

[بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ]

In the Name of Allāh, the Most Beneficent, the Most Merciful

18. The Chapters On Lost Property

(المعجم ١٨) أَبْوَابُ اللَّقْطَةِ (التحفة ...)

Chapter 1. Lost Camels, Cattle And Sheep

(المعجم ١) - بَابُ ضَالَّةِ الْإِبِلِ وَالْبَقَرِ وَالْغَنَمِ (التحفة ٩٠)

2502. It was narrated from Mutarrif bin 'Abdullāh bin Shikhkhir that his father said: "The Messenger of Allāh ﷺ said: 'The lost animal of the Muslim may lead to the burning flame of Hell.'" (*Sahih*)

٢٥٠٢ - حَدَّثَنَا مُحَمَّدُ بْنُ الْمُثَنَّى: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ، عَنْ حُمَيْدِ الطَّوِيلِ، عَنِ الْحَسَنِ، عَنْ مُطَرِّفِ بْنِ عَبْدِ اللَّهِ بْنِ الشَّخِيرِ، عَنْ أَبِيهِ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «ضَالَّةُ الْمُسْلِمِ حَرَقُ النَّارِ».

تخريج: [صحيح] أخرجه أحمد: ٢٥/٤ عن يحيى بن سعيد قال: ثنا حميد يعني الطويل: ثنا الحسن به ... الخ، وصححه ابن حبان (موارد)، ح: ١١٧١، والبوصيري، والضياء المقدسي في المختارة * الحسن تابعه قتادة عند أبي نعيم في الحلية: ٣٣/٩ وقبله الطبراني في الأوسط، ح: ٢/٣٢٩، ح: ١٥٧٠ رواه شعبة عنه، والسند صحيح إليه، وللحديث شواهد كثيرة.

Comments:

- Zāllah* is an animal that is separated from the herd, and lost, and its ownership is not known.
- Inanimate or lifeless thing are called *Luqatah*; details of such lost and found things will be discussed in the next chapter.

2503. It was narrated that Mundhir bin Jarir said: "I was with my father in Bawāzīj and the cows came back in the evening. He saw a cow and did not recognize it. He said: 'What is this?' He said: 'A cow that joined the herd.' And he issued orders that it be driven away until it disappeared from view. Then he

٢٥٠٣ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ: حَدَّثَنَا أَبُو حَيَّانَ التَّمِيمِيُّ: حَدَّثَنَا الضَّحَّاكُ خَالَ الْمُنْذِرِ بْنِ جَرِيرٍ، عَنِ الْمُنْذِرِ بْنِ جَرِيرٍ قَالَ: كُنْتُ مَعَ أَبِي بِالْبَوَازِيجِ. فَوَاحَتْ الْبَقْرُ. فَرَأَى بَقْرَةً أَنْكَرَهَا. فَقَالَ: مَا هَذِهِ؟ قَالُوا: بَقْرَةٌ لِحَقَّتْ بِالْبَقْرِ. قَالَ: فَأَمَرَ بِهَا فَطُرِدَتْ حَتَّى تَوَارَتْ.

said: 'I heard the Messenger of Allāh ﷺ say: "No one gives refuge to a stray animal but one who is also astray." (*Sahih*)

ثُمَّ قَالَ: سَمِعْتُ رَسُولَ اللَّهِ ﷺ يَقُولُ: «لَا يُؤْوِي الضَّالَّةَ إِلَّا ضَالٌّ».

تخريج: [صحيح] أخرجه النسائي في الكبرى: ٤١٦/٣، ح: ٥٨٠٠ من حديث يحيى بن سعيد به * والضحاك لم يوثقه غير ابن حبان وسقط ذكره من سند أبي داود، ح: ١٧٢٠، وله شاهد عند مسلم في صحيحه، ح: ١٧٢٥، وبه صح الحديث.

