

and took his own,¹ the other [sc. the finder] is entitled to the object without a mark!—Said R. Zebid: There is no difficulty. The former [Baraita] refers to a cask and flax; the latter, to a basket and fruit.² R. Papa said: Both refer to a basket and fruit, yet there is no difficulty. The latter [Baraita] holds good if something was still left therein; the former, if nothing was left therein.³ Alternately, both [Baraitas] mean that nothing is left therein, yet there is no difficulty. In the latter, its [sc. the basket's] mouth is turned towards the fruit; in the former, it is not. Another alternative: in both its mouth faces the fruit, yet there is no difficulty. The former [Baraita] treats of baskets with rims; the latter, of the baskets without.⁴

HEAPS OF FRUIT; HEAPS OF COINS. This proves that number is an identification mark!⁵—[No.] Read: A heap of fruit.⁶ Then it proves that place is a means of identification! [No.] Read: HEAPS OF FRUIT.⁷

THREE COINS ON TOP OF EACH OTHER. R. Isaac said: Provided that they lie pyramid-wise.⁸ It has been taught likewise:

(1) But disclaimed ownership of the other object. (2) The cask is identifiable, but not the flax; similarly the basket and the fruit. Now, had the flax fallen out of the cask, some would have remained therein; hence it is assumed that they were lying together by chance, and so the flax belongs to the finder. Fruit, however, can easily roll out of its basket entirely, and therefore both are assumed to belong to the same person. (3) R. Papa would appear to reject R. Zebid's distinction. Rashi, however, observes that fruit baskets generally had an inside rim, which would prevent all the fruit from rolling out. In that case, R. Papa and R. Zebid may agree, R. Papa referring to baskets with rims, R. Zebid to rimless ones. In point of fact, whereas Maimonides accepts R. Papa's explanation but rejects R. Zebid's, shewing that he holds them contradictory, Asheri and the Tur accept both. (4) V. n. 3. (5) Since fruit and coins cannot be identified, the only possible distinguishing feature is the number of heaps. (6) I.e., though the Mishnah employs the plural, that is only in a general way; yet the same holds good even of a single heap. In that case, of course, there is no number, the place where it was found being the mark of identification. (7) I.e., though it has just been stated that the plural may be generic, on the other hand it may be particularly used, in which case number is the distinguishing feature. Hence the Mishnah merely proves that either number or place is an identification mark, but not both, and it cannot be shewn which. (8) Conically, a large coin at the bottom, a smaller one above it, and so on. These must have been placed

If a man finds scattered coins, they belong to him. If they are arranged pyramid-wise he is bound to proclaim them. Now is not this self-contradictory? [First] you state, 'If a man finds scattered coins they belong to him,' thus implying, but if they overlap,¹ he must proclaim them.² Then consider the latter clause: 'If they are arranged pyramid-wise, he is bound to proclaim them,' implying, however, that if they merely overlap, they are his?—All [coins] not arranged conically the Tanna designates scattered.

R. Hanina said: This was taught only of [coins of] three kings;³ but if of one king, he need not proclaim them. How so? If they lie pyramid-wise, then even [if they are] of one king [the proclamation should be made]; if they do not lie pyramid-wise, even if they are of three kings there should be no need [to proclaim them]?—But if stated, it⁴ was thus stated: 'This was taught only of [coins of] one king, yet similar to those of three.'⁵ How so? When they lie pyramidically, the broadest at the bottom, the medium-sized upon it, and the smallest on top of the middle one; in which case we assume that they were placed thus. If, however, they are of one king, all being of equal size, then even if they are lying upon each other they belong to him [the finder]: we assume that they fell thus together by mere chance. R. Johanan [however] maintained: Even if of the same king,⁶ he must proclaim them.⁷

Now, what does he proclaim—the number?⁸ Then why particularly three—even if two it should be the same?—Said Rabina: He announces 'coins'.⁹

and the owner will be able to identify them by the manner of their disposal. —The reason of such disposal might have been that the owner found himself carrying the money on the Sabbath, or on Friday just before the commencement of the Sabbath; v. Shab. 153b.

