

## MISHNAH-TOSEFTA PEAH CHAPTER SIX

The role of human intention in determining which sheaves must be left as forgotten produce for the poor forms the central problem of this entire chapter. The issue is introduced by a series of Houses-disputes (M. 6:1–2) that ask about the status of a sheaf the farmer leaves behind with the clear intention to collect it at some later time. The Shammaites consistently hold that such sheaves are exempt from the law. If the farmer binds an unusually large quantity of produce into a single sheaf (M. 6:1F), or places an ordinary sheaf in a special location (M. 6:21), he indicates that he intends to retrieve the grain. The Shammaites consider decisive the intention revealed through this act. Hence, they rule that the produce does not enter the status of forgotten sheaves. Hillelites (M. 6:1G, 6:2J) have a different view. They claim that the fact of the farmer's leaving the sheaves behind is decisive. Since we cannot be certain that the householder ever will retrieve the sheaves, all grain left in the field, even those sheaves that he might have set aside for later collection, immediately enter the category of the forgotten sheaf.

The bulk of the chapter (M. 6:3–9) takes up the position advocated by the Shammaites: by definition, sheaves that a householder purposely leaves in the field do not fall into the category of the forgotten sheaf. But how might a farmer indicate through his action that he intends to retrieve the sheaves at a later time? Mishnah's authorities propose three possible methods. First, the householder may place the sheaves in a specific pattern in the field, or near an object to which he certainly will return (M. 6:3). His act of arranging these sheaves for later collection shows that he has not forgotten them. Second, he can leave a large amount of produce in the field, as if in temporary storage (M. 6:5–7). Since we assume that he would not forget so great a quantity of food, his action of leaving it behind again makes it clear that he intends to retrieve the sheaves. Finally, the farmer may leave sheaves near unharvested produce (M. 6:8). When he returns to reap the standing crop, he also will gather any sheaves left nearby.

The chapter concludes with two units that illustrate and reiterate the main points of the law. First, produce that never is bound into sheaves, such as animal fodder, by definition cannot enter the category of

forgotten sheaves (M. 6:10). Second, a short essay on intention and the law of the forgotten sheaf (M. 6:11) restates the chapter's underlying point: sheaves that the householder leaves behind but intends to gather at some later time do not enter the category of forgotten produce.

Two rules (M. 6:4, 6:9) stand outside of the chapter's overall theme, but are included here because they provide relevant, if secondary, information. First, a general principle (M. 6:4) states that a worker may not return to gather sheaves once he has passed them by. This rule, derived from Deut. 24:19, is presented as the Scriptural basis for the entire law of the forgotten sheaf. Second, the framers of M. 6:7–8 apply the restrictions of the forgotten sheaf to a patch of unharvested grain. We speak of a case in which a householder harvests and binds part of a crop, but leaves the rest standing. If he does not reap this remaining grain forthwith but leaves it behind, it takes on the status of forgotten produce. The underlying theory is that the farmer's action in binding one portion of the field immediately renders the whole crop subject to the law. This rule is noteworthy because it stands in sharp contrast to the bulk of the tractate, which holds that the law applies only to produce already bound into sheaves (see above, M. 5:7–8).

6:1–2

- A. The House of Shammai say, "[Property that is declared] ownerless [exclusively] for [the benefit of] the poor [fully enters the status of] ownerless property."
- B. But the House of Hillel say, "[Such produce] has [the status of] ownerless property only if it is declared ownerless also for [the benefit of] the rich,
- C. "as is the case with [produce that grows during a year of] release." [During the Sabbatical year, all produce growing in fields is deemed ownerless, and may be taken by rich and poor alike.]
- D. [If] every sheaf in a field [contains] a single *qab* [of grain], but one [sheaf contains ] four *qabs*, and [the householder] left behind<sup>1</sup> [this big sheaf]—
- E. the House of Shammai say, "It is not [subject to the restrictions of the] forgotten sheaf."
- F. But the House of Hillel say, "[It is subject to the restrictions of the] forgotten sheaf."

M. 6:1

<sup>1</sup> In many places I translate *škl* (usually rendered "forgot") as "left behind," because the law clearly assumes that the sheaf was not forgotten and does not fall into the category of the forgotten sheaf.

- G. [As regards] a sheaf near (1) the stone fence [at the edge of the field], (2) a grain-heap, (3) oxen, or (4) farm tools, and [the householder] left [this sheaf] behind—
- H. the House of Shammai say, “It is not [subject to the restrictions of the] forgotten sheaf.”
- I. But the House of Hillel say, “[It is subject to the restrictions of the] forgotten sheaf.”

M. 6:2 (M. Ed. 4:3–4; Y. Peah 1:5[16c], 5:1[18d], 6:5[19c], 7:1[20a]; Y. Sheq. 1:2[46a]; Y. Ket. 8:1[32a]; B. Ned. 7a; B. B.M. 30b)

The pericope deals with two distinct topics, produce in the status of ownerless property (A–C) and produce in the status of forgotten sheaves (D–F, G–I). I turn first to the latter materials, for they alone address the subject of the entire chapter. These two disputes at D–E vs. F and G–H vs. I, focus on sheaves that have distinctive characteristics,<sup>2</sup> either large size (D–F) or special location (G–I). Such sheaves present an ambiguity, because when left behind, they seem to be forgotten. Yet their distinguishing features suggest that the farmer remembers them and intends to retrieve them. The Hillelites (F, I) rule that the sheaves are subject to the law. In their view, all produce that a householder leaves behind in the fields immediately enters the category of forgotten sheaves. The fact that he might later remember the food is of no account, because he left the sheaves behind. The Shammaites (E, H) take the alternative view. Because of the special features of the sheaves in question, it is a distinct possibility that the householder will remember and retrieve them. Accordingly, they do not fall into the category of the forgotten sheaf and are exempt from the law.

A formally separate dispute (A vs. B–C) addresses the category of ownerless property. Here the farmer has declared some food ownerless, yet intends that the edibles be used by the poor alone. In the view of the Hillelites (B–C) the farmer’s wishes are unimportant. His act of declaring the food ownerless defines his intention, so that the food

<sup>2</sup> Distinguishing characteristics, important as mnemonic devices at E–G and H–J, also play a central role in the rules of lost objects (see for example M. B.M. 2:5). If a lost object has a distinctive feature, we assume that its owner does not give up hope of regaining his property. Whoever finds the object will be able to trace the owner through the special marks. In the present case, the Shammaites hold that a sheaf with distinctive features will be remembered, and so cannot enter the category of forgotten sheaves. See also Lieberman, TZ, p. 51.

belongs to all, rich and poor alike.<sup>3</sup> The Shammaites (A), by contrast, rule that the farmer's intention does define the category of ownerless produce. What he sets aside in this case is reserved for the poor; yet, like all ownerless produce, it is exempt from the separation of tithes.

The pericope thus brings together two superficially unrelated topics and, in so doing, addresses a single larger issue: What is the role of human intention in defining categories such as "forgotten sheaves" and "ownerless property?"<sup>4</sup> For the case of forgotten sheaves, we wish to know which of the sheaves that a householder leaves behind are subject to the law. Does this include those that he clearly intends to retrieve? So too, we ask whether or not a farmer may declare some of his produce ownerless, yet stipulate that he intends that the food be taken only by poor people. In both cases we wish to know whether or not the farmer's will is decisive. The Hillelites, for their part, consistently claim that the farmer's stated intent cannot affect the definitions of "forgotten sheaves" or of "ownerless property." His actions alone determine what enters these categories. The householder is presumed to intend the natural consequences of his actions. Hence that which he leaves behind is forgotten; that which he declares ownerless belongs to all. In striking contrast, the Shammaites claim that the ordinary farmer's intentions place all things in their proper categories. The phrases "forgotten sheaf" and "ownerless property" therefore acquire meaning only in light of the farmer's wishes. According to this theory, human intention takes precedence over action. What the farmer wishes is more important than what he actually does. As at M. 3:1–5, only the Shammaites' view is carried forward in the material to follow. The tractate's framers apparently deem this view to be authoritative.

