

MISHNAH. SOME FINDS BELONG TO THE FINDER; OTHERS MUST BE ANNOUNCED.¹ THE FOLLOWING ARTICLES BELONG TO THE FINDER: IF ONE FINDS SCATTERED FRUIT, SCATTERED MONEY,² SMALL SHEAVES IN A PUBLIC THOROUGHFARE,³ ROUND CAKES OF PRESSED FIGS, A BAKER'S LOAVES,⁴ STRINGS OF FISHES, PIECES OF MEAT, FLEECES OF WOOL WHICH HAVE BEEN BROUGHT FROM THE COUNTRY,⁵ BUNDLES OF FLAX AND STRIPES OF PURPLE,⁶ COLOURED WOOL; ALL THESE BELONG TO THE FINDER.⁷ THIS IS THE VIEW OF R. MEIR.⁸ R. JUDAH SAYS: WHATSOEVER HAS IN IT SOMETHING UNUSUAL MUST BE ANNOUNCED,⁹ AS, FOR INSTANCE, IF ONE FINDS A ROUND [OF FIGS] CONTAINING A POTSDERD, OR A LOAF CONTAINING MONEY. R. SIMEON B. ELEZAR SAYS: NEW MERCHANDISE¹⁰ NEED NOT BE ANNOUNCED.

GEMARA. IF ONE FINDS SCATTERED FRUIT, etc. What quantity [of fruit in a given space] is meant? R. Isaac said: A *kab*¹¹ within four cubits. But what kind of a case is meant? If [the fruit

(1) So that the owner may claim them. (2) Which cannot be identified by the loser and are thus given up by him as beyond recovery. The fact of the loser resigning himself to his loss (שאין) renders the article public property and gives the finder the right to acquire it. (3) Where the traffic soon destroys any distinguishing mark by which the sheaves might be identified. (4) Which are uniform in appearance and cannot be identified. (5) In a raw state, and bear no mark by which they could be identified. (6) Long strips of wool dyed purple, a common article in the days of the Mishnah. (7) The person who finds these articles need not announce them because they bear no marks by which the loser could identify them, and he has a right to keep them because the owner has given up the hope of recovering them. (8) [*Var. lec. omit.* 'This is . . . R. Meir;' v. also *infra* p. 143, n. 1.] (9) *V. infra* 23a. (10) *V. infra* 23b. (11) A measure. *V. Glos.*

appears to have been] dropped accidentally, then even if there is more than a *kab* [it should] also [belong to the finder].¹ And if it appears to have been [deliberately] put down, then even if there is a smaller quantity it should not [belong to the finder]?²—R. 'Ukba b. Hama answered: We deal here with [the remains of] what has been gathered on the threshing floor: [To collect] a *kab* [scattered over a space] of four cubits is troublesome, and, as people do not trouble to come back and collect it, [the owner also] abandons it, but if it is [spread over] a smaller space [the owner] does come back and collect it, and he does not abandon it. R. Jeremiah enquired: How is it [if one finds] half a *kab* [scattered over the space] of two cubits? Is the reason why a *kab* within four cubits [belongs to the finder] that it is troublesome [to collect], and therefore half a *kab* within two cubits, which is not troublesome to collect, is not abandoned [and should not belong to the finder], or is the reason [in the case of a *kab* within four cubits] that it is not worth the trouble of collecting [when spread over such a space], and therefore half a *kab* within two cubits, which is still less worth the trouble of collecting, is abandoned [and should belong to the finder]? [Again,] how is it [if one finds] two *kabs* [scattered over the space] of eight cubits? Is the reason why a *kab* within four cubits [belongs to the finder] that it is troublesome to collect, and therefore two *kabs* within eight cubits, which are still more troublesome to collect, are even more readily abandoned [and should certainly belong to the finder], or is the reason [in the case of a *kab* within four cubits] that it is not worth the trouble [of collecting], and therefore two *kabs* within eight cubits, which are worth the trouble [of collecting] are not abandoned [and should not belong to the finder]? [Again,] how is it [if one finds] a *kab* of poppy-seed [scattered over a space] of four cubits? Is the reason why a *kab* [of fruit] within four cubits [belongs to the finder] that it is not worth the trouble [of collecting], and therefore poppy-seed, which is worth the trouble [of collecting] is not

