these four cases are special as someone could mistakenly argue that the man should be פטור by the laws of heaven.

Baraisa			
	R' Yehoshua says that in the following four cases, the person doing the action is פטור by the laws of man but is חייב by the laws of heaven. (These damages were done indirectly --- <i>gramma</i> .)		
	What the case is not about	What the case is about.	One might mistakenly argue...
A man who breaks a wall that enclosed his friend's animal.	The wall is not a strong wall, because then he would be חייב by the laws of man (to pay for the wall but not to pay for damages).	It is a weak wall that has no value. The man who breaks such a wall is חייב by the laws of heaven for the damage that the escaped animal does.	Since the wall was weak and was supposed to be knocked down, the man did no harm by knocking it down. He should not be חייב by the laws of heaven.
A man bends his friend's standing grain towards a fire.	The wind blowing the fire is not a normal wind, because then he would be חייב by the laws of man.	It is a strong wind that spreads the fire. The man did not anticipate such a wind.	Since the man did not know that the strong wind would come, he should not be חייב by the laws of heaven.
		Rav Ashi says the reason why the man is חייב only under the laws of heaven is that he made the grains hidden. Such hidden objects are only dealt with by the laws of heaven.	Since the man was covering the grain for the sake of his friend, he should not be חייב by the laws of heaven.
A man who hires a false witness to testify.	The false witnesses are not hired to testify on behalf of the man himself, because then he would be חייב by the laws of man.	The false witnesses were hired to testify on behalf of someone else.	The Teacher (Hashem) says not to lie, and the student (the man) says to lie. He should not have listened to the student. He should not be חייב by the laws of heaven.
A man can testify but does not testify.	This rule is not stated in the case where the man was one of two witnesses because that is obvious from Vayikra 5:1 אם-לוא יגיד, ונפשא עוננו. "if he do not say it, then he will bear his iniquity."	The man was expected to testify on his own and is חייב by the laws of heaven.	The man who did not testify can claim that even if he (as a single person) had testified, the person who he testified against might have sworn falsely. In that case the testimony would not have helped. He should not be חייב by the laws of heaven.

55b-56a) The Laws of Man and the Laws of Heaven (part two).

After listing the four cases where the person doing the action is פטור by the laws of man but is חייב by the laws of heaven, the Gemara lists five other cases.

Mnemonic	The Cases
העושה one who does work	One does work with <i>chatas</i> water or with a <i>chatas</i> cow.
בסם with poison	One places poison before someone else's animal.
ושלח one who sends	One sends fire in the hand of a deaf-mute, or a deranged person, or a minor.
תברו friend	One who scares his friend.
נשבר broke	One's pitcher breaks in a public domain and he does not remove it. Or one's camel fell and he did not stand it up. R' Meir says he is חייב. The <i>Chachomim</i> say he is פטור by the laws of man but is חייב by the laws of heaven.

The Gemara says that there are many such cases. The reason why the Baraisa mentioned those four was because there was a reason to argue that the man in the case should not have even been חייב even by the laws of heaven. The Gemara proceeds to list off such arguments. They are the last column of the previous chart.

56a) A Wall That Fell.

The Gemara analysis the situation when a wall fell, and an animal escaped to do damage.

The Mishna:		If a wall was broken or robbers broke a wall, פטור.	
Rabbah's rule:		The fact that he is פטור only applies when the wall fell because the animal dug under the wall, and it fell.	
A question:		What is the halacha if the wall fell without the animal digging? Is he still חייב?	
Possibilities:		Stable Wall	Unstable Wall
	Animal dug:	פטור because he did not do anything wrong.	פטור. This is what Rabbah's rule says. This is תחילתו בפשיעה וסופו באונס In the beginning he was negligent because he had an unstable wall, and at the end this is an unexpected accident because the animal dug.
	Animal did not dig:	פטור because he did not do anything wrong.	We can imply from Rabbah's rule that he is חייב.
Why is he פטור if the animal dug?		This makes sense if you say תחילתו בפשיעה וסופו באונס is פטור	This does not make sense if you say תחילתו בפשיעה וסופו באונס is חייב This is a problem:
Another way of explaining Rabbah's rule:		Rabbah said his rule about a stable wall to the second part of the Mishna:	
		<p style="text-align: center;">The Mishna</p> <p>If the man left the sheep in the sun and the sheep got agitated, or if he gave it to a deaf-mute, a deranged person, or a child, and escaped sheep did damage, חייב.</p>	
		<p style="text-align: center;">The animal dug</p> <p style="text-align: center;">You would think this is תחילתו בפשיעה וסופו באונס and is פטור.</p> <p style="text-align: center;">Rabbah's rule implies חייב</p> <p>Because the owner should have known that the animal left in the sun will try to escape.</p>	<p style="text-align: center;">The animal did not dig</p> <p style="text-align: center;">חייב</p> <p>Because the owner was negligent.</p>

56a-56b) Encouraging But Not Leading the Animal.

The Gemara discusses why an obvious statement was made in the Mishna.

Our Mishna:	If robbers took the sheep out, the robbers are חייב
A question:	Why does the Mishna state this, as it is obvious? Since the robbers took it away from the owner, it is in their possession, and they are responsible.
One answer:	The ruling is needed for the case where the robbers did not lead the animal out but only encouraged the animal to leave.
A similar ruling, question, and answer in another case:	Rabbah said in the name of Rav Masnah who said in the name of Rav: If a man stands a friend's animal near a friend's grain, then he is חייב. This rule also seems obvious, and it does not need to be said. The ruling is needed for the case where the man did not lead the animal to the friend's grain but encouraged the animal to go to the friend's grain.
Another answer that Abaya said to Rav Yosef:	When Rav Yosef taught us the similar ruling of Rav Masnah, Rav Yosef said it is about a man who hits the animal to go over to the friend's grain. In the same way, we can say that our Mishna had to state the rule for the case where the robbers do not lead the animal but hit the animal.

56b) A Shepherd Gives the Animal to Another Shepherd.

Our Mishna:	If the owner gave it to a shepherd, then the shepherd is responsible.	
A question:	The shepherd is responsible in place of who?	
One answer:	The shepherd is responsible in place of the owner.	
Problem with that answer:	We already saw this in Mishna Bava Kamma 4:9 If the owner gave the animal to unpaid <i>shomer</i> , or a borrower, or a paid <i>shomer</i> , then they are responsible for the damage that the animal did. Why say it again?	
A better answer:	The Mishna is talking about a case where the owner gave the animal to a <i>shomer</i> . The <i>shomer</i> , in turn, gave it to a shepherd. The animal did damage. The shepherd is responsible in place of the <i>shomer</i> .	
A seeming contradiction of our Mishna with a rule of Rava:	The new understanding of our Mishna If the owner gave the animal to a <i>shomer</i> and the <i>shomer</i> gave it to a shepherd, then the shepherd is responsible and not the <i>shomer</i> .	A ruling of Rava If a <i>shomer</i> gives the animal to a <i>shomer</i> , then the first <i>shomer</i> is הייב .
Rava would resolve the contradiction as follows:	Here the owner gave it to <i>shomer</i> / shepherd who, in turn, gave it to his apprentice. This was a common practice. So, the apprentice is responsible.	Here the first <i>shomer</i> is responsible.
Another way to resolve the contradiction:	The Mishna states “The owner gave it to a shepherd”	If the Mishna was talking about this case, it would have said “The owner gave it to another (<i>shomer</i>).”
A question:	Can we say the Mishna agrees with Rava?	
A negative answer:	The Mishna is talking about a case that usually happens where a shepherd gives it to his apprentice. But the author of the Mishna would say that the <i>shomer</i> who gives it to another <i>shomer</i> is פטור .	Rava is talking about the case where a <i>shomer</i> is gives it to another <i>shomer</i> and is הייב .

56b) The Status of a Finder of a Lost Object (part one).

Two possible statuses of someone who finds and must return a lost object are discussed. This *machlokis* will be the central discussion in the next few *sugyas*.

<i>A machlokis:</i>	Someone watching a lost object	
	Rabbah	Rav Yosef
	He is like an unpaid <i>shomer</i> .	He is like a paid <i>shomer</i> .
Reasons for the opinions:	An unpaid <i>shomer</i> is not permitted pleasure from the object. What pleasure can someone watching the object get from the object?	A paid <i>shomer</i> is permitted to get pleasure from the object. The <i>shomer</i> is enjoying the fact that he is exempt from giving charity to poor people because he is on the mission of returning the object. (Doing a mitzvah, exempts you from doing another mitzvah.)
Another way of explaining Rav Yosef:		Hashem obligated the <i>shomer</i> watching the object. So, the <i>shomer</i> is at the highest level. This means he is a paid <i>shomer</i> .

57a) The Status of One Who Found an Object (part two).

The Gemara goes through several arguments as to whether a finder of a lost object is like a paid *shomer* or an unpaid *shomer*. This is the first argument. Keep this chart in mind while reading it. Rabbah and Rav Yosef are arguing which of the two shaded boxes applies.

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

Someone watching a lost object			
	Rabbah He is like an unpaid <i>shomer</i> .	Rav Yosef He is like a paid <i>shomer</i> .	
A proof for Rav Yosef:			A Baraisa If the finder of a lost object 1. returned it to a place where its owner will see it, he is not obligated to deal with it. 2. if it is lost or stolen, he is to חייב to watch it.
Rav Yosef explains:		Since the Baraisa says that he if the object was lost or stolen, he is חייב, it must be he is a paid <i>shomer</i> .	
Rabbah defends his opinion:	No. It was lost or stolen from the place he dropped it off. So, the reason why the Baraisa says he is חייב is because he is an unpaid <i>shomer</i> who is פשיעה.		

57a) The Status of One Who Found an Object (part three).

Continued from last page.

Rav Yosef defends his opinion:		You are describing the first part of the Baraisa and there he is not חייב.	
Rabba explains:	<p>The Baraisa is saying he is חייב when he is returning it in the afternoon. The Baraisa is telling us two laws.</p> <ol style="list-style-type: none"> 1. If he returned it in the morning to a place where the owner will see it, he is not obligated. 2. If he left it in the afternoon where the owner might not see it, and it is stolen, the finder is חייב because he is an unpaid <i>shomer</i> who is פשיעה. 		

57a) The Status of One Who Found an Object (part four).

Rav Yosef again tries to prove his opinion. Keep this chart in mind while reading it. Rabbah and Rav Yosef are arguing which of the two shaded boxes applies.

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

Someone watching a lost object			
	Rabbah He is like an unpaid <i>shomer</i> .	Rav Yosef He is like a paid <i>shomer</i> .	
A proof for Rav Yosef:			Baraisa The finder is always (לעולם) חייב for theft or loss until he returns it to the owner's domain.
Rav Yosef explains:		The word לעולם teaches us that he is חייב even if was lost or stolen from the finder's house. So it must be that he is like a paid <i>shomer</i> .	
Rabba defends himself:	Really, he is an unpaid <i>shomer</i> , and פטור for theft or loss. Just in the case of the Barisa we are talking about animals which are used to walking outside. So in the case of animals, he is חייב because the animals needs more watching.		

57a) The Status of One Who Found an Object (part five).

Rabbah tries to prove his opinion.

