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Babylonian Talmud: Tractate Baba Mezi'a

Baba Mezi'a 24a

hospitality.¹ What is the point [in this observation]? — Mar Zutra said: [It is important in regard to the question] of returning a lost article, [recognised] by sight: If we know that [the claimant] conceals the truth in those three matters only we give it back to him, but if he does not speak the truth also in other matters we do not give it back to him. Mar Zutra the pious once had a silver vessel stolen from him² in a hospice. When he saw a disciple wash his hands and dry them on someone else's garment he said, 'This is the person [who stole the vessel], as he has no consideration for the property of his neighbour.' [The disciple] was then bound, and he confessed.

It has been taught: 'R. Simeon b. Eleazar admits that new vessels which the eye has sufficiently noted have to be announced. And the following new vessels which the eye has not sufficiently noted have not to be announced: such as — poles of needles,³ knitting needles, and bundles of axes. All these objects mentioned above are permitted⁴ only if they are found singly, but if found in twos one must announce them.' What are badde ['poles']? Rods. And why are they called badde ['poles']? Because an object on which things hang is called 'bad'⁵ — as is stated there.⁶ One leaf on one branch ['bad']. 'R. Simeon b. Eleazar also said: If one rescues anything from a lion, a bear, a leopard, a panther, or from the tide of the sea, or from the flood of a river, or if one finds anything on the high road, or in a broad square, or in any place where crowds are frequent, it belongs to the finder — because the owner has given it up.'⁷

The question was asked: Did R. Simeon b. Eleazar say this [with regard to things found in places] where the majority of the people are heathens,⁸ but not where the majority are Israelites, or [did he say this] also [with regard to things found in places] where the majority are Israelites? And if you come to the conclusion that [he said this] also where the majority are Israelites do the Rabbis differ from him or not? And if you come to the conclusion that they differ from him — they would certainly differ where the majority are Israelites — do they differ where the majority are heathens, or not?⁹ And if you come to the conclusion that they differ even where the majority are heathens, is the law in accordance with his view or not? And if you come to the conclusion that the law is in accordance with his view, does this apply only to the case where the majority are heathens, or also to the case where the majority are Israelites? — Come and hear: If one finds money in a Synagogue or a house of study, or in any other place where crowds are frequent, it belongs to the finder, because the owner has given it up.¹⁰ Now, who is the authority that lays it down that we go according to the majority¹¹ if not R. Simeon b. Eleazar? You must therefore conclude that [he applies this principle] also to a case where the majority are Israelites!¹² — Here we deal with [a case where the money found was] scattered.¹³ But if [the money was] scattered, why refer to places where crowds are frequent? It would apply also to places where crowds are not frequent!¹⁴ — Admittedly, therefore, [the reference is to money found] in bundles,¹⁵ but we deal here with Synagogues¹⁶ of heathens. But how can this be applied to 'houses of study'?¹⁷ — [The reference is to] our houses of study in which heathens stay.¹⁸ Now that you have arrived at this conclusion [the reference to] 'Synagogues' [can] also [be explained as meaning] our Synagogues in which heathens stay.

Come and hear: If one finds therein¹⁹ a lost object, then if the majority are Israelites it has to be announced, but if the majority are heathens it has not to be announced.²⁰ Now who is the authority that lays it down that we go according to the majority if not R. Simeon b. Eleazar? You must therefore conclude that R. Simeon b. Eleazar says this only where the majority are heathens, but not where the majority are Israelites! — [No.] This is the view of the Rabbis. But then you could conclude therefrom that the Rabbis accept R. Simeon b. Eleazar's view in the case where the majority are heathens! — Admittedly, therefore, this²¹ represents the view of R. Simeon b. Eleazar, and his ruling applies also to a case where the majority are Israelites, but here²¹ we deal [with a case where the money was] concealed.²² But if it was concealed, what has [the finder] to do with it? Have we not learnt: 'if one finds a vessel in a dungheap, if covered up he may not touch it; but if uncovered he must take it and announce it'?²³ — As R. Papa explained²⁴ [The reference is] to a dungheap which is not regularly cleared away, and which [the owner] unexpectedly decided to clear away — so here also [the reference is] to a dungheap which is not regularly cleared away, and which [the owner] unexpectedly decided to clear away.²⁵

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1. Regarding which a scholar may refuse to give correct information in order not to embarrass his host by inducing others to come and seek the latter's hospitality.
2. [MS.M. omits 'from him'. The cup belonged accordingly to the hospice. (V. Rashi.) This version is supported