Comments:

This reproach is for the person who takes the animal with the intention of keeping it. But if he takes it with the intention to pronounce it and search for the owner, there is no harm in keeping it until the owner is found. In *Sahih Muslim* this narration is with these words: "Whoever gives refuge to a stray animal, he is also astray."

2504. It was narrated from Zaid bin Khâlid that the Prophet ﷺ was asked about a lost camel. He became angry and his cheeks turned red, and he said: "What does it have to do with you? It has its feet and its water supply, it can go and drink water and eat from the trees until its owner finds it." And he was asked about lost sheep, and he said: "Take it, for it will be for you or for your brother or for the wolf." And he was asked about lost property and he said: "Remember the features of its leather bag and strap, and announce it for one year, then if someone claims it, describing it to you with those features (give it to him), otherwise incorporate it into your own wealth." (*Sahih*)

٢٥٠٤ - حَدَّثَنَا إِسْحَاقُ بْنُ إِسْمَاعِيلَ بْنِ الْعَلَاءِ الْأَيْلِيُّ: حَدَّثَنَا سُفْيَانُ بْنُ عُيَيْنَةَ، عَنْ يَحْيَى بْنِ سَعِيدٍ، عَنْ رَبِيعَةَ بْنِ أَبِي عَبْدِ الرَّحْمَنِ. عَنْ يَزِيدَ مَوْلَى الْمُبْعِثِ، عَنْ زَيْدِ ابْنِ خَالِدِ الْجُهَنِيِّ. فَلَقِيتُ رَبِيعَةَ فَسَأَلْتُهُ فَقَالَ: حَدَّثَنِي يَزِيدُ عَنْ زَيْدِ بْنِ خَالِدِ الْجُهَنِيِّ، عَنِ النَّبِيِّ ﷺ قَالَ: سئِلَ عَنْ ضَالَّةِ الْإِبِلِ فَعَصَبَ وَاحْمَرَّتْ وَجَنَّتَاهُ فَقَالَ: «مَا لَكَ وَلَهَا؟ مَعَهَا الْوَلَدُ وَالسَّقَاءُ. تَرُدُّ الْمَاءَ وَتَأْكُلُ الشَّجَرَ. حَتَّى يَلْقَاهَا رَبُّهَا». وَسئِلَ عَنْ ضَالَّةِ الْغَنَمِ فَقَالَ: «خُذْهَا. فَإِنَّمَا هِيَ لَكَ أَوْ لِأَخِيكَ أَوْ لِلذُّئِبِ». وَسئِلَ عَنِ اللَّقْطَةِ فَقَالَ: «اعْرِفْ عِفَاصَهَا وَوِكَاءَهَا وَعَرِّفْهَا سَنَةً، فَإِنِ اعْتَرَفَتْ، وَإِلَّا فَاخْطُطْهَا بِمَالِكَ».

تخريج: أخرجه البخاري، الطلاق، باب حكم المفقود في أهله وماله، ح: ٥٢٩٢ من حديث سفیان بن عیینة، ومسلم، اللقطة، باب: معرفة العفاص والوكاء وحكم ضالة الغنم والإبل، ح: ١٧٢٢ من حديث يحيى بن سعيد به .

Comments:

- a. Catching a lost camel and keeping it in one's custody is not legal because a camel needs no one to take care of it.
- b. A sheep or goat cannot survive without care, so if you do not take the sheep or goat, someone else will take it, or a wolf will eat it. It is better to take it to save it from wild animals, and it is also possible that the owner will be found.
- c. Lost property means those precious things that are lost by the carelessness of the owner, like a large amount of currency, gold, precious ornaments etc.
- d. It is necessary to announce about the lost things up to one year, and one should try to find the owner during this period. After one year's search, things can be used. If later on the real owner is found, his property should be returned to him, or he should be given the price of that thing.