(1) Lying partly on each other and partly on the ground.—Rashi. Just.: but if they lie irregularly, some of them piled, others scattered. (2) Because they would not have fallen, but must have been placed thus. (3) Each coin being of different reign. (4) The statement of R. Hanina. (5) I.e., of different sizes. I.e., of equal size. (7) Since they are arranged exactly on top of each other. (8) That three coins were found, and the owner identifies them by their arrangement. (9) Without stating a number; two being the smallest possible number

R. Jeremiah propounded: What if they were disposed in a circle,¹ in a row, triangularly,² or ladderwise?³—Solve at least one [problem]. For R. Nahman said in Rabbah b. Abbuha's name: Wherever a chip can be inserted⁴ whereby they [the coins] may be lifted simultaneously, a proclamation must be made.⁵

R. Ashi propounded: [255b] What if they are arranged as the stones of a Mercurius way-mark?⁶—Come and hear: For it has been taught: If one finds scattered coins, they belong to him; [but if they lay] as the stones of a Mercurius way-mark, he must proclaim them. And thus are the stones of a Mercurius way-mark arranged: one at each side, and a third on top of both.⁷

Our Rabbis taught: If one finds a *sela'* in a market place, and then his neighbour accosts him and says, 'It is mine; it is new, a Nero coin or of such and such an emperor'—he is ignored.⁸ Moreover, even if his name is written upon it, his claim is still rejected,⁹ because an identification mark is of no avail in respect to a coin, for one can say, He may have expended it and someone else lost it.¹⁰

MISHNAH. IF A MAN FINDS FLEDGLINGS TIED TOGETHER BEHIND A FENCE OR WALL, OR IN THE PATHWAYS THROUGH

of 'coins', it cannot be accepted as a mark of identification; hence the find is not proclaimed for less than three. The translation and explanation follows Asheri, who regards the question as bearing directly on the Mishnah and not on the views of R. Hanina and R. Johanan, as Rashi appears to regard it.

(1) Lit., 'like a bracelet'. (2) Lit., 'as a tripod.' (3) The greater part of the middle coin lying on the bottom one, and the greater part of the top coin lying on the middle one. (4) [Adopting reading of some texts; cur. edd.: 'between them'.] (5) For they must have been placed so. Hence a proclamation is necessary if they lay ladderwise. (6) I.e., a way-mark dedicated to Mercurius or Mercurius, a Roman divinity identified with the Greek Hermes. The Gemara states below how these were disposed. Our text actually reads 'Kulis'; and Tosaf. conjectures that this was the true name of the deity, but the Hamburg MS. reads 'Mercurius'. (7) [The Baraita has in mind the triliton or dolmen erected in front of the image.] (8) Lit., 'he has said nothing'. (9) V. last note. (10) Lit., 'it fell from another person.'

FIELDS, HE MUST NOT TOUCH THEM.¹ IF A MAN FINDS A VESSEL IN A DUNGHEAP: IF COVERED UP, HE MUST NOT TOUCH IT;² IF UNCOVERED, HE MUST TAKE AND PROCLAIM IT.

GEMARA. What is the reason?³—Because we say, A person hid them here, and if he [the finder] takes them, their owner has no means of identifying them. Therefore he must leave them until their owner comes and takes them. But why? let the knot be a means of identification!⁴—Said R. Abba b. Zabda in Rab's name: They were tied by their wings, everyone tying them thus. Then let the place [where they were found] be an identification mark. —Said R. 'Ukba b. Hama: It refers to such that can hop. But if they hop, they may have come from elsewhere, and should be permitted!⁵—One may surmise that they came from elsewhere, but one can also surmise that a person hid them there: hence it is a case of doubtful placing, and R. Abba b. Zabda said in Rab's name: Whenever it is doubtful if an article was left [in a certain spot], one must not take it in the first instance; but if he took, he need not return it.