	<p>Someone watching a lost object.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;"> <p>Rabbah He is like an unpaid <i>shomer</i>.</p> </td> <td style="width: 50%; padding: 5px;"> <p>Rav Yosef He is like a paid <i>shomer</i>.</p> </td> </tr> </table>		<p>Rabbah He is like an unpaid <i>shomer</i>.</p>	<p>Rav Yosef He is like a paid <i>shomer</i>.</p>	
<p>Rabbah He is like an unpaid <i>shomer</i>.</p>	<p>Rav Yosef He is like a paid <i>shomer</i>.</p>				
<p>A proof for Rabbah:</p>			<p style="text-align: center;">Baraisa</p> <p>The <i>posuk</i> says</p> <p style="text-align: center;">Devorim 22:!</p> <p style="text-align: center;">לא-תראה את-שור אחיך או את-שיו, נדחים, ונהתעלמת, מהם: <u>השב תשיבם</u>, לאחיך. “You should not see your brother's ox or his sheep driven away, and hide yourself from them; you should <u>surely return</u> them back to your brother.”</p> <p>Where should you return it?</p> <ul style="list-style-type: none"> • <u>השב</u> means to the owner’s house • <u>תשיבם</u> means to the owner’s garden or to his deserted building. 		
<p>Rabbah explains:</p>	<p>What does it mean “owner’s garden or to his deserted building”? If you mean secure garden or secure deserted building, then it is obvious. It must mean a not secure garden and a not-secure deserted building. He would not be חייב even if he left it in such a place. This is like an unpaid <i>shomer</i>.</p>				

57a) The Status of One Who Found an Object (part six).

Continued from last page.

Rav Yosef defends his opinion:		Really the Baraisa means a secure garden or building. תְּשִׁירָם is to teach us the owner does not have to know that the finder is returning it.	
Rav Yosef's proof is confirmed by a Baraisa:		Baraisa R' Elazar said every case in which something is returned (e.g. stolen object or a watched object, etc.) must tell the owner except a found object.	

57a) The Status of One Who Found an Object (part seven).

Here Abaya argues with Rav Yosef. Keep this chart in mind while reading it. Abaya and Rav Yosef are arguing which of the two shaded boxes applies.

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

	Someone watching a lost object Rabbah He is like an unpaid <i>shomer</i> .	Rav Yosef He is like a paid <i>shomer</i> .	
Abaya's proof against Rav Yosef:			R' Chiya bar Abba said in the name of Rav Yochanan: A man found an object. He then claimed that it was stolen by a thief even though he just kept it. When they find out that the man is lying, he must pay double. This is not like a paid <i>shomer</i> who only must pay the principal.
Rav Yosef defends his opinion:		The <i>shomer</i> claims that the thief was an armed bandit this is an unavoidable mishap (אנס) and פטור.	
Abaya criticizes Rav Yosef:			But an armed bandit is a robber (גזלן) and he does not have to pay twice.
Rav Yosef defends his opinion:		Since an armed bandit is a coward who hides behind his weapon, he is a thief (גנב).	

57a) The Status of an Armed Bandit (part one).

In the last Gemara we saw that Rav Yosef believes that an armed bandit is a thief (גנב). We now go through three proofs defending this position or advocating for this position.

<p>Rav Yosef's opinion and a seemingly contradictory Baraisa:</p>	<p style="text-align: center;">Rav Yosef</p> <p style="text-align: center;">An armed bandit is a thief.</p>	<p style="text-align: center;">Baraisa</p> <p>“No. If you say that this is the halacha with regard to an unpaid <i>shomer</i>, who pays the double payment, would you also say that this is the case with a paid <i>shomer</i>, who does not pay a double payment.” The meaning of the Baraisa is not clear. However, the Baraisa seems to imply that an unpaid <i>shomer</i> does not pay a double payment if he stole. And a paid <i>shomer</i> does not pay a double payment.</p>
<p>Analysis:</p>	<p>If Rav Yosef believes that an armed bandit is a thief, then according to him there is a way to make an unpaid <i>shomer</i> pay a double payment. Namely, when an unpaid <i>shomer</i> claims that the object was stolen by an armed bandit. In such a case, the unpaid <i>shomer</i> would indeed pay double.</p>	
<p>Rav Yosef defends his position:</p>	<p>The Baraisa was misinterpreted. The right way to understand the Baraisa is the “No. If you say that this is the halacha with regard to an unpaid <i>shomer</i>, who pays the double payment <u>for any claim</u>, would you also say that this is the case with a paid <i>shomer</i>, who pays a double payment <u>only for the claim of an armed bandit.</u>”</p>	

57a) The Status of an Armed Bandit (part two).

This is a second defense of Rav Yosef’s view that an armed bandit has the status of thief.

<p>Rav Yosef’s opinion and a seemingly contradictory Baraisa:</p>	<p>Rav Yosef An armed bandit is a thief.</p>	<p>Baraisa We know that a borrower is חייב if the object breaks or dies. We learn that a borrower is חייב if it is lost or stolen from the following <i>kal ve’chomer</i>:</p> <div style="border: 2px solid black; padding: 10px; margin: 10px auto; width: fit-content;"> <p>A paid <i>shomer</i> is פטור if the object breaks or dies</p> <p style="text-align: center;"><</p> <p>A borrower is חייב if the object breaks or dies</p> <p style="text-align: center;">↙ ↘</p> <p style="text-align: center;">Is חייב for theft and loss.</p> </div> <p>“And this <i>kal ve’chomer</i> cannot be refuted.”</p>
<p>A criticism of Rav Yosef:</p>	<p>If Rav Yosef believes that an armed bandit is a thief, then according to him there is a way to refute this <i>kal ve’chomer</i>.</p> <div style="border: 2px solid black; padding: 10px; margin: 10px auto; width: fit-content;"> <p>A paid <i>shomer</i> is חייב the double payment if he claims that the object was stolen by armed bandits.</p> <p style="text-align: center;">></p> <p>A borrower is פטור from the double payment if he claims that the object was stolen by armed bandits. He only pays the principle.</p> </div>	
<p>Rav Yosef defends his position:</p>	<p>The <i>tanna</i> who said the Baraisa thinks that the paid <i>shomer</i> is less strict than the borrower (that is, paid <i>shomer</i> < borrower) for the following reason:</p> <div style="border: 2px solid black; padding: 10px; margin: 10px auto; width: fit-content;"> <p>A paid <i>shomer</i> is חייב the double payment if he claims that the object was stolen by armed bandits.</p> <p style="text-align: center;"><</p> <p>A borrower is חייב to pay the principal no matter that he did not swear.</p> </div> <p>So the <i>kal ve’chomer</i> is not refuted.</p>	

57a) The Status of an Armed Bandit (part three).

In this third part, a Baraisa is presented as proving Rav Yosef's opinion.

<p>Rav Yosef's opinion and a Baraisa that seems to support him:</p>	<p style="text-align: center;">Rav Yosef</p> <p style="text-align: center;">An armed bandit is a thief.</p>	<p style="text-align: center;">A Baraisa</p> <p>One rents a cow from his friend, and it was stolen. If the renter says he will pay so as not to swear, and they find the thief, then the thief pays the double payment to the renter.</p>																													
<p>Rav Yosef's analysis:</p>	<p>The author of the Baraisa follows R' Yehudah who says a renter (שוכר) is like a paid <i>shomer</i>. Corresponding to the shaded part of this chart:</p> <table border="1" data-bbox="500 806 1253 1115"> <thead> <tr> <th colspan="2"></th> <th>פשיעה</th> <th>אבידה גניבה</th> <th>נאנס</th> </tr> </thead> <tbody> <tr> <td colspan="2">שמר חנם</td> <td>חייב</td> <td>פטור</td> <td>פטור</td> </tr> <tr> <td colspan="2">שמר שוחר</td> <td>חייב</td> <td>חייב</td> <td>פטור</td> </tr> <tr> <td rowspan="2">שוכר</td> <td>R' Yehudah: like a שמר שוחר</td> <td>חייב</td> <td>חייב</td> <td>פטור</td> </tr> <tr> <td>R' Meir: like a שמר חנם</td> <td>חייב</td> <td>פטור</td> <td>פטור</td> </tr> <tr> <td colspan="2">שואל</td> <td>חייב</td> <td>חייב</td> <td>חייב</td> </tr> </tbody> </table> <p>From the Baraisa we see that he is פטור from paying and can swear. So, the renter must נאנס. But he claims that it was taken by a thief. It must have been an armed bandit.</p>				פשיעה	אבידה גניבה	נאנס	שמר חנם		חייב	פטור	פטור	שמר שוחר		חייב	חייב	פטור	שוכר	R' Yehudah: like a שמר שוחר	חייב	חייב	פטור	R' Meir: like a שמר חנם	חייב	פטור	פטור	שואל		חייב	חייב	חייב
		פשיעה	אבידה גניבה	נאנס																											
שמר חנם		חייב	פטור	פטור																											
שמר שוחר		חייב	חייב	פטור																											
שוכר	R' Yehudah: like a שמר שוחר	חייב	חייב	פטור																											
	R' Meir: like a שמר חנם	חייב	פטור	פטור																											
שואל		חייב	חייב	חייב																											
<p>Criticism of Rav Yosef's proof:</p>	<p>Maybe the author of the Baraisa does not follow R' Yehudah but follows R' Meir who says that a renter is like a free <i>shomer</i>.</p> <table border="1" data-bbox="500 1444 1253 1753"> <thead> <tr> <th colspan="2"></th> <th>פשיעה</th> <th>אבידה גניבה</th> <th>נאנס</th> </tr> </thead> <tbody> <tr> <td colspan="2">שמר חנם</td> <td>חייב</td> <td>פטור</td> <td>פטור</td> </tr> <tr> <td colspan="2">שמר שוחר</td> <td>חייב</td> <td>חייב</td> <td>פטור</td> </tr> <tr> <td rowspan="2">שוכר</td> <td>R' Yehudah: like a שמר שוחר</td> <td>חייב</td> <td>חייב</td> <td>פטור</td> </tr> <tr> <td>R' Meir: like a שמר חנם</td> <td>חייב</td> <td>פטור</td> <td>פטור</td> </tr> <tr> <td colspan="2">שואל</td> <td>חייב</td> <td>חייב</td> <td>חייב</td> </tr> </tbody> </table> <p>In this case, the reason why the renter is פטור is because it was a regular theft and not an armed bandit.</p>				פשיעה	אבידה גניבה	נאנס	שמר חנם		חייב	פטור	פטור	שמר שוחר		חייב	חייב	פטור	שוכר	R' Yehudah: like a שמר שוחר	חייב	חייב	פטור	R' Meir: like a שמר חנם	חייב	פטור	פטור	שואל		חייב	חייב	חייב
		פשיעה	אבידה גניבה	נאנס																											
שמר חנם		חייב	פטור	פטור																											
שמר שוחר		חייב	חייב	פטור																											
שוכר	R' Yehudah: like a שמר שוחר	חייב	חייב	פטור																											
	R' Meir: like a שמר חנם	חייב	פטור	פטור																											
שואל		חייב	חייב	חייב																											

57a) The Status of an Armed Bandit (part four).

A continuation of the previous page.