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<sup>3</sup> Ownerless property is exempt from the separation of tithes (see M. Maas. 1:1; Jaffee, pp. 28–30). In light of this fact, one formulation of the issue at A–C is as follows: Are the poor required to separate tithes from produce given to them as a gift? The Shammaites hold that they need not. Food given to them alone may be deemed ownerless, and so exempt from tithing. The Hillelites hold that such property is not truly ownerless, and so the poor must separate tithes. Although this issue may account for the importance of the question posed at A–C, its point in context is different. As I have explained, the pericope's main interest lies in the effect of human intention upon the law.

<sup>4</sup> The three disputes before us take up a common theme but do not comprise a triplet. A triplet, we recall, is a set of three rules that express precisely the same point in precisely the same formal pattern. In the present case, however, no stich repeats the language of the corresponding stich in the other disputes. Since the similarity is merely topical but not formal, we have no triplet.

## T. 3:1f

- A. The House of Shammai and the House of Hillel agree that if [one] declares [produce] to be ownerless
- B. for [the benefit of] man but not beast,
- C. for [the benefit of] Israelite but not gentile,
- D. *[that which has been declared ownerless indeed is] ownerless property* (cf. M. 6:1A–D).

Tosefta indicates the limits of M. 6:1A–D's dispute. Both the Shammaites and the Hillelites agree that a householder may reserve for Israelites but not gentiles produce that he declares ownerless (C). Similarly, he may state that his ownerless property is reserved for humans but not for animals (B). The Houses disagree only concerning the distribution of ownerless property within the Israelite world. The Shammaites hold that the householder may reserve such produce for a specific segment of Israelites. The Hillelites, by contrast, hold that all Israelites must have equal access to property declared ownerless.

## 6:3

- A. [As regards sheaves that the householder has left at] ends of rows [on one side of his field]—
- B. [the presence of] a sheaf on the opposite side [of the field] proves [that the sheaves referred to at A are not forgotten]. [While harvesting the field, zig-zagging up and down the rows, the householder has arranged the sheaves at the end of each row for latter collection. We therefore know that he has not forgotten them.]
- C. [As for] a sheaf that [the householder] had picked up,<sup>5</sup> in order to take it to the city [for sale], and that he then left behind [in the field]—
- D. the [Hillelites] concede [to the Shammaites]<sup>6</sup> that [the sheaf] is not [subject to the restrictions of the] forgotten sheaf. [By his deed, the farmer already has indicated that he intends to take the sheaf with him later when he goes to the city.]

M. 6:3 (Sif. Deut. #283 [Horowitz, p. 300])

<sup>5</sup> *Hlzyq* here means "pick up" (see Jastrow, I, pp. 444–445, s.v. *hlzq*). In this context the phrase cannot have its usual meaning in Mishnah, "to acquire possession," because the householder already acquired full possession of the grain when he bound it into a sheaf (as at M. 5:8).

<sup>6</sup> The phrase "they agree . . ." (D) has no possible antecedent other than the Houses (see M. 6:1–2). Furthermore, the protasis at C formally matches the superscriptions of the two Houses-disputes at M. 6:1–2D–F, G–I [i.e., substantive + *š* + . . . + *wšklw* + . . . *šklh/ynw šklh*]. On this basis, I claim that C–D conclude the series of House-disputes.

Sheaves that a farmer leaves behind but fully intends to retrieve appear no different from those that he has forgotten. At issue here is how we know whether or not the farmer in fact remembers this produce. The two formally distinct rules (A–B, C–D) before us express a single solution, that the householder's actions indicate his intentions (see M. 6:1–2).<sup>7</sup> By arranging the sheaves at A–B in a distinctive pattern, for example, the farmer has made it clear that he remembers them. The law therefore does not apply to sheaves left at the edge of the field. When the householder has finished harvesting, he will pass up and down the edge of the field, gathering the sheaves. Similarly, the farmer who picks up the sheaf at C–D indicates that he will take it with him at some later time. He has not forgotten it, even though he leaves it in the field. It remains only to note that C–D are phrased to conclude the series of Houses-disputes at M. 6:1–2. Both Houses here are assigned the view previously given the Shammaites alone, that the farmer's intention determines which sheaves fall into the category of the forgotten sheaf.

T. 3:2

- A. Said R. Ilai, "I asked R. Joshua, 'Over which sheaves did the House of Shammai disagree [with the House of Hillel that such sheaves are subject to the restrictions of the forgotten sheaf]?"
- B. "He [i.e., Joshua] said to me, 'By the Torah! This [dispute refers to those] *sheaves that are near the picking ladder, grain-heap, or farm tools, and which the householder left behind* (M. 6:2H–J).<sup>8</sup> [The Shammaites hold that sheaves near fixed locations] are exempt from the law, while the Hillelites hold that they are subject.]
- C. "But when I came and asked R. Eliezer<sup>9</sup> [which sheaves the Houses disputed], he said to me, '[The Houses] agree that these [sheaves near fixed locations] are<sup>10</sup> [subject to the restrictions of] the forgotten sheaf. With regard to what did they disagree? [They disagree] with regard to *a sheaf which [the householder] picked up in order to take it to the city [for sale], and [which he] placed near the fence and then left behind* (M. 6:3C).

<sup>7</sup> Bert, TYT, and Albeck, p. 56, read M. 6:3 and 6:4 as a single harmonious pericope. In their view M. 6:3A–B set up rules regarding the "ends of rows" in a field, which follow at M. 6:4. I reject this interpretation because of the intervening rule at M. 6:3C–D. Instead, I follow Maimonides, *Commentary*, and MR, who claim that A–B and C–D address the same issue, how a farmer's intentions may be indicated by his actions. See also Lieberman, TK, p. 166.

<sup>8</sup> On B as a citation of M. 6:2H–J, see Lieberman, TZ, p. 51.

<sup>9</sup> So E, *ed. princ.* V. repeats "R. Eliezer" twice through dittography. See Lieberman, TZ, p. 51.

<sup>10</sup> So Y. 6:2[29a]; E, V, and *ed. princ.* read "are not." See Lieberman, TK, p. 163.

- D. "For the House of Shammai say [that such a sheaf] is not [subject to the restrictions of] the forgotten sheaf, because the householder had taken possession of it [= the position taken by both Houses at M. 6:3D]. But the House of Hillel say [that such a sheaf] is [subject to the restrictions of] the forgotten sheaf.' [The Hillelites are assigned a position consistent with their opinion throughout M. 6:1–2. Human intention later to retrieve the produce is not determinative. Since the sheaf is left behind in the field, the law applies.]
- E. "And when I came and recited these matters before R. Eleazar b. Azariah, he said to me, 'By the Torah! These matters were spoken at Sinai.'"

