

Lost Property Part III

Based on a Naaleh.com shiur by Dayan Shlomo Cohen

There are six conditions needed in order for a finder to be obligated to return property. The first condition is if you find the property in a place where one would be obligated to return it. This doesn't include a public place or a location where only honest people are usually found (a *yeshiva*) where people would seek to return lost items. The second condition is that the item must be lost and not intentionally left there. Were you find unguarded property which looks like it was left there intentionally, whether or not it has *simanim*, one should leave it there. By taking it you can cause a lot of problems for yourself and the owner. If it has no *simanim*, once you take it, you now have the obligation to return it, but if it has no *simanim* you may end up returning it to the wrong owner and then owe the value of the item to the real owner. If you just leave it, maybe the owner might come and retrieve it later. Even if it has *simanim*, it could still create problems as it doesn't always mean you could find the owner. Therefore anything that seems like it was intentionally left and even if there's a doubt, shouldn't be touched.

If you do pick it up you have an obligation to

return it. If it has *simanim* you have to announce your find and try to find the owner. If there are no *simanim* then according to some *poskim* you can take it for yourself as we can presume its *hefker*. According to other *poskim* you have to keep it until Eliyahu Hanavi comes and tells you who the owner is. You can make a note of the find and its value and either take it for yourself or dispose of it. When the finder is identified you will then have to pay him the value of the item.

According to some authorities the main factor is whether the location is in a protected location or not. If it was found in a protected location, even if it has no *simanim* and even if it looks like it fell, it should be left where it is. Perhaps the owner will return and find it. If the finder picked it up and has left the place, then he now has an obligation to find the owner. If there are *simanim*, he must announce the find and if there aren't *simanim* he must keep it until *Eliyahu hanavi* comes. Although the owner knows he has lost the item, we can't presume he gave up hope as it is in a protected location. If you pick up an item in an unguarded location you are now responsible

for it and cannot put it back; it can be put back if it was in a guarded location. However, if you've moved a considerable distance away, it won't help to return it as the original owner may have come back and looked for it in the interim. You would now be responsible to find the owner and give it back. According to these *poskim* if the item was found in an unguarded location although it looks like it was placed there and there are *simanim*, you should try to return it. If there are no *simanim* and it's in an unprotected place, you can take it for yourself on condition its been there for a while and the owner knows he's lost it.

Where the location of the lost property is partially protected and it looks like it was left there intentionally, one shouldn't touch it. If there's a doubt whether it was left there or it fell, if there are *simanim* one should take it and try to find the owner. If there are no *simanim* we can't presume the owner has given up hope, because maybe it's not lost property at all. One should not take it and if one does, one would be required to hold onto it till *Eliyahu hanavi* comes.

The Halachot of Shema

Based on a Naaleh.com shiur by Rabbi Ari Jacobson

In *Seif heh* the *Kitzur Shulchan Aruch* points out that one may not interrupt in the middle of reciting the first verse of *Shema* and *Baruch Shem* except when there's danger to life. The actual text of the *Shema* ends with *Ani Hashem Elokeichem* however we associate it with the next paragraph beginning with *Emet*. Since the *Navi Yirmiyahu* puts *Elokim* and *Emet* together we do not interrupt between them.

In *Seif beit* the *Kitzur* enumerates the sections of *Shema* and states that the ending of *Ahavah Rabbah-Habocher b'amo* has the din of between paragraphs which would allow one to answer *amen* and to *kedusha*. This is the opinion of the *Rema*. However the *Shulchan Aruch* disagrees and rules that if one completed *habocher b'amo* one is not allowed to answer *amen* to the *bracha* of the *chazan* and certainly not to other *brachot*. The

Chofetz Chaim suggests a solution to end the *bracha* in unison with the *chazan*.

The basis of this dispute is how do we view *Ahavah Rabbah*. Is it simply a *bracha* praising Hashem similar to *yotzer hameorot* and as such would be governed by the same *halachot*. Or do we say that it is a *bracha* said before *kriat shema*. If so, then the *Shulchan Aruch* is correct as one may not interrupt between a *bracha* and the *mitzvah*. The *Rema* disagrees and maintains that *Ahavah Rabbah* is a *bracha* of praise and not a *birchat hamitzvah*. A *mitzvah* that is not action based but rather speech based doesn't require a *bracha* because it's meant to compel us to concentrate and adding more speech won't help. This is why according to Rav Yaakov Lisa there is no *bracha* on *sipur yetziat Mitzrayim*.

Halacha states that one should juxtapose *Ga'al Yisrael* and the beginning of *Shemonei*

esrei and one shouldn't interrupt except when there's a danger to life. However, some maintain that one could answer amen. Here too the *Mishna Berura* suggests that one should finish the *bracha* in unison with the *chazan*.