<p>Another criticism of Rav Yosef's proof:</p>	<p>Maybe the author of the Baraisa does follow R' Yehudah but his version of the <i>machlokis</i> is as follows:</p> <table border="1" data-bbox="500 474 1255 783"> <thead> <tr> <th colspan="2" data-bbox="505 474 898 512">Rabba bar Avuha's version</th> <th data-bbox="902 474 1000 512">פשיעה</th> <th data-bbox="1005 474 1170 512">אבידה גניבה</th> <th data-bbox="1175 474 1250 512">נאנס</th> </tr> </thead> <tbody> <tr> <td colspan="2" data-bbox="505 518 898 556">שמר חנם</td> <td data-bbox="902 518 1000 556">חייב</td> <td data-bbox="1005 518 1170 556">פטור</td> <td data-bbox="1175 518 1250 556">פטור</td> </tr> <tr> <td colspan="2" data-bbox="505 562 898 600">שמר שוחר</td> <td data-bbox="902 562 1000 600">חייב</td> <td data-bbox="1005 562 1170 600">חייב</td> <td data-bbox="1175 562 1250 600">פטור</td> </tr> <tr> <td data-bbox="505 606 586 669" rowspan="2">שוכר</td> <td data-bbox="591 606 898 669">R' Meir: like a שמר שוחר</td> <td data-bbox="902 606 1000 669">חייב</td> <td data-bbox="1005 606 1170 669">חייב</td> <td data-bbox="1175 606 1250 669">פטור</td> </tr> <tr> <td data-bbox="591 676 898 739">R' Yehudah: like a שמר חנם</td> <td data-bbox="902 676 1000 739">חייב</td> <td data-bbox="1005 676 1170 739">פטור</td> <td data-bbox="1175 676 1250 739">פטור</td> </tr> <tr> <td colspan="2" data-bbox="505 745 898 783">שואל</td> <td data-bbox="902 745 1000 783">חייב</td> <td data-bbox="1005 745 1170 783">חייב</td> <td data-bbox="1175 745 1250 783">חייב</td> </tr> </tbody> </table> <p data-bbox="418 825 1403 888">In this way, we cannot make an inference that since the renter is פטור, it must be an armed bandit.</p>	Rabba bar Avuha's version		פשיעה	אבידה גניבה	נאנס	שמר חנם		חייב	פטור	פטור	שמר שוחר		חייב	חייב	פטור	שוכר	R' Meir: like a שמר שוחר	חייב	חייב	פטור	R' Yehudah: like a שמר חנם	חייב	פטור	פטור	שואל		חייב	חייב	חייב
Rabba bar Avuha's version		פשיעה	אבידה גניבה	נאנס																										
שמר חנם		חייב	פטור	פטור																										
שמר שוחר		חייב	חייב	פטור																										
שוכר	R' Meir: like a שמר שוחר	חייב	חייב	פטור																										
	R' Yehudah: like a שמר חנם	חייב	פטור	פטור																										
שואל		חייב	חייב	חייב																										
<p>Yet another criticism of Rav Yosef's proof:</p>	<p>R' Zaira said that maybe the case here is where the renter claims that it was an armed bandit. Later, they found that the bandit was not armed. No proof can be made here.</p>																													

57b-58a) An Animal That Fell and Ate (part one).

The Gemara continues to analyze our Mishna.

The Mishna	If a man's animal fell into another's garden (accidentally) and benefited, then the man must pay for what was benefited. (He does not have to pay for the fall because it was accidental.)	
A rule of Rav:	The benefit that the animal gained is that the animal fell on the produce and that broke his fall. The owner of the animal must pay for this benefit.	
An inference from this:	Rav holds that the owner of the animal <u>does not have to pay</u> for the food that the animal ate after it fell. The owner must only pay for breaking the fall.	
Maybe a similar ruling by Rav:		Rav says that if an animal ate a friend's food and got sick, the friend does not have to pay. The reason why the friend does not need to pay is that the friend can say the animal should not have eaten my food. This is like the inference because in both cases, someone was פטור from paying for eaten food.
Contrasting these rulings:	Here maybe the owner of the animal should pay for the food it eats.	Here the owner of the food does not have to pay because the animal did not have to eat.

58a) An Animal That Fell and Ate (part two).

Continued from last page.

A better way of understanding the rule of Rav:	<p>The owner of the sheep definitely pays for the food that the sheep ate after falling.</p> <p>In addition, one would have thought that the owner of the animal should not have to pay for breaking the animal's fall. But Rav says that <u>the owner of the animal does have to pay for breaking the animals fall.</u></p>	
A similar ruling:	One would have thought that the owner of the animal should not have to pay for breaking the animal's fall. (But he does have to pay.)	This is like the fact that if a man scares away a lion from someone's field, the owner of the field does not have to pay the man for his lion-scaring skills.
A question:	Why, indeed, should Rav require the owner of the animal to pay? What is the difference between that case and the case of the lion?	
One difference:	The owner of the field did not have any intent to save the animal. He should be compensated.	Scaring the lion off was done with intent. However, he never intended to get money for it.
Another difference:	The owner of the field did suffer a loss and should get reimbursed.	The lion scarer did not suffer any loss, so he does not get reimbursed.

58a) How Did the Animal Fall?

The Gemara describes a *machlokis* as to how the animal fell.

A question:	How did the animal fall into the garden?	
A <i>machlokis</i> :	<p>Rav Kahana</p> <p>The animal slipped on its urine.</p>	<p>Rava</p> <p>The animal was pushed by another animal.</p>
What each would say about the other case:	<p>Slipping on its urine is an unavoidable mishap. But being pushed by another animal is an avoidable mishap because the owners should have made the animals go one by one so that they do not push each other.</p>	<p>Pushed by another animal is an accident (hence the owner does not have to pay for damages) and slipping on its urine is definitely an accident.</p>

58a) The Fallen Animal Who Eats.

The Mishna:	If the man’s sheep fell into another’s garden (accidently) and benefited, the man must pay for what was benefited.	
A <i>machlokis</i> :	<p>Rav Kahana</p> <p>The man does not pay for what the animal ate in the garden bed that it fell into. (Rashi says eating is part of the accidental). But if he goes into other garden beds and eats, he does have to pay.</p>	<p>R’ Yochanan</p> <p>The man does not pay for what the animal benefited in any garden bed. The animal can go from one garden bed to another all day and the owner still does not pay for what the animal ate. Unless the animal leaves the garden entirely and returns with the owner’s knowledge. Then the owner must pay for everything.</p>
R’ Pappa’s explanation:		<p>Do not say “the animal leaves the garden entirely and returns with the owner’s knowledge.” Rather once the animal leaves with the owner’s knowledge, the owner should be careful to make sure that the animal does not return to this place.</p>

58a) The Case of the Pregnant Damager.

The Gemara discusses a case where the animal does damage to a field with its amniotic fluid.

The Mishna:	If the man's sheep went down to another's field and did damage, then the man must pay for damages.	
A question:	R' Yirmiyah asked: An animal went down to another field's, gave birth, and damaged the field with its amniotic fluid. Does the owner have to pay?	
A <i>machlokis</i> :	<p>תְּחִילָתוֹ בְּפְשִׁיעָה וְסוֹפוֹ בְּאוֹנָס In the beginning he was negligent and at the end this is an unexpected accident is חַיִּיב</p>	<p>תְּחִילָתוֹ בְּפְשִׁיעָה וְסוֹפוֹ בְּאוֹנָס In the beginning he was negligent and at the end this is an unexpected accident is פְּטוּר</p>
The halacha for these two opinions:	There is no reason to ask the question. In the beginning he was negligent (letting the animal go into another's field) and at the end an unavoidable accident happened (the animal gave birth), and he is definitely חַיִּיב.	Here the question is interesting. There are two possible answers:
		In the beginning he was negligent (letting the animal go into another's field) and at the end an unavoidable accident happened (the animal gave birth), and he is definitely פְּטוּר.
Conclusion:	Taiku! Let the question stand.	

58b) Determining the Value of a Damaged Field (part one).

What *posuk* teaches us to use other fields to determine the amount that needs to be paid?

<p>Our Mishna</p> <p>How much does the man have to pay to the owner of the field?</p> <p>He pays the amount that the value of the field decreased. This means that the field must be compared to other fields and see how much damage was done.</p>	
<p>Where do we learn this halacha?</p>	
<p>Rav Masnah says</p> <p style="text-align: center;">Shemos 22:4 וּבְעֵר בְּשָׂדֵה אֲחֵר “and it eats <u>in</u> another man's field”</p> <p>This means that we evaluate the value <u>in</u> the context of other fields.</p>	<p>An objection:</p> <p>This verse is needed to teach that an animal is פטור for <i>shein</i> and <i>regel</i> in public lands. He is only חייב for <i>shein</i> and <i>regel</i> in private lands.</p>
<p>If the <i>posuk</i> is supposed to teach that one is חייב only for private lands it would have said, וּבְעֵר בְּשָׂדֵה חֲבִירוֹ “and it eats in a <u>friend’s</u> field”</p> <p>or</p> <p style="text-align: center;">וּבְעֵר שָׂדֵה אֲחֵר “and it eats the <u>field of another</u>”</p> <p>Rather, it says</p> <p style="text-align: center;">וּבְעֵר בְּשָׂדֵה אֲחֵר “and it eats <u>in</u> another man's field”</p>	
<p style="text-align: center;">Shemos 22:4</p> <p style="text-align: center;">וּבְעֵר בְּשָׂדֵה, כִּי יִבְעֵר-אִישׁ, שָׂדֵה אֲוֹ-כָרְם, וְשָׁלַח אֶת-בְּעִירָהּ אֲחֵר--מִיֵּטֵב שָׂדֵהוּ וּמִיֵּטֵב כָּרְמוֹ, יִשְׁלַם.</p> <p>“If a man <u>causes a field</u> or vineyard to be eaten, and will let his animal loose, and it feed in another man's field; of the best of his own field, and of the best of his own vineyard, will he pay.”</p> <p>From this extra we learn both (i) that the owner is חייב only in private lands and (ii) we evaluate it in context of other fields.</p>	<p>So where do you learn that fact that one is חייב only for private lands?</p>

58b) Determining the Value of a Damaged Field (part two).

<p>Our Mishna:</p>	<p>He pays the amount that the value of the field decreased. This means: the value of an undamaged <i>beis se'ah</i> (a measure of land) minus the value of the damaged <i>beis se'ah</i>.</p>		
<p>Three opinions:</p>	<p>R' Yose bar Chanina</p> <p>Find the price of one <i>beis se'ah</i> if they were bought in a lot of 60.</p>	<p>R' Yannai</p> <p>We find the price of one <i>tarkav</i> (which is half a <i>beis se'ah</i>) if they were bought in a lot of 60.</p>	<p>Chizkiyah</p> <p>We find the price of stalks if they were bought in a lot of 60.</p>
<p>An objection to all three:</p>	<p style="text-align: center;">A Baraisa</p> <p>If an animal ate a <i>kav</i> or two <i>kavim</i>, we do not evaluate the price of what he ate. Rather, we view it as a small garden.</p> <p>Isn't this different than the three opinions?</p>		
<p>An answer to the objection:</p>	<p>No. The Baraisa could mean we evaluate it in relation to it being one of 60.</p>		

58b) Determining the Value of a Damaged Field (part three).