Ilai's report addresses a problem raised by the divergent positions assigned to the Hillelites at M. 6:2 and at M. 6:3. As we recall, the Hillelites first hold (M. 6:2H–J) that human intention is unimportant in determining whether or not a sheaf is subject to the law of the forgotten sheaf. At M. 6:3, however, they agree with the Shammaites that the farmer's wishes are decisive. That pericope claims that, by taking full possession of a sheaf, the farmer indicates his intention later to take it to the city. Accordingly, the law does not apply. Joshua (B) introduces this problem by reiterating the Hillelites' and the Shammaites' positions. Eliezer (C–D) resolves the contradiction between the two pericopae by assigning to the Houses opinions consistent with their views at M. 6:2. Eleazar b. Azariah (E) supports this harmonization as authoritative.

*T. 3:3*

- A. [*As regards*] a sheaf that [*the householder*] picked up [*in order*] to take it to the city [*for sale*] (M. 6:3C),
- B. and that he set on top of another [sheaf] (*hbrw*), and then left behind both [the top and the bottom sheaves]—
- C. the bottom [sheaf] is [subject to the restrictions of] the forgotten sheaf, and the top [sheaf] is not [subject to the restrictions of the] forgotten sheaf.
- D. (Delete: The bottom [sheaf])<sup>11</sup>
- E. R. Simeon says, "Neither [sheaf is subject to the restrictions of the] forgotten sheaf,
- F. "(Add: The bottom)<sup>12</sup> [sheaf is exempt]—because it is covered [and so removed from sight] (see M. 5:7A3–4).
- G. "The top [sheaf is exempt]—because he had picked it up."

<sup>11</sup> V mistakenly reads at D "the bottom sheaf." In line with E, *ed. princ.*, and Lieberman, TZ, p. 51, this phrase must be shifted to F.

<sup>12</sup> So E, *ed. princ.*; see preceding note.

Tosefta's two-part rule (A–C, E–G) supplements M. 6:3C–D, cited at A. The farmer picks up a sheaf, thereby indicating that he wishes to retrieve it later and rendering it exempt from the law. He then places it on top of another sheaf. We wish to know whether or not this action is sufficient to indicate his intention later to gather the bottom sheaf. At A–C sages hold that it is not. The householder did nothing to the bottom sheaf in order to indicate his intention. Merely covering it is not enough. As in Mishnah's rules of acquisition, the farmer must act directly upon an object in order to indicate his intention in its regard.<sup>13</sup> In this case, since the farmer never touched the bottom sheaf, the law of the forgotten sheaf applies. Simeon's lemma (E–G) responds to the same situation, but reads in a different issue.<sup>14</sup> For him the status of the bottom sheaf is determined by its being covered (cf. M. 5:7A3–4), not by the farmer's indications that he will return to gather it. He holds that the sheaf was hidden from sight, but never actually forgotten. The sheaf therefore is exempt from the law.

*T. 3:4a*

- A. [As regards] a field the [produce of which has not yet been bound into] sheaves, [and so the produce still is] scattered [over the field]<sup>15</sup>—
- B. [if the householder] bound and then left behind one of the sheaves,
- C. the law of the forgotten sheaf does not apply.
- D. [This is the case] until he binds all [other produce] in the vicinity.

Tosefta illustrates the principle of M. 6:3 with an obvious case. The farmer at A leaves behind a sheaf during the binding process. Since he has not yet finished binding the grain, we know that he intends to return and to gather any sheaves he bound. The law therefore does not apply (C). If the farmer has finished binding (D), however, there

<sup>13</sup> The notion that one must act directly upon an object in order to indicate his intentions for it also is expressed at M. 4:3. As we recall, the pericope states that a poor person may acquire ownership of *peah* only by physically taking it. Merely covering it with his cloak does not sufficiently indicate his intention to acquire it. See above, pp. 74–75. See also M. Sheb. 10:9, which requires an explicit act in order to indicate acquisition.

<sup>14</sup> Although the pericope presents two divergent opinions on the same problem it does not comprise a true dispute. As I have explained, the two rulings do not respond to each other, but merely treat a single situation. Porton ("Artificial Dispute," p. 18) says that "in a true dispute both comments should deal with the problem set forth in the superscription, and the two comments should respond to each other." The present pericope meets the first of these requirements, but not the second. In form, then, I classify it as an artificial dispute.

<sup>15</sup> See Jastrow, II, p. 1109, s.v. *ʿḇ* (i).

is no indication that he will collect sheaves left behind in the field. Hence, these sheaves fall into the category of forgotten produce, and must be left for the poor.

*T. 3:4b*

- A. *[As regards sheaves that the householder has left at] ends of rows [on one side of his field]—[the fact that he picks up] a sheaf on the opposite side [of the field] proves [that the sheaves left on the first side of the field are not forgotten] (M. 6:3A–B).*
- B. How [can this procedure prove that sheaves left at ends of rows are not forgotten]? [This is a problem because M. 6:3 assumes that the householder may return to the field in order to collect sheaves that he earlier arranged for collection. Deut. 24:19, however, expressly forbids him to return.]
- C. [The problem is solved by the case of] one who owned [a field of] ten rows,<sup>16</sup> such that [the entire field contains enough produce to comprise] ten sheaves [i.e., each row's produce will be bound into a single sheaf],
- D. and he bound one of the sheaves [comprised of produce growing in a row oriented] from north to south, and he [left it, apparently] forgotten [at the end of the row]—
- E. the law of the forgotten sheaf does not apply.
- F. This is because [the case] concerns [a householder who moves] from east to west. [That is to say, after the harvest, when gathering sheaves laid out for collection, the householder travels along the edge of the field, perpendicular to the rows. Since he travels from east to west, he does not return and retrace his earlier path. Since he does not violate Deuteronomy's injunction, he is allowed to gather the sheaves.]

At issue is a contradiction between M. 6:3A–B, cited at A, and Deut. 24:19. As we recall, M. 6:3 allows the farmer to return to the field in order to gather sheaves he earlier arranged for collection. Deut. 24:19, however, forbids this. C–F resolves the problem. When the householder gathers the sheaves he does not retrace his exact path up and down the rows, but moves along the edge of the field. Because he moves in a different direction, this does not fall into the category of “returning,” and so is not forbidden.

6:4

- A. And these are [the rules that apply to] ends of rows [in a field]:
- B. [As regards] two men who began [to collect sheaves] from the middle of a row, one facing north and the other facing south,<sup>17</sup>

<sup>16</sup> So E, *ed. princ.*, and Lieberman, TZ, p. 51. V reads: ten fields.

<sup>17</sup> Maimonides, *Commentary*, Bert, TYT, and MR all interpret the pericope in light

- C. and they left behind [sheaves both in the areas that were] in front of them [i.e., between their starting locations and the edges of the field] and [in the areas that were] behind both of them [i.e., the area between the points where they started harvesting]—
- D. [a sheaf that they left behind] in front of [either one of] them [i.e., between either of their starting locations and the edge of the field] is [subject to the restrictions of the] forgotten sheaf, [for one of the harvesters passed by the sheaf, but did not take it].
- E. But [a sheaf that they left in the field] behind them [i.e., in the area between their starting locations] is not [subject to the restrictions of the] forgotten sheaf, [for neither worker passed by the sheaf]. [Neither worker, then, left it behind.]
- F. An individual who began [to collect sheaves] from one end of a row, and left ungathered [a sheaf either] in front of himself [i.e., in an area through which he has not yet passed] or behind himself [i.e., in an area he already had worked]—
- G. [a sheaf that he left] in front of himself is not [subject to the restrictions of the] forgotten sheaf, [for he has not yet left it behind].
- H. But [a sheaf that he left in the field] behind him is [subject to the restrictions of the] forgotten sheaf,
- I. because it is governed by [the Scriptural law], “[When you reap your harvest in your field, and have forgotten a sheaf in the field,] you shall not go back [to get it]” (Deut. 24:19).
- J. This is the general principle:
- K. Whatever [sheaf] is governed by [the law], “You shall not go back” [i.e., any sheaf that the workers already have left behind while passing through the field], is [subject to the restrictions of the] forgotten sheaf.
- L. But that which is not governed by [the law], “You shall not go back,” is not [subject to the restrictions of the] forgotten sheaf, [for the workers never passed it and never left it behind].