IF A MAN FINDS A VESSEL ON A DUNG HEAP: IF COVERED UP, HE MUST NOT TOUCH IT; IF EXPOSED, HE MUST TAKE AND PROCLAIM IT. But the following contradicts it: If one finds an article hidden in a dungheap, he must take and proclaim it, because it is the nature of a dungheap to be cleared away!⁶—Said R. Zebid: There is no difficulty. The one refers to casks and cups; the other to knives and forks: in the case of casks and cups, he must not touch them;⁷ in the case of knives and forks, he must take and proclaim them.⁸ R. Papa said: Both refer to casks and cups, yet

(1) These places are semi-guarded, and therefore the birds may have been placed there, as explained in the Gemara. (2) Because the covering shews that it was placed there. (3) For the first ruling in the case of the fledglings. (4) The owner can say where they were tied together. (5) Since the owner has no means of identifying them. (6) And if he does not take it, a heathen or an unscrupulous Jew may do so when the heap is cleared and keep it for himself.—Now, 'hidden' means that it is covered up, yet it is stated that he must take and proclaim it. (7) These are too large to have been thrown there inadvertently. (8) Because they may have been thrown there by accident.

there is no difficulty. The one refers to a dunghheap that is regularly cleared away; the other, to one that is not cleared away regularly.¹ 'A dunghheap which is regularly cleared away'!—But then it is a voluntary loss?²—But it refers to a dunghheap which was not regularly cleared away, but he [its owner] decided to clear it out.³ Now, as for R. Papa, it is well; on that account⁴ it is stated, 'because it is the nature of a dunghill to be cleared away.'⁵ But according to R. Zebid, what is meant by, 'because it is the nature of a dunghill to be cleared away'?—[This:] Because it is the nature of a dunghill that small articles should be cleared therein.⁶

MISHNAH. IF HE FINDS [AN ARTICLE] AMIDST DEBRIS OR IN AN OLD WALL,⁷ THEY BELONG TO HIM. IF HE FINDS AUGHT IN A NEW WALL: IF IN THE OUTER HALF [THEREOF], IT IS HIS; IN THE INNER HALF, IT BELONGS TO THE OWNER OF THE HOUSE.⁸ BUT IF IT [THE HOUSE] USED TO BE RENTED TO OTHERS, EVEN IF HE FINDS [ARTICLES] IN THE HOUSE ITSELF, THEY BELONG TO HIM.

GEMARA. A Tanna taught: Because he [the finder] can say to him,⁹ They belonged to Amorites.¹⁰ Do then only Amorites hide objects, and not Israelites?¹¹—This holds good only [26a] if it [the find] is exceedingly rusty.¹²

(1) In the former case the finder must take and proclaim them; in the latter, he must not touch them. (2) Why then proclaim them? (3) V. *supra* p. 151. (4) See the distinction he draws. (5) I.e., at any time. (6) Hence a knife or fork (v. p. 159 n. 8) must be taken and proclaimed. (7) These had cavities in which the objects could be placed. (8) The reference is to a wall fronting a public thoroughfare. If the find is in the 'outer half,' i.e., the part facing the street, it must have been placed there by a passer-by, who has forgotten it; therefore it belongs to the finder. If in the 'inner half,' i.e., the part facing the house it encloses, the owner of the house must have placed it there. (9) The owner of the ruins or the old wall. (10) I.e., to one of the races that formerly inhabited Palestine. (11) Surely if the article is in the inner half of the cavity, nearer the house, it should belong to the owner of the house. (12) Shewing that it was left there long ago. [An anticipation of modern archaeological research, v. Krauss, S., *Hasaker*, I, p. 131.]

