

פרק המפקיד לתלמידים

A STEP BY STEP GUIDE

VOLUME ONE: UNITS 1 - 41

בבא מציעא

דף לג: - לח:

לה' הארץ ומלואה

THIS SEFER BELONGS TO:

PEREK HAMAFAKID LETALMIDIM
VOLUME ONE

Copyright © 2017 Benyomin Simpson

30 South Monsey Rd.
Airmont, NY 10952

For orders:
(917) 318 – 0112
letalmidim@gmail.com
www.letalmidim.com

All rights reserved. No portion of this book may be copied or stored in any way
without prior written permission from the copyright holder.

ISBN 978-1-7326789-0-3

Printed in the United States of America

ב"ה
מנחם אב ה'תשע"ז

With thanks and appreciation to ה' יתברך, I am presenting "פרק המפקיד לתלמידים". My hope is that many talmidim will benefit from this sefer in gaining a clear understanding of the גמרא, mastering basic גמרא skills and developing a love and excitement for לימוד התורה.

I must express much הטוב הכרת to my wife and family for their support and encouragement, to my father for his perceptive editing and revisions, and to my talmidim for their insights and corrections.

This sefer is the culmination of years of work and countless hours of research, development and design. Please do not copy or reproduce this sefer in any way without written permission. If anyone has corrections or comments please contact me at the email address below.

May ה' יתברך continue to give us the כח to grow in לימוד התורה and may we be זוכה to the time when ה' כמים לים מכסים

Benyomin Simpson

Monsey, New York

letalmidim@gmail.com

TABLE OF CONTENTS

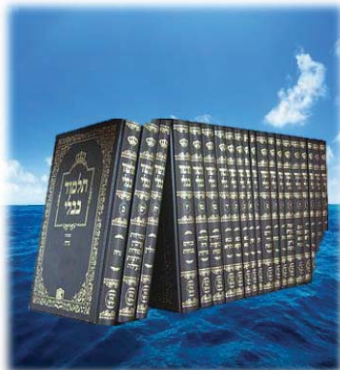
INTRODUCTION.....	1-5
UNIT 1 – FOUNDATIONS OF פרק המפקיד.....	6-14
UNIT 2 – WHO GETS THE כפל?.....	15-17
UNIT 3 – כלים AND בהמה.....	18-22
UNIT 4 – NOT YET IN THE WORLD.....	23-28
UNIT 5 – THE COW ITSELF IS GIVEN TO THE שומר FROM THE BEGINNING.....	29-32
UNIT 6 – THE COW ITSELF IS GIVEN TO THE שומר RIGHT BEFORE THE THEFT.....	33-36
UNIT 7 – IT’S ENOUGH JUST TO SAY.....	37-42
UNIT 8 – רב פפא – כפל FOR COMMITTING TO PAY.....	43-45
UNIT 9 – רב זביד – FOR A שואל TALK IS CHEAP.....	46-47
UNIT 10 – REFUTATION OF רב פפא OR NOT?.....	48-53
UNIT 11 – ONE CLEAR CASE, 11 QUESTIONABLE CASES.....	54-63
UNIT 12 – משנת שבועות AND THE QUESTION FROM THE מנהל הדין.....	64-73
UNIT 13 – FOUR ANSWERS: BURNT, STOLEN, FOUND AFTER, WHO SWEARS FIRST.....	74-78
UNIT 14 – ROLL ON שבועה, TRUST OR NO TRUST.....	79-83
UNIT 15 – THE CASE OF THE MISSING RINGS.....	84-88
UNIT 16 – שומא הדר.....	89-92
UNIT 17 – FIVE CASES OF שומא.....	93-105
UNIT 18 – WHEN THE מלוה CAN START EATING THE FRUIT.....	106-108
UNIT 19 – השוכר פרה מחבירו והשאלה לאחר.....	109-112
UNIT 20 – 100 DAYS OF RENTING AND BORROWING.....	113-119
UNIT 21 – חטאת ואשם – רבי ירמיה.....	120-127
UNIT 22 – שומר שמסר לשומר.....	128-134
UNIT 23 – SPECIAL PERMISSION.....	135-139
UNIT 24 – THE שומר’S FAMILY.....	140-143
UNIT 25 – רבא – I ONLY TRUST YOUR שבועה NOT HIS!.....	144-147
UNIT 26 – COW IN THE MARSH.....	148-154
UNIT 27 – רבא ADMITS AND רבא ADMITS.....	155-157
UNIT 28 – רבא’S QUESTION ON רבא.....	158-160
UNIT 29 – THE MOUNTAIN PEAKS.....	161-164
UNIT 30 – הלכה כרבי יוסי.....	165-168
UNIT 31 – FOUR CASES OF MONEY IN DOUBT.....	169-173
UNIT 32 – RESOLVING THE CONTRADICTIONS IN THE משנה.....	174-179
UNIT 33 – RESOLVING THE CONTRADICTION ABOUT גזל.....	180-184
UNIT 34 – CLARIFYING רבא’S OPINION.....	185-191
UNIT 35 – RESOLVING THE CONTRADICTION IN THE OPINION OF רבא.....	192-199
UNIT 36 – RESOLVING THE CONTRADICTION IN רבא.....	200-203
UNIT 37 – THE NEED FOR BOTH CASE 3 AND CASE 4.....	204-208
UNIT 38 – ROTTING PRODUCE.....	209-215
UNIT 39 – RATE OF LOSS.....	216-225
UNIT 40 – THE שרייתא OF SPOILING FRUIT, WINE, OIL AND HONEY.....	226-233
UNIT 41 – הלכה BY DIMINISHING FRUITS.....	234-236
CREDITS & ATTRIBUTIONS.....	237-239

פרק המפקיד לתלמידים INTRODUCTION TO



Learning how to learn גמרא is one of the most important skills a talmid can master. גמרא is where one learns to appreciate the teachings of תורה שבעל פה - the Oral Torah. In גמרא one discovers how the משנה of the דינים are learned from the פסוקים, how the חכמים dealt with challenging questions and contradictions, and how they applied the wisdom of the תורה to everything in the world.