The Gemara analyzes a cryptic Baraisa

A Baraisa:	We do not evaluate a <i>kav</i> because it profits him.	We do not evaluate a <i>beis kor</i> because it depletes him.
R' Pappa explains:	We do not evaluate a <i>kav</i> in relation to 60 <i>kavim</i> because it profits the one who did the damage. That is, the one who did the damage pays too little.	We do not evaluate a <i>kor</i> in relation to 60 <i>korim</i> because it punishes the one who did the damage. That is, the one who did the damage pays too much.
Rav Huna's complaint:		It should have said " <i>beis kor</i> "
Rav Huna's explanation:	We do not evaluate a <i>kav</i> on its own because it profits the one who did the damage. That is, the one who did the damage pays too little.	We do not evaluate a <i>kav</i> in relation to a <i>beis kor</i> because it punishes the victim. Rather, we evaluate a <i>kav</i> in relation to a field sixty times larger than the ruined area.

58b) The Case of the Cut Down Tree (part one).

A man cut down one of three palm trees. Should he pay for the tree itself, or should he pay for the tree as one in sixtieth? The Gemara discusses various opinions on this.

The case:	A man cuts down one of three trees that belong to someone else.	
	Pay for the tree individually	Pay for the tree as one of 60
Raish Gelusa:	“I myself saw these three palm trees. They were worth 100 <i>zuz</i> . Since you cut one of them you should pay the owner 33 1/3 <i>zuz</i> .” (The man did not like this because he felt the Raish Gelusa was using Persian law.)	
Rav Nachman:		He should pay for the tree as one of 60.
Rava:	It was said to pay one of 60 for damages that one’s animal did. Not where the man himself did the damage. When the man himself did the damage, he should pay individually.	
Abaya explains why Rava says what he says:		<p>Rava thinks that he pays individually because the man did the damage himself. He basis this on the following:</p> <p style="text-align: center;">Baraisa</p> <p>If one did damage (himself) he must pay the difference between what it was worth and what it is worth now.</p> <p>Rava holds that since it is talking about doing damage itself and does not say pay individually, the man who cut down the tree should also pay individually.</p>

58b) The Case of the Cut Down Tree (part two).

Continued from last page.

Abaya explains why Rava was wrong:	<p>Rava's proof is wrong because of the following:</p> <p style="text-align: center;">Baraisa</p> <p>If one's animal ate a sapling that did not have fruit, then we have the following cases.</p> <ul style="list-style-type: none"> • R' Yose says that the people who set rules in Yerushalim said <ul style="list-style-type: none"> ○ If the sapling was in its first year, then he pays two pieces of silver. ○ If the sapling was in its second year, then he pays four pieces of silver. • If the animal ate unripe grain, <ul style="list-style-type: none"> ○ R' Yose HaGlili says we judge the loss by what remains in the field. This means we wait till everything in the field is ripe and then we see how much it is worth. ○ <u>The Chachomim said we see how much it was worth before and how much it is worth now.</u> • If the animal ate budding grapes, <ul style="list-style-type: none"> ○ R' Yeshua says we view them as though the grapes were ready to be picked. This means he pays for the grapes as if they were ripe. ○ <u>The Chachomim said we see how much it was worth before and how much it is worth now.</u> (R' Shimon ben Yehudah said in the name of R' Shimon: This rule is only if the animal ate shoots of grapevines or shoots of fig trees. But if the animal ate half-ripe figs or half-ripe grapes, we do like R' Yeshua said.) <p>In this second Baraisa the <i>Chachomim</i> consider what the difference of the fields will be. This is just like it says in the first Baraisa. And yet we know that in the second Baraisa it is about an animal doing damage. We know that when an animal does damage, we compare it to fields 60 times the size. So, we see that Rava's use of the first Baraisa was not a good proof.</p>
------------------------------------	---

59a) Evaluating Damaged, Unripe Produce.

<p>Abaya says these two <i>tannayim</i> are saying the same thing:</p>	<p>R' Yose HaGlili We judge the loss by what remains in the field. <u>This means we wait till everything in the field is ripe and then we see how much it is worth.</u></p>	<p>R' Yishmael Is an opinion in the following: Baraisa The <i>pasuk</i> says Shemos 22:4 מִיטֵב שְׂדֵהוּ וּמִיטֵב כְּרָמוֹ יִשְׁלַם “of the best of his own field, and of the best of his own vineyard, will he pay.”</p>	
		<p>R' Yishmael The <i>posuk</i> means the victim's choicest field or the victim's choicest vineyard.</p>	<p>R' Akiva The <i>posuk</i> means the damager's choicest field. (And also for <i>kodesh</i>.)</p>
<p>A wrong interpretation of R' Yishmael:</p>		<p>R' Yishmael says like Rav Idi bar Avin said: the animal ate from a bed and we do not know if that bed was a good bed or a bad bed. So, R' Yishmael says take the payment from the good bed (just in case the animal took from the good bed.)</p> <p>This cannot be right because of the rule that if the victim wants something from the owner, the burden of proof is on the victim.</p>	
<p>A better interpretation of R' Yishmael:</p>		<p>R' Yishmael means that the damager should pay from the choicest part of the field. <u>This means what the field will be worth later on, when the produce is ripe.</u></p> <p>This is the same as R' Yose HaGlili.</p>	

59a) Types of Unripe Produce.

The Gemara is going to discuss the halacha of eating different types of unripe produce. One must keep the following hierarchy in mind.

Less Ripe	budding grapes	More Ripe
shoots of vines		half -ripe

	R' Shimon ben Yehudah said in the name of R' Shimon:	
Two parts of the above Baraisa:	If the animal ate shoots of grapevines or shoots of fig trees. We follow the <i>Chachomim</i> .	If the animal ate half-ripe figs or half-ripe grapes, We follow R' Yeshua.
Implications from the Baraisa: These implications are conflicting:	If the animal ate budding grapes, we follow R' Yeshua.	If the animal ate budding grapes, we follow the <i>Chachomim</i> .
Ravina's resolution:	Bind both parts of the rules together: R' Shimon ben Yehudah said in the name of R' Shimon If the animal ate shoots of grapevines or shoots of fig trees, we follow the <i>Chachomim</i> . But if the animal ate <u>budding grapes</u> , or half-ripe figs or half-ripe grapes, we follow R' Yeshua.	

59a) Parts That Improve After Damage.

<p>Two opinions that are the same for budding grapes:</p>	<p>R' Shimon ben Yehudah said in the name of R' Shimon</p> <p>If the animal ate shoots of grapevines or shoots of fig trees, we follow the <i>Chachomim</i>. But <u>if the animal ate budding grapes, or half-ripe figs or half-ripe grapes, we follow R' Yeshua.</u></p>		<p>Baraisa</p> <p>If the animal ate budding grapes, R' Yeshua says we view them as though the grapes were ready to be picked. This means he pays for the grapes as if they were ripe.</p>	
<p>What they differ in:</p>	<p>One of these two opinions takes into consideration the weakening of the vine when the animal ate the budding grapes. In other words, when an animal ate budding grapes, the vines that were holding the budding grape get stronger. The damager should reduce his payment because he is strengthening the victim's vines.</p> <p>However, we do not know which <i>tanna</i> takes into consideration the weakening of the vine and which does not.</p>			
<p>Abaya mentions two cases where the payment considers a positive action done to the victim:</p>	<p>Case: a man rapes a virgin</p>		<p>Case: a man causes a woman to miscarry. The man must pay the husband of the woman.</p>	
	<p>R' Shimon ben Yehudah said in the name of R' Shimon ben Menasya:</p> <p>The man does not pay for pain, since she would have eventually received that pain from her husband.</p> <p>There is a consideration of the positive effects of the damager on the victim.</p>	<p>The <i>Chachamim</i>:</p> <p>The pain of regular intercourse is not comparable to the pain of rape. So the rapist does pay for pain.</p> <p>There is no consideration of the positive effects of the damager on the victim.</p>	<p>R' Yose</p> <p>The damager reduces the payment because she no longer will need the services of a midwife.</p> <p>The damager also reduces the payment because she will eat less food since the pregnancy is terminated.</p>	<p>Ben Azzai</p> <p>The damager reduces the payment because she will eat less food since the pregnancy is terminated.</p> <p>The damager does not reduce the payment for the midwife because the husband can say my wife does not need a midwife.</p>
<p>These two <i>tannas</i> consider the positive effects of the damager on the victim. This is like R' Shimon ben Yehudah.</p>				

59a) The Halacha in the Case of the Cut Down Tree.

The Gemara returns to the case of the cut down tree from the previous pages and comes to

Rav Pappa and Rav Huna the son of R' Yehoshua ruled the halacha:		Rav Nachman that a damaged tree is evaluated in relation to 60 trees. Another way to say this is that they evaluated a palm tree in relation to a small part of land.
The halacha:	The halacha is as the Raish Gelusa said for Persian palm trees (which is very expensive and needs to be evaluated by itself.)	The halacha is like Rav Pappa for an Aramean palm tree.

59a-59b) Damaging Budding Fruit.

How should unripe fruit that is damaged be priced? The Gemara starts with an interesting story about Eliezer the Younger who was wearing black shoes.

A question of Eliezer the Younger:	How much should one pay for cutting down budding dates?	
Possible answers:	He pays the value of the budding dates.	He pays the value of the full-grown dates.
Eliezer the Younger's responses to the answers:	This is no good because they will be full grown dates eventually. So, the owner of the field is being cheated.	This is no good because the damager did not cut fully grown dates. So, the damager is being cheated.
Eliezer the Younger rule:	The damage is evaluated by looking at 60 fields. (When one buys a field, he is paying somewhere between what the field is worth now and what it will be worth when the fruit grows.)	

59b) Damaging Ripe Fruit.

The Mishna:	<p style="text-align: center;">R' Shimon</p> <p style="text-align: center;">If the produce was ripe, he pays for what the sheep damaged. For example: if the sheep damaged a <i>se'ah</i>, he pays a <i>se'ah</i>. If the sheep damaged two <i>se'ah</i>, he pays two <i>se'ah</i>.</p>	
A question:	What is the source for this halacha?	
An answer:	<p style="text-align: center;">Shemos 22:4 יִבְעֹר בְּשָׂדֵה אֲחֵר “and it eats <u>in</u> another man's field”</p> <p style="text-align: center;">This means that we evaluate the value <u>in</u> the context of other fields.</p>	
	When the produce is not ripe, it needs the field. Therefore, we evaluate it in context of the fields.	When the produce is ripe, it is independent of the field. Therefore, it is evaluated independently.

59b) The Halacha According to Rav.

The Gemara tells of two cases where Rav decided the halacha. One of them is about ripe fruit.

<p>A statement:</p>	<p>Rav Huna Bar Chiya said in the name of Rav Yermiyah bar Abba said</p> <p>Rav said the halacha is like R' Meir in one case and like R' Shimon in a second case.</p>			
<p>The cases:</p>	<p>A Baraisa</p> <p>A husband sold two fields during their marriage.</p> <ol style="list-style-type: none"> 1. The first field was sold without his wife's signature. 2. The second field was sold with his wife's signature. <p>Then he died or divorced her, and she tried to collect from the <i>kesuba</i>.</p>		<p>Our Mishna</p> <p>If the animal ate ripe fruit from someone's field</p>	
<p>The halachas:</p>	<p>R' Meir</p> <p>She lost the value of the <i>kesuba</i>.</p> <p>She cannot get the first field because when the husband sold it, she had rights to the second field.</p> <p>She cannot get the second field because she signed off that he can sell it.</p>	<p>R' Yehudah</p> <p>She can still get the second field because she can claim that she only signed it to please her husband and did not mean it.</p>	<p>Tanna Kamma</p> <p>He pays for damages in context of other fields.</p>	<p>R' Shimon</p> <p>He pays for what the sheep damaged. For example: if the sheep damaged a <i>se'ah</i>, he pays a <i>se'ah</i>. If the sheep damaged two <i>se'ah</i>, he pays two <i>se'ah</i>.</p>

59b) Mishna: Stacks of Grain in Another’s Field

	The Mishna	
	Without Permission	With Permission
An animal of the owner of the field ate the grains	The owner of the field is פטור.	The owner of the field is חייב because he accepted responsibility.
An animal of the owner of the field is injured by the stacks	The owner of the stack is חייב.	The owner of the field is חייב because he accepted responsibility.

