

21.2.5; 24b (משנה ב') → 25b (שכן דרך אשפה לפנות לה כלים קטנים)

I משנה ב' that must be declared

a Fruit

i found in a vessel (or a vessel itself)

ii heaps of fruit – could be “heaps” → number is a סימן or “heap” → location is a סימן

1 upshot: either number or location is a סימן, but not both – and we can't tell which

b Money

i Found in a pouch (or the pouch itself); heaps of coins

1 inference: only if the fruit was found in the basket or the money in the pouch

(a) however: if each was found in front of the respective receptacle – no הכרזה (support from ברייתא)

(b) ברייתא adds: if some were in the pouch and some on the ground – must declare

(i) Challenge: ruling that if he found something w/o a סימן next to something with a סימן – must declare

1. However: if someone came and identified, he only returns the item with the סימן and keeps other

(ii) Answer1 (ר' זביד): casket/flax (if flax came from casket, some would've been left) vs. basket/fruit

(iii) Answer2 (ר' פפא): both are basket/fruit; if some was left in basket, claimant gets all

1. Or: in both cases, nothing was left; but if the fruit was facing the basket – gets all

2. Or: in both cases, fruit is facing basket; if it has rims, would've remained (doesn't get all)

ii 3 coins piles one atop the other

1 ר' יצחק – as long as they are set up like pyramids

(a) Supporting ברייתא: if dispersed, may keep; if set up as pyramids (3 one atop the other) – must declare

(b) Note: implied contradiction of רישא vs. סיפא;

(i) רישא implies that overlapping (less designed than pyramid) must be declared

(ii) סיפא implies that overlapping need not be declared

(c) Answer: תנא is teaching that anything less structured than pyramid is considered dispersed

2 ר' חנינא: only applies if the 3 coins are different sizes (as if it were 3 of different kings)

(a) Structure: largest at bottom, smallest on top – must have been deliberately laid out that way

(b) However: if they are all the same size, may have fallen that way

3 ר' יוחנן: even if the 3 coins are the same size

(a) Challenge: what can he declare? –

(i) Suggestion: the number (and claimant identifies how they were left) Block: if so, even if he found 2

(b) Rather: he declares that he found “coins” (implies 2) and the claimant identifies the number

4 Question: what if they were laid out in a circle, a row, triangular or staggered

(a) Answer: from ר'נ's ruling – if you could put a chip of wood and lift together (staggered) must declare

5 Question (ר' אשי): what if they were laid out like a Mercury-marker (2 on ground, one atop them)

(a) Answer: from ברייתא – must declare

iii Tangential ruling (ברייתא): if he found a coin in the שוק, even if his friend identifies the image – he may keep it

1 Ruling: he may have spent it himself and it fell from his seller

c Other parallels to משנה א'

i (a) Small sheaves in רה"י, (b) Homemade loaves, (c) Strips of wool bought from the artisan (d) barrels of wine or oil

II משנה ג' items which the finder must leave alone

a finding tied birds behind a fence or wall, or in the paths in fields

i however: if it is uncovered, must take and declare

ii reason: item was deliberately placed there and without location, owner has no סימן

1 question: why isn't the knot a סימן? Answer: they are tied on their wings as all are tied

2 Question: why isn't the location a סימן?

(a) Answer: they are walking around

(i) Challenge: if so, they may have come from elsewhere

(ii) Answer: indeed – but ספק הינוח must be left alone, but if he took it, need not return

b finding a vessel in the dung-heap; if it is covered, must avoid

i challenge: ruling that if he found a כלי buried in a dung-heap, must take and declare

1 answer1 (ר' זביד): large vessels (must've been put there deliberately – don't touch) vs. small vessels

2 Answer2 (ר' פפא): if it is a dung heap which is usually moved (must've been lost – take and declare)

(a) Challenge: if it is usually moved, it is אבדה מודעת and belongs to the finder

(b) Answer: it is usually not moved but will be now (suddenly)

(i) Note: language of משנה supports פפא, ר' זביד's take can be explained – לפנות כלים קטנים