Learning גמרא properly can become a most rewarding experience. It can sharpen and develop your thinking and understanding like nothing else in the world. The גמרא is also full of stories and lessons which guide and inspire us in our עבודת ה'. In learning גמרא, one learns how to think, feel and act like a Yid. Above all, by learning גמרא you fulfill the מצוה of תלמוד תורה and connect your mind to חכמה ה' found in each and every word.



The גמרא is known as the ים התלמוד – “the Sea of the Talmud” – as it is vast, covering thousands of pages and dealing with every topic imaginable. Many bookshelves of ספרים have been written over the generations examining and explaining the גמרא from every angle. You will go on to spend the majority of your time in yeshiva focusing on navigating this sea and spend hundreds and thousands of hours discovering its depth.

However, as many talmidim begin their journey in the “ים התלמוד”, they discover that learning גמרא can be very challenging. The questions and answers of the גמרא use a system of logic that takes time and experience to master. There are often foundational concepts and background information with which an average talmid may not be familiar. In addition, there are important details, explanations and questions brought up by רש"י and תוספות. Often, even after successfully learning a piece of גמרא, one may feel lost in the details and struggle to see the bigger picture and main points of the discussion.



פרק המפקיד לתלמידים INTRODUCTION TO



In addition to all the above, the גמרא is written in Aramaic – an unfamiliar language that must be learned! To top it all off, a standard גמרא does not have vowels or punctuation, so without experience, one may not know how to read the words properly, whether the words are a statement, question or an answer, and when one sentence ends and a new sentence begins. This leaves many talmidim feeling confused and overwhelmed, lost in the “ים התלמוד” without a compass to navigate them to success.

This ספר - המפקיד לתלמידים - was created to provide you with many of the tools you will need to learn and excel in גמרא. By introducing the background of each section, providing an exciting and clear presentation of each of the steps of the גמרא and a framework to learn the translation and reading skills, this ספר will, בעזרת ה', enable you to achieve mastery of the basics of גמרא learning.



To accomplish this goal, we have divided the learning into three general parts:

PART 1 - UNDERSTANDING

Many sections have foundational concepts or background information that you need to know *before* beginning the actual discussion. After mastering the background material, you will proceed to learn each step of the גמרא's discussion. This includes the statements, questions, answers, and conclusions known as the “שקלא וטריא” – the “back and forth” of that section. Often, while learning these “steps”, it is important to emphasize important concepts that are relevant to the discussion and explore questions brought up by רש"י and other מפרשים. After learning the שקלא וטריא, there is a summary of what has been learned to ensure that the main points and conclusions of the גמרא are clear.

PART 2 - READING

Each section has a WORD BANK to learn new words and phrases. Sometimes there are also KEY WORDS. These are words that come up often in the גמרא. They can help you identify when the גמרא is asking a question, giving an answer or bringing a proof. Then there is an exercise in which you label each step of the גמרא. This helps one connect the understanding of the גמרא to the text.

PART 3 – REVIEW

After learning through each section, there are review questions to reinforce the understanding of the גמרא and fun activities to review the translation of the words.

פרק המפקיד לתלמידים INTRODUCTION TO

In each of the sections, there are icons to identify what is being learned:

SECTION 1 - UNDERSTANDING



FOUNDATIONAL CONCEPTS AND
BACKGROUND INFORMATION



DIGGING DEEPER
INSIGHTS FROM תוספות, רש"י
AND OTHER מפרשים



IMPORTANT
INFORMATION OR FACTS



REMINDER OF PREVIOUSLY
LEARNED INFORMATION
IMPORTANT FOR THIS GEMARA

**DID YOU
KNOW?**

INTERESTING FACTS TO EXPAND
YOUR KNOWLEDGE



SUMMARY OF THE MAIN POINTS
OF THE GEMARA

COLOR MAP:

The steps of the גמרא are color coded:

BLUE = statement, RED = question, GREEN = answer,
BROWN = support, GRAY = explanation.