M. 6:4 (B. B.M. 11a)

The main point is that a sheaf can enter the system of the law only after the harvester has passed it by and left it behind. By definition, a worker cannot have forgotten to collect a sheaf that he has not yet passed. The farmer's actions in passing the produce and in leaving it uncollected thus precipitate the process whereby food is set aside for the poor. The two cases at A+B-D and E-H+I, as well as the general principle at J+K-L, thus claim that sheaves lying in areas that the harvesters have not yet worked are exempt from the law.

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of T. 3:4b, which claims that the focus of the rule is the direction that the workers move when gathering the sheaves (cf. B). This interpretation is not supported by the text. Instead, I follow Albeck, pp. 56–57, who explains the pericope in terms of the worker's position within each row of the field.

## 6:5

- I. A. Two sheaves [of grain that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf.
- B. But three [sheaves left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf.
- II. C. Two piles of olives or carob [that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf.
- D. But three [such piles left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf.
- III. E. Two stalks of flax [that are left side-by-side in a field] are [subject to the restrictions of the] forgotten sheaf.
- F. But three [stalks left side-by-side in a field] are not [subject to the restrictions of the] forgotten sheaf.
- IV. G. Two [individual] grapes [that separate from a vine, and lie on the ground side-by-side] are [subject to the law of] the separated [grape] (Lev. 19:9–10).
- H. But three [grapes lying side-by-side] are not [subject to the restrictions of] the separated [grape].
- V. I. Two stalks [of grain that fall to the ground during the harvest and lie side-by-side] are [subject to the restrictions of] gleanings.
- J. But three [stalks lying side-by-side] are not [subject to the restrictions of] gleanings.
- K. These [rulings] accord with the opinion of the House of Hillel.
- L. But concerning all of them, the House of Shammai say, “Three [measures of produce left in the field] belong to the poor, but four [measures of produce] belong to the householder.”

M. 6:5 (B. Shab. 113b; B. B.B. 72b; B. San. 88a; Sifre Deut. #283 [Horowitz, p. 299])

A large amount of produce left at one place in a field is exempt from the law of the forgotten sheaf. The distinctively large amount of grain suggests that the householder in fact remembers the sheaves (see M. 6:1D–F). Accordingly, the law applies to two measures of produce that remain in the field, but not to three.<sup>18</sup> Three parallel rules work out this principle for sheaves of grain (A–B), the fruit of trees (C–D), and flax (E–F). Two further statutes (G–H, I–J) repeat the formal construction, and apply the principle to laws discussed elsewhere in the tractate. The law of the separated grape (Lev. 19:9–10; see M. 7:3)

<sup>18</sup> Albeck, p. 57, explains that three measures of produce are not subject to the law of the forgotten sheaf because they comprise a small grain-heap. As we recall (M. 5:8), produce placed within a grain-heap is not subject to the law, for the householder has not forgotten it but purposely left it in storage. The text, however, does not mention a storage-heap, and so I have explained the rules only in view of Mishnah’s own earlier laws.

states that single grapes that fall from the vine must be left for the poor. Three such grapes are exempt from the law, however, because they probably did not separate from the vine individually, but fell as a bunch (G–H). At I–J the law of gleanings (see M. 4:10–5:2) is limited within the clearly established pattern. Two stalks that fall to the ground during the harvest are subject to the law. Since the householder probably would not drop three stalks at once, however, the law in this case does not apply.

K–L provide attributions for the foregoing and a dispute. The rules as explained are attributed to the Hillelites. The Shammaites dispute a minor point. In their view three measures of produce are subject to the law while four are exempt.<sup>19</sup> The difference between the two views seems to me inconsequential.

*T. 3:5a*

- I. A. "Two distinct bundles (*hmwblwt zw mzw*) are [subject to the restrictions of the law of] the forgotten sheaf.
- B. "Three bundles are not [subject to the restrictions of the law of] the forgotten sheaf.
- II. C. "*Two distinct sheaves are [subject to the restrictions of the law of] the forgotten sheaf.*
- D. "*Three sheaves are not [subject to the restrictions of the law of] the forgotten sheaf* (M. 6:5A–B).
- III. E. "Two distinct vines are [subject to the restrictions of the law of] the forgotten sheaf.
- F. "Three vines are not [subject to the restrictions of the law of] the forgotten sheaf.
- IV. G. "*Two single grapes are [subject to the restrictions of the law of] the separated grape.*
- H. "*Three single grapes are not [subject to the restrictions of the law of] the separated grape* (M. 6:5G–H).
- V. I. "*Two stalks which lie [on the ground] in their normal fashion are [subject to] the law of gleanings.*
- J. "*Three stalks are not [subject to] the law of gleanings.*"
- K. *These are the words of the House of Hillel* (M. 6:5I–K).

<sup>19</sup> Maimonides, *Commentary*, Bert, and MR account for the different views of the Shammaites and the Hillelites by reference to two verses in Scripture. These commentators claim that the Hillelites base their ruling on Lev. 19:9, which states that gleanings must be given to (1) poor people and (2) sojourners. Since two groups are mentioned, two measures of produce are deemed subject to the law. The Shammaites, on the other hand, base their lemma on Deut. 24:19, which states that forgotten sheaves must be given to (1) sojourners, (2) orphans, and (3) widows. Since this verse refers to three groups, three measures are deemed subject to the law. This interpretation in no way is reflected by Mishnah itself.

Tosefta goes over the same ground as M. 6:5. It adds only the notion that the different measures of produce need not be piled on top of each other, but may be separated. The distinct sheaves nonetheless comprise an amount of produce large enough for the householder easily to remember.

## 6:6

- A. A sheaf that contains two *seahs* [of grain], and [that the householder] left behind,
- B. is not [subject to the restrictions of the law of] the forgotten sheaf.
- C. [As regards] two sheaves that [together] contain two *seahs* [of grain, e.g., each sheaf contains one *seah*]—
- D. Rabban Gamaliel says, “[They belong] to the householder.”
- E. But sages say, “[They belong] to the poor.”
- F. Said Rabban Gamaliel, “Now as the number of sheaves [that are left together in a field] becomes larger (see M. 6:5), does the strength of the householder’s [claim on the sheaves] increase, or [does it] decrease?”
- G. [Sages] said to him, “The strength [of his claim] increases.”
- H. He said to them, “Now if with regard to one sheaf that contains two *seahs* [of grain], and that [the householder] left behind, [we rule that it] is not subject [to the restrictions of the] forgotten sheaf [see A], [when we deal with] two sheaves that [together] contain two *seahs*, is it not logical that they also are not [subject to the restrictions of the] forgotten sheaf?”
- I. They said to him, “No! For if you say that one sheaf [containing two *seahs*] has the status of a grain-heap, [and so is exempt from the restrictions of the forgotten sheaf], would you [not] say that two [smaller] sheaves are equivalent to bundles, [which do enter the status of forgotten sheaves when left behind]?”

