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PARASHAT HASHAVUAH

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A Thirst for Special Water

Harav Yosef Carmel

Water (*mayim*) plays a very special place, both in last week's description of the creation and in this week's account of the flood, which wiped out most of mankind. Besides its historical importance, water is a basic condition for the existence of life as we know it. In another vein, water is the means for people's purification. *Chazal* view water as representative of Torah, as they interpret the *pasuk* from our *haftara*, "Oh, all thirsty go to water" (Yeshaya 5:1), as referring to Torah (Bava Kama 82a).

The first *pasuk* of the Torah also alludes in a subtle manner to water. "In the beginning, Hashem created the *shamayim* (heavens) and the earth." *Chazal* pick up on the similarity between *shamayim* and *mayim* and say: "What does *shamayim* mean? *Sham mayim* (water is there)" (Chagiga 12a). Thus the first object in the Torah hints at the importance of water.

The next *pasuk*, which is difficult to put in proper context, discusses water explicitly: "The earth was in a state of void, and there was darkness on the face of the wellsprings, and the spirit of Hashem hovered over the water." The first half of the second *pasuk* expounds on the second part of the first *pasuk* (earth and its void) and the second half of the second *pasuk* expounds on the first part of the first *pasuk* (heavens, water, and the spirit of Hashem), using the style of A-B-B-A. According to this, Hashem created the heavens, in which the spirit of Hashem hovered over its water. We know of the existence of *mayim* in the heavens from a subsequent *pasuk* regarding the second day of creation, where the *rakia* (firmament) separated between the *mayim* above the *rakia* and the *mayim* beneath it.

Within the account of the flood, the word "earth" comes up at least nine times, along with several but fewer mentions of the heavens, water, and spirit. This overlapping of words, along with a mention of seven days (leading up to the flood), shows the connection between creation and the flood. However, the main focus in the flood is on the earth. The water that destroys the earth is not the *mayim* of the heavens, which is above the clouds. Actually the main destruction came from the water of the wellsprings.

The lesson from all the above is as follows. The earth refers to the physical world. The heavens refer to the spiritual world and its waters hint at the Torah, the spiritual blueprint of the world. Hashem created the heavens and the earth so that the earth would be a base for the world of spirituality as well. The proper desire to reach for the heavens (the people of Babel reached for the heavens in a distorted way) is a desire to taste of the waters of Torah. The generation of the flood strove to reach the depths of the earth's water, i.e., the most spirituality bereft physicality. It is no surprise then that the water of the depths covered them up and killed them.

Let us hope that we will be inspired to follow the lead of the illustrious descendant of the survivors of the flood, Avraham, who trained his family to follow, not fight, the ways of Hashem.

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Ask the Rabbi

A Remote Chance of Returning a Lost Object

by Rav Daniel Mann

Question: At the *Siyum Hashas* at MetLife Stadium, I saw an umbrella on the floor (**field seats**) near seats whose occupants had left a while before. Before leaving, I asked people in the vicinity and no one knew whose it was, so I took it. Later on I noticed a first name (a **woman's name**, in a men's section) on it, but I have failed to figure out how to identify its owner. What should I do now?

Answer: The umbrella was probably purposely placed on the floor. You were right to leave it there initially, as the owner could return (Shulchan Aruch, Choshen Mishpat 260:9). However, after a while (security forbade one who left the stadium to return), it was fine to pick it up. If there were no *siman* (identifying sign), you could keep it (if we could assume the owner realized the umbrella was missing before you picked it up). However, between the name and the location (there were seat numbers), there are *simanim*. Therefore, at first glance, you would be required to effectively publicize your find, and if no one responded, keep it indefinitely (Shulchan Aruch, CM 267:15). (*Yeiush* after the object was picked up is not fully effective.)

One might argue that since people came from many different places, the owner would not believe he could retrieve it despite the *simanim*. It is a good question whether we would follow standard rules or accept such a claim (consider that in Talmudic times it was also difficult to retrieve lost objects- see Bava Metzia 28b). However, the claim is not clear in practice either. MetLife Stadium has a lost-and-found service and asks people to give found articles to a worker. (When that is the most practical system, one need not be concerned that workers don't know the proper rules of returning lost objects- see Pitchei Choshen, Aveida 2:(53).) Also, the owner could have called a friend still at the stadium and asked him to retrieve it.

On the other hand, if one loses something in a public place with a majority of non-Jews, we assume the owner had *yeiush* (loss of hope). Here, it is a tricky question. The area was frequented by Jews at the time of the loss, so we might not assume *yeiush* (Shulchan Aruch, CM 259:3). On the other hand, if Jews only pass through but non-Jews who otherwise frequent it are more likely to notice the object than the Jews were, we assume *yeiush* (see Rama, CM 259:8). Were participants riveted to the event (see Nimukei Yosef to Bava Metzia 24a), or were they also looking to the floor for *mitzvot* (or free umbrellas)? Also, an umbrella on the floor was not initially a sign of a lost object, so Jews might not know to return it. On the other hand, the Rama (CM 259:7) says that when local law requires returning lost objects, one is obligated even when classical halacha does not require it. It is not clear to me what New Jersey law is in a case like this. In the final analysis you probably may keep the umbrella, but there is an element of beyond-the-letter-of-the-law to return it when feasible (see Bava Metzia 24b).

Can you find the owner? Announcing the find in a local shul (Shulchan Aruch, CM 287:3) is futile. There is a tiny chance that MetLife would have details of someone looking for an umbrella from Aug. 1 (but e-mails are free). There is a website for reporting lost and/or found objects in Israel (www.ebood.co.il). This is a nice idea for Jewishly populous areas, but I was unable to find such a site for NY-NJ. We ask our readership to try to help you fulfill the *mitzva* (see bolded details above; we can be a go-between). If there are no results, feel even better about keeping it.