פרק המפקיד לתלמידים INTRODUCTION TO

SECTION 2 – READING



WORD BANK
NEW WORDS AND PHRASES



THE MEANING OF KEY GEMARA
WORDS AND HOW THEY ARE USED



LABELING THE STEPS OF THE
GEMARA – CONNECTING THE
UNDERSTANDING TO THE WORDS

MEANING OF SHAPES FOR LABELING:

() - QUOTE FROM A MISHNA

○ - QUESTION

△ - ANSWER

□ - PROOF OR SUPPORT

◇ - STATEMENT

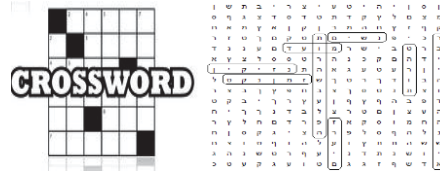
○ - EXPLANATION

1 2 3 - LABEL THE STEPS BY NUMBER

SECTION 3 – REVIEW [SEPARATE WORKBOOK]

**TIME FOR
REVIEW**

REVIEW QUESTIONS FOR
REINFORCING UNDERSTANDING



FUN ACTIVITIES TO REVIEW NEW
WORDS AND PHRASES

פרק המפקיד לתלמידים INTRODUCTION TO

TIPS



In each unit, first read through each part of the UNDERSTANDING section (see above) and fill in the blanks. The blanks are there to help you focus and make sure you understand each step of the גמרא. Most of the time, you can figure out the missing word from the context of the paragraph.



The SUMMARY can be very helpful and will enable you to see how well you really understood the main points of the גמרא.



You may want to skip the DIGGING DEEPER discussions until you have read the UNDERSTANDING section several times.



In the READING section, you will learn KEY WORDS and how they are used. After that, with your teacher's help (or using an English גמרא), fill in the translations in the WORD BANK.



Now you can do the LABELING. Here is where you get to see the flow of the גמרא's discussion in the words of the גמרא. For this part, it is best to put the symbol (circle, triangle, etc.) *on top* of the *first* word of the גמרא that matches that step.

For example: The גמרא brings אביי's question and רבא's answer. Here is how to label it:



אמר ליה אביי לרבא: לדיך דאמרת... אמר ליה: לדיכו דמתניתו...  



After learning a unit or group of units, it's time for the REVIEW QUESTIONS. These questions follow the flow of the units, so it is best to read the units again and fill out the questions as you go.



Last but not least, have fun with the CROSSWORDS and WORD FINDS which help reinforce the גמרא's words and their meanings.

VERY IMPORTANT:



Once you have mastered all of the above, review it well in a regular גמרא. Look at the icon at the bottom of each page to find the דף.

UNIT 1 - FOUNDATIONS OF פרק המפקיד



In פרק המפקיד we will discuss many cases about someone who deposits his property by a friend. We will learn about the responsibilities that this friend has in watching over the owner's property.



Here are some important words to learn:

- The object being deposited is called a _____.
- The owner of the object is called the _____.
- The owner is also called a מפקיד – “someone who deposits”.
- The person watching the object is called a _____.



This kind of situation comes up all the time in everyday life. We often ask people to watch things for us. When nothing goes wrong and the שומר is able to return the object when the owner comes back, everyone is happy. But what happens if the object gets lost, stolen, or damaged? Is the שומר responsible? Does he have to pay for the object?

In this פרק we will discover that the answer to these questions will depend on a number of factors. Was the שומר *paid* to watch the object or not? Was he *borrowing* the object, *renting* the object or just *watching* it? Did the שומר watch over the object *properly* or was he *careless*? Was the object stolen or lost, or was it destroyed in a different way? Only after we know all of the details can we figure out what the הלכה should be.





Let's divide the possibilities into the following two general categories:

- TYPE OF שומר
- WHAT HAPPENED

UNIT 1 - FOUNDATIONS OF פֶּרֶק הַמִּפְקִיד

שׁוֹמֵר TYPE OF

The four possible ways someone could be watching over his friend's object:

1		<p>שׁוֹמֵר חָנָם – UNPAID WATCHMAN Someone who is watching an object without getting _____.</p>
2		<p>שׁוֹמֵר שָׂכָר – PAID WATCHMAN Someone who is watching an object and is getting _____.</p>
3		<p>שׁוֹכֵר – RENTER Someone who pays money to be able to _____ an object.</p>
4		<p>שׁוֹאֵל – BORROWER Someone who borrows an object without having to _____.</p>








The שׁוֹמֵר חָנָם and the שׁוֹמֵר שָׂכָר are only *watching* the object and may not *use* it. The שׁוֹכֵר and the שׁוֹאֵל have permission to *use* the object. Of course, they must *watch* it properly as well.

If a שׁוֹמֵר חָנָם or שׁוֹמֵר שָׂכָר *uses* the object for himself, it is called שְׁלִיחוֹת יָד – “Sending one’s hand into the owner’s property”. In such a case, the שׁוֹמֵר will be responsible for whatever happens to the object.

UNIT 1 - FOUNDATIONS OF פרק המפקיד

WHAT HAPPENED

	<p>פשיעה</p> <p>The שומר was careless or negligent. Example: The שומר left the gate _____ and the cow escaped.</p>
	<p>גניבה</p> <p>The object was _____.</p>
	<p>אבידה</p> <p>The object was _____.</p>
	<p>אונס</p> <p>The object was destroyed/taken away due to an unpreventable circumstance. Example: Wild animals or <i>armed</i> robbers took the object.</p>
	<p>מיתה מחמת מלאכה</p> <p>The animal (or object) died (or broke) while doing it's normal work. Example 1: The cow died while _____ the field. Example 2: The hammer broke while _____ in nails.</p>



- The הלכה is that if the animal died (or the object broke) while doing it's normal work, then the שומר will be פטור from paying. This is because the שומר can say to the owner, "I borrowed the cow in order to *use* it, not to keep it in the barn. Why should I be responsible to pay for the animal if it died while I was using it?"
- The דין of מיתה מחמת מלאכה only applies to a שוכר or שואל who are *allowed* to use the animal (or object), not to a שומר חנם or שומר שכר who *may not* use it.