M. 6:6 (B. B.B. 72b; Sifra Deut. #283  
[Horowitz, p. 299])

When a farmer leaves behind a large amount of produce, namely, more than two *seahs*, the grain goes not enter the status of forgotten sheaves (cf. M. 6:5). The distinctively large quantity of food remaining in the field suggests that the farmer purposely left it there in temporary storage, and has not forgotten it. This point (A–B) generates a dispute (C–D) and debate (F–I) between Gamaliel and sages. Must each sheaf separately contain more than two *seahs* of grain in order to be exempt from the law, or do several small sheaves that combine to form two *seahs* also gain exemption?<sup>20</sup> Gamaliel (D) claims that all grain left

<sup>20</sup> See Kanter, *Gamaliel*, pp. 48–49, who states that the issue here “appears to be an offshoot of a problem extensively discussed in Yavneh: whether individual items of

behind by the householder forms a single mass. By leaving so large a quantity, the farmer indicates that he has not forgotten it. Sages (E), by contrast, claim that each bundle of grain that the householder binds separately constitutes a distinct entity. Since each of these sheaves contains less than two *seahs*, each falls into the category of forgotten produce. In the debate that follows at F–I, Gamaliel reiterates M. 6:5’s point that the greater the number of sheaves left together in a field, the more likely the farmer is to remember them.<sup>21</sup> We therefore may assume that he will retrieve the two sheaves left in the field. Sages (I) reject this argument. They claim that since the sheaves appear to be distinct entities, they must be considered separately. Hence, they fall into the category of forgotten sheaves.

## 6:7–8

- A. [A patch of] standing [grain that remains unharvested in a field that the householder already has begun to reap, and] that comprises two *seahs* [of produce],
- B. and that [the householder] left behind,
- C. is not [subject to the restrictions of] the forgotten sheaf. [Since the farmer leaves behind such a large amount of food, it is clear that he could not have forgotten it, and intends later to return and harvest the grain.]
- D. [If the standing grain, at this point in its growth] contains less than two *seahs*, but [when fully grown] is likely to produce two *seahs* [of grain],

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acts are to be considered separately or together in the application of a law.” In the present case, we wish to know whether distinct sheaves each must contain the requisite two *seahs*, or whether several sheaves might combine so that they are excluded from the category of forgotten produce. Here we may carry the reasoning a step further. The dispute focuses on whether or not we take account of the farmer’s actions in binding grain into separate sheaves. The alternative, presented by Gamaliel, is that all produce left behind in the field forms a single mass, even if contained in separate sheaves. His notion, it seems, is that the farmer has left behind a large amount of a single species of produce; hence we may assume that the food has not been forgotten. The dispute before us, therefore, presents options familiar from other contexts in the tractate (see M. 3:1–4, 6:1–2). In this case, as in others, we wish to know whether the farmer’s actions are decisive or whether natural categories—defined, for example, by the limits of one particular species—determine the application of a law.

<sup>21</sup> In the debate at F–I Gamaliel agrees with the general principle of M. 6:5, but endorses the opinion of neither House. The Hillelites claim that three sheaves left together in a field are deemed outside the law. The Shammaites exclude any group of four sheaves left behind in a field. Gamaliel, however, rules that two sheaves are exempt from the law, merely by virtue of the fact that they appear to be stored. Thus, he agrees with M. 6:5 in principle, but not in detail.

- E. even it [the grain] is inferior barley (*tph*),<sup>22</sup> [which produces a low yield],
- F. they view it as if it were a high-yielding [type of] barley.<sup>23</sup> [Since virtually all budding crops, whether high- or low-yielding barley, have the potential to produce two *seahs* of grain, such crops cannot enter the status of forgotten produce, see A–B.]

## M. 6:7

- G. [The presence of] a standing [crop like that mentioned at A above, namely, one that contains at least two *seahs*,] prevents a sheaf or other standing [produce<sup>24</sup> nearby from becoming subject to the restrictions of the forgotten sheaf].<sup>25</sup> [Since a large crop of unharvested grain does not fall into the category of forgotten produce, we may assume that the farmer will return to reap it. At that time he will gather any other produce left behind.]
- H. [The presence of] a sheaf [that remains in the field] prevents neither a sheaf nor standing [produce nearby from becoming subject to the restrictions of the forgotten sheaf]. [The householder might have forgotten the sheaf itself; accordingly, we do not assume that he will return and gather produce he has left near it.]
- I. What sort of standing [produce] prevents a sheaf [from becoming subject to the restrictions of the forgotten sheaf]?
- J. Any [standing grain] that [does not fall into the category of forgotten produce],
- K. Even a single stalk of grain.

M. 6:8 (Y. Peah 5:2[I8d]; Sifre Deut. #283 [Finkelstein-Horowitz, p. 300])

<sup>22</sup> On this meaning of *tph* see Maimonides, *Commentary*, and Jastrow, I, p. 547, s.v. *tph*, ii. But compare M. 5:3 and M. Shab. 17:6, where the same word refers to the pitchers on a water wheel (so Maimonides, *Commentary* to M. 5:3).

<sup>23</sup> Jastrow, II, p. 1092, s.v. *nwh*, I, claims that the word means God's response to prayers for fertility (see Maimonides, *Commentary*: Hos. 2:33). More likely perhaps is the second possibility he mentions, that the phrase is linked to BH *nwh*, "a full crop." On this meaning, see Bauer, *Die Mishnah*, p. 47, who translates "[*gutes*] Gerstenkorn," and M. 1:3.

<sup>24</sup> Maimonides, *Commentary*, and Bert link this rule to M. 5:2, a pericope that refers to a single stalk of unharvested grain that stands near an unharvested crop. In their view, M. 5:2 provides an example of the present issue, namely, how an unharvested crop might prevent produce left nearby from becoming subject to the law of the forgotten sheaf. See my argument against this view, above.

<sup>25</sup> MS claims that the sheaf and the standing crop must be of the same species. This supposition, however, is not reflected in the text at all. Furthermore, when the householder returns to harvest the standing crop, he will have the opportunity to collect any sheaves left nearby, whether or not they belong to the same species. Accordingly, such sheaves cannot fall into the category of the forgotten sheaf.

Mishnah's framers now apply the familiar principle that large quantities of produce are exempt from the law (M. 6:5–6) to several cases (A–C, D–F, G, H, I–K) concerning an unharvested crop. Before discussing the substance of these rules, however, let us consider the theory that underlies the unit as a whole. These pericopae assume that the law of the forgotten sheaf takes effect long before the householder finishes binding the entire crop (cf. M. 5:7–8). In fact, the householder activates the process whereby a portion of the crop enters the status of forgotten sheaves as soon as he begins to harvest and bind any part of the yield. By claiming one portion of the grain for himself (through binding some of the grain into sheaves), he renders the whole crop subject to the restrictions governing forgotten sheaves. Whatever he leaves behind, including a patch of unharvested grain, immediately takes on the status of the forgotten sheaf. This notion, that standing grain can become subject to the law of the forgotten sheaf, contradicts the tractate's dominant theory. As we recall, M. 5:7–8 explicitly state that only produce that actually has been bound into sheaves can enter the system of the law.<sup>26</sup> This is because the householder establishes his claim upon the sheaves by binding them. Only his act of tying together each sheaf can precipitate the poor's complementary claim upon that which he forgets.<sup>27</sup> Before the householder binds the grain, by contrast, he has not established any claim on it at all. Accordingly, in the bulk of the tractate, the law does not apply to standing grain.