If you start *davening* before the *zeman* of *tallit* and *tefillin*, you can don *tallit* and *tefillin* before *Baruch shemar* or you could wait till after *Yishtabach* before *Barchu* and make the required *brachot*. Alternatively you can put on *tallit* and *tefillin* at the beginning without the *brachot* and recite it after *Yishtabach* before *Kadish*. However, if you started davening at 6:00am and the *minyan* moved quickly and it's still not the *zeman* of *tallit* and *tefillin*, what should you do?

The practice of *Ashkenazim* is to wait until one is between paragraphs and then put on *tefillin*

Continued on page 2

The Halachot of Shema

Based on a Naaleh.com shiur by Rabbi Ari Jacobson
Continues from Page 1

and recite the *bracha* as one must wear *tefillin* while reciting *shema*. However one should wait to say the *bracha* on the *tallit* after *shemone esrei*.

The earliest time one may recite *Shema* coincides with the earliest time for *Tefillin*. The *Mishna* in *Megila* teaches us that the day begins at daybreak which is 72 minutes before sunrise. The *chachamim* ruled that daytime *mitzvot* should not be performed before sunrise, although if there is no choice they can be performed after daybreak. With *Shema* the *halacha* is different as the obligation depends upon the normal time when people go to sleep and get up. The Rambam explains that since you have some people who get up at daybreak it's considered

a time when people get up. However, since the majority of people only get up a little later, ideally one should wait until *misheyaker*- when one can differentiate between the turquoise and the white of a single thread. The Gemara says this corresponds to when one can already recognize an acquaintance from six feet away, about 15 minutes after daybreak, a little less than an hour before sunrise.

A second reason for waiting for *misheyakar* is because the third section of *Shema* relates to *tzizit* and its only right that we should associate *Shema* with the *zeman* of *tzizit*. If there is no choice one can recite *Shema* beginning at daybreak until the latest time which is a quarter of a day. There are two basic opinions that are used in calculating the hours of a day.

The view of the Gra is to take the hours between sunrise and sunset and divide it into 12 parts -a *shaah zmanit* is a relative hour which can change in summer and winter based on length of day and it would be 3 relative hours after sunrise. According to the Magen Avraham the calculation begins with daybreak until the stars come out which is a longer period. The common view in the US is to follow the Magen Avraham which is always 36 minutes before the Gra. In Israel different calculations are used. One may not recite *Shema* after *zeman kriat shema*. Ideally one should fulfill the *mitzvah* in conjunction with the other *brachot* but if one doesn't have a choice, one should recite the *Shema* before davening.

Tehilim 140: Condemnation of the Cruel Persecutor

Based on a shiur by Dr. Esther Shkop

Arno Hertzberg, editor of the JTA in Nazi Germany recorded his experiences under the Nazi regime. Beginning in 1936, there was strong censorship and the Nazi government had to approve all news that the JTA disseminated. He writes how they were still allowed to include references from the 133rd psalm, "From the depths I called out to you Hashem." But it was considered a terrible provocation when they mentioned a verse from the 140th psalm indicating the troubles they were dealing with – "Rescue me, Hashem, from an evil man."

According to *Redak* this *mizmor* was written by David Hamelech when he was being persecuted by Doeg Haedomi who aided Shaul Hamelech. *Seforno* writes that this *mizmor* was included towards the end of Tehilim among other *mizmorim* that deal with troubles that occurred after the *Churban*. This

is because this *mizmor* in some respects is indicated for our days before *Mashiach* comes when we will experience terrible persecution. The *Malbim* explains that an "evil man" refers to someone who tortures for sadistic pleasure, a "man of robbery" refers to someone who confiscates property for financial benefit. We know that the Nazis continued to persecute the Jews even when it was at the cost of winning the war. *Redak* and *Ibn Ezra* say *yagiru* means they gather allies to fight wars. And in WWII we saw this played out as Mussolini and the Japanese joined Germany, not because they had anything in common, but to plan wars together so they could create domination.

"Guard me, O Hashem, from the hands of a wicked man; from a man of robbery." The sadist and the opportunist join together to plan out how to make me trip and fall. These arrogant people have set a trap for me near the place where I regularly walk. "O Hashem,

do not grant the desires of the wicked; do not let his thoughts succeed, for they are constantly haughty." *Meforshim* explain- They will lift up their heads thinking they can get away with their evil plans. "Let fiery coals descend on them; He will cast them into fire, in wars, so that they will not rise." *Metzudah* says *b'maamorot* refers to caves used for burial catacombs, designed like tunnels for mass burials.

"I know that Hashem will perform the judgment of a poor man, the cause of the needy. But the righteous will thank Your name; the upright will sit before You." Hashem will vindicate and find justice for the poor person and only the righteous will acknowledge and thank your name. The psalmist knows that in *olam haba* he will have some sort of recompense and that only the *tzadikim* and the *yesharim* will merit to sit in the presence of Hashem.