UNIT 1 - FOUNDATIONS OF פרק המפקיד



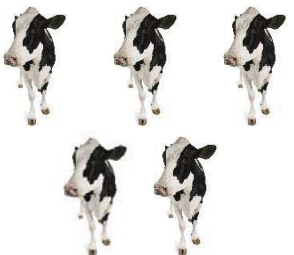
ADDITIONAL CONCEPTS

בעליו עמו – THE OWNER WAS WITH HIM

 <p>משאיל</p> <p>Sure!</p>	 <p>שאילה</p>	<p>Can I borrow your ball? Also, can you help me carry some groceries into my house.</p>  <p>שואל</p>
---	--	--

If someone *borrow*s an object or an animal, he is generally responsible for anything that happens to it. However, the תורה makes an *exception*: If someone borrows an object and at the same time also “hires” or “borrows” the *owner* of the object, then the שואל (the borrower) will be פטור - exempt from paying - if the object was lost or stolen. This is called the rule of בעליו עמו – “The owner was with him”.

DOUBLE AND FOUR / FIVE – ארבעה וחמשה AND כפל

	<p>כפל - DOUBLE</p> <p>If someone steals and is caught, he must pay back _____ the amount that he stole.</p>
	<p>ארבעה – FOUR</p> <p>If someone steals a sheep <i>and slaughters it or sells it</i>, he must pay back the value of _____ sheep.</p>
	<p>חמשה – FIVE</p> <p>If someone steals an ox <i>and slaughters it or sells it</i>, he must pay back the value of _____ oxen.</p>

פרק המפקיד - FOUNDATIONS OF UNIT 1



QUESTION: Why does someone who steals have to pay back *double*?

ANSWER: To pay back double, the גנב must not only return what he stole but also lose from his own money the same amount that he stole from his friend. This will make him feel the pain he caused to his friend and discourage him from stealing again. (רמב"ם)

QUESTION: Why is it that a גנב who slaughters or sells a *sheep* pays only 4 sheep, while a גנב who slaughters or sells an *ox* pays 5 oxen?

ANSWER 1: Oxen are able to do work. Sheep do not work. By stealing an ox and then slaughtering or selling it, the גנב causes the owner a loss, since he will not be able to work his field. Therefore, he pays the higher amount of 5. By stealing a sheep and then slaughtering or selling it, the גנב does not cause the owner a loss of work. Therefore, he only pays 4. (רבי מאיר)

ANSWER 2: When someone steals a sheep, he carries it on his shoulders which is considered embarrassing. Because of this embarrassment, he only pays 4. When someone steals an ox, since it is too heavy to carry, he must make the ox walk. Since he was not embarrassed, he must pay 5. (רבן יוחנן בן זכאי)

ANSWER 3: The reason that the תורה requires a גנב to pay a fine of 4 - 5 times for stealing and then slaughtering or selling a sheep or an ox is because this was a common problem. Sheep and oxen roam about in the fields and cannot be contained and watched closely. When a גנב would steal an ox or a sheep, he would quickly sell it so that he wouldn't be caught with it, or slaughter it so that it would be impossible to identify the animal. In order to discourage people from doing this, the תורה placed on a גנב the large fine of paying 4 - 5 times the amount he stole.

This is also the reason why the fine for a sheep is 4 and the fine for an ox is 5. Sheep are easier to keep an eye on as they generally graze close together. Oxen are harder to watch as they spread out to graze. Therefore, it was more common to steal oxen because they are easier to steal than sheep. To discourage this, the תורה set an even larger fine for stealing an ox. (רמב"ם)

פרק המפקיד - FOUNDATIONS OF UNIT 1

שומרים in the תורה about each of the four פסוקים:

SUMMARY	פסוק	
<p>If a גנב stole an object from a שומר he must pay back _____.</p> <p>If the גנב is not found, the שומר swears that he did not do שליחות יד and is _____.</p>	<p>כי יתן איש אל רעהו כסף או כלים לשמר וגנב ... When a person gives his friend money or objects to watch and they are stolen from the שומר, אם ימצא הגנב ישלם שנים: if the גנב is found, the גנב must pay double. אם לא ימצא הגנב ונקרב בעל הבית אל האלקים אם לא שלח ידו במלאכת רעהו: If the גנב is not found, and the שומר goes to שליחות יד and swears that he did not do יד (then he is פטור from having to pay).</p>	<p>שומר חנם</p>
<p>A שומר שכר is _____ for an אונס.</p> <p>He must swear that he did not do _____.</p> <p>A שומר שכר is _____ for גניבה.</p>	<p>כי יתן איש אל רעהו חמור או שור או שׂה וכל בהמה לשמר ומת או נשבר או נשבה אין ראיה: If a person gives his friend an animal to watch and it dies or is broken or is captured (i.e. an אונס occurs) and there are no witnesses, שבעת ה' תהיה בין שניהם אם לא שלח ידו במלאכת רעהו: the שומר swears that he did not do יד (and he is פטור from having to pay). ואם גנב יגנב מעמו ישלם לבעליו: If the animal was stolen, the שומר must pay.</p>	<p>שומר שכר</p>
<p>אם שכיר הוא בא בשכרו: If the object is rented, since it comes to the שוכר through payment of rent, (the שוכר does not have the דין of a borrower). <i>[The תורה does not say clearly what the דין of a שוכר is.</i> <i>The חכמים argue whether the שוכר has the דין of a שומר חנם or a שומר שכר.</i> <i>The הלכה is that a שוכר has the same דין as a שומר שכר.]</i></p>		<p>שוכר</p>