What if we could not assume initial *yeiush*, but you do not want a stash of objects waiting for Mashiach with unrealistic chances of returning them? Since an umbrella is readily replaceable, you could record its value and *simanim* to cover the remote possibility someone will step forward with *simanim* (Igrot Moshe, CM II:44; Pitchei Choshen, Aveida 7:(10)). It might be nobler to give it to someone in need so that the owner can receive some merit of *tzedaka* (Pitchei Choshen, *ibid.*).

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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

The Fear of Overheating

(condensed from Ein Ayah, Berachot 9: 178)

Gemara: When one leaves [a bathhouse without getting hurt], what does he say? “I thank You for saving me from the fire.”

Ein Ayah: This blessing also serves as a lesson in regard to cleansing the spirit by means of repenting and contemplating the awesomeness of the divine. A person should take a middle path and be careful not to exaggerate his spiritual approach, which can be metaphorically referred to as a burning flame. This is along the lines that great teachers of ethics have said: an overabundance of oil can extinguish the flame. When one finishes the cleansing process and has a stable mind with which to embark on a good and desirable path, he has for what to be thankful. A sign of success is that his spirit is at ease with Hashem and with man, in which case he will know how to be wise and will succeed in such a way that blessing will emerge.

Whether to Have Confidence in Medicine

(condensed from Ein Ayah, Berachot 9:180)

Gemara: Rav Acha said in the name of Rav: One who goes to let blood, says: “It should be Your will, Hashem, our G-d, that this activity should be for cure, and that You should cure me, because You are the G-d who is a reliable healer, and Your healing is true. People do not know how to heal, just that they are in the practice [of attempting to do so].” Abaye said: One should not say that because we derive from the *pasuk* “he shall certainly heal him” (Shemot 21:19) that a doctor has permission to heal.

Ein Ayah: Man is an organic creation. His physical parts are connected one to the other, the powers of his spirit are interconnected, and the two systems are tightly intertwined as well. Which person is so presumptuous as to claim that he knows all the workings of the body and the spirit and their connection to the world at large? There can thus be no trust in a doctor. Even if he knows how to treat one limited element of a person’s health, his actions might cause major problems in another element, thus counteracting the gains. Therefore, one cannot know what is a true cure.

On one hand, it is not logical that man will succeed in figuring out how to heal people. On the other hand, experience shows that the world of medicine is able to arrive at true conclusions and steps. Therefore, we must realize that mankind’s ability to use its intellect to arrive at medical advances is a wonder of nature and even human medical abilities must be attributed to Hashem’s allowing man to exceed his abilities. Only Hashem is the reliable healer who knows our bodies and souls, and his cures are real in that they will not cause damage in a different realm. Abaye responded that it is incorrect to make such a statement, for we should not relate to mysteries beyond what we can see. If we did, we would not find the strength to make efforts to better ourselves in the physical or the spiritual realms, as one would have to be afraid that in so doing he might cause danger in a different realm. Rather, “a judge is to judge only according to what he sees” (Sanhedrin 6b). Since the Torah gave permission to doctors to heal, according to their fields of expertise, we should not weaken their resolve to fix the world in the way they know due to a variety of concerns. They should be encouraged by the wisdom that Hashem granted them. The development of human intellectual achievement is divinely ordained for a specific purpose, and one is to allow this development to continue as He desired.

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P'ninat Mishpat

A Flawed Rental Apartment

(condensed from Hemdat Mishpat, rulings of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiffs (=pl) rented out an apartment, beneath theirs, to the defendants (=def) for six months. They left the apartment and canceled the checks for the final three months before the end of the contract. Pl wants def to pay for that time, as they must respect the contractual obligations. Def complained that while when they rented the apartment the weather was such that there were no problems, during the winter, when they needed to use heaters, the electricity often blew for insufficient wattage. The house was also not reasonably insulated and as a result of the two situations, the family suffered tremendously. After initially ignoring complaints, pl finally called an electrician, who informed def that their usage of electricity would have to be limited. Once when pl went away for Shabbat and guests used it, def's electricity blew and was out for all of Shabbat even though def claims to have followed the limitations. The two sides agreed to summon the aforementioned electrician for testimony and that each would fully accept his word (like two valid witnesses).

Ruling: The electrician testified that the electrical grids of the two apartments are linked in a way that a short circuit in pl's apartment (the main one) blows the electricity in def's apartment (the accessory apartment), but not vice versa. He said that he had to give instructions to both sides to limit use of electricity in order to prevent power outages.

Beit din accepts def's account that they did not know that they had power outages due to what was happening in pl's house, which explains why the electricity would go out and then come back without their intervention (pl lifted the fuse). Pl were aware and were generally careful (which their Shabbat guests were not), but the whole setup was problematic. Pl did not claim that def was aware of the problem before renting and, in any case, they need to prove, in a case where there is a clear blemish in the object of the transaction, that the other side knew and relinquished their right to complain.

Beit din determines that it is not reasonable for a renter's electricity to be at the mercy of the landlord, which can cause several problems, some of which occurred. The fact that def lived there for a while does not preclude their making the claim of *mekach taut* (a sale based on false premises), as long as they did not continue to use the rented entity after the problem was discovered (Rambam, Mechira 15:3; Shulchan Aruch, Choshen Mishpat 232:3). It is noteworthy that pl was unable to find a renter after def left for quite a while, which is some indication that the unit is more appropriate for a vacation home, as it was originally intended, than for a permanent rental home.

Therefore, def were justified in breaking the contract and need not pay anything further to pl.

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