Chapter 2. Lost Property

(المعجم ٢) - بَابُ اللَّقْطَةِ (التحفة ٩١)

2505. It was narrated from 'Iyād bin Himār that the Messenger of Allāh ﷺ said: "Whoever finds lost property, let him ask one or two men of good character to witness it, then he should not alter it nor conceal it. If its owner comes along, then he has more right to it, otherwise it belongs to Allāh, Who gives it to whomsoever He wills." (*Sahih*)

٢٥٠٥ - حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ: حَدَّثَنَا عَبْدُ الْوَهَّابِ الثَّقَفِيُّ عَنْ خَالِدِ الْحَدَّاءِ، عَنْ أَبِي الْعَلَاءِ، عَنْ مُطَرِّفٍ، عَنْ عِيَّاصِ بْنِ جِمَارٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «مَنْ وَجَدَ لِقْطَةً فَلْيُشْهَدْ ذَا عَدْلٍ أَوْ ذَوْي عَدْلٍ. ثُمَّ لَا يُعَيِّرُهُ وَلَا يَكْتُمُ. فَإِنْ جَاءَ رَبُّهَا، فَهِيَ أَحَقُّ بِهَا. وَإِلَّا فَهِيَ مَالُ اللَّهِ يُؤْتِيهِ مَنْ يَشَاءُ».

تخریج: [إسناده صحيح] أخرجه أبو داود، اللقطة، باب التعريف باللقطة، ح: ١٧٠٩ من حديث خالد الحداء به، وصححه ابن حبان(موارد)، ح: ١١٦٩.

Comments:

Making a witness is beneficial and helpful. Later on if the claimant of the bag or thing is found, and he objects about the contents of the bag or the amount or other defalcation with his lost thing, then the witness can confute his claim.

2506. It was narrated that Suwaid bin Ghafalah said: "I went out with Zaid bin Suhân and Salmân bin Rabi'ah, and when we were at 'Udhaib, I found a whip. They said to me:

٢٥٠٦ - حَدَّثَنَا عَلِيُّ بْنُ مُحَمَّدٍ: حَدَّثَنَا وَكَيْعٌ: حَدَّثَنَا سَمِيَّانُ عَنْ سَلْمَةَ بْنِ كُهَيْلٍ، عَنْ سُؤَيْدِ بْنِ عَفْلَةَ قَالَ: خَرَجْتُ مَعَ زَيْدِ بْنِ صُوحَانَ وَسَلْمَانَ بْنِ رَبِيعَةَ. حَتَّى إِذَا كُنَّا

'Throw it away,' but I refused. When we came to Al-Madinah I went to Ubayy bin Ka'b and told him about that. He said: 'You did the right thing. I found one hundred Dinâr that had been lost at the time of the Messenger of Allâh ﷺ, and I asked him about it. He said, "Announce it for a year." So I announced it, and I did not find anyone who recognized it. I asked him (again) and he said: "Announce it," but I did not find anyone who recognized it. He said: "Remember the features of its bag and strap, and how many it contains, then announce it for a year. If someone comes who describes it with those features, (give it to him), otherwise it is like your own property." (Sahih)

بِالْعُدَيْبِ، التَّقَطُّ سَوْطًا. فَقَالَ لِي: أَلْفِهِ. فَأَيُّتُ. فَلَمَّا قَدِمْنَا الْمَدِينَةَ أَتَيْتُ أُبَيَّ بْنَ كَعْبٍ. فَذَكَرْتُ ذَلِكَ لَهُ. فَقَالَ: أَصَبْتَ. التَّقَطُّ مِائَةٌ دِينَارٍ عَلَى عَهْدِ رَسُولِ اللَّهِ ﷺ. فَسَأَلْتُهُ. فَقَالَ: «عَرِّفْهَا سَنَةً» فَعَرَّفْتُهَا. فَلَمْ أَجِدْ أَحَدًا يَعْرِفُهَا. فَسَأَلْتُهُ. فَقَالَ: «عَرِّفْهَا» فَعَرَّفْتُهَا. فَلَمْ أَجِدْ أَحَدًا يَعْرِفُهَا. فَقَالَ: «اعْرِفْ وَعَاءَهَا وَوِكَاءَهَا وَعَدَدَهَا، ثُمَّ عَرِّفْهَا سَنَةً. فَإِنْ جَاءَ مَنْ يَعْرِفُهَا. وَإِلَّا، فَهِيَ كَسَبِيلِ مَالِكَ».