IN A NEW WALL: IF IN THE OUTER HALF [THEREOF], IT IS HIS; IN THE INNER HALF, IT BELONGS TO THE OWNER OF THE HOUSE. R. Ashi said: A knife follows its handle, and a purse its straps.¹ Then when our Mishnah states, IF IN THE OUTER HALF [THEREOF], IT IS HIS; IN THE INNER HALF, IT BELONGS TO THE OWNER OF THE HOUSE: let us see whether the handle or the straps point outwards or inwards?—The Mishnah refers to tow-cotton and bar metal.²

A Tanna taught: If the wall [cavity] was filled therewith, they divide.³ But is that not obvious?—It is necessary [to state this] only when it [the cavity or the wall] slopes to one side: I might have thought that it [the article found there] had slid down.⁴ Therefore we are taught [otherwise].

BUT IF IT [THE HOUSE] USED TO BE RENTED TO OTHERS, EVEN IF ONE FINDS [ARTICLES] IN THE HOUSE ITSELF, THEY BELONG TO HIM. Why so: let it be assigned to the last [tenant]?⁵ Did we not learn: Money found in front of cattle dealers at all times is [accounted as] tithe; on the Temple Mount, it is *hullin*; in [the rest of] Jerusalem, at any other part of the year, it is *hullin*; at the Festival season, it is tithe.⁶ And R. Shemaia b. Ze'ira observed

(1) If a knife is found in a wall cavity, if the handle points inwards, it belongs to the owner of the house; outwards, it is assumed to have been placed there by a passer-by; similarly with a purse and its straps or laces. (2) I.e., to articles where this criterion is inapplicable. (3) Half belongs to the house owner and half to the finder. (4) But was originally at the upper portion of the cavity, and the ownership should be determined accordingly. (5) I.e., let the last tenant be assumed the owner (Tosaf.). (6) Shek. VII, 2. If money is found in Jerusalem, the question arises, what is its status—is it ordinary secular coins (*hullin*) or tithe money? This was because the second-tithe (v. *infra* p. 517, n. 5) had to be eaten in Jerusalem or its monetary equivalent expended there, which money likewise was governed by the law of second tithe. Now, most of the flesh eaten in Jerusalem was bought with second tithe money, and generally took the form of peace offerings; when one could not stay long enough in Jerusalem to expend all the tithe money there, he would distribute it amongst the poor, or give it to his friends in Jerusalem. Consequently, if money is found in front of cattle dealers, whatever the time of the year, it is assumed to be of the second tithe. On the other hand, if found on the Temple Mount, we assume it to be *hullin*, even at Festival time, when most of the money handled is tithe, because the

thereon: What is the reason? Because the streets of Jerusalem were swept daily. This proves that we assume: the earlier [losses] have gone, and these [coins] are different ones. So here too, the earlier [deposits] have gone, and these belong to the last [tenant]?² —Said Resh Lakish on the authority of Bar Kappara: It means e.g., that he [the owner of the house] had let it as a temporary lodging to three people [simultaneously].³ Then you may infer that the *halachah* agrees with R. Simeon b. Eleazar even in respect to a multitude of Israelites!⁴ —But, said R. Manassia b. Jacob, it means e.g., that he had let it as a temporary lodging to three gentiles. R. Nahman said in Rabbah b. Abbahu's name: It may even refer to three Jews.⁵ What then is the reason? It is because the man who lost it despairs thereof, arguing thus: 'Let us see, no other person but these was with me. Now, I have many times mentioned it in their presence so that they should return it to me, but they did not do so. Will they now return it!⁶ Had they intended to return it, they would have returned it to me,⁷ hence the reason of their not returning it to me is that they intend stealing it.'⁸ Now, R. Nahman follows his general reasoning. For R. Nahman said: If a person sees a *sela'* [26b] fall from one of two people [who are together], he must return it. What is the reason? He who dropped it does not despair thereof, for he argues: 'Let us see, no other person but this one was with me; then I will seize him and say

greater part of the year is not Festival, and then ordinary *hullin* is in circulation, and this money might have been lost before the Festival. But if found in the other streets of Jerusalem, a distinction is drawn, as stated in the text.