פרק המפקיד - FOUNDATIONS OF UNIT 1

SUMMARY	פסוק	
<p>A שואל is חייב to pay even if there was an _____.</p> <p>The שואל would be _____ if the owner was working for him at the time that he borrowed the object.</p>	<p>וְכִי יִשְׁאַל אִישׁ מֵעַם רֵעֵהוּ וְנִשְׁבַּר אֹזְנֵהוּ בְּעֵלָיו אֵין עִמּוֹ שְׁלָם יִשְׁלַם:</p> <p>If a person borrows an animal from his friend and it breaks or dies (i.e. an אונס occurs) the שואל must pay.</p> <p>אִם בְּעֵלָיו עִמּוֹ לֹא יִשְׁלַם...</p> <p>If the owner was working for the שואל when he borrowed the animal, then the שואל does not have to pay.</p>	שואל



- If any of the four types of שומרים are negligent (פשיעה), they will be have to pay if something happens to the פקדון.
- As mentioned before, the special דין of מיתה מלאכה only applies to a שוכר and a שואל since they have permission to use the object.
- If a שומר חנם or a שומר שכר uses the object they have done שליחות and will be responsible to pay if something happens to the object. That is why the boxes for מיתה מלאכה in the chart below are crossed out by the שומר חנם and the שומר שכר.

Fill in the chart by writing חייב or פטור in each of the boxes:

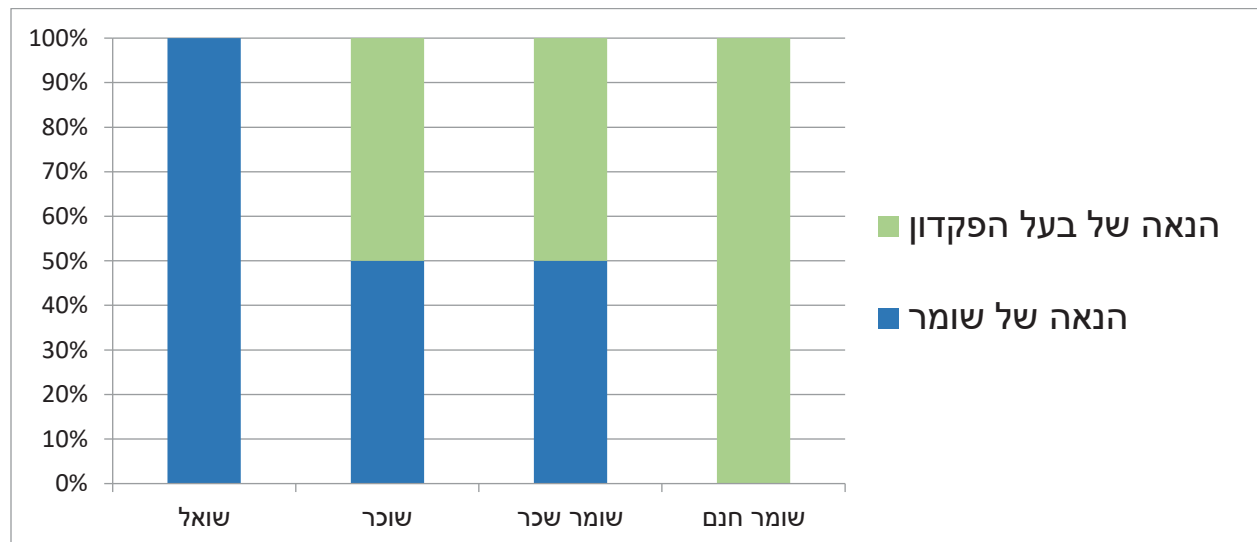
מיתה מחמת מלאכה	אונס	גניבה ואבידה	פשיעה	
XXXXXXXXXX				שומר חנם
XXXXXXXXXX				שומר שכר
				שוכר
				שואל

UNIT 1 - FOUNDATIONS OF פרק המפקיד

To understand why the תורה made the דינים of the שומרים in this way, we must examine the amount of benefit each type of שומר receives:

- The שומר חנם receives no benefit. He is watching the object without getting paid and is not able to _____ it. The owner receives all of the benefit as he gets his object watched without having to _____.
- The שומר שכר receives some benefit since he is getting _____. The owner also receives some benefit since he is getting his object watched.
- The שוכר receives some benefit since he is able to _____ the object. The owner receives some benefit since he is getting paid by the שוכר.
- The שואל receives all of the benefit since he gets to _____ the object or the animal and doesn't have to _____. The owner receives no benefit.

The chart below illustrates the amount of benefit each person receives:



The amount of benefit the שומר receives affects his level of responsibility:

- The more benefit a שומר has, the _____ responsible he is if something goes wrong.
- The less benefit a שומר has, the _____ responsible he is if something goes wrong.

This is why:

- A שומר חנם (who receives **no** benefit) is פטור for everything (except for פשיעה).
- A שואל (who receives **all** of the benefit) is חייב for everything (except for מיתה מחמת מלאכה).
- A שומר שכר and a שוכר (who receive **some** of the benefit) are חייב for גניבה and אונס but are פטור for אבידה.