تخریج: أخرجه البخاري، كتاب في اللقطة، باب إذا أخبر رب اللقطة بالعلامة دفع إليه، ح: ٢٤٢٦، ٢٤٣٧، ومسلم، اللقطة، باب: معرفة العفاص والوكاء ... الخ، ح: ١٧٢٣ من حديث سلمة بن كهيل به.

Comments:

- Average precious thing needs to be announced up to one year but extra precious things should be announced for more than one year.
- Ordinary things need not to be announced.
- Now a days the announcement of lost things can be made on radio, TV and in newspapers. If the owner is found, claiming and receiving the expenditure of announcement from him is legal.

2507. It was narrated from Zaid bin Khâlid Al-Juhani that the Messenger of Allâh ﷺ was asked about lost property. He said: "Announce it for a year, then if someone describes it with its features, return it to him. If no one claims it, then remember the features of its leather bag and

٢٥٠٧ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا أَبُو بَكْرِ الْحَقْفِيُّ؛ ح: وَحَدَّثَنَا حَرَمَلَةُ بْنُ يَحْيَى: حَدَّثَنَا عَبْدُ اللَّهِ بْنُ وَهْبٍ، قَالَ: حَدَّثَنَا الضَّبْحَاكُ بْنُ عُثْمَانَ الْقُرَشِيِّ: حَدَّثَنِي سَالِمٌ أَبُو النَّضْرِ، عَنْ [بُسْرِ] بْنِ سَعِيدٍ، عَنْ زَيْدِ بْنِ خَالِدِ الْجُهَنِيِّ أَنَّ رَسُولَ اللَّهِ ﷺ سئِلَ عَنِ

strap, and consume it (use it). Then if its owner comes along, give it to him." (*Sahih*)

اللَّقْطَةَ فَقَالَ: «عَرَّفَهَا سَنَةً. فَإِنْ اغْتَرَفَتْ، فَأَذَّهَا. فَإِنْ لَمْ تُعْتَرَفْ، فَأَعْرِفْ عِنَاصَهَا وَوَعَاءَهَا ثُمَّ كُلْهَا. فَإِنْ جَاءَ صَاحِبُهَا، فَأَذَّهَا إِلَيْهِ».

تخريج: أخرجه مسلم، اللقطة، الباب السابق، ح: ١٧٢٢ من حديث ابن وهب، وأبي بكر الحنفي به.

Chapter 3. Picking Up What A Rat Brings Out

(المعجم ٣) - بَابُ التِّقَاطِ مَا أَخْرَجَ
الْجُرْدُ (التحفة ٩٢)

2508. It was narrated from Miqdâd bin 'Amr that he went out one day to Al-Baqi', which is the graveyard, to relieve himself. People used to go out to relieve themselves only every two or three days, and their feces was like that of a camel (because of hunger and rough food). Then he entered a ruin and while he was squatting to relieve himself, he saw a rat bringing a Dinâr out of a hole, then it went in and brought out another, until it had brought out seventeen Dinârs. Then it brought out a piece of red rag.