We now turn to the details of the rules before us. The general principle that the restrictions of the forgotten sheaf can apply to standing crops is introduced at A–C. As at M. 6:5–6, we assume that a farmer who leaves behind more than two *seahs* of grain fully intends to retrieve the food and has not forgotten it. The poor therefore have no claim upon these edibles. A secondary rule, D–F, takes up a problem

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<sup>26</sup> Maimonides, *Commentary*, and Bert both claim that Scripture's own formulation implies that the law of the forgotten sheaf applies to standing crops. These commentators cite Deut. 24:19, which states that the law applies to produce "...forgotten in the field." But it is unlikely that the verse is meant to include all produce remaining in the field, whether or not bound into sheaves. The beginning of the verse explicitly states, "when you forget a *sheaf* in the field . . .," thus implying what the bulk of the tractate takes for granted: Only sheaves are subject to the laws of the forgotten produce.

<sup>27</sup> The householder's action of harvesting produce initiates the system of agricultural offerings. This notion, presented here for the case of forgotten sheaves, is common throughout this tractate. See for example, M. 4:10, which treats the laws of gleanings. See also M. Maas. 1:1; Jaffee, *Tithes*, pp. 28–30.

generated by the foregoing. A farmer forgets an unharvested crop at an early stage in its growth. The restrictions of the forgotten sheaf should govern this crop, for it has not yet produced the two *seahs* that would render it exempt from the law (as at A–C). As the grain continues to grow, however, it almost certainly will yield far more than the requisite amount. Does this crop fall into the category of forgotten produce? The contrasting language at E and F asserts that the crop's potential to produce more than two *seahs*, not its actual yield, decides the issue. Since virtually all budding crops, both low- and high-yielding varieties, have the potential to produce more than two *seahs*, they do not enter the status of forgotten produce.

The pair of rules at G–H present the case of the householder who leaves a sheaf near a standing crop of large size, so as to indicate that he has not forgotten this bundle of produce (so MR). The sheaf at G does not enter the status of forgotten produce, for it is clear that the farmer will retrieve it when he returns to reap the unharvested grain. In the complementary case at H, a householder places a sheaf near other produce in order to indicate that he has not forgotten these other edibles. Nonetheless, the farmer easily might forget this sheaf because it possesses no distinctive features, such as large size. Its presence in the field therefore cannot serve to indicate that he will return and gather other produce left nearby. Accordingly, the restrictions of the law govern any food remaining in the field.

These rules draw in their wake explanatory material at I–K. We now wish to know how the presence of a standing crop indicates that the householder intends to return to the field. This is a problem, we recall, for A–C rules that an unharvested crop itself might become subject to the law. As a result, the farmer may have forgotten the standing grain, having no thought of returning to reap it or to gather sheaves left nearby. Mishnah's authorities solve this problem by asserting that the rule at G speaks only of unharvested grain that the farmer in fact does remember. When he returns to harvest even a single stalk of standing grain (E), it is clear that he will gather any sheaves left nearby. Hence, these sheaves do not enter the status of forgotten produce.

*T. 3:5c*

- A. In what circumstances did they rule that *a standing [crop] protects a [nearby] sheaf [from becoming subject to the restrictions of the forgotten sheaf]* (M. 6:8A)?

- B. [The rule applies to a case] in which the [standing crop] was not harvested before [the poor came to collect the forgotten sheaves] (*mbntym*).<sup>28</sup>
- C. But if the [standing crop] was harvested before [the poor came to collect the forgotten sheaves],
- D. lo, this [standing crop that has been removed] does not prevent [a sheaf from becoming subject to the restrictions of the forgotten sheaf].
- E. "A standing [crop] of a particular [type] protects [a sheaf] of a different [type from becoming subject to the law of the forgotten sheaf] (*qmt hbyrw msl't l' šlu*).
- F. "[For example], (1) [a standing crop] of wheat [protects a sheaf] of barley [from becoming subject to the law of the forgotten sheaf], and (2) [a standing crop] belonging to a gentile [protects a sheaf] belonging to an Israelite [from becoming subject to the law of the forgotten sheaf]," the opinion of R. Meir.
- G. But sages say, "[A standing crop] protects [a sheaf] only of its own type [from becoming subject to the law of the forgotten sheaf], and [a standing crop of a particular] species [protects a sheaf] only of its own species [from becoming subject to the law of the forgotten sheaf]."

Tosefta's two rules (A–D and E–G) both concern the effect of placing a sheaf near a standing crop (cf. M. 6:8A). Since they are substantively and formally distinct, however, I treat each of them in turn. We recall that a sheaf near a standing crop is not subject the law of the forgotten sheaf (M. 6:8A). Its distinctive location indicates that the farmer intends to retrieve it when he returns to harvest the rest of the standing crop. The two contrasting doublets at A–B and C–D ask what happens if workers harvest the standing crop, leaving the sheaf alone in the field. That is to say, despite the farmer's earlier indication that he would gather the sheaf when he reaped the standing produce, the sheaf now lies alone in the field, apparently forgotten. Since the workers did not gather the sheaf when they completed harvesting the field, the poor are entitled to take it. In the absence of indications to the contrary, they may assume that the sheaf has been forgotten and has not been purposely left in the field.

At issue in the separate dispute at E–F vs. G is whether or not a standing crop of one type can prevent a sheaf of another type from becoming subject to the law of the forgotten sheaf (cf. M. 6:8A; M. *Hal.* 4:1). In order to understand this subtle issue, let us spell out the details

<sup>28</sup> So Lieberman, TK, p. 167.

of the two distinct cases presented in the gloss at B. The farmer at B1 owns a crop of wheat and a crop of barley. His wheat crop ripens first, and he harvests and binds it as usual. He gathers most of the sheaves of wheat, but one remains in the field near the barley crop. We now can identify the area of ambiguity. On the one hand, the farmer probably would not leave a sheaf of wheat to be gathered with the barley crop, and so it seems to have been forgotten. On the other hand, when the householder returns to harvest the barley, he will see the sheaf of wheat and collect. It therefore is not clear whether the law applies. The case at B2 focuses on the issue of ownership. Produce owned by a gentile is not subject to the law of the forgotten sheaf at all (cf. M. 4:9). We wish to know whether or not such a standing crop, itself outside the system of the law, can protect a sheaf belonging to an Israelite from becoming subject to the law. Predictably, Meir and sages dispute this grey area. Meir (A–B) holds that the law of the forgotten sheaf applies to any sheaf and standing crop, regardless of species or ownership. Any sheaf placed by a standing crop appears to the poor to have been placed there purposely, and not forgotten. Sages (C), by contrast, hold that the farmer would not leave a sheaf of one type to be collected with a standing crop of another. The law applies because the poor assume that the householder simply forgot the sheaf.

T. 3:6

- A. R. Simeon b. Gamaliel says, “Just as a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf] (M. 6:8A),
- B. “so too a sheaf protects a standing [crop from becoming subject to the law of the forgotten sheaf] (contra M. 6:8B).
- C. “And it is a matter of logic:
- D. “If [it is the case that] a standing [crop], on which the householder<sup>29</sup> has a weak claim [i.e., because it has not yet been harvested, the crop contains produce that will be designated as *peah*, gleanings, and forgotten sheaves],
- E. “lo, such a [standing crop] prevents a sheaf [from becoming subject to the law of the forgotten sheaf],
- F. “a sheaf, on which the householder has a strong claim [i.e., because it has already been harvested, and so no longer is subject to the designation of *peah* or gleanings, but only of forgotten sheaves],

<sup>29</sup> On problems of text throughout this pericope, see Lieberman, TZ, p. 52, and TK, p. 168.