פרק המפקיד - FOUNDATIONS OF UNIT 1

The chart below summarizes the דינים of the שומרים:

מיתה מחמת מלאכה	אונס	גניבה ואבידה	פשיעה		
X				שומר חנם	ח י ב
X				שומר שכר	
				שוכר	פ ט ו ר
				שואל	



WHO AM I?

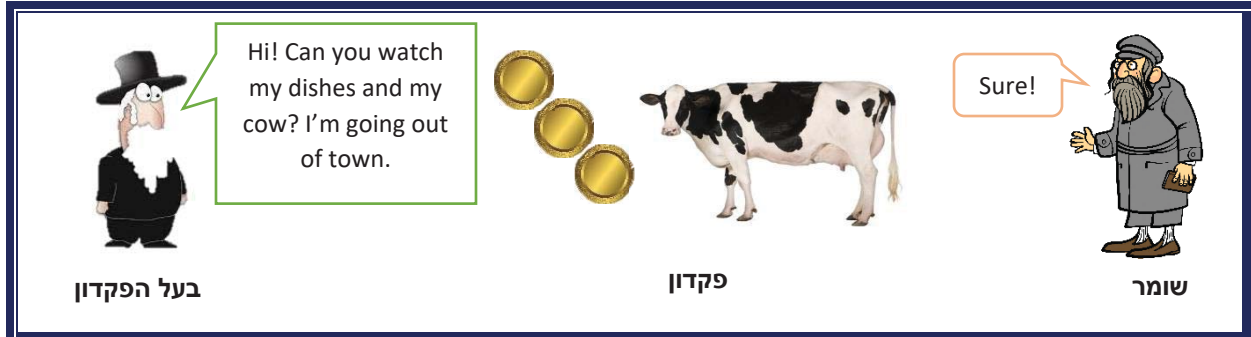
THERE MAY BE MORE THAN ONE ANSWER FOR EACH QUESTION

1. I am responsible to pay for all cases except for מיתה מחמת מלאכה _____
2. I can swear and be פטור if the object I was watching was stolen _____
3. I must pay if the animal I was watching was stolen _____
4. I must pay if I was negligent _____
5. I am responsible even if an אונס happened _____
6. I was watching a cow and the cow was killed in an earthquake. I can swear and be פטור _____
7. I have the lowest level of responsibility _____
8. I have the highest level of responsibility _____
9. I am the שומר who receives all of the benefit _____
10. I have to pay double the amount I stole _____
11. I have to pay 4 times the amount I stole _____
12. I have to pay 5 times the amount I stole _____

UNIT 2 – WHO GETS THE כפול?

משנה

STEP 1



Hi! Can you watch my dishes and my cow? I'm going out of town.

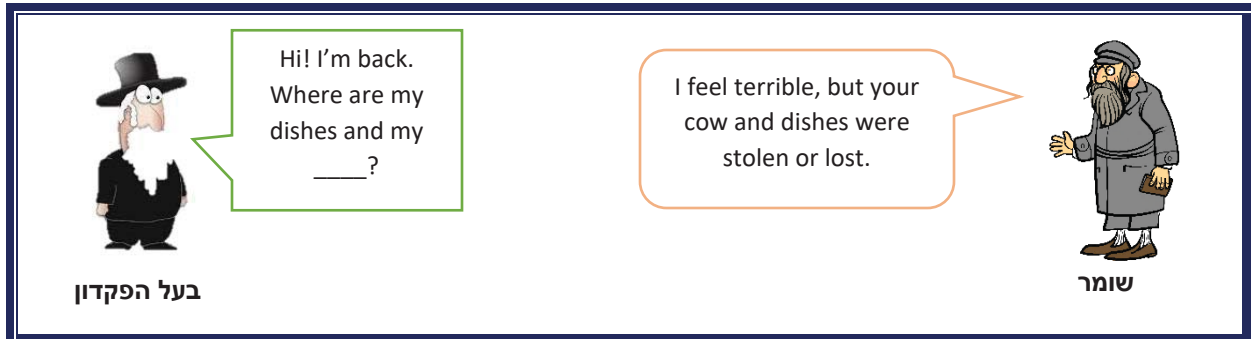
Sure!

בעל הפקדון

פקדון

שומר

STEP 2



Hi! I'm back. Where are my dishes and my _____?

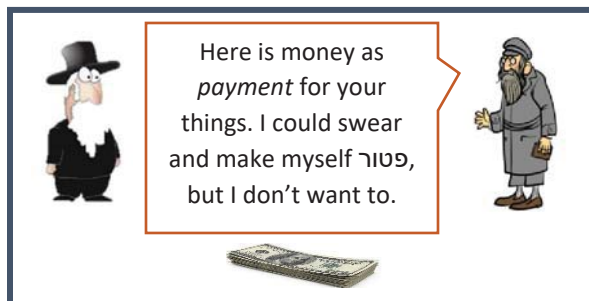
I feel terrible, but your cow and dishes were stolen or lost.

