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Similarly, if an olive press was built in a rock and above it was a garden, and the roof of the press was broken through, the owner of the garden can descend and sow below [on the floor of the press], until the press-owner repairs the vaulting [to provide a support for the garden above]. If a wall or a tree fell into a public thoroughfare and caused damage, he [its owner] is free from liability. But if he was given a [fixed] time to cut down the tree or pull down the wall, and they fell: if within the period, he is not liable; after that period, he is liable. If a man's wall was near his neighbor's garden and it collapsed [into the garden], and when he (the neighbor) demanded, "Remove your stones," he replied, "They have become yours," he is not heeded. If, however, after the latter agreed [to the proposal [and removed them] he said, "Here are your [removal] expenses, and I will take back mine [the stones]," he is [likewise] not heeded. If a man engages a laborer to work for him on straw or stubble, and when he demands his wages, says to him, "Take the results of your labor for your wage," he is not heeded. If after he agreed [to the proposal] he said to him, "Here is your payment, and I will take my property," he is [likewise] not heeded.

Broken through: Rav said: the greater part of it; Shmuel ruled: four [handbreadths]. Rav said: the greater part of it, but if only four [handbreadths,] one can sow partly above and partly below. Shmuel said: four [handbreadths]: one cannot [be expected to] sow partly above and partly below.

Now, both [disputes] are necessary, for if we taught [it] in

connection with a dwelling, [it might be said that] only there does Shmuel state his ruling, because it is unusual for a man to dwell partly in one place and partly in another; but with respect to sowing, where it is quite usual for a man to sow here a little and there a little, I might say that he agrees with Rav. While if only the present dispute were stated, [I might argue that] only here does Rav hold this view; but in the other case, he agrees with Shmuel. Hence both are necessary.

If he was given a [fixed] time. And what time is given by the court? Rabbi Yochanan said: thirty days.

If a man's wall etc. The Gemora asks: But since the last clause teaches: here are your [removal] expenses, it follows that he [the garden owner] has removed them. Thus, it is only because he removed them; but why so? Let his field effect possession for him! For Rabbi Yosi son of Rabbi Chanina said: A man's courtyard effects possession for him even without his knowledge!

The Gemora answers: That is only where he [the original owner] desires to grant him possession; but here he merely seeks to evade him.

If a man engages a laborer to work with him on straw etc. Now, both are necessary. For if only the first were stated, that when he proposes, "Let them be yours," he is not heeded, [it might be said that] that is because he [the garden owner] has no wage claim upon him; here, however, that he [the laborer] has a wage claim, I might argue that he [the employer] is listened to, because it is

proverbial, 'from your debtor accept [even] bran in payment,' while if this clause [alone] were taught, [it might be that] only in this case, once he [the worker] accepts the proposal, is he [the employer] not heeded, because he has a wage claim upon him; but in the former case, where he has no wage claim upon him, I might think that he is heeded; hence both are necessary.

He is not heeded. The Gemora asks: But has it not been taught. He is heeded.

Rav Nachman said: There is no difficulty; here [in the Mishna] the reference is to his own work, there [in the baraisa], to his neighbor's.

Rabbah said to Rav Nachman: [when he is employed] on his own, what is the reason [that he is not heeded]? It is because he [the laborer] can say to him, "You are responsible for my wages." [but when employed] by his neighbor he can also say to him, "You are responsible for my hire"! For it has been taught: if one engaged an artisan to labor on his [work], but directed him to his neighbor's, he must pay him in full, and receive from the owner [of the work actually done] the value of the labor whereby he benefited!

Rather, said Rav Nachman, there is no difficulty: here it refers to his own; there, to that of hefker.

Rava raised an objection against Rav Nachman: That which is found by a laborer [while working for another] belongs to himself. When is that? If the employer had instructed him, "Weed or dig for me today," but if he said to him, "Work for me today," [without specifying the nature of the work], his findings belong to the employer!

Rather, said Rav Nachman, there is no difficulty: here [in the mishna] the reference is to lifting up; there, to watching.

