

19 Tishrei 5776
Oct. 21, 2016



Bava Metzia Daf 25

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Daf Notes is currently being dedicated to the neshamot of

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Mishna

And the following, if found, must be announced (*for they have a siman – an identifying mark, and the owner will not despair from recovering them*): If one finds produce in a vessel (*the vessel has a siman*); or a vessel by itself; money in a purse; or a purse by itself; piles of produce or money; three coins one on top of the other; bundles of grain in a private domain; homemade loaves; fleeces of wool taken from a craftsman; pitchers of wine or oil. If any of these are found, they must be announced. (24b – 25a)

Produce Nearby

The *Gemora* infers from the *Mishna* that if the produce was in front of the vessel (*and not in it*), or the money was in front of the purse, the finder would be allowed to keep them (*and we would not assume that they fell from the container*).

We have then learned in our *Mishna* that which is taught in the following *braisa*: If one found a vessel and produce in front of it, or a purse and money in front of it, the finder is allowed to keep them. However, if a portion of the produce was in the vessel and a portion was lying on the ground, or a portion of the money was in the purse and a portion was lying on the ground, the finder would be obligated to announce them (*and he would be required to*

return all the produce or the money if someone gave a siman for the vessel or the purse).

The *Gemora* asks a contradiction from the following *braisa*: If someone found something without an identifying mark next to something with an identifying mark, he is required to announce them (*everything*). If the owner of the object with the identifying mark claims it and takes his object (*but he says that the money is not his*), the finder acquires the object without the identifying mark on it. [*Evidently, we can assume that money found near a purse belongs to the owner of the purse!?*]

Rav Zevid answers: This is not a difficulty, for one *braisa* is referring to a barrel and flax (*or money and a purse; the finder can keep it (the flax), for if it would have originated from the barrel, some of the flax should have remained*), and the other *braisa* is referring to a basket and produce (*where no such assumption can be made; he therefore would be obligated to return the produce to the basket owner*).

Rav Pappa answers: Both *braisos* can be referring to a barrel and flax, but one *braisa* is dealing with a case where there is some flax remaining in the barrel, and the other *braisa* is dealing with a case where there is no flax remaining in the barrel.

Alternatively you can answer that one *braisa* is dealing with a case where the opening of the basket faces the produce, and the other *braisa* is dealing with a case where the opening was not facing the produce.

Alternatively you can answer that one *braisa* is dealing with a case where the basket has a rim (*and some of the produce should therefore have remained*), and the other *braisa* is dealing with a basket without a rim. (25a)

Coins Stacked

The *Mishna* had stated: If one finds three coins one on top of the other, he is obligated to announce them.

Rabbi Yitzchak Migdelaah said that this ruling is correct provided that the coins are stacked like a tower (*with the widest on the bottom and the narrowest on the top*).

The *Gemora* cites a supporting *braisa*: If a man finds scattered coins, they belong to him. If they are stacked like a tower, he is required to announce them. And three coins one on top of the other is the case that they are stacked like a tower.

Now is this *braisa* not self-contradictory? First it was stated: If a man finds scattered coins, they belong to him. We can infer from here that if they were leaning on each other (*partly on the coin and partly on the ground*), he must announce them. Then consider the latter clause: If they are stacked like a tower, he is required to announce them. We can infer from here that if they were leaning on each other they are his!?

The *Gemora* answers: Regarding coins not stacked like a tower, the *Tanna* refers to as scattered.

Rabbi Chanina said: The *Mishna's* ruling applies only where the coins are from three different kings, but if they are from one king, he would not be required to announce them.

The *Gemora* asks: What are the circumstances? If they are stacked like a tower, then even if they are from one king, they should be announced! If they are not stacked like a tower, even if they are from three kings, there should be no need to announce them!?

Rather, the following is what Rabbi Chanina stated: The *Mishna's* ruling applies only where the coins are from one king, yet similar to three different kings. How so? It is when they are stacked like a tower - the widest at the bottom, the medium-sized upon it, and the smallest on top of the middle one. He must announce them, for we assume that they were placed like that. If, however, they are from one king - all being of equal size, then even if they are stacked one upon the other, they belong to the finder, for we may assume that they fell in this way by mere chance.

Rabbi Yochanan, however, holds that even if the coins are from the same king (*the same size*), he is required to announce them.

The *Gemora* asks: What does he announce? If he announces the number (*and the owner states how they were arranged*), then why does the *Mishna* specify three coins - even if it were just two, it (the halachah) should be the same!?



Mishna

Ravina answers: He announces that he found coins (*and the owner states the amount and how they were arranged*).

Rabbi Yirmiyah inquired: What if the coins were arranged in a circle; in a row; like a triangle; like steps?

The *Gemora* attempts to resolve one of his inquiries, for Rav Nachman said in the name of Rabbah bar Avuha: Wherever a chip (*of wood*) can be inserted, whereby the coins will be lifted together, he would be required to announce them (*which would include the case of steps*).

RavAshi inquired: What if they were arranged like the stones of the House of Kulis (*a Roman divinity*)?

The *Gemora* attempts to resolve this from a *braisa*: If one finds scattered coins, they belong to him, but if they were arranged as the stones of the House of Kulis, he must announce them. And this is how the stones of Kulis are arranged: one at each side, and a third on top of both of them.