59b) Explicit Permission.

The Gemara wonders if the owner of the field must give explicit permission to stack the grains in his field. Rebbi has a rule that one needs such explicit permission.

	The Mishna	Rule of Rebbi
A seeming contradiction:	<p>A man piles up stacks of grain in his friend’s field.</p> <p>With Permission</p> <p>The owner of the field is חייב.</p>	<p>Unless the owner <u>explicitly</u> accepts the role of guardian, he is פטור.</p>
Rav Pappa’s resolution:	<p>Our Mishna agrees with the Rule of Rebbi. Here we are dealing with the owner of granary who tells farmers to bring in the stacks of grain. This is as if he explicitly said he will watch the stacks.</p>	

59b) Mishna: Spreading a Damaging Fire.

The is the beginning of the second part of the chapter which deals with fire. The Mishna lists various cases of fire being spread.

The Mishna	
The Case	The Halacha
One gives a fire to a deaf-mute, a deranged person, or a child.	The person is פטור by the laws of man and is חייב by the laws of heaven.
One gives a fire to a competent person	The competent person is חייב.
One brought the fire, then another brought the wood and put it on the fire.	The one who brought the wood is חייב.
One brought the wood, then another brought the fire and lit the wood.	The one who brought the fire is חייב.
One brought the wood, another brought the fire, and then a third came to fan the fire onto the wood.	The one who fanned the fire is חייב.
One brought the wood, another brought the fire, and a third came to fan the fire onto the wood. But a wind came and really spread the fire.	All are פטור.

59b) Giving a Flame to an Incompetent Person.

The Mishna said that a person is not obligated by the laws of man if he gave a fire to an incompetent person. The Gemara discusses a *machlokis* as to the type of fire we are dealing with.

Our Mishna:	One gives fire to a deaf-mute, a deranged person, or a child. The person is פטור by the laws of man.	
A <i>machlokis</i> :	Reish Lakish in the name of Chizkiyah	R' Yochanan
A person handed the deaf-mute a glowing coal and the deaf-mute fanned it into a flame:	The person is פטור by the laws of man.	The person is פטור by the laws of man.
A person handed the deaf-mute a flame:	The person is חייב by the laws of man. Reason: his actions caused the damage.	The person is פטור by the laws of man. Reason: the deaf-mute was in control. Not the person who gave it to him. Unless the person gave the deaf-mute branches/thorns (גוּזָא), chips of wood (סִלְתָּא), or a candle (שְׂרָגָא). In those cases, the person is definitely חייב.

60a) Different Versions of the Mishna.

Rav Nachman bar Yitzchok mentions two versions of the Mishna and shows that there are *pesukim* which demonstrates that both versions are correct.

The Mishna:	One brought the wood, another brought the fire, and then a third came to fan the fire onto the wood. The one who fanned the fire is הייב.	
Two versions of the Mishna:	בָּא אַחַר וְלִיבָה One comes and fans the fire	בָּא אַחַר וְנִיבָה One comes and blows the fire
Both versions are correct because there are these <i>pesukim</i> :	Shemos 3:2 וַיֵּרָא מִלְאָךְ יְהוָה אֵלָיו, בְּלֶבֶת-אֵשׁ--מִתּוֹךְ הַסֵּנֶה “And the angel of Hashem appeared unto him in a flame of fire out of the midst of a bush”	Yeshaya 57:19 בּוֹרָא, נוֹב גֵּיב שְׁפָתַיִם “I create the fruit of the lips” (Blowing comes from the lips.)

60a) A Comparison with Halachas of Shabbos.

The Gemara tells of a Baraisa where both a man and the wind make a fire. This Baraisa is compared with a seemingly conflicting halacha about Shabbos. Four resolutions to this seeming contradiction are offered.

A seeming contradiction:	A Baraisa	Shabbos Halachah
Abaye's resolution:	<p>This Baraisa is talking about where the man was blowing from one side and the wind was blowing from the other side. Since they were opposing, his action did nothing and hence he is פטור.</p>	
Rava's resolution:	<p>This Baraisa is talking about where he was blowing the fire with a normal wind. An unexpected strong wind came and got the fire ablaze. Since his blowing with the normal wind did not affect anything, he is פטור.</p>	
R' Zeira's resolution:	<p>This Baraisa is talking about where he was just warming and not blowing the fire. This is nothing and he is פטור.</p>	
Rav Ashi's resolution:	<p>This is an indirect action, and one is פטור for an indirect action.</p>	<p>This is a Shabbos law where the Torah prohibited a purposeful, planned action.</p>

60a) Mishna: A Consuming Fire.

<p>Our Mishna</p> <p>If one sends a fire and it consumes someone else's</p> <ul style="list-style-type: none"> • wood • stones • earth <p style="text-align: center;">חייב</p> <p>As the <i>posuk</i> says</p> <p style="text-align: center;">Shemos 22:5</p> <p style="text-align: center;">כִּי-תֵצֵא אֵשׁ וּמִצָּאָה קִצִּים, וְנֹאכַל גְּדִישׁ, אוֹ הַקֶּמֶה, אוֹ הַשָּׂדֶה--שָׁלֵם יִשְׁלֹם, הַמִּבְעֵר אֶת-הַבְּעֵרָה</p> <p style="text-align: center;">“If a fire breaks out and spreads to thorn bushes, and stacked grain or the standing grain or the field itself is consumed, the one who started the fire must pay.”</p>

60a) The List of Consumed Objects.

The Mishna gave a *posuk* that listed all the objects that a fire started is responsible for. The Gemara wonders why all these different types of objects need to be said.

<p>Shemos 22:5</p> <p style="text-align: center;">כִּי-תֵצֵא אֵשׁ וּמִצָּאָה קִצִּים, וְנֹאכַל גְּדִישׁ, אוֹ הַקֶּמֶה, אוֹ הַשָּׂדֶה--שָׁלֵם יִשְׁלֹם, הַמִּבְעֵר אֶת-הַבְּעֵרָה</p> <p style="text-align: center;">“If a fire breaks out and spreads to thorn bushes, and stacked grain or the standing grain or the field itself is consumed, the one who started the fire must pay.”</p>	
<p>Question: Why does it have to say all these terms (thorn bushes, and stacked grain or the standing grain or the field itself)?</p>	
<p>If the <i>posuk</i> only said...</p>	<p>... we would infer that the following is not included....</p>
<p>Thorn bushes. These are always found near a fire and it is typical to be negligent, that is why one is חייב.</p>	<p>Stacked grain. These are not usually near fire and it is unusual to be negligent. One would think that one is פטור.</p>
<p>Stacked grain. When these burn it is a substantial loss and that is why one is חייב</p>	<p>Thorn bushes. When these burn, it is not a substantial loss and so one should be פטור.</p>

60a) Analyzing the List of Consumed Objects.

The Gemara analyzes the *posuk* mentioned in our Mishna. There is a give and take between the *Chachomim* and R' Yehudah on how they learn certain laws and how they understand certain words.

Shemos 22:5 כִּי-תֵצֵא אֵשׁ וּמְצָאָהּ קִצִּים, וְנֹאכַל גְּדִישׁ, אוֹ הַקֶּמֶה, אוֹ הַשְּׂדֵה--שְׁלֵם יְשֻׁלֵם, הַמִּבְעֵר אֶת-הַבְּעֵרָה	
“If a fire breaks out and spreads to thorn bushes, and stacked grain or the standing grain or the field itself is consumed, the one who started the fire must pay.”	
<i>Chachomim</i>	R' Yehudah
<p>Why does the <i>posuk</i> say “standing grain”?</p> <p>The <i>posuk</i> says “standing grain” to teach us that just like standing grain is open and not concealed, so too, one that destroys anything that is open and not concealed will be חייב. Anything that is not open and is concealed is פטור.</p>	<p>Why does the <i>posuk</i> specify “standing grain” for R' Yehudah who says one is חייב for concealed objects?</p> <p>“Standing grain” is to teach that one is חייב for anything that has stature like trees and animals (in contrast to produce).</p>
<p>How do the <i>Chachomim</i> learn that one is חייב for anything that has stature like trees and animals (in contrast to produce)?</p> <p>They learn it from the word “<u>or</u>” before “standing grain” אִן הַקֶּמֶה.</p>	<p>What does R' Yehudah do with the word “<u>or</u>” before “standing grain” אִן הַקֶּמֶה?</p> <p>He uses the word <u>or</u> to split the list. In other words to show that one is חייב if only some of the objects are destroyed and not all of them.</p>
<p>How do the <i>Chachomim</i> learn that one can split the list?</p> <p>From the “<u>or</u>” before “the field” אִן הַשְּׂדֵה.</p>	<p>What does R' Yehudah do with the extra word “or”?</p> <p>The <i>posuk</i> says it because it used the word or before standing grain already. The <i>posuk</i> kept the same style.</p>

60a) The Word “Field” in the *Posuk*.

A question:	Why does the <i>posuk</i> say “field”?
An answer:	Because it includes a scorched field and chard stones.
Another question:	Why not only say “field” and everything else can be learned from that?
An answer:	If it only said field, you would think only things in the field and not other things.

60a) Some Aggadita About Good People and Wicked People (part one).

The Gemara goes through a series of *posukim* and tells what we learn from them about how the good people suffer first.

<i>Posuk</i>	<i>Aggadita</i>
<p style="text-align: center;">Shemos 22:5</p> <p>כי-תצא אש ומצאה קצים, ונאכל גדיש, או הקמה, או השדה--שלם ושלם, המבער את-הבערה</p> <p>“If a fire breaks out and spreads to thorn bushes, and stacked grain or the standing grain or the field itself is consumed, the one who started the fire must pay.”</p>	<p style="text-align: center;">R’ Shmuel bar Nachmani said in the name of R’ Yonasan.</p> <ul style="list-style-type: none"> • Bad things happen in the world only when there are wicked people. Because it says, “If a fire breaks out (bad things) and spreads to thorn bushes (wicked people).” • But the good people get it first because it says, “and stacked grain (good people) ... is consumed.” The good people (stacked grains) are consumed before the wicked people (thorn bushes).
<p style="text-align: center;">Shemos 12:22</p> <p>ואתם, לא תצאו איש מפתח-ביתו--עד-בקר</p> <p>“and none of you should go out of the door of his house until the morning.”</p>	<p style="text-align: center;">Rav Yosef taught a Baraisa</p> <ul style="list-style-type: none"> • The reason why the Jews were told not to leave their house was because once the force was given authority, it does not distinguish between good people and wicked people. • And it begins with the good people because it says, <p style="text-align: center;">Yechezkal 21:8 והקרתיו ממך, צדיק ורשע</p> <p style="text-align: center;">“and will cut off from you the righteous (first) and the wicked (second).”</p> <p>Rav Yosef cried and said “Are the good people also like nothing?”</p> <p>Abaya answered that it is better that the good people go first so that they do not have to witness the bad things that will happen to their generation. As it says:</p> <p style="text-align: center;">Yeshaiya 57:1</p> <p style="text-align: center;">הצדיק אבד, ואין איש שם על-לב; ואנשי-הסד נאספים באין מבין, כי-מפני הרעה נאסף הצדיק</p> <p>The righteous person perishes, and no one takes it to heart; And devout people are taken away, while no one understands. <u>For the righteous person is taken away from evil,</u></p>

60a-60b) Some Aggadita About Good People and Wicked People (part two).