(1) But not the Temple Mount. (2) Because before a tenant leaves his house he makes a thorough search to see that he leaves nothing behind. (3) In addition to the tenant (so it appears to be understood by Tosaf. a.l. s.v. *שלוש* and *לשלוש*). Therefore whichever tenant lost it would have abandoned it in despair of its being returned, in accordance with the view stated by R. Simeon b. Eleazar *supra* 24a: three constitute a multitude. (4) V. *supra* 24a. (5) And still it does not follow that the *halachah* rests with R. Simeon b. Eleazar. (6) After a lapse of some time. Surely not! (7) And not assumed that it was lost by a former tenant. (8) Thus in these special circumstances the loser may despair of the return thereof. But normally we do not follow the ruling of R. Simeon in the case of the majority of Israelites.

to him, 'You did take it.' But in the case of three' he need not return it. What is the reason?—Because he who dropped it certainly abandons it, arguing to himself, 'Let us see: there were two with me; if I accuse the one he will deny it, and if I accuse the other, he will deny it.'

Raba said: As for your ruling that in the case of three he need not return it, that holds good only if it [the coin lost] lacks the value of a *perutah*² for each [of the three]; but if it contains the equivalent of a *perutah* for each person, he is bound to return it. What is the reason? They may be partners, and therefore do not abandon it.³ Others state, Raba said: Even if it is worth only two *perutahs*, he must return it. What is the reason? They may have been partners, and one renounced his portion in the owner's favour.⁴

Raba also said: If a man sees a *sela'* fall, if he takes it before abandonment, intending to appropriate it,⁵ he transgresses all [the following injunctions]: *Thou shalt not rob*;⁶ *thou shalt restore them*;⁷ and, *thou mayest not hide thyself*.⁸ And even if he returns it after abandonment, he merely makes him [the loser] a gift, whilst the offence he has committed stands.⁹ If he picks it up before abandonment, intending to return it, but after abandonment decides to appropriate it, he violates [the injunction,] *thou shalt restore them*.¹⁰ If he waits until the owner despairs thereof and then takes it, he transgresses only, *thou mayest not hide thyself*.¹¹

(1) If it was dropped by one of three persons. (2) Cf. Mishnah, *infra* 55a. (3) When one discovers the coin gone, he thinks that his partner may have taken it as a practical joke. The stranger therefore picks it up before abandonment, and so must return it. (4) Hence the two *perutahs* belong to two, i.e., a *perutah* for each, so that the article comes within the ambit of theft, if taken before abandonment. (5) For it is regarded as theft if he picks it up then with the intention of keeping it. (6) Lev. XIX, 13. (7) Deut. XXII, 1. (8) Ibid. 3-sc. from taking up and returning a lost article. (9) Lit., 'he has committed it.' (10) Because 'thou shalt not rob' is applicable only when the action itself is committed with that intention. [Nor is the injunction, 'thou mayest not hide thyself,' applicable where the desire to appropriate it came to him after abandonment; v. Rashi and Tosaf.] (11) Since he takes it after abandonment, he is not guilty of robbery, nor must he return it. But by waiting until then, he 'hid himself,' i.e., refrained from taking the find at the proper time.

Raba also said: If a man sees his neighbour drop a *zuz* in sand, and then finds and takes it, he is not bound to return it. Why? He from whom it fell abandons it, and even if he is seen to bring a sieve and sift [the sand], he may merely be reasoning, 'Just as I dropped something, so may another have lost an article, and I will find it.'¹