٢٥٠٨ - حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ: حَدَّثَنَا مُحَمَّدُ بْنُ خَالِدِ بْنِ عَثْمَةَ: حَدَّثَنِي مُوسَى بْنُ يَعْقُوبَ الرَّمَعِيُّ: حَدَّثَنِي عَمَّتِي قُرَيْبَةُ بِنْتُ عَبْدِ اللَّهِ أَنَّ أُمَّهَا كَرِيمَةَ بِنْتُ الْمُقَدَّادِ بْنِ عَمْرٍو أَخْبَرَتْهَا عَنْ صُبَاعَةَ بِنْتِ الزُّبَيْرِ، عَنِ الْمُقَدَّادِ بْنِ عَمْرٍو أَنَّهُ خَرَجَ ذَاتَ يَوْمٍ إِلَى الْبَيْعِ، وَهُوَ الْمَقْبَرَةُ، لِحَاجَتِهِ. وَكَانَ النَّاسُ لَا يَذْهَبُ أَحَدُهُمْ فِي حَاجَتِهِ إِلَّا فِي الْيَوْمَيْنِ وَالثَّلَاثَةِ. فَإِنَّمَا يَبْعُرُ كَمَا تَبْعُرُ الْإِبِلُ. ثُمَّ دَخَلَ خَرِبَةً. فَبَيْنَا هُوَ جَالِسٌ لِحَاجَتِهِ، إِذْ رَأَى جُرْدًا أَخْرَجَ مِنْ جُحْرِ دِينَارًا. ثُمَّ دَخَلَ فَأَخْرَجَ آخَرَ. حَتَّى أَخْرَجَ سَبْعَةَ عَشَرَ دِينَارًا. ثُمَّ أَخْرَجَ طَرْفَ خِرْقَةٍ حَمْرَاءَ.

Miqdâd said: "I picked up the rag and found another Dinâr inside it, thus completing eighteen Dinâr. I took them out and brought them to the Messenger of Allâh ﷺ, and told him what had happened. I said, 'Take its *Sadaqah* (charity), O Messenger of Allâh.' He said: 'Take them back, for no *Sadaqah* is due on them. May Allâh bless them for you.' Then he said: 'Perhaps you put your

قَالَ الْمُقَدَّادُ: فَسَلَّمْتُ الْخِرْقَةَ. فَوَجَدْتُ فِيهَا دِينَارًا. فَتَمَمْتُ ثَمَانِيَةَ عَشَرَ دِينَارًا. فَخَرَجْتُ بِهَا حَتَّى أَتَيْتُ بِهَا رَسُولَ اللَّهِ ﷺ. فَأَخْبَرْتُهُ خَبَرَهَا. فَقُلْتُ: خُذْ صَدَقَتَهَا، يَا رَسُولَ اللَّهِ قَالَ: «ارْجِعْ بِهَا. لَا صَدَقَةَ فِيهَا. بَارَكَ اللَّهُ لَكَ فِيهَا». ثُمَّ قَالَ: «لَمَلَكْ

hand in the hole?' I said: 'No, by the One Who has honored you with the Truth.'" (*Da'if*)

He (the narrator) said: "And they did not run out before he died."

تخريج: [إسناده ضعيف] أخرجه أبو داود، الخراج، باب ماجاء في الركاز وما فيه، ح: ٣٠٨٧ من حديث موسى الزمعي به، قلت: قريبة مجهولة الحال.

أَتَّبَعْتَ يَدَكَ فِي الْجُحْرِ؟ قُلْتُ: لَا. وَالَّذِي أَكْرَمَكَ بِالْحَقِّ.

قَالَ: فَلَمْ يَمَنْ أَحْرَهَا حَتَّى مَاتَ.

Chapter 4. One Who Finds Buried Treasure

(المعجم ٤) - بَابُ مَنْ أَصَابَ رِكَازًا

(التحفة ٩٣)

2509. It was narrated from Abu Hurairah that the Messenger of Allāh ﷺ said: "One fifth is due on buried treasure." (*Sahih*)

٢٥٠٩ - حَدَّثَنَا مُحَمَّدُ بْنُ مَيْمُونِ الْمَكِّيُّ، وَ هِشَامُ بْنُ عَمَّارٍ، قَالَا: حَدَّثَنَا سَفِيَانُ بْنُ عُيَيْنَةَ عَنِ الزُّهْرِيِّ، عَنْ سَعِيدٍ وَ أَبِي سَلَمَةَ، عَنْ أَبِي هُرَيْرَةَ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ: «فِي الرِّكَازِ الْخُمْسُ».