- G. "is it not logical that this [sheaf] protects a standing [crop from becoming subject to the law of the forgotten sheaf]?"
- H. They said to him, "Rabbi, [if it is the case that] a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf], because the householder has a strong claim [on the sheaf],
- I. "can [a sheaf] protect a standing [crop from becoming subject to the law of the forgotten sheaf], [even though] the poor have a stronger claim [on the standing crop]?" [No. Hence Gamaliel's restatement of M. 6:8A–B, cited at A–B, is rejected.]

Gamaliel contradicts M. 6:8A–B. Both a sheaf and a standing crop are treated under a single rule. If the farmer will return to the field, all grain, whether harvested or unharvested, is not subject to the law of the forgotten sheaf. Gamaliel's reasoning for this position is at B–F. It relies on a distinction between the strength of a poor person's claim on a standing crop and on a sheaf. On the one hand, a standing crop contains produce that will be designated as (1) *peah*, (2) gleanings, and (3) forgotten sheaves. A sheaf, on the other hand, is subject only to the law of (1) the forgotten sheaf. It does not contain produce to be designated as *peah* or gleanings, for these were designated during the harvest. In this respect, Gamaliel holds that the poor have a stronger claim on the standing crop than they have on a sheaf. On the basis of this distinction, Gamaliel presents a conclusion *a minori ad maius*: A standing crop, on which the poor have a strong claim, can save a sheaf from being subject to the law. Analogously, since the householder's claim on a sheaf is stronger than the poor's, it also can prevent grain nearby from entering the status of forgotten produce.

Sages (G–H) reject Gamaliel's argument. They state that a standing crop prevents a sheaf from being subject to the law only because the poor have a weak claim on the sheaf. Since the poor have a stronger claim on the standing crop, a sheaf cannot protect it from becoming subject to the law.

T. 3:7

- A. The poor have a stronger claim on a standing [crop] than [they have] on a sheaf, yet [in another respect they have a stronger claim] on a sheaf than on a standing crop.
- B. For a standing [crop] contains [produce that will be designated as] gleanings, forgotten sheaves, and *peah*, which is not the case for a sheaf. [Since the produce in a sheaf already has been harvested, the sheaf is subject to designation only as a forgotten sheaf, but not as *peah* or gleanings. In this respect, the poor have a stronger claim on a standing crop than they have on a sheaf.]

- C. [But as regards] a sheaf which contains less than two *seahs* of produce<sup>30</sup>—
- D. the law of the forgotten sheaf applies,
- E. unless [the sheaf actually] contains [a full] two *seahs* [of grain]. [This contrasts with a standing crop, which is exempt from the law if it has the potential to comprise two *seahs* of grain (cf. M. 6:7C–E). Since almost all standing crops in potential comprise this amount of produce, few ever are deemed subject to the law of the forgotten sheaf. The poor's claim in this respect is stronger on the sheaf than it is on the standing crop.]<sup>31</sup>

As I have explained at B and E, the pericope clarifies T. 3:6's statement that the poor have a stronger claim on a standing crop than they have on a sheaf. Nonetheless, I treat it separately, because it is formed as an independent unit. That is to say, its formal balance, both the poor and householder having a stronger claim on both a standing crop and on a sheaf (A), in no way is determined by T. 3:6. Rather, Tosefta here spins out its own concerns, supplying information relevant to its general topic of discussion.

## 6:9

- A. A *seah* of uprooted produce and a *seah* of produce that is not uprooted,
- B. and similarly, [picked and unpicked fruit of a single] tree,
- C. or garlic and onions,<sup>32</sup>
- D. [these pairs] do not join together<sup>33</sup> [to form the minimum] two *seahs* [of produce that are exempt from the law of the forgotten sheaf, as specified at M. 6:7A–B].
- E. Rather [if one *seah* of each type of produce listed in each pair is forgotten in the field, adding to two *seahs* total], the [two lots of produce] belong to the poor.

<sup>30</sup> So E, Lieberman, TZ, p. 53.

<sup>31</sup> In order to make the rule at C–E balance B, Lieberman, TK, p. 168, suggests the long interpolation at E. Although not indicated by the text, it is necessary in order to understand these rules.

<sup>32</sup> Maimonides, *Commentary*, claims that each of the three pairs of produce listed at A–C presents precisely the same case of ambiguity. In each case, he says, we speak of produce of a single species, some harvested and some unharvested. In his view, therefore, garlic and onions (C) actually refer to two different types of tubers, some of which are uprooted and some of which remain in the ground. While this interpretation results in a harmonious list of three paired elements, all harvested and unharvested, I reject it because it does not take account of the fact that garlic and onions, as a pair, are one of Mishnah's stereotypic ambiguities. Maimonides would separate this pair in order to produce a smooth and even list. The interpretation that I follow is presented by most commentators, notably Bert and MS. See also Albeck, p. 58.

<sup>33</sup> K lacks the rest of D and all of E.

- F. R. Yosé says, "If [produce] that belongs to the poor [i.e., a forgotten sheaf] lies [on the ground] in between [two sheaves that normally would join together to form two *seahs* not subject to the law],
- G. "[the two sheaves] do not join together.
- H. "But if [produce belonging to the poor] does not [lie on the ground in between two sheaves that normally would join together],
- I. "lo, these [two sheaves] do join together [to form the requisite two *seahs* of produce]."

M. 6:9 (Y. Peah 5:2[18d])

At issue is whether or not two batches of produce that are alike in some ways, yet different in others, combine to form an amount of food exempt from the law of the forgotten sheaf (see M. 6:6–7). In particular, at A and B we speak of a single crop of produce, part of which the householder has reaped, and part of which he has not. In the slightly different case at C, we consider garlic and onions, which belong to a single genus,<sup>34</sup> yet comprise two distinct species. In resolving these cases of ambiguity, Mishnah's framers rule that we must give primary consideration to differences exhibited by these pairs. The physically separate elements of each pair listed at A–C thus cannot join together to form the requisite two *seahs*, even though in some ways they are alike.

Yosé's lemma takes up a related issue, but is separate in both form and substance.<sup>35</sup> He claims that two sheaves join together only if they may be viewed as separate parts of a single storage heap. Accordingly, if produce belonging to the poor lies on the ground in between the sheaves (E–F), the bundles do not combine to form the minimum two *seahs*. Since the sheaves are separated by produce that the poor own, they cannot comprise a single grain pile. On the other hand, if the farmer in fact owns all of the produce in the area, the sheaves join together to form the requisite two *seahs* and are exempt for the law (G–H).

<sup>34</sup> Garlic and onions comprise the genus *Allium*. Onions belong to the species *Cepa*, while garlic belongs to the species *Sativum*. See Löw, *Flora*, II. Pp. 125–131.

<sup>35</sup> Maimonides, *Commentary*, Bert, MS, and MR all read Yosé's lemma as a dispute of the anonymous rule at A–D. According to them, Yosé holds that the pairs of produce listed at A–B do join together unless separated by produce belonging to the poor. On both substantive and formal grounds, however, I read E–H as an independent rule. The issue of ownership, central at E–G, is not in play at A–D, which take up the effects of physical differences. Furthermore, since the two rules respond neither to a common superscription nor to each other, they do not comprise a single formal unit. We must note that the redactor apparently has placed the two rules side-by-side because they utilize a common apodosis, "... these pairs do/do not join together."