בעל הפקדון

שומר

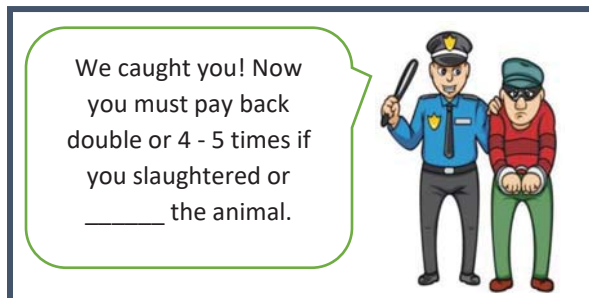
OPTION A

STEP 3A



Here is money as *payment* for your things. I could swear and make myself פטור, but I don't want to.

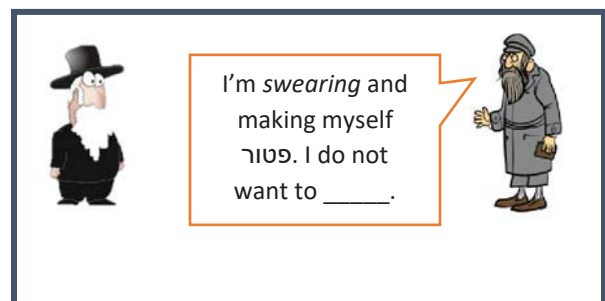
STEP 4A



We caught you! Now you must pay back double or 4 - 5 times if you slaughtered or _____ the animal.

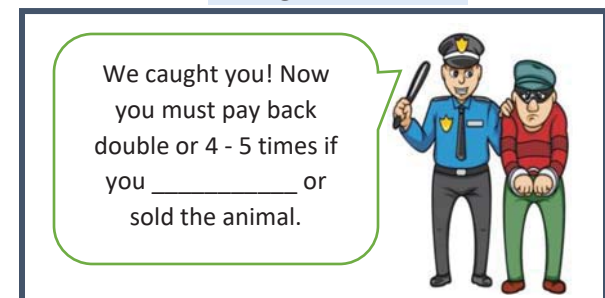
OPTION B

STEP 3B



I'm *swearing* and making myself פטור. I do not want to _____.

STEP 4B



We caught you! Now you must pay back double or 4 - 5 times if you _____ or sold the animal.

UNIT 2 – WHO GETS THE כפל?

STEP 5A



Since the שומר _____ for the stolen object, he gets the כפל or the 4 - 5.

STEP 5B



Since the שומר *did not* pay for the stolen object, the _____ gets the כפל or the 4 - 5.

PLEASE NOTE:

The משנה's words are או כלים – בהמה או כלים – which means “an animal or vessels”. In the pictures above, for the sake of keeping things brief, we combined the two possible cases into one case showing a שומר watching an animal and כלים.



QUESTION: The משנה says that the שומר can swear and make himself פטור from paying. What exactly does he swear?

ANSWER: The שומר must swear that he wasn't negligent (שלא פשע בה) and that he did not use the object for himself (שלא שלח בה יד). (רש"י)

QUESTION: The משנה is teaching us who gets the כפל if the גנב is found. If so, why does the משנה mention a case of a פקדון that was *lost*. If the פקדון was lost and not stolen there will be no כפל!

ANSWER 1: Because of this question, some opinions say that words שאבדו do not belong in the משנה and the משנה should read “ונגנבו” without “או שאבדו”.

ANSWER 2: When the משנה said שאבדו, it means that *the שומר claimed* that the object was lost. Afterwards, when the גנב was found it became clear that it was really stolen and not lost. (תוספות – וראה שם ביאור נוסף)

UNIT 2 – WHO GETS THE כפל?

Summary

- A שומר was watching an animal or כלים and they were stolen or lost:
 - If the שומר pays – the שומר gets the כפל or the 4 - 5 if the גנב is found.
 - If the שומר swears – the owner gets the כפל or the 4 - 5 if the גנב is found.



בהמה או כלים	אצל חבירו	המפקיד
שילם	או שאבדו	ונגנבו
שומר חנם	שהרי אמרו	ולא רצה לישבע
משלם	נמצא הגנב	נשבע ויוצא
טבח ומכר	כפל	תשלומי
לבעל הפקדון	למי שהפקדון אצלו	למי משלם



123 - Label each step of the משנה. (1, 2, 3A, 4A...)

המפקיד אצל חבירו בהמה או כלים, ונגנבו או שאבדו, שילם ולא רצה לישבע, שהרי אמרו: שומר חנם נשבע ויוצא, נמצא הגנב - משלם תשלומי כפל. טבח ומכר - משלם תשלומי ארבעה וחמשה. למי משלם - למי שהפקדון אצלו. נשבע ולא רצה לשלם, נמצא הגנב - משלם תשלומי כפל. טבח ומכר - משלם תשלומי ארבעה וחמשה. למי משלם - לבעל הפקדון.

UNIT 3 – בהמה AND כלים



The משניות were written precisely. Each and every word is important. If a משנה mentions *two* examples for the same type of case, there must be a reason why it is necessary to mention *each* example.

To explain why each example is necessary the גמרא will show us that if the משנה had only mentioned the *1st example*, we would not have known to apply the rule of the משנה to the *2nd example*. And if the משנה had only mentioned the *2nd example*, we would not have known to apply the rule of the משנה to the *1st example*. In order that we should know to apply the rule of the משנה to *both* examples, the משנה had to mention *both* of them.



The גמרא mentions two differences between בהמה and כלים:

DIFFERENCE #1



Watching an animal requires a lot of hard _____.

The שומר has to bring the animal in and out.