تخريج: أخرجه مسلم، الحدود، باب جرح العجماء والمعدن والبشر جبار، ح: ١٧١٠ من حديث سفیان به.

2510. It was narrated from Ibn 'Abbās that the Messenger of Allāh ﷺ said: "One fifth is due on buried treasure." (*Sahih*)

٢٥١٠ - حَدَّثَنَا نَضْرُ بْنُ عَلِيٍّ الْجَهْضِيُّ: حَدَّثَنَا أَبُو أَحْمَدَ عَنِ إِسْرَائِيلَ، عَنْ سِمَاكٍ، عَنْ عِكْرَمَةَ، عَنِ ابْنِ عَبَّاسٍ قَالَ: قَالَ رَسُولُ اللَّهِ ﷺ: «فِي الرِّكَازِ الْخُمْسُ».

تخريج: [صحيح] أخرجه أحمد: ٣١٤/١ من طريق إسرائيل به، ورواه عن أبي أحمد أيضًا كما في أطراف المسند: ٢٠٧/٣، وصححه البوصيري، ولكن سنده ضعيف، انظر، ح: ١٧١ لعلته، والحديث السابق شاهد له، وبه صح الحديث.

Comments:

Rikāz is buried treasure whose ownership and burial period is not known. Immediate payment of one fifth is due on such treasure, and the rest is the property of the founder.

2511. Sulaim bin Hayyān said: "I heard my father narrate from Abu Hurairah that the Prophet ﷺ said: 'Among those who came before you there was a man who bought

٢٥١١ - حَدَّثَنَا أَحْمَدُ بْنُ ثَابِتِ الْجَحْدَرِيُّ: حَدَّثَنَا يَعْقُوبُ بْنُ إِسْحَاقَ الْخَضْرَمِيُّ: حَدَّثَنَا سَلِيمُ بْنُ حَيَّانَ. سَمِعْتُ أَبِي يُحَدِّثُ عَنْ أَبِي هُرَيْرَةَ، عَنِ النَّبِيِّ ﷺ قَالَ: «كَانَ فِيمَنْ كَانَ

some property and found therein a jar of gold. He said: "I bought land from you, but I did not buy the gold from you." The man said: "Rather I sold you the land with whatever is in it." They referred their case to (a third) man who said: "Do you have children?" One of them said: "I have a boy." The other said: "I have a girl." He said: "Marry the boy to the girl, and let them spend on themselves from it and give in charity." (*Hasan*)

قَبَلَكُمْ رَجُلٌ اشْتَرَى عَقَارًا. فَوَجَدَ فِيهَا جَرَّةً مِنْ ذَهَبٍ. فَقَالَ: اشْتَرَيْتُ مِنْكَ الْأَرْضَ، وَلَمْ أَشْتَرِ مِنْكَ الذَّهَبَ. فَقَالَ الرَّجُلُ: إِنَّمَا بَعْتُكَ الْأَرْضَ بِمَا فِيهَا. فَتَحَاكَمَا إِلَى رَجُلٍ. فَقَالَ: أَلَكُمَا وَلَدٌ؟ فَقَالَ أَحَدُهُمَا: لِي غُلَامٌ. وَقَالَ الْآخَرُ: لِي جَارِيَةٌ. قَالَ: فَأَنْكِحَا الْغُلَامَ الْجَارِيَةَ. وَلْيُنْفِقَا عَلَى أَنْفُسِهِمَا مِنْهُ، وَلْيَتَصَدَّقَا».

تخريج: [إسناده حسن] * حيان بن بسطام وثقه ابن حبان، والبوصيري، انظر، ح: ٢٤٤٥ -

Comments:

- Buried treasure is the property of the person who found it, provided its ownership is not known.
- The total amount of the found treasure should not be used by the founder. Twenty percent of the total amount should be given as *Zâkat*.