The *Gemora* cites a *braisa*: If one finds a *sela* in a market place, and then his friend found him and said, "It is mine." He provided an identifying mark by saying, "It is new," or "It is a Neronian coin," or "It is from such-and-such a king," he has said nothing. Furthermore, even if his name is written upon it, he has still said nothing because an identification mark does not help with respect to a coin, for one can say, "He may have spent it and someone else lost it." (25a – 25b)

If one found young pigeons tied together behind a wall or behind a fence, or on the paths in fields, he should not touch them. If one found a utensil in a garbage heap, the *halachah* is as follows: if it was covered over, he should not touch it; if it is uncovered, he takes it and announces it. (25b)

Pigeons

The *Gemora* explains the reason for not touching the pigeons: It is because we say that a person hid them here, and if the finder takes them (*intending to return them*), their owner has no means of identifying them. Therefore he must leave them until their owner comes and takes them.

The *Gemora* asks: Why isn't the knot a means of identification?

Rabbi Abba bar Zavda answers in the name of Rav: The *Mishna* is dealing with a case where they were tied by their wings – a manner in which everyone ties them.

The *Gemora* asks: Then let the location where they were found be an identification mark!?

Rav Ukva bar Chama answers: It refers to birds that can hop from one place to another.

The *Gemora* asks: But if they hop, they may have come from elsewhere, and should therefore be permitted!?

The *Gemora* answers: It is possible that they came from elsewhere, but it is also possible that a person hid them there. It is therefore a case of doubtful placing, and Rabbi Abba bar Zavda said in the name of Rav: 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 did pick it up, he should not return it. [*He cannot return to it to any claimant, for there is no siman; he cannot put it back because the owner might have come back in between and will not return here again.*] (25b)

Garbage Heap

The *Mishna* had stated: If one found a utensil in a garbage heap, the *halachah* is as follows: if it was covered over, he should not touch it; if it is uncovered, he takes it and announces it.

The *Gemora* asks a contradiction from a *braisa*: If one finds an article hidden in a garbage heap, he must take and announce it, for it is the nature of a garbage heap to be cleared away!?

Rav Zevid answers: There is no difficulty. The *Mishna* is referring to barrels and cups, whereas the *braisa* is dealing with knives and forks. In the case of barrels and cups, he should not touch them (*for we may assume that the owner placed them there*). In the case of knives and forks, he should take them and announce them (*for there is a good possibility that they were mistakenly taken out of the house and placed in the garbage*).

Rav Pappa said: Both refer to barrels and cups, yet there is no difficulty. The *braisa* refers to a garbage heap that is

regularly cleared away, whereas the *Mishna* refers to one that is not cleared away regularly.

The *Gemora* asks: If it is a garbage heap which is regularly cleared away, would it not be a case where it is an intentional loss!?

The *Gemora* answers: It is referring to a garbage heap which was not regularly cleared away, but the owner decided to clear it out (*and therefore the finder must pick it up and announce it*). (25b)

INSIGHTS TO THE DAF

“Proximity” and “Majority”

The *Gemora* cites a *braisa*: If someone found something without an identifying mark next to something with an identifying mark, he is required to announce them (*everything*).

The Ketzos Hachoshen asks: Isn't there an established principle (Bava Basra 23b) that when a conflict arises between a “majority” and a “proximity,” we follow the majority!? If so, why do we assume that the produce originated from the barrel which is nearby, we should say that they fell from a passerby, for that is the majority!?

He answers according to the Ramban, who says that that where something is found in its actual place, that principle does not apply. Since the produce is found within four *amos* of the utensil, they are regarded as if they are resting in their place – we therefore follow the proximity.



The Chasam Sofer answers that besides the “proximity,” there is a definite claim from the claimant. Accordingly, we do not follow the majority in such cases.

The Chazon Ish answers that when the “proximity” is also a “probability,” we do not follow the majority. Since it is most probable that the produce originated from this container, we do not assume that they fell from a passerby.

QUESTIONS AND ANSWERS FROM YESTERDAY’S DAF

to refresh your memory

Q: Which Torah scholar is believed that this lost article is his because he visually recognizes it?

A: If he is one that deviates from the truth only if he learned a certain tractate; if he had conjugal relations; if he had a good host.

Q: What is the *halachah* if one finds a utensil covered in a garbage heap?

A: He should not touch it.

Q: What is the *halachah* if one finds a barrel of wine in a city where the majority of the residents are Canaanites?

A: The wine is forbidden for benefit; the barrel is permitted and it belongs to the finder.

DAILY MASHAL

The origin of the name Migdalaah

Some Amoraim had apparently unfathomable names, such as Rabbi Yitzchak Migdalaah in our sugya or Rabbi Zuhamai in Tractate Berachos (53b). Maharitz Chayos comments that the Talmud mentions some Amoraim only once, in connection with some halachah attributed uniquely to them. They were therefore named for the halachah, such as Rabbi Yitzchak Migdalaah, who stated the halachah about the return of forgotten coins stacked in the form of a tower (migdal). Rabbi Zuhamai stated the halachah that one must not make a berachah with dirty (mezuhamos) hands. Maharitz Chayos declares that this is no witticism: Our sages endeared even seemingly minor halachos and revered the Amoraim who passed them on to the point of naming them accordingly.