- by the fact that Mar Zutra acted in the case in a judicial capacity, and it is unlikely that he would act thus in a case affecting his own interests. V. Chajes. Z.H. Notes a.l.]
3. Poles into which needles are stuck (Rashi). Some authorities leave out the word 'poles' and read 'needles' alone. Others regard the word 'poles' as separate from the word 'needles' (not as a construct but as an absolute plural form) and translate 'poles, needles,' etc.
 4. To be kept by the finder.
 5. [H] the singular of [H] (poles).
 6. [So according to many texts; cur. edd., 'as we learnt' is evidently a copyist's error, as the passage cited (Suk. 44b) is not Mishnaic but Amoraic.]
 7. A.Z. 43a.
 8. [Heathens do not return lost articles (v. *infra* p. 152, n. 3), and consequently do not come within the provision of the law relating to the announcement of finds. Moreover, according to Tosaf., even if it were certain that the article belonged to an Israelite, there would be no need to return it because the owner, presuming that a heathen found it, would despair of recovering it. v. B.K. (Sonc. ed.) p. 666.]
 9. [In view of the principle that we do not follow the majority in money matters.]
 10. Cf. *supra* 21b.
 11. I.e., that in the question whether a found article is to be returned depends on considerations relating to the majority of the people that frequent the place where the article is found.
 12. As the majority of those congregating in a Synagogue are Israelites.
 13. In such a case the Rabbis also hold that the money belongs to the finder, as stated in the Mishnah, *supra* 21a.
 14. Scattered money has no identification mark and is given up by the owner as soon as it is lost, even if crowds do not frequent the place where it has been dropped.
 15. Which present an identification mark and are only given up when lost in a place which is frequented by crowds.
 16. [H], lit., 'houses of assembly', or 'meeting places,' not Jewish houses of prayer. It is in this sense that the term is used here.
 17. Even if the term 'Synagogues' could be interpreted as meaning secular meeting places used by Gentiles, how could the term [H] applied only to Colleges where Jewish law is studied and expounded, mean anything but Jewish Colleges frequented by Jews?
 18. Jewish Colleges situated outside the Jewish quarters and guarded by Gentile watchmen placed there for the purpose.
 19. In a city inhabited by Jews and heathens.
 20. Mak. II, 8.
 21. This cited Mishnah.
 22. In which case it was not lost at all, and if the majority were Israelites the finder would have to announce it.
 23. As the article may have been thrown on the dungheap accidentally (Mishnah, *infra* 25b).
 24. Ibid.
 25. In which case the finder must take the article away and announce it. (Cf. *infra* 25b.) Had the owner of the dungheap been in the habit of clearing it away regularly the person who placed the article there could not have claimed it, as the 'loss' would have been a deliberate one.

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Baba Mezi'a 24b

And if you wish I will say: Admittedly this is the view of the Rabbis,¹ but it is stated. 'They belong to the finder'? — It [merely] says 'He has not to announce them' [meaning that] he lets it lie,² and when an Israelite comes and indicates an identification mark in it he receives it.

Come and hear: R. Assi said: If one finds a barrel of wine in a town where the majority are heathens he is permitted [to keep it] as a find but he is forbidden to derive any benefit from it.³ If an Israelite comes and indicates an identification mark in it the finder is permitted to drink it.⁴ Now this is obviously in accordance with the view of R. Simeon b. Eleazar.⁵ It therefore follows that R. Simeon b. Eleazar only says this where the majority are heathens, but not where the majority are Israelites! — [No.] In reality, I will tell you. R. Simeon b. Eleazar says this also where the majority are Israelites, but R. Assi agrees with him in the one case⁶ but differs from him in the other case.⁷ But if [the finder] is forbidden to derive any benefit [from the barrel of wine], what purpose does the law serve [by permitting him to keep it]? — R. Ashi answered: In regard to the vessel.⁸

A certain man once found four zuz which had been tied up in a cloth and thrown into the river Biran. When he appeared before Rab Judah the latter said to him, 'Go and announce it.' But is not this [like retrieving an object from] the tide of the sea? — The river Biran is different. As it contains obstacles⁹ the owner does not give up hope.¹⁰ But does not the majority¹¹ consist of heathens? Hence it must be concluded that the *halachah* is not in accordance with R. Simeon b. Eleazar even where the majority are heathens! — [The position in regard to] the river Biran is different. For Israelites dam it up¹² and Israelites dredge it: As Israelites dam it up it may be assumed that an Israelite dropped [the coins], and as Israelites dredge it, [the loser] did not give them up.¹³

Rab Judah once followed Mar Samuel into a street of wholemeal vendors,¹⁴ and he asked him: What if one found here a purse?¹⁵ — [Mar Samuel] answered: It would belong to the finder. What if an Israelite came and indicated an identification mark? — [Mar Samuel] answered: He would have to return it. Both?¹⁶ — [Mar Samuel] answered: [He should go] beyond the requirements of the law.¹⁷ Thus the father of Samuel found some asses in a desert, and he returned them to their owner after a year of twelve months: [he went] beyond the requirements of the law.

Raba once followed R. Nahman into a street of skinners¹⁸ — some say into a street of scholars — and he asked him: What if one found here a purse? — [R. Nahman] answered: It would belong to the finder. What if an Israelite came and indicated its identification mark? — [R. Nahman] answered: It would [still] belong to the finder. But that one keeps protesting! — It is as if one protested against his house collapsing or against his ship sinking in the sea.