The Gemara continues through a series of *posukim* and tells what we learn from them.

<i>Posuk</i>	<i>Aggadita</i>
<p>Shemos 12:22</p> <p>וְאַתֶּם, לֹא תֵצְאוּ אִישׁ מִפֶּתַח-בֵּיתוֹ--עַד-בֹּקֶר</p> <p>“and none of you should go out of the door of his house until the morning.”</p>	<p>Rav Yehudah said in the name of Rav</p> <p>From this <i>posuk</i> we see that one should not come to an city when it is still light, and should not leave the city until it is morning (בֹּקֶר).</p>
<p>Shemos 12:22</p> <p>וְאַתֶּם, לֹא תֵצְאוּ אִישׁ מִפֶּתַח-בֵּיתוֹ--עַד-בֹּקֶר</p> <p>“and none of you should go out of the door of his house until the morning.”</p> <p>Yeshaya 26:20</p> <p>לֵךְ עִמִּי בֵּיתְךָ בַּיּוֹם, וְסָגַר דְלָתְךָ בַּעֲצֵד; חֲבִי כַמְעֹט-רִגַע, עַד- - יַעֲבֹר- זַעַם</p> <p>“Go, my people, enter your rooms and shut your doors behind you. Hide yourselves a little while until the wrath has passed.”</p> <p>Devorim 32:25</p> <p>מִחוּץ תִּשְׁכַּל-חֶרֶב וּמִחֲדָרִים אֵימָה גַם-בְּחוּרֵי גַם-בְּתוּלָה יוֹגֵק עִם-אִישׁ שִׁיבָה</p> <p>“Outside the sword lay them waste, And inside terror; It will destroy both young man and young girl, The suckling with the man of gray hairs.”</p>	<p>A Baraisa</p> <p>When there is a plague stay indoors.</p> <p>The Gemara explains why you need all three <i>pesukim</i>:</p> <ul style="list-style-type: none"> • If it only said the first, you would think that you only must stay indoors at night (like in Egypt). • So we need the second verse to teach us to stay indoors even in the day. If it said the second verse you would think that one should stay indoors when there is no terror indoors. • So the third <i>posuk</i> is to teach us that even when there is terror indoors, you should still stay indoors because outside is the sword.
<p>Yermiyahu 9:20</p> <p>כִּי-עָלָה מוֹת בְּחַלּוֹנֵינוּ, בָּא בְּאַרְמְנוֹתֵינוּ--לִהְרִית עוֹלָל מִחוּץ, בְּחוּרִים מִרְחֹבוֹת</p> <p>“For death is come up into our windows, it is entered into our palaces, to cut off the children from the street, and the young men from the broad places.”</p>	<p>Rava used to seal the windows when there was a plague.</p>

60b) Some Aggadita About Famines.

The Gemara discusses a series of *posukim* and tells what we learn from them.

<i>Posukim</i>	<i>Aggadita</i>
<p style="text-align: center;">Berashis 12:10</p> <p style="text-align: center;">וַיְהִי רָעָב, בְּאֶרֶץ; וַיֵּרֵד אַבְרָם מִצְרַיִם לְגִוֵּר אֶת־שָׂם “And there was a famine in the land; and Avrom went down into Egypt to live there”</p> <p style="text-align: center;">Melochim II 7:3-4</p> <p style="text-align: center;">וְאַרְבָּעָה אֲנָשִׁים הָיוּ מִצְרָעִים, פֶּתַח הַשָּׁעַר; וַיֹּאמְרוּ, אִישׁ אֶל־רֵעֵהוּ, מָה אֲנִיחָנוּ יֹשְׁבִים פֹּה, עַד־מָתָנוּ. “And there were four leprous men at the entrance of the gate. And they said one to each other: 'Why sit we here until we die?’”</p> <p style="text-align: center;">אם-אָמְרָנוּ נְבוֹא הָעִיר וְהָרָעַב בְּעִיר, וּמָתָנוּ שָׂם, וְאם-יֵשְׁבָנוּ פֹה, וּמָתָנוּ; וְעַתָּה, לָכוּ וּנְפֹלָה אֶל־מַחֲנֵה אֲרָם--אם־יַחְיֵנוּ נַחֲיָה, וְאם־יָמִיתָנוּ, נָמִיתָנוּ. “If we say: We will enter the city, then the famine is in the city, and we shall die there. And if we sit still here, we die also. Now therefore come and let us fall unto the camp of the Arams. If they save us alive, we will live. And if they kill us, we will die.”</p>	<p style="text-align: center;">A Baraisa</p> <p>These <i>pesukim</i> teach you that if there is a famine in your land, you should go to another country.</p> <p>The Gemara explains why you need both <i>pesukim</i>:</p> <ul style="list-style-type: none"> • If it only had the first <i>posuk</i> we would think that one should only leave their land if there is no uncertainty about the other land. • The second set of <i>pesukim</i> teach us that one should leave their land even if there is uncertainty in the other land that you want to go to.

60b) Plague.

The Gemara goes through three Baraisas about surviving plagues.

- First Baraisa
 - If there is a plague in the city, do not walk in the middle of the road, because the *malach hamoves* walks in the middle of the road.
 - Once the *malach hamoves* is given authority, he goes openly.
 - When there is peace in the city, do not walk on the side of the road, because when he does not have permission to kill, he hides and walks on the side of the road.
- Second Baraisa
 - If there is a plague in the city, one should not enter a Beis HaKenesis alone, because the *malach hamoves* leaves his tools there.
 - This only applies when there are no children learning or ten men praying in the Beis HaKenesis.
- Third Baraisa
 - If the dogs are crying, then the *malach hamoves* has come to the city.
 - If the dogs are playing, then Eliyahu HaNavi has come to the city. This is only true if there is no female dog.
 - If there is a female dog, that is the reason why they are playing.

60b) Halachah and Aggadita.

The Gemara tells a beautiful story of R' Yitzchak Nafcha. He had two students and one wanted to hear Halachah while the other wanted to hear *Aggadita*. He describes a nice *moshel* about this. Then he gives a *posuk* and tells Halacha and *Aggadita* about that *posuk*.

Shemos 22:5	
<p>כִּי-תֵצֵא אֵשׁ וּמִצָּאָה קִצִּים, וְנֹאכַל גְּדִישׁ, אוֹ הַקֶּמֶה, אוֹ הַשְּׂדֵה--שְׁלֹם יִשְׁלֹם, הַמִּבְעֵר אֶת-הַבְּעֵרָה</p> <p>“If a fire breaks out and spreads to thorn bushes, and stacked grain or the standing grain or the field itself is consumed, the one who started the fire must pay.”</p>	
<i>Aggadita</i>	Halachah
<p>There are two parts of the <i>posuk</i>:</p> <ul style="list-style-type: none"> • “If a fire breaks out” sounds like it happened on its own. • “the one who started the fire must make restitution.” sounds like someone has to pay for it. <p>Hashem says that the fire in the Beis Hamigdash happened because of the sin that Klal Yisroel did. And Hashem will pay by making another Beis Hamigdash. Here are two <i>pesukim</i> for these two ideas:</p> <ul style="list-style-type: none"> • Eicha 4:11 כָּלֵה יְהוָה אֶת-קִמְתּוֹ, שִׁפָּף קִרְוֹן אָפוֹ; וַיִּצָּת-אֵשׁ בְּצִיּוֹן, וַתֹּאכַל יְסוּדֹתֶיהָ <p>“Hashem has fulfilled His fury, He has poured out His fierce anger. He started a fire in Zion, And it has consumed its foundations.</p> <ul style="list-style-type: none"> • Zecharyeh 2:9 וְאֲנִי אֶהְיֶה-לָּהּ נֹאֵם-יְהוָה, חוֹמַת אֵשׁ סָבִיב; וּלְכַבּוֹד, אֶהְיֶה בְּתוֹכָהּ. <p>“For I, says Hashem, will be for her a wall of fire round about. And I will be the glory in her midst.”</p>	<p>There are two parts of the <i>posuk</i>:</p> <ul style="list-style-type: none"> • “If a fire breaks out” sounds like it happened on its own. • “The one who started the fire must make restitution.” sounds like someone has to pay for it. <p>This comes to teach us that what started in his field, went to another’s field. Yet he is responsible. The fire is like an arrow. It is his actions.</p>

60b) Dovid Hamelech’s Halachah Question (part one).

A story is told about Dovid haMelech. The story is interpreted allegorically in three different ways.

<p>The <i>pesukim</i>:</p>	<p style="text-align: center;">Shmuel II 23:15-17</p> <p style="text-align: center;">וַיִּתְאַוּהוּ דָּוִד, וַיֹּאמֶר: מִי יִשְׁקֵנִי מַיִם, מִבְּאֵר בֵּית-לָחֶם אֲשֶׁר בְּשַׁעַר.</p> <p style="text-align: center;">“Dovid haMelech desired water and said, “Oh, that someone would get me a drink of water from the well near the gate of Bethlehem!”</p> <p style="text-align: center;">וַיָּבֵאוּ אֵל-דָּוִד; וַיִּשְׁאַבוּ-מַיִם מִבְּאֵר בֵּית-לָחֶם אֲשֶׁר בְּשַׁעַר, וַיִּשְׂאוּ, וַיִּבְקְעוּ שְׁלֹשֶׁת הַגִּבּוֹרִים בְּמַחְנֵה פְּלִשְׁתִּים וְלֹא אָכַה לְשִׁתוֹתָם, וַיִּסַּף אֹתָם לַיהוָה.</p> <p style="text-align: center;">“So, the three mighty men broke through the Philistine camp, drew water from the well near the gate of Bethlehem, and brought it back to Dovid. But he refused to drink it; instead, he poured it out to Hashem.”</p> <p style="text-align: center;">וַיֹּאמֶר חֲלִילָה לִי יְהוָה מַעֲשֵׂתִי זֹאת, הֲדָם הָאֲנָשִׁים הַהֵלְכִים בְּנַפְשׁוֹתָם, וְלֹא אָכַה, לְשִׁתוֹתָם</p> <p style="text-align: center;">“And he said: 'Be it far from me, Hashem that I should do this; should I drink the blood of the men that went in jeopardy of their lives?'"</p>		
<p>The allegory:</p>	<p>The words are taken allegorically. The water represents Torah and Dovid haMelech was asking a question in halacha. Three soldiers went to ask the question from the he <i>Chachomim</i> of the time. They answered the question. What was the question and answer?</p>		
<p>The interpreters:</p>	<p>Rava said in the name of Rav Nachman</p>	<p>R’ Huna</p>	<p><i>Rabbonon</i> and some say <i>Rabbah bar Mari</i></p>
<p>The question:</p>	<p>What was the halacha when there are concealed objects that get destroyed.</p> <ul style="list-style-type: none"> • R’ Yehudah says the one who started the fire is חייב. • The <i>Chachomim</i> say he is פטור. <p>Who is right?</p>	<p>There were stacks of barley that belonged to Jews, and the Philistines were hiding in them. He wanted to know if he was permitted to burn down the stacks and kill the Philistines. Are you permitted to save yourself by destroying the property of Jews?</p>	<p>There were stacks of barley that belong to Jews. There were also stacks of lentils that belong to Philistines. Dovid wanted to feed his animals with the barley and pay the Jews for it with the lentils. Is he permitted to make this switch?</p>
<p>The answer:</p>	<p>They answered Dovid what they answered him. (Either R’ Yehudah was correct, or the <i>Chachomim</i> were correct.)</p>	<p>They answered that a regular person is not permitted. But since Dovid is a king, he is permitted.</p>	<p>They answered that a regular person is not permitted. Because it says Yechezkal 33:15</p> <p style="text-align: center;">חָבֵל יָשִׁיב רֶשַׁע, גְּזֹלָה יִשְׁלַם</p> <p style="text-align: center;">“If a wicked person returns a pledge, pays back what he has taken by robbery.”</p> <p>This means that a thief that pays back is still wicked. But since Dovid is a king, he is permitted.</p>

60b) Dovid Hamelech’s Halachah Question (part two).