Rabbah said: [whether] 'watching' [effects possession] in the case of hefker is disputed by Tannaim. For we learned in a Mishna: Those who keep guard over the aftergrowth of the sabbatical year are paid out of temple funds. Rabbi Yosi said: he who wishes can donate [his work] and be an unpaid watcher. They [the sages] said to him: you say so, [but then] they are not provided by the public. Now, surely, the dispute is on this question: the first Tanna holds that 'watching' hefker effects possession; hence, if he is paid, it is well, but not otherwise. While Rabbi Yosi maintains that 'watching' does not effect possession of hefker; hence, only when the community go and fetch it is possession effected.

And what is meant by: you say [etc.]? They said as follows to him: From your statement [and] on the basis of our ruling, [it transpires that] the omer and the two loaves are not provided by the public!

Rava said: that is not so, for all agree that 'watching' effects possession of hefker; but they differ here as to whether we fear that he will not deliver it wholeheartedly. Thus, the Rabbis hold that he must be paid, for otherwise there is the fear lest he does not deliver it wholeheartedly, while Rabbi Yosi holds that this fear is not entertained.

And what is meant by: you say? They said as follows to him: from your statement, [and] on the basis of our ruling that we fear that it will not be surrendered wholeheartedly, the omer and the two loaves are not provided by the public.

Others say: Rava said: all agree that 'watching' does not effect possession in the case of hefker; but they dispute here whether we entertain a fear of violent men. The first Tanna holds that the Rabbis enacted that he shall be paid four zuz, so that violent men may hear of it and hold aloof; while Rabbi Yosi holds that they did not enact [thus].



And what is meant by: you say'? They said as follows to him: from your statement, [and] on the basis of our opinion, [it follows that] they are not provided by the public. And when Ravin came, he likewise said in Rabbi Yochanan's name: they differ as to whether we fear [the action of] men of violence.

If a man takes out manure into a public thoroughfare, it must be applied [to the soil] immediately after being taken out. Mortar must not be steeped in the street, nor may bricks be formed there. Clay may be kneaded in the street, but bricks may not be [molded]. When one is building in a public road, the bricks must be laid immediately after they are brought. If he causes damage, he must pay that which he damaged. Rabban Shimon ben Gamliel said: one may prepare his materials even thirty days beforehand.

The Gemora asks: Shall we say that our Mishna does not agree with Rabbi Yehudah? For it has been taught: Rabbi Yehudah said: when it is the time for manure to be taken out, a man may put his manure out into the street and leave it heaped up for full thirty days, that it should be trodden down by the foot of man and animal for on this condition did Yehoshua allot the land to Israel!

The Gemora notes: It may even agree with Rabbi Yehudah, for he admits that if he thereby causes damage, he must make it good.

The Gemora asks: But have we not learned: Rabbi Yehudah said: In the case of a Chanukah lamp he is not liable, because this was done under authority. Surely that means, under authority of the court?

The Gemora answers: No. It means the authority of a precept.

The Gemora asks: But it has been taught: All those whom the Rabbis permitted to commit a nuisance on the public thoroughfare, if they cause damage, they are bound to pay; while Rabbi Yehudah exempts them! Hence it is clear that our Mishna does not agree with Rabbi Yehudah.

Abaye said: Rabbi Yehudah, Rabban Shimon ben Gamliel, and Rabbi Shimon all maintain that wherever the sages gave permission [to do a certain thing] and damage was thereby caused, there is no liability. 'Rabbi Yehudah', as stated. 'Rabban Shimon ben Gamliel', — for we learned: One may prepare his materials even thirty days beforehand. 'Rabbi Shimon', — for we learned: if he placed it [a stove] in an upper story, there must be a flooring of three handbreadths deep under it; but for a small stove, one handbreadth; nevertheless, if he causes damage, he must make it good. Rabbi Shimon said: All these measurements were stated only so that if he causes Damage, he is free from liability.

The Gemora cites a braisa: Once the quarryman has delivered [the stones for building] to the chiseler [for polishing and smoothing], the latter is responsible [for any damage caused by them]; the chiseler having delivered them to the hauler, the latter is responsible; the hauler having delivered them to the porter, the latter is responsible; the porter having delivered them to the bricklayer, the latter is responsible; the bricklayer having handed them over to the foreman, the foreman is liable. But if after he had [exactly] laid the stone upon the row, it caused damage, all are responsible.

The Gemora asks: But has it not been taught: Only the last is responsible, whilst all the others are exempt?

The Gemora answers: There is no difficulty: the latter refers to time-work; the former, to contracting.