Once a vulture seized a piece of meat in the market and dropped it among the palm-trees belonging to Bar Marion. When the latter appeared before Abaye he¹⁹ said to him: Go and take it for yourself. Now, the majority [in that case] consisted of Israelites. Hence it must be concluded that the *halachah* is in accordance with R. Simeon b. Eleazar even where the majority are Israelites! — [The position in regard to] a vulture is different — for it is like the tide of the sea.²⁰ But did not Rab say

that meat which has disappeared from sight is forbidden?²¹ — He²² stood by and watched it.²³

R. Hanina once found a slaughtered kid between Tiberias and Sepphoris, and he was permitted [to appropriate] it. R. Ammi said: He was permitted [to appropriate] it as a find, according to R. Simeon b. Eleazar, and as regards the method of slaughter²⁴ — [it was deemed proper.] according to R. Hanania, the son of R. Jose the Galilean. For it has been taught²⁵ 'If one lost his kids or chickens and subsequently found them slaughtered — R. Judah forbids them, and R. Hanania the son of R. Jose the Galilean, permits them [to be eaten]. Rabbi said: The words of R. Judah seem right in a case where [the lost kids or chickens] were found on a dungheap while the words of R. Hanania, the son of R. Jose the Galilean seem right when they were found in a house.²⁶ Now, seeing that they were permitted in regard to the method of slaughter, the majority must have consisted of Israelites.²⁷ Hence it must be concluded that the *halachah* is according to R. Simeon b. Eleazar even where the majority are Israelites! — Raba replied: [That was a case where] the majority [of the inhabitants were] heathens, and the majority of the slaughterers [were] Israelites.²⁸

R. Ammi once found some slaughtered pigeons between Tiberias and Sepphoris. When he appeared before R. Assi — some say, before R. Johanan; others again say, in the house of study — he was told: 'Go and take them for yourself.'

R. Isaac the blacksmith once found some balls of string which were used for making nets. When he appeared before R. Johanan — some say, in the house of study — he was told: 'Go and take them for yourself.'

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MISHNAH. THE FOLLOWING OBJECTS HAVE TO BE PROCLAIMED: IF ONE FINDS FRUIT IN A VESSEL,²⁹ OR A VESSEL BY ITSELF, MONEY IN A PURSE,³⁰ OR A PURSE BY ITSELF; HEAPS OF FRUIT,³¹ HEAPS OF COINS,

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1. And it is not a case where the money was concealed. It is wrong, however, to conclude from this that the Rabbis agree with R. Simeon b. Eleazar where the majority are heathens, as their decision does not mean that the article belongs to the finder.
2. [I.e., he retains it in his possession till an Israelite comes. V. Strashun a.l.] The fact that the majority are heathens does not, according to the Rabbis, entitle the finder to appropriate the article, v. *supra*. p. 151, n. 9.
3. As the wine may have been used in connection with idol-worship and thus become [H] i.e., forbidden not only to be drunk by Jews but also to be utilised in any way that might yield profit or pleasure.
4. As the owner proves to be a Jew the prohibition relating to wine used in connection with idol-worship does not arise, and as the majority of the inhabitants of the place are heathens who do not return lost articles, the owner must be assumed to have abandoned the hope of recovering the lost goods.
5. Who maintains that in such a case the majority must be considered in deciding whether the finder is entitled to appropriate the article or not.
6. Where the majority are heathens.
7. Where the majority are Israelites.
8. He may use the vessel in which the wine is contained, although he is forbidden to use the wine.
9. Various kinds of network intended to catch the fish.
10. As the network is likely to hold up the article floating in the river the owner hopes that the article will ultimately be recovered.
11. Of the inhabitants of the territory through which the river Biran flows.
12. By placing the network therein for the purpose of catching fish.
13. He depended on the Israelites recovering the article during dredging operations and returning it to him.
14. Where crowds congregate.
15. Would he be entitled to keep it?
16. Do not the two views contradict each other?
17. I.e., in saying 'he would have to return it' R. Simeon b. Eleazar did not give a legal decision but indicated what he would regard as the proper action to take on the ground of morality. The term used ([H]) means literally 'within the line of justice,' i.e. performing a good action even if one is not compelled to do so legally. Cf. B.K. (Sonc. ed.) p. 584, n. 2.
18. Persons who deal in skins, leather and leather goods.
19. Abaye.
20. The owner is sure to have given up the hope of recovering the loss.
21. As it may have been exchanged for, or replaced by, meat taken from an unclean animal or be otherwise unfit to be eaten by Jews.
22. Bar Marion.
23. From the time the vulture seized it until it dropped it.
24. I.e., as regards the assumption that the kid had been slaughtered in accordance with the Jewish ritual and was therefore 'Kasher', or fit to be eaten by Jews.
25. V. Hul. 12a.
26. Which would show that they were unfit to be eaten.
27. As otherwise it could not be assumed that the Jewish method of slaughter had been used.
28. It could therefore be assumed that the Jewish method of slaughter was used, although the majority of the inhabitants were heathens. * The translation from here to the end of the tractate is by Rabbi Dr. H. Freedman.
29. Which usually has some identification mark by which the owner may recognise it.
30. Which also has an identification mark.
31. Heaps of fruit or money also have identification marks, as explained in the Gemara below.

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