The Gemara asks questions of all three interpretations.

	Rava said in the name of Rav Nachman	R’ Huna	<i>Rabbonon</i> and some say Rabbah bar Mari
<p>There is a seeming contradiction of <i>pesukim</i>:</p> <p>Shmuel II 23:11 ותהי-שם חלקת השדה מלאה צדשים “where there was a plot of land full of lentils”</p> <p>Divrei Hayomim I 11:13 ותהי חלקת השדה, מלאה שעורים “where was a plot of land full of barley”</p>	<p>The two <i>pesukim</i> were needed because in addition to asking about concealed objects in stacks, Dovid haMelech also asked one of the other two halacha questions.</p>	<p>The two <i>pesukim</i> taught us that there were <u>also</u> Jewish-owned stacks of lentils where the Philistines were hiding.</p>	<p>The two <i>pesukim</i> taught us that there were stacks of lentils <u>and</u> there were stacks of barley.</p>
<p>Shmuel II 23:12 ויתיצב בתוך-החלקה ויצילה, ויה אץ-פלישתים; ויעש יהוה, תשובה גדולה. But he stood in the midst of the plot, and saved the stacks, and slew the Philistines; and Hashem brought a great victory.</p> <p>What does this <i>posuk</i> mean?</p>		<p>Dovid saved the stacks and did not burn them. He killed the Philistines in other ways.</p>	<p>Dovid saved the stacks by not permitting the soldiers to make the switch of the barley and the lentils.</p>

61a) Dovid Hamelech's Halachah Question (part three).

The Gemara asks more questions of all three interpretations.

	Rava said in the name of Rav Nachman	R' Huna	Rabbonon and some say Rabbah bar Mari
<p>Shmuel II 23:16 וְלֹא אָכַל לְשִׁתּוֹתָם “And Dovid did not drink from it.”</p> <p>What does this <i>posuk</i> mean?</p>	<p>Although the <i>Chachomim</i> of Dovid's time gave him the answer, Dovid did not quote the soldiers who relayed the answers to him because they risked their lives for this Torah. (Marsha: they took unnecessary risks for this.)</p>	<p>Although the <i>Chachomim</i> of Dovid's time gave him permission to burn the stacks, he did not do it.</p>	<p>Although the <i>Chachomim</i> of Dovid's time gave him permission to switch the stacks, he did not do it.</p>
<p>Shmuel II 23:16 וַיִּסַּף אֹתָם לַיהוָה. “And Dovid poured it out unto Hashem”.</p> <p>What does this <i>posuk</i> mean?</p>	<p>Although the <i>Chachomim</i> of Dovid's time gave him the answer, Dovid said (poured out) these halachas in the name of tradition and not in the name of an individual.</p>	<p>Although the <i>Chachomim</i> of Dovid's time gave him permission to burn the stacks, he was stricter and did not do it.</p>	<p>Although the <i>Chachomim</i> of Dovid's time gave him permission to switch the stacks, he was stricter and did not do it.</p>

61a) Mishna: Stopping a Spreading Fire.

The Mishna discusses what is a valid barrier to a fire. An owner sets fire to his property and it crosses over to another's property. How large of a barrier is needed so that the one who started the fire is not responsible.

The case:	Our Mishna
	<p>If a fire crossed</p> <ul style="list-style-type: none"> • a wall that is four <i>amos</i> high, • a public road, or • a river <p style="text-align: center;">פטור</p> <p>(Because he could not expect the fire to cross these secure barriers.)</p>

61a) The Height of a Fire Wall.

The Gemara discusses the height of a wall that protects from fire.

A seeming contradiction:	Our Mishna	A Baraisa
	<p>If a fire crossed</p> <ul style="list-style-type: none"> • a wall that is four <i>amos</i> high, <p style="text-align: center;">פטור</p>	<p>If a fire crossed</p> <ul style="list-style-type: none"> • a wall that is four <i>amos</i> high, <p style="text-align: center;">חייב</p>
Rav Pappa's resolution:	<p>Here the Mishna was counting from top to bottom:</p> <ul style="list-style-type: none"> • six <i>amos</i> high is פטור. • five <i>amos</i> high is פטור. • four <i>amos</i> high is פטור. 	<p>Here the Baraisa was counting from bottom to top:</p> <ul style="list-style-type: none"> • two <i>amos</i> high is חייב. • three <i>amos</i> high is חייב. • until four <i>amos</i> high is חייב.
Conclusion:	The Baraisa agrees with the Mishna that exactly four <i>amos</i> high is פטור.	

61a) Measuring the Height of a Fire Wall.

The Mishna:	Our Mishna
	If a fire crossed a wall that is four <i>amos</i> high, he is פטור
Rava's rule:	This is true even if the field was full of thorns (which means that the fire can easily cross over.)
Rav Pappa's restriction:	The wall must be four <i>amos</i> above the top of the thorns (not above the ground).

61a) The Type of Fire.

The Gemara discusses different types of fires and the precautions they demand.

Our Mishna:		Our Mishna	
		If a fire crossed a wall that is four <i>amos</i> high, he is פטור	
A disagreement:		Rav	Shmuel
Type of fire	Rising fire:	The Mishna was talking about a rising fire and said he was פטור.	Even if the wall was very small, he would be פטור.
	Bent fire:	Even if the wall was 100 <i>amos</i> , he would be חייב.	The Mishna was talking about a bent fire and said he was פטור.
A proof of Rav:		A Baraisa	
		In what case is the Mishna talking about? <u>When it is a rising fire. But in the case of bent fire, even a wall that was 100 amos high, he would be חייב.</u> If a fire crossed over a <i>shelulis</i> , they are eight amos wide, he is פטור.	

61a) The Size of Road that Prevents the Spread of Fire.

A comparison of Mishnas:	Our Mishna	The Next Mishna
	If a fire crossed a public road, he is פטור	If one lights a fire within his own property, up to how far do we have to worry that the fire will spread? R' Eliezar 16 amos, like a public highway.
Conclusion:	Our Mishna is like R' Eliezer.	

61a) The River That Prevents the Spread of Fire.

		Our Mishna	
		If a fire crossed a river, he is פטור	
A machlokis about the definition of a river.		Rav	Shmuel
		It's an actual river.	It's an irrigation ditch.
What is the difference?	There is no water in the river:	Its large enough that it is an effective barrier, so he is פטור.	It is not wide enough to be an effective barrier and there is no water to stop the fire, so he is חייב.
	There is water in the river		The water will help make it an effective barrier and he is פטור.

61a) The Pool That Prevents the Spread of Fire.

A Baraisa and a Mishna that use the word שלולית:	A Baraisa	Mishna Pe'ah 2:1
	If a fire crossed over a <i>shelulis</i> , (they are eight amos wide), he is פטור.	The following divide a field for <i>pe'ah</i> : <ul style="list-style-type: none"> • a stream, • a pool, (שלולית) • a private road, • a public road,
What is a שלולית?	Rav Yehudah said in the name of Shmuel It is a place where rainwater collects (pools).	Rav Bivi said in the name of R' Yochanan It is a channel of water which gives good bounty to its banks.
What each opinion would say about the other?	He would say that a place where rainwater collects separates fields for <i>pe'ah</i> (and is an effective barrier for fire) and, of course, a channel of water separates fields for <i>pe'ah</i> (and an effective barrier for fire. Hence he is פטור.)	He would say that a channel of water is an effective barrier for water, but a place where rainwater collects is not as big as a channel for water, and it does not separate fields for <i>pe'ah</i> (and one would be חייב for fire with such a weak barrier.)

61b) Mishna: The Distance a Fire Can Go.

The Mishna gives different opinions about how much space does one needs to make sure the fire does not spread.

Our Mishna			
If one lights a fire within his own property, up to how far do we have to worry that the fire won't spread?			
R' Elazar ben Azaryah	R' Eliezar	R' Akiva	R Shimon
We view the fire started as if he was in the middle of a <i>beis kor</i> . This means that 137 amos.	16 amos, like a public highway.	50 amos.	The <i>posuk</i> says Shemos 22:5 הַמִּבְעֵר אֶת-הַבְּעִרָה “The one who started the fire should pay” This means that it depends on the fire. (Separations are not important. If the fire spread, then the fire starter must pay.)

61b) Precautions About Spreading Fire.

<p>A seeming contradiction:</p>	<p style="text-align: center;">Our Mishna</p> <p>If one lights a fire within his own property, up to how far do we have to worry that the fire?</p> <p>R Shimon</p> <p>The <i>posuk</i> says,</p> <p style="text-align: center;">Shemos 22:5 הַמִּבְעֵר אֶת-הַבַּעֲרָה “The one who started the fire should pay”</p> <p>This means that it depends on the fire. (Separations are not important. If the fire spread, then the fire starter must pay.)</p>	<p style="text-align: center;">Mishna Baba Basra 2:2</p> <ul style="list-style-type: none"> • One may not set up an oven inside a house unless there is a space four amos high above it, (to make sure the ceiling does not burn.) • If one was setting up an oven in the upper story, there must be a plaster floor beneath it, at least three <i>tefochim</i> thick (so that the ceiling below does not burn.) • And in the case of a stove the plaster floor must be at least one <i>tefoch</i> thick. 	
<p>Analysis:</p>	<p>Here R’ Shimon does not care about precautions.</p>	<p style="text-align: center;"><i>Rabonim</i></p> <p>If the fire causes damage even with all these precautions, he pays compensation for anything that is damaged.</p>	<p style="text-align: center;">R’ Shimon</p> <p>They said all these measurements to teach that if he still causes damage, he is exempt from paying, because he took all reasonable precautions.</p>
<p>Rav Nachman in the name of Rabbah bar Avuha resolves the contradiction by reinterpreting the Mishna:</p>	<p>In this Mishna R’ Shimon says that different precautions depend on different types of fire.</p>	<p>Here R’ Shimon does care about precautions.</p> <p>R' Shimon does care about precautions.</p>	
<p>Conclusion:</p>	<p>The halacha follows R’ Shimon.</p>		

61b) Mishna: The Fire Destroys Other Objects.