Watching over כלים does _____ require a lot of work. One can just put the כלים in a safe place and leave them there.



DIFFERENCE #2



If the גנב is found and we discover that he slaughtered or _____ the animal he stole, the גנב pays 4 or 5 times the value of the animal.

If כלים are stolen and the גנב is found, the most the גנב pays is _____. He never pays 4 or 5 times the value of the כלים.



UNIT 3 – כלים AND בהמה

Another important idea that we must introduce is the process of *how and when* the שומר gets the rights to the כפל. We learned in the משנה that if the שומר paid for the stolen פקדון and afterwards the גנב was found, the שומר gets the כפל.

This is because the חכמים understood that the owner has an *unspoken agreement* with the שומר *at the time he gives over the object to the שומר to watch*. The agreement is that if the object will be stolen and the שומר will decide to pay, the שומר will be given the rights to the future כפל from the *beginning* – from the moment the שומר took the animal to watch.



This *unspoken agreement* is based on the חכמים's evaluation of the owner's mind (as we will see in the coming units). Therefore, there is room to say that in certain cases the owner will give over the כפל and certain cases the owner will not give over the כפל.

Now we can begin learning the גמרא:

The גמרא asks:

Why is it necessary to mention in the משנה both the example of בהמה and the example of כלים? Why can't we just mention _____ of them?

The גמרא answers:

STEP 1 – The גמרא states:

The משנה needs to mention both examples.

STEP 2 – The reason the משנה could not only have said the example of בהמה:

If the משנה had only mentioned the example of בהמה, I would have (mistakenly) thought that the owner would only give the שומר the rights to the כפל by בהמה, but *not* by _____. In the case of a בהמה, the שומר has to work very hard - bringing the animal in and out. In appreciation for his hard work, the owner gives the שומר the rights to the כפל. By כלים, where the שומר does not have to work so hard, I would have (mistakenly) thought that the owner would not be willing to give over the rights to the כפל.

UNIT 3 – כלים בהמה AND

To prevent us from making this mistake, the משנה gives the example of כלים. This shows us that even by כלים, where the שומר does not have to work so hard, the owner is still willing to give the שומר the rights to the _____.

STEP 3 – The reason the משנה could not only have said the example of כלים:

If the משנה had only mentioned the example of כלים, I would have (mistakenly) thought that the owner would only give the שומר the rights to the כפל by כלים and not by _____. In the case of כלים, the maximum amount that the גנב must pay is double. Since this is not such a significant amount, the owner is willing to give the שומר the rights to it. In the case of a בהמה, however, where there is the possibility that the גנב will have to pay 4 – 5 times the original amount, I would have (mistakenly) thought that the owner would not be willing to give over the rights to these payments to the שומר.

In order to prevent us from making this mistake, the משנה says the example of בהמה. This shows us that even by a בהמה, where the שומר has the possibility of getting ___ – ___ times the original amount, the owner is still willing to give over to the שומר the rights to the כפל and the 4 – 5.

STEP 4 – CONCLUSION

The משנה needed to say *both* the example of בהמה and the example of כלים.



- The גמרא asks: Why did the משנה mention both בהמה and כלים?
- The גמרא answers:
 - If the משנה had only mentioned בהמה, I would have (mistakenly) thought that the owner would only give over the כפל to the שומר in the case of a בהמה which requires a lot of work, but not by כלים which do not require a lot of work.
 - If the משנה had only mentioned כלים, I would have (mistakenly) thought that the owner would only give over the כפל by כלים where the maximum payment is double, but not by a בהמה where the payments can be as high as 4 – 5 times the value of the animal.

כלים AND בהמה – UNIT 3

- By mentioning both בהמה and כלים, the משנה clarifies that in both cases the owner will give the שומר the כפל.



... Why does the משנה mention... למה לי למתני...

The גמרא uses this term to ask why the משנה found it necessary to mention more than one example of the same type of case. In our גמרא, we ask why the משנה mentions both the example of בהמה and the example of כלים.

צריכא – It is needed.

The גמרא uses this term to state that indeed both examples in a משנה are necessary. In our גמרא, we state that it is necessary for the משנה to mention both בהמה and כלים.

Often, after the גמרא explains why both examples are necessary, the גמרא will end the discussion by repeating the word “צריכא”.



דאי תנא	צריכי	למה לי למתני
משום	הוא דמקני ליה כפילא	הוה אמינא
דלא נפיש טירחייהו	לעיולה ולאפוקה	דנפיש טירחה
דלא נפיש כפלייהו	לא מקני ליה כפילא	אימא
תשלומי ארבעה וחמשה	טבח ומכר	דכי

כלים AND בהמה – UNIT 3



- The question of the גמרא.



- The answer of the גמרא.



- Label the steps of the answer.

גמרא. למה ליה למתני בהמה, ולמה ליה למתני כלים? צריכי, דאי תנא בהמה - הוה אמינא: בהמה הוא דמקני ליה כפילא - משום דנפיש טירחה לעיולה ולאפוקה, אבל כלים דלא נפיש טירחייהו - אימא לא מקני ליה כפילא. ואי תנא כלים - הוה אמינא: כלים הוא דמקני ליה כפילא - משום דלא נפיש כפלייהו, אבל בהמה דכי טבח ומכר משלם תשלומי ארבעה וחמשה - אימא לא מקני ליה כפילא, צריכא.