The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, May 6 2023 ■ ט"ו אייר תשפ"ג
סימן רס"ו סעיף י'-י"ג

Overview

Siman 266 Seif 10:

If it became dark and one is wearing his tefillin or if he is sitting in the bais hamidrash in the field and it becomes dark, he should cover them until he reaches home and if there is a house near the wall in which the tefillin will be protected he should leave them there.

Siman 266 Seif 11:

If one was carrying a package on his shoulder and Shabbos began, he should run all the way home. He must specifically run and may not walk slowly out of concern that without a reminder he may "uproot" and "place down" the object since he may unwittingly stand but if he runs that will serve as a reminder. When he reaches home in order that he should not stand momentarily and thereby transport the item from the public domain to a private domain he should throw the package in an unusual manner, e.g. from his shoulder or backwards.

- If he does not rest then the object was never "uprooted" on Shabbos. This procedure may be followed only when the previously discussed procedures are not an option. (M.B. 29)
- Pausing to adjust the package is not considered "placed down." (M.B. 30)
- One should turn his back towards the chatzer and then throw it from his shoulder. (M.B. 32)

Siman 266 Seif 12:

Some maintain that this is allowed only for a package to the exclusion of a wallet but others permit it even for a wallet. If one forgot that he is carrying his wallet and is in his house he may go to a room to untie his belt so that it should fall in a hidden location. If he realizes in the market, it is prohibited to carry it home. He should untie it in the market so that it falls and instruct a gentile to guard it and there is no issue if the gentile carries it to the owner's home. See below siman 310 for what to do if the wallet is sewn onto one's garment.

- Since a wallet is light, running will not serve as a reminder. (M.B. 33)
- One who follows the lenient position will not lose. Magen Avrohom in the name of Shiltei Giborim suggests that if it is not actually a public domain all authorities would permit it. (M.B. 34)
- Once the muktzah is in one's hand he may walk where he wishes although Vilna Gaon is stringent about this matter. If untying the wallet will cause a loss it is possible that even Vilna Gaon would permit it. (M.B. 35)
- The same applies to an alleyway for which they did not make a shituf. If one fears that gentiles will take it from the market he should run home as long as he did not stop walking from the time that he realized that he had the wallet. (M.B. 36)
- If one is afraid to trust him he may instruct him to carry it to his home and this is the preferred option when available. (M.B. 37)

Siman 266 Seif 13:

If one finds a wallet on Shabbos it is prohibited to take it even though one is concerned that someone else will take it.

- There is a disagreement whether one may ask a gentile to take it to his home. Rav Akiva Elger only permits asking the gentile to pick it up but it is acceptable if at that point the gentile decides to carry it to the finder's home. (M.B. 38)

Halacha Highlight

Acquiring property that is hefker

Shulchan Aruch Siman 266 Seif 13
מצא ארנקי בשבת
If one finds a wallet on Shabbos

Shulchan Aruch (סע' י"ג) rules that one who finds a wallet on Shabbos may not take it even though he fears that someone will else will then take it. It is even prohibited to pick it up and hold onto it without transporting it due to the prohibition of muktzah. The rationale for leniency that has permeated this siman which is to prevent a person from suffering a financial loss does not apply since this wallet was never his in the first place. There is a disagreement whether one may ask a gentile to take possession of the lost wallet. Rav Akiva Eiger contends that one may only ask the gentile to pick up the wallet but it is prohibited to ask him to transport it to one's home. In the event that he decides on his own to transport it to the finder's house it is unnecessary to restrain him from doing so (מ"ב ס"ק ל"ח).

From the Mishnah Berurah's explanation it is clear that there are two issues that prevent the finder from taking the wallet. The first is the prohibition against transporting it four amos in the public domain and the second is the prohibition of muktzah. In the event that one finds a lost object that is not muktzah in an area surrounded by an eruv where it is clear that it is permitted for the finder to take possession of the lost object for himself, there is a dispute whether it is permitted. According to many authorities it is prohibited even in this case for the finder to take possession of it since it is prohibited to perform a proprietary act –קנין—on Shabbos. According to others the very fact that this concern was not raised by the earlier Poskim proves that there is no issue to acquire something from hefker since it does not involve a transfer of ownership from one person to another (פסקי תשובות אות ז').