The Mishna deals with three cases where objects were destroyed, and other objects were either hidden in it, or connected to it.

First case:	Our Mishna	
	If one sets a fire to a stack of grain, and there were other utensils hidden inside the stack that got destroyed.	
	R' Yehudah	The <i>Chachomim</i>
	He pays for the stack of grain <u>and</u> what was inside also.	He only pays for the stack of grain. He <u>does not</u> pay for the hidden utensils.
Second case:	If a young goat was attached to the stack and a slave was near the stack and they were both burnt, the one who started the fire is חייב for the young goat (because it could not get away) and the stack. But he is not responsible for the slave who could have run away.	If a young goat was near the stack and a slave was attached to the stack and they were both burnt, the one who started the fire is פטור for the young goat (because it could get away) and פטור from paying for the slave (because the one who started the fire is a murderer and does not deal with financial payments.)
Third case:	If one sets fire to a large tower, and there were a lot of objects inside it which got burnt, both	
	The <i>Chachomim</i> and R' Yehudah	
	say he pays for everything inside because people put things into towers.	

61b) Hidden Objects (part one).

The Gemara discusses what happens if there are hidden objects in the stacks that were destroyed.

The Mishna:		Our Mishna	
		If one sets a fire to a stack of grain, and there were other utensils hidden inside the stack that got destroyed.	
		R' Yehudah	The <i>Chachomim</i>
		He pays for the stack of grain and what was inside also.	He only pays for the Stack of grain. He does not pay for the hidden utensils.
Rav Kahana's way of understanding the Mishna:	The fire spread to his friend's field.	He pays for the stack of grain and what was inside also.	He only pays for the stack of grain. He does not pay for the hidden utensils.
	He lit the fire in his friend's field,	He pays for the stack of grain and what was inside also.	He pays for the stack of grain and what was inside also.
Rava's Criticism of Rav Kahana:			If this was so, the reason given for the third case of the Mishna should not say "He pays for everything inside because people put things into towers." Rather, it should say "He pays for everything inside because he lit the fire in his friend's field." (The fire is lit in his friend's field. The flame did not spread.)
Rava's way of understanding the Mishna:		R'Yehudah and the <i>Chachomim</i> disagree in two matters:	
He lit the fire in his own field and then it spread to his friend's field.		R' Yehudah	The <i>Chachomim</i>
		He pays for the stack of grain and what was inside also.	He only pays for the stack of grain. He does not pay for the hidden utensils.
He lit the fire in his friend's field,		R' Yehudah	The <i>Chachomim</i>
		He pays for the stack of grain and what was inside also. Including objects like a purse that is not usually hidden.	He pays for the wheat and barley. <ul style="list-style-type: none"> • If the objects are normally stored (e.g., threshing tools or cattle gear), he pays for them. • If the objects are not normally stored (e.g., purse), he does not pay.

61b-62a) Hidden Objects (part two).

Three Baraisa that qualify the ruling about hidden objects.

Baraisa one:	If one sets a fire to a stack of grain, and there were other utensils hidden inside the stack that got destroyed.	
	<p style="text-align: center;">R' Yehudah</p> <p>He pays for the stack of grain and what was inside also.</p>	<p style="text-align: center;">The <i>Chachomim</i></p> <p>He only pays for the stack of grain. He does not pay for the hidden objects. <u>And we view the space that was filled with the hidden objects as if they were filled with grain.</u></p>
Baraisa two: The fire spread to his friend's field.	<p style="text-align: center;">R' Yehudah</p> <p>He pays for the stack of grain and what was inside also.</p>	<p style="text-align: center;">The <i>Chachomim</i></p> <p>He only pays for the wheat and barley. He does not pay for the hidden utensils.</p>
He lit the fire in his friend's field,	<p style="text-align: center;">R' Yehudah</p> <p>He pays for the stack of grain and what was inside also.</p>	<p style="text-align: center;">The <i>Chachomim</i></p> <p>He pays for the stack of grain and what was inside also. (From the last Gemara, we have to say that Rava would say he only pays for things that are usually hidden.)</p>
Baraisa three:	<p>In all the following cases, R' Yehudah would agree with the <i>Chachomim</i>:</p> <ul style="list-style-type: none"> • If a man stored stacks of grain with hidden objects in another's field and the owner of the field caused a fire which destroyed the stack and contents. The owner only pays for the grain. <p>Some more cases:</p> <ul style="list-style-type: none"> • If he received permission to stack barley and he stacked wheat • If he stacked wheat and covered it with barley. • If he stacked barley and covered it with wheat. <p>He only pays for the barley which is cheaper than the wheat.</p>	

62a) The Case of the Misidentified Coin.

The Gemara discusses a practical case where a coin was identified wrongly.

<p>The case:</p>	<p>Rava says: A man gives a woman a gold coin and is told to be careful with the coin which is made of silver. The coin gets damaged, stolen or lost.</p>	
<p>A better way to learn this rule:</p>	<p>If she damages it, she pays the gold value. Because she had no right to damage it at all.</p>	<p>If she is negligent and it is lost or stolen, she pays the silver value. Because she can say that she thought it was silver and would have been more careful had she known it was gold.</p>
		<p>Rav Mordechai said to Rav Ashi, why did you say this halacha from Rava (an <i>amora</i>). Rather, say it from the Baraisa (a <i>tanna</i>) we just had:</p> <p style="text-align: center;">A Baraisa</p> <ul style="list-style-type: none"> • <u>If he stacked wheat and covered it with barley.</u> • If he stacked barley and covered it with wheat. <p>He only pays for the barley which is cheaper than the wheat.</p> <p>He can say I only accepted the pile of barley. Similarly, she can say I only accepted silver and not gold.</p>

62a) Swearing about a Missing or Destroyed Object.

The Gemara discusses several cases where an object was hidden and destroyed or taken away.

The Mishna:	<p style="text-align: center;">Our Mishna</p> <p style="text-align: center;">If one sets a fire to a stack of grain, and there were other utensils hidden inside the stack that got destroyed.</p> <p style="text-align: center;">R' Yehudah</p> <p style="text-align: center;">He pays for the stack of grain and what was inside also.</p>	
A ruling:	<p>Rav heard this and Shmuel reminded him of it:</p> <p>A person whose goods were damaged by a fire can use the same rule as a victim of a theft. Such a victim can swear that certain objects were stolen. Here too, the owner of the burnt stacks can swear that there were certain hidden objects inside of it. He will then be paid for them.</p>	
A question:	<p>Ameimar asked if this is true also for a victim of an informer. That is, an informer tells the government about a victim and the government takes away objects from the victim. Can the victim swear as to what are the stolen objects?</p>	
Two possibilities:	<p>According to the opinion that we do not charge the informer with an indirect (<i>gramma</i>) action (telling the government <u>indirectly</u> gets the merchandise taken away), there is no question as we cannot charge the informer anyway.</p>	<p>According to the opinion that we do charge the informer with an indirect (<i>gramma</i>) action, we can ask the question if the victim can swear.</p>
The conclusion:	<p style="text-align: center;">Taiku! Let the question stand.</p>	

62a) The Case of the Drowned Safe.

The Gemara presents a case of a man claiming that something expensive was lost and should be paid for.

The case:	A man kicks a safe into the sea. The owner of the safe claims there were many objects in the safe. Do we believe the owner?	
The rule:	<p>Ravina said to Rav Acha the son of Rava, or some people say Rav Acha the son of Rava said to Rav Ashi:</p> <p>This case is just like our Mishna:</p> <p>If one sets fire to a large tower, and there were objects inside it which got burnt. The <i>Chachomim</i> and R' Yehudah said, he pays for everything inside because people put things into towers.</p>	
A clarification:	If the owner of the safe claimed there were coins in the safe, then we follow the Mishna and the man who kicked the safe must pay.	<p>If the owner of the safe claimed that there was jewelry in the safe, what is the law? Do people put jewelry in safes?</p> <p style="text-align: center;">Taiku! Let the question stand.</p>
A related question:	Rav Yeimar said to Rav Ashi. What is the halacha if a man claims that inside his burnt tower was a fancy silver goblet?	
A response:	<p>If he is</p> <ul style="list-style-type: none"> • a wealthy person who would own such a silver goblet, or • an honest person who people would trust with a silver goblet, <p>Then he may swear and collect.</p>	If he is neither wealthy nor honest, he cannot claim it.

62a) Two Types of Thieves.

The Gemara digresses to make a distinction of types of thieves.

<p>A question:</p>	<p>Rav Adda the son of Rav Avya said to Rav Aashi: What is the difference between a <i>gazlan</i> and a <i>chamsan</i>?</p>		
<p>Rav Ashi responds:</p>	<p style="text-align: center;"><i>Chamsan</i> Gives money for an object he is taking.</p>	<p style="text-align: center;"><i>Gazlen</i> Does not give money for an object he is taking.</p>	
<p>Rav Adda points out a seeming contradiction to Rav Ashi's definition of a <i>chamsan</i>:</p>			<p>Is he still a <i>chamsan</i>?</p> <p>Rav Huna said. If you hold someone upside down until he gives something away, it's still a valid sale. This is not a form of thievery. It is just a sale.</p>
<p>R' Ashi describes a difference in the two cases:</p>	<p>Here the perpetrator gave the money, but the victim never gave his consent (i.e., he never said "I am willing.") Here the perpetrator is a type of thief called a <i>chamsan</i>.</p>		<p>Here the man held upside down finally consents and says, "I am willing." This is a valid sale, and the perpetrator is not a thief.</p>

62b) Mishna: A Mobile Fire.

The last Mishna of the Hakoneis discusses several cases of a fire that is moving.

First case:	The Mishna	
Second case:	A camel is full of flax and passes a public place. The camel came near a shop, and caught fire.	
Two possibilities:	If the flax went into the shop and was lit by the shopkeeper's lamp, The owner of the camel is חייב.	If the shopkeeper put his lamp outside of the shop, The shopkeeper is חייב.
An exception:	R' Yehuda says that if the lamp is a Chanuka menorah, then the shopkeeper is פטור.	

62b) The Height of a Chanuka Menorah.

The Mishna discussed a Chanuka menorah. The Gemara determines the proper height of the menorah.

The Mishna:	R' Yehudah says that if the lamp is a Chanuka menorah, then the shopkeeper is פטור.	
A potential ruling:	Ravina said in the name of Rava. Learn from R' Yehudah's rule that one should place the Chanuka menorah within 10 <i>tefachim</i> from the ground.	
A potential proof:	If a Chanuka menorah must be above 10 <i>tefachim</i> from the ground Then why did R' Yehudah say the shopkeeper is פטור? The damaged party could say that the shopkeeper should have placed the menorah high enough that the flax would not catch fire.	If the Chanuka menorah must be 10 <i>tefachim</i> or lower from the ground Then it makes sense that R' Yehudah says the shopkeeper is פטור. The damaged party cannot have such a complaint.
The proof fails:	The Chanuka menorah can be above 10 <i>tefachim</i> . This complaint of the damaged party is not legitimate because we do not burden the shopkeeper to make the menorah so high for the mitzvah.	
A related ruling:	Rav Nassan bar Manyumi taught in the name of R' Tanchum: Just as a succah and a <i>mavoi</i> (a stick to remind one in an alleyway for carrying on Shabbos purposes) cannot be more than 20 <i>amos</i> high, so too, a Chanuka menorah cannot be more than 20 <i>amos</i> high.	