MISHNAH. IF A MAN FINDS [AN ARTICLE] IN A SHOP, IT BELONGS TO HIM:² BETWEEN THE COUNTER AND THE SHOP-KEEPER ['S SEAT], TO THE SHOPKEEPER.³ [IF HE FINDS IT] IN FRONT OF A MONEY-CHANGER, IT BELONGS TO HIM [THE FINDER]; BETWEEN THE STOOL⁴ AND THE MONEY-CHANGER, TO THE MONEY-CHANGER. IF ONE BUYS PRODUCE FROM HIS NEIGHBOUR, OR IF HIS NEIGHBOUR SENDS HIM PRODUCE, AND HE FINDS MONEY THEREIN, IT IS HIS. BUT IF THEY [THE COINS] ARE TIED UP, HE MUST TAKE AND PROCLAIM THEM.⁵

GEMARA. R. Eleazar said: Even if they [the articles found] are lying on the [money-changer's] table [they belong to the finder]. We learnt: [IF HE FINDS IT] IN FRONT OF A MONEY-CHANGER, IT BELONGS TO HIM. [This implies,] but if it was on the table, it belongs to the money-changer.⁶ Then consider the

(1) But he has no hopes of finding his own, which he has already abandoned. Therefore the finder need not return it. (2) This refers to an article which cannot be identified. Since any customer might have dropped it, the shopkeeper has no particular claim to it; whilst the loser must have abandoned it, since it bears no mark of identification. Asheri, however, maintains that it refers even to an article which can be identified, because the loser argues to himself, 'In all probability the shopkeeper would have been the first to find it, and since I have complained of my loss in his presence and he has not responded, he evidently intends to keep it.' Therefore the loser abandons it, and so the finder may keep it. (V. *supra* 26a for a similar argument.) (3) Customers having no access to that spot, the shopkeeper must have dropped it there. (4) [The chest attached to the table in front of the money-changer, wherein the money was placed; v. Krauss, *TA*, II, 411.] (5) The manner of tying, or the number of coins, can prove ownership. (6) 'IN FRONT' denotes on the ground.

second clause: BETWEEN THE STOOL AND THE MONEY-CHANGER, TO THE MONEY-CHANGER; [implying,] but if on the table, it is his [the finder's]. But [in truth] no inference can be drawn from this.¹ And whence does R. Eleazar know this?—Said Raba: Our Mishnah presented to him a difficulty. Why teach particularly, BETWEEN THE STOOL AND THE MONEY-CHANGER, IT BELONGS TO THE MONEY-CHANGER? Let it state, 'on the table,' or, 'If one finds [an article] in a money-changer's shop,' just as the first clause teaches, IF ONE FINDS [AN ARTICLE] IN A SHOP, IT BELONGS TO HIM. Hence it must follow that even if it lay on the table, it is his.²

IF ONE BUYS PRODUCE FROM HIS NEIGHBOUR etc. Resh Lakish said on R. Janna's authority: This refers only [27a] to one who purchases from a merchant;³ but if one buys from a private individual, he is bound to return [the coins].⁴ And a tanna recited likewise before R. Nahman: This refers only to one who purchases from a merchant: but if from a private individual, he is bound to return [the coins]. Thereupon R. Nahman observed to him: 'Did then the private individual thresh [the grain] himself?'⁵ 'Shall I then delete it?' he enquired.—'No,' he replied; 'interpret the teaching of one who threshed [the grain] by his heathen slaves and bondswomen.'⁶

MISHNAH. NOW, THE GARMENT TOO WAS INCLUDED IN ALL THESE: WHY THEN WAS IT SINGLED OUT?⁷ THAT AN ANALOGY MIGHT BE DRAWN THEREWITH, TEACHING: JUST AS A GARMENT IS DISTINGUISHED IN THAT IT BEARS IDENTI-

(1) It neither refutes nor supports R. Eleazar. (2) I.e., these difficulties force him to translate 'IN FRONT OF A MONEY-CHANGER' as meaning even on his table, though generally the phrase connotes on the ground. (3) Who himself buys from many people, so that the original ownership cannot be traced. (4) 'Private individual' means one who grows his own produce. (5) The money might have been lost by one of his workmen. (6) These have no rights of ownership, and even if they lost the money, it still belongs to their master. (7) Lit., 'did it go forth.'