(1) As the loser would have no means of identifying them. (2) As the owner evidently intended to come back for them and has not really lost them. (3) After the harvest.

abandoned [and should not belong to the finder], or is the reason [in the case of a *kab* within four cubits] that it is troublesome [to collect], and therefore poppy-seed, which is even more troublesome [to collect], is abandoned [and should belong to the finder]? [Again], how is it [if one finds] a *kab* of dates within four cubits, or a *kab* of pomegranates within four cubits? Is the reason why a *kab* [of ordinary fruit] within four cubits [belongs to the finder] that it is not worth the trouble of collecting, and therefore a *kab* of dates within four cubits, or a *kab* of pomegranates within four cubits, which also is not worth the trouble [of collecting] is abandoned [and should belong to the finder], or is the reason [in the case of a *kab* within four cubits] that it is troublesome to collect, and therefore a *kab* of dates within four cubits or a *kab* of pomegranates within four cubits, which are not troublesome [to collect], are not abandoned [and should not belong to the finder]?—The questions remain unanswered.

It has been stated: [21b] Anticipated abandonment [of the hope of recovering a lost article]¹ is, Abaye maintains, no abandonment;² but Raba maintains, it is an abandonment.³ [If the lost article is] a thing which has an identification mark, all agree that [the anticipation of its abandonment by the owner] is no abandonment; and even if in the end⁴ we hear him [express regret at his loss in a way that makes it clear] that he has abandoned it, it is not [deemed to be an] abandonment, for when [the finder] took possession⁵ of it he had no right to it⁶ because [it is assumed that] when [the loser] becomes aware that he lost it he will not give up the hope [of recovering it] but says [to himself], 'I can recognise it by an identification mark; I shall indicate the identification mark and shall take it back.' [If the lost article is found] in the intertidal space of

(1) Lit., 'unconscious abandonment.' I.e., if an article is found before the loser has become aware of his loss, and the circumstances are such that the loser would have abandoned the hope of recovering the article had he known that he lost it. (2) And the finder has no right to keep the article. (3) And the article belongs to the finder. (4) After the article came into the hands of the finder. (5) Before the owner has been heard to despair of it. (6) As the article can be identified the finder cannot legally acquire it.

the seashore or on ground that is flooded by a river, then, even if it has an identification mark, the Divine Law permits [the finder to acquire it], as we shall explain further on.¹ They differ only where the article has no identification mark. Abaye says: It is no abandonment because [the loser] did not know that he lost it;² Raba says: It is an abandonment, because when he becomes aware that he lost it he gives up the hope [of recovering it] as he says [to himself], 'I cannot recognise it by an identification mark,' it is therefore as if he had given up hope from the moment [he lost it].³

(Mnemonic: PMGSH MMKGTY KKS'Z.)⁴ Come and hear: SCATTERED FRUIT⁵—[is not this a case where the loser] did not know that he lost it?—R. Uqba b. Hama has already explained that we deal here with [the remains of] what has been gathered on the threshing floor, so that [the owner] is aware of his loss.

Come and hear: SCATTERED MONEY, [ETC.] BELONG TO THE FINDER. Why? [Is it not a case where the loser] did not know that he lost it?—There also it is even as R. Isaac said: A man usually feels for his purse at frequent intervals.⁶ So here, too, [we say,] 'A man usually feels for his purse at frequent intervals' [and soon discovers his loss].

Come and hear: ROUND CAKES OF PRESSED FIGS, A BAKER'S LOAVES, [ETC.] BELONG TO THE FINDER. Why? [Is it not a case where the loser] did not know that he lost it?—There also he becomes aware of his loss, because [the lost articles] are heavy.

Come and hear: STRIPES OF PURPLE [ETC.]—THEY BELONG TO THE FINDER. Why? [Is it not a case where the loser] did not know that he lost them?—There also [he becomes aware of his loss] because the articles are valuable, and he frequently feels for them, even as R. Isaac said.

(1) *Infra* 22b. (2) He could not therefore consciously have given up the hope of recovering it. (3) The 'abandonment' is deemed to have a retrospective effect, and this entitles the finder to acquire the article. (4) Mnemonic consisting of Hebrew initials of the teachings that follow. (5) Quotation from our Mishnah. (6) B.K. 118b. So that he is bound to miss the money very shortly after he has lost it.

