



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Bava Metzia Daf Chuf Beis

- The Gemara continues trying to bring a proof to **Abaye or Rava**, regarding the machlokes of “yi’ush shelo midaas”.
  - **Q:** A Braisa says, if a river washed away someone’s beam, wood, or stones and deposited them into someone else’s field, the finder may keep them, because the owner was meya’esh. We see that the Braisa says they may only be kept *because* the owner was meya’esh, but if he was not yet meya’esh it seems that the finder would not be allowed to keep them, and is a proof to **Abaye!**? **A:** The Braisa means to imply that if there is a chance that the owner could save the items, the finder would not be allowed to keep them. In that case even **Rava** would agree that the finder would not be allowed to keep them.
    - **Q:** The end of the Braisa says, if the owners were running after them, the finder would have to return the items to him. Now, if, as was just said, the Braisa is discussing a case where the owner could save the items, even without running after them they would have to be returned!? **A:** The case is where the items can be saved only with difficulty. Therefore, if he is seen running after them it shows that he is not meya’esh. If he does not run after them, it shows that he is meya’esh.
  - **Q:** A Braisa says, that if someone separates terumah from another person’s produce, if when the owner discovers what has taken place, he shows that he is in agreement, the terumah is valid. Now, at the time it was separated the owner was not yet aware. This shows that since he later consents to the act, it is considered consent earlier as well, and is a proof to **Rava!**? **A: Abaye** would explain the Braisa as dealing with an appointed shaliach who separated the terumah. In fact, that must be the case, because a pasuk teaches that terumah can only be separated with knowledge of the owners. The case is that the shaliach took terumah from high end produce, which is normally not done. Therefore, if the owner later consents to the use of this high end produce for the terumah, it is valid. If not, it is not.
  - **Q:** A Braisa says, if dew falls on produce and the owner is happy that the dew is on the produce, it becomes “muchshar l’kabel tumah” (susceptible to becoming tamei) from coming into contact with the dew. However, if the owner first finds out that dew was on the produce after it was already dry, it does not become muchshar l’kabel tumah, since he wasn’t aware while the dew was still on the produce. We see that a later thought is not considered to have been in place earlier. The same would be true for yi’ush, and this is a proof to **Abaye!**? **A:** That case is different, because the pasuk says “ki yitein”, which teaches that the owner must himself make the produce wet for it to become muchshar l’kabel tumah.
    - **Q:** If so, why does it become muchshar in the first case? **A:** That is based on the teaching of **R’ Pappa**, who said that the pasuk is written as saying “ki yitein”, but is read as “ki yutan”. This teaches that even if the liquid goes onto the produce on its own, and the owner is happy about it while it is still wet, it becomes muchshar for tumah.
  - **Q: R’ Yochanan in the name of R’ Yishmael ben Yehotzadak** taught from the pesukim that an item swept away by a river is mutar to be kept by the one who finds it. This is true whether it has a siman or not. This also teaches that when an item is otherwise lost, it may not be kept, also whether it has a siman or not. Now, according to **Abaye** this can be explained as talking about before the owner has yi’ush, and that is why even without a siman it may not be kept. However, according to **Rava**, an item without a

siman can always be kept since the person will be meya'esh!? This is a **TEYUFTA** of **Rava**. This is one of the instances in which we pasken like **Abaye** in the acronym of "yaal kigam".

- **Q: R' Acha the son of Rava** asked **R' Ashi**, if **Rava** is refuted, how is it that we are allowed to eat the dates that have been blown off the trees by the wind? **A: R' Ashi** said, since there are animals and bugs that eat them when they fall from the tree, the owner is meya'esh from fallen fruit even before they fall.
  - **Q:** What about minor orphans, who own trees, and are not capable of making something hefker? **A:** Since most trees are owned by adults capable of being mafkir, we may assume the fallen fruit is from a tree owned by an adult.
  - **Q:** What if we know that the tree belongs to minor orphans? What about if the tree is surrounded by a stone wall, which protects the fallen fruit from animals and insects? **A: R' Ashi** said, in these cases the fallen fruit would be assur to take.

#### KRICHOS BIRSHUS HARABIM HAREI EILU SHELO

- **Rabbah** said, this is true even if there is a siman on it. We see that **Rabbah** holds that a siman that tends to be trampled upon (like this siman in the reshus harabim) is not considered to be a siman at all (the owner does not rely on this siman to remain in existence). **Rava** said, the Mishna is discussing a bundle that does not have a siman. We see that **Rava** holds that a siman that tends to be trampled upon (like this siman in the reshus harabim) is considered to be a siman (the owner does rely on this siman to remain in existence). **Others** taught this as being a machlokes between **Rabbah and Rava** directly about whether a siman that tends to get trampled upon is considered to be a siman.
  - **Q:** Our Mishna said that if small bundles are found in the reshus harabim they may be kept by the finder, and the next Mishna says that if they are found in the reshus hayachid they may not be kept and must be announced. Now, if there is no siman, why can't they be kept when found in the reshus hayachid, and what exactly is the finder announcing? Rather, the case must be where there is a siman and we see that if found in the reshus harabim it may still be kept. This refutes **Rava**!? **A: Rava** will answer, the case is where there is no siman. With regard to the question of what is the finder to announce when it is found in the reshus hayachid, he is to announce the location in which it was found. **Rabbah** would disagree with this, because he holds that the location of a lost item cannot serve as a siman. In fact, we find that **Rabbah and Rava** argue directly about whether location can serve as a siman.
  - **Q:** A Braisa says, if small bundles are found in the reshus harabim they may be kept by the finder. If found in the reshus hayachid they must be announced. If large bundles are found, even if they are found in the reshus harabim they must be announced. Now, how will **Rabbah and Rava** each explain this Braisa? **A: Rabbah** will say the case is that the bundle has a siman, which is why in the first case it may be kept when found in the reshus harabim (he holds that since it will be trampled it is not treated as a siman) and may not be kept when found in the reshus hayachid. In the case of the large bundles, since they are too tall to be trampled upon, even when they are found in the reshus harabim the siman is considered valid and they may not be kept. **Rava** will say that the siman is the location in which it was found. Therefore, regarding small bundles in the reshus harabim, since they get moved around, the location cannot act as a siman and the finder may therefore keep it. When found in the reshus hayachid (where it does not get moved around) it may not be kept. With regard to large bundles, since they are heavy and don't get moved around even the reshus harabim, they may never be kept.
  - **Q:** Our Mishna said, loaves of bread of a baker that are found may be kept by the finder. This suggests that loaves of home baked bread may not be kept. Presumably this is because home baked bread has a siman and is recognizable as to who baked it. Presumably it would therefore have to be returned even when found in the reshus harabim. This shows that a siman that tends to be trampled upon is still considered to be a siman, and refutes **Rabbah**!? **A: Rabbah** would say, the reason bread is considered to have a siman is because people would not pass by bread and leave it on the ground. Therefore, the siman remains intact.

- **Q:** There are goyim who presumably would leave bread on the ground and kick it around, making it lose its siman!? **A:** Even goyim would not step on bread, because they are concerned that the bread has a spell placed on it through witchcraft.
- **Q:** There are animals and dogs that surely kick around the bread!? **A:** The Mishna is discussing a place in which animals and dogs are not commonly found.