Come and hear: If one finds money in a Synagogue or in a house of study, or in any other place where many people congregate, it belongs to him, because the owner has given up the hope of recovering it. [Is not this a case where the loser] did not know that he lost it?—R. Isaac answered: People usually feel for their purse at frequent intervals.

Come and hear: From what time are people allowed to appropriate the gleanings [of a reaped field]?¹ After the 'gropers' have gone through it.² Whereupon we asked: What is meant by the 'gropers'? and R. Johanan answered: Old people who walk leaning on a stick,³ while Resh Lakish answered: The last in the succession of gleaners.⁴ Now why should this be so? Granted that the local poor give up hope [of finding any gleanings],⁵ there are poor people in other places who do not give up hope?⁶—I will say: Seeing that there are local poor, those [in other places] give up hope straight away, as they say, 'The poor of that place have already gleaned it.'⁷

Come and hear: Cut figs [found] on the road, even if [found] beside a field [covered with] cut figs,⁸ and also figs found under a fig-tree that overhangs the road, may be appropriated [by the finder] without him being guilty of robbery, and they are free

(1) Which belong to the poor. V. Lev. XIX, 9. (2) Pe'ah VIII, 1. (3) Who walk slowly and examine the ground carefully while looking for the gleanings and are not likely to miss a single ear of corn. (4) So that no other poor can hope to find any more gleanings. (5) As the local poor see the aged and feeble or the successive groups, glean in the field, they come to the conclusion that there would be nothing more left to glean, and they 'give up hope'. (6) The poor who live at a distance cannot be said to give up hope consciously as they do not see the local gleaners. It must therefore be assumed that the reason why people who are not poor are allowed to appropriate the gleanings which have escaped the attention of the local poor is that the distant poor will give up hope when they will have learned how thoroughly the field has been gleaned by the local poor. This would prove that 'anticipated abandonment' is valid—in contradiction to the view of Abaye. (7) Thus the 'abandonment' is not 'anticipated' but real at the time when the people come and appropriate what is left of the gleanings, and there is contradiction to the view of Abaye. (8) I.e., beside the field on which cut figs have been spread out to dry, and it is obvious that the figs on the adjoining road belong to the same owner.

from tithing,¹ but olives and carob-beans are forbidden.² Now, the first part [of the Mishnah] implies no contradiction to Abaye because [cut figs], being valuable, are under constant observation;⁴ [whole] figs also are known to drop.⁵ But the last part [of the Mishnah], which teaches that olives and carob-beans are forbidden, implies a contradiction to Raba!⁶—R. Abbahu answered: Olives are different [from other fruit] because one can recognise them by their appearance, and although olives drop [to the ground] the place of each one is known.⁷ But if so, the same should apply to [whole figs in] the first part [of the Mishnah]?⁸—R. Papa answered: Figs become filthy when they [drop to the ground].⁹

Come and hear: If a thief takes from one and gives to another, or if a robber takes from one and gives to another, [22a] or if the Jordan¹⁰ takes from one and gives to another, then what has been taken is taken, and what has been given is given.¹¹ Now, this is obviously right as regards [things taken] by a robber or by the Jordan, because [the owner] sees them [when they are taken]¹² and he gives up hope, but as regards a thief—does the owner see him

(1) They are treated as ownerless goods which need not be tithed, for although the owner may not have known of the loss, he will abandon hope when he gets to know. (2) Ma'as. III, 4. (3) Who says that 'anticipated abandonment' is not valid. (4) And the owner discovers his loss as soon as it occurs and abandons it. (5) [And the owners in the absence of an identification mark give up the hope of recovering them (Tosaf.).] (6) The owners are not deemed to have given up the hope of recovering them, as olives and carob-beans do not usually drop, and the owner is not aware of his loss. And although the owner is bound to discover his loss later, and will then 'give up hope,' it is only 'anticipated abandonment' at the time when the lost goods are found and appropriated. Thus 'anticipated abandonment' is not valid—in contradiction to the view of Raba. (7) I.e., it is known to whom they belong. The owner therefore feels sure that he will recover them, and there is not even 'anticipated abandonment'. There is thus no contradiction to Raba. (8) As olives can also be identified by their colour and shape. (9) This is why the owner abandons them at once and they become public property. According to another version the translation would be, 'Figs change colour when they drop, (and cannot therefore be identified).' (10) Or any other river which carries away goods and lands them somewhere else. (11) The recipient has a right to keep the goods. Cf. B.K., 114a. (12) He sees them being carried off and he at once abandons them.

[steal] so that [we could say that] he has given up hope?—Rab Papa explained it as referring to armed bandits.² But then it is the same as 'robbers'?—There are two kinds of robbers.

Come and hear: If a river has carried off someone's beams, timber, or stones, and has deposited them in a neighbour's field, they belong to the neighbour because the owner has given up hope.⁴ So the reason [why they belong to the neighbour] is that the owner has given up hope, but ordinarily they would not [belong to the neighbour]?⁵—Here we deal with a case where [the owner] is able to retrieve them.⁶ But if so, I must refer you to the last part [of the quoted teaching]: 'If the owner was running after them, [the neighbour] must return them': Now if it is a case where [the owner] is able to retrieve them, why state that he is running after them? [They should belong to him] even if he does not run after them!—We deal here with a case where the owner is able to retrieve [the property] with difficulty: If he runs after it [we conclude] that he has not given up the hope [of recovery]; if he does not run after it [we conclude] that he has given up the hope [of recovery].

Come and hear: In what circumstances has it been said that if one sets apart the heave-offering⁷ without the knowledge [of the owner] the offering is valid? If one goes down into a neighbour's field, collects [the produce] and sets apart the heave-offering, without permission, if [the owner objects to the action and] considers it robbery, the offering is not valid, but if not, it is

(1) As the owner does not become aware of his loss when it occurs he cannot be said to have consciously abandoned hope. (2) Who commit open larceny so that the owner becomes aware of his loss at once and abandons it. Cf. B.K. 57a. (3) An event like the flooding of one's property soon becomes known, and the owner becomes aware of his loss and gives up hope. In the Tosef. Keth. VIII, the version is: 'They belong to the neighbour if the owner has given up hope,' so also R. Han. and Tosaf. a.l. (q.v.). (4) In regard to an ordinary loss, of which the owner is not likely to have become aware at once, it would not be said that it belongs to the finder. This would contradict the view of Raba. (5) So that ordinarily the owner never gives up hope and there is not even 'anticipated abandonment'. Thus there is no contradiction to Raba. (6) Cf. Num. XVIII, 8.

valid. And how can one tell whether [the owner] considers it as robbery or not? If the owner, on arriving and finding the person [in the field], says to him: You should have gone and taken the better kind [of the produce for the heave-offering], the offering is valid if there is a better kind to be found [in the field], but if not, it is not valid. If the owner collected [more of the produce] and added it [to the offering] it is valid in any case. Thus [we see that] if there is a better kind [in the field] the offering is valid. But [is this so?] surely at the time when the offering was set apart [the owner] did not know it?²—Raba explained it according to Abaye: [The owner] made him [who set apart the offering] his agent. This is conclusive indeed. For if you were to assume that he did not make him his agent, how could the offering be valid? Did not the Divine Law⁴ [instead of] 'Ye', say, 'ye also',⁴ to include 'your agent', [as much as to say:] As you [set apart your offerings] with your own knowledge so must your agent [set apart your offerings] with your knowledge?⁵ Therefore we must deal here with a case where [the owner] made him his agent and said to him, 'Go and set apart the heave-offering,' but did not say to him, 'Set it apart from this kind,' and usually an owner sets apart the heave-offering from the medium kind, but that other person went and set it apart from a better kind, whereupon the owner arrived and, finding him [in the field], said to him, 'You should have gone and taken it from a [still] better kind.' [In such a case the law is that] if a better kind can be found [in the field] the offering is valid, but if not, it is not valid.

Amemar, Mar Zuṭra, and R. Ashi once entered the orchard of Mari b. Isaac [whereupon] his factor brought dates and pomegranates and offered them [to the visitors]: Amemar and R. Ashi ate them, but Mar Zuṭra did not eat them. Meanwhile Mari b.

(1) Cf. Kid. 52b. (2) It must therefore be concluded that 'anticipated' knowledge is as good as real knowledge. In the same way 'anticipated' abandonment should be deemed as valid as real abandonment, in contradiction to Abaye. (3) So that he can act for his owner at any time, and his action is always valid. (4) Num. XVIII, 28. (5) The agent must have the owner's mandate to act for him. Cf. *infra* 71b; Kid. 41b.