## T. 3:5b

- A. R. Yosé says, “Hananiah, R. Joshua’s nephew, says, ‘*All cases in which the property of the poor is between [two measures of produce which otherwise combine to form an amount of grain not under the law of the forgotten sheaf]*’ (M. 6:9E),
- B. “for example, [a field of] grain or a vineyard, [both of these contain gleanings or separated grapes on the ground between the sheaves],
- C. “‘[*the two measures of produce*] do not combine [*to form an amount exempt from the law of the forgotten sheaf*]’ (M. 6:9F).
- D. “‘*But in all cases in which the property of the poor is not between [two measures of produce]*’ (M. 6:9G),
- E. “‘for example, the fruit of a tree, [which is not separated by produce that belongs to the poor, for no poor-offerings remain on the tree; instead, they fall to the ground],
- F. “‘*lo, these [two measures] do combine [to form an amount not under the law of the forgotten sheaf]*’” (M. 6:9H).

Tosefta glosses Yosé’s lemma (M. 6:9E–H), attributing it to Hananiah at H, and providing examples of the situations at B and E.

## 6:10

- A. Produce intended (1) for use as fodder, or (2) for binding sheaves [i.e., produce that never will be bound into sheaves],
- B. and similarly (3) small bundles of garlic, or (4) small bundles [containing both] garlic and onions [i.e., produce that only later will be bound into full sheaves],
- C. these are not [subject to the restrictions of] the forgotten sheaf.
- D. And [concerning] all tubers [that farmers store] in the ground,
- E. Such as (1) arum, (2) garlic, and (3) onions—
- F. R. Judah says, “These are not [subject to the restrictions of] the forgotten sheaf.”
- G. But sages say, “They are [subject to the restrictions of] the forgotten sheaf.”

M. 6:10 (Y. Peah 6:3[19c]; Y. Soṭah 9:2[23c]; Y. B.Q. 6:7[5c]; B. Soṭah 45a; Sifra Emor 10:4; Sifre Deut. #283 [Finkelstein-Horowitz, p. 299])

The opening unit (A–C) illustrates the point that the law applies only to produce bound into sheaves (see M. 5:8).<sup>36</sup> Accordingly, grain used

<sup>36</sup> Albeck, p. 58, states that the produce listed at A1–2 and B3 is not subject to the law because it never is used as food. According to this interpretation, B4 alone presents a case in which the binding process has not been completed. This argument is problematic, for in some cases the laws of poor-offerings govern produce that never is used as food. Parent-onions, for example, are not used as food, yet are deemed sub-

as fodder or for binding other sheaves (A1–2) cannot enter the status of forgotten sheaves. Similarly, the law of the forgotten sheaf takes effect only after the completion of the binding process. Thus small bundles of garlic and onions (B), which have not yet been bound into sheaves, cannot enter the status of forgotten produce.

The dispute at D–E vs. G carries forward the discussion of garlic and onions, the subject of B. An ambiguity arises because these and other tubers often are left in the ground for storage after they ripen. On the one hand, this food is left behind, apparently forgotten. Yet, tubers stored in the ground are not bound together as sheaves. Judah (F) considers the latter fact decisive. Since the edibles are not bound together, they are not subject to the restrictions of the forgotten sheaf. Sages (G), by contrast, hold that the tubers must be given to the poor. Since the householder has left them behind, they immediately fall into the category of forgotten produce.

*T. 3:8a*

- A. He who cuts apart [small] bundles [of grain], which he [intends] in the future to bind into sheaves,
- B. *and similarly, small bundles of garlic, or small bundles [containing both] garlic and onions [i.e., produce which only later will be bound into full sheaves],*
- C. *these are not [subject to the restrictions of] the forgotten sheaf (M. 6:10B–C).*
- D. One who binds [his grain into sheaves in order to prevent damage caused by an approaching] fire, or [an overflowing] irrigation ditch—
- E. these [sheaves that he binds] are not [subject to the restrictions of] the forgotten sheaf,
- F. for [he intends] in the future to search [for them].

Tosefta's two formally distinct rules (A–C, D–F) together reinforce the point that we take account of the farmer's intention in applying the law of the forgotten sheaf. This is indicated by the operative language at A and at F, "for he intends in the future to. . . ." Let us turn to each in order to see how it makes this point.

A–C repeats M. 6:10A–C verbatim, except for the variation at A. The point of this new stich is that any produce which the farmer has yet to bind into full sheaves is not subject to the law of the forgotten sheaf. In line with M. 5:8 the law applies only from the time the

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ject to the designation of *peah* (see M. 3:4). Furthermore, it seems likely that all of the elements in the list at A–B are brought together to make a single point: unbound grain cannot become subject to the law of the forgotten sheaf. See also Maimonides, *Commentary*, and MS.

sheaves are bound until they are broken apart. If the farmer still intends to bind the grain, the law cannot yet apply.

At D–F the farmer has bound produce into sheaves in order to quickly remove it from the path of oncoming fire or water. If, in his hurry, the farmer leaves behind some of these sheaves, the law does not apply. As stated at F, we fully assume that the farmer intends to return to his field after the fire or flood in order to see if any of the produce remains (so Lieberman, TK, p. 169). This indicates that he never forgot the produce, and so the law does not apply.

6:11

- A. (1) One who harvests [a field] at night, or (2) who binds [produce into sheaves at night],<sup>37</sup> or (3) who is blind [and harvests and binds sheaves]—
- B. [the produce that he harvests and binds yet leaves behind] is [subject to the restrictions of] the forgotten sheaf.
- C. But if [a farmer]<sup>38</sup> intended to collect [only] the largest sheaves,
- D. [the smaller sheaves<sup>39</sup> that he purposely leaves in the field for later collection] are not [subject to the restrictions of the] forgotten sheaf.
- E. If [a farmer] said, “Lo, I harvest on condition that whatever I forget I later will collect”—
- F. [despite his statement, those sheaves that he leaves behind] are [subject to the restrictions of the] forgotten sheaf.

M. 6:11 (Y. Peah 5:6[19a])

The role of the householder’s intention in the law of the forgotten sheaf forms the focus of these three rules. The basic point is that sheaves he

<sup>37</sup> My interpolation at A2 is not indicated by the text at all. Nonetheless, as TYY correctly points out, it is required by context. In light of this explanation, A1–3 all refer to a single situation: a person harvests and binds, yet cannot clearly see the sheaves in order to gather them.

<sup>38</sup> Maimonides, *Commentary*, reads the three rules at A–B, C–D, and E–F as a unitary essay. He thus claims that the worker mentioned at C–D and E–F is one of the people listed at A. The rules regarding intention at C–F, however, would apply equally well to any harvester, whether blind or not. The unit as a whole thus does not form a clearly defined formal entity. Nevertheless, Maimonides is correct in noting that the rules take up a single topic, the role of intention in the laws of the forgotten sheaf.

<sup>39</sup> So Bert and Sens. But Albeck, p. 59, claims that the rule at D should read:

D. [the large sheaves that he leaves behind] are not [subject to the restrictions of the] forgotten sheaf.

He claims that these large sheaves are mixed among the small sheaves, and so hidden from the harvester’s sight, but not forgotten. I reject this possibility, since the large sheaves could not easily be covered by small ones. Since these sheaves are in plain sight, the law applies to them. The small sheaves that are left behind, however, are not subject to the law. The householder never intended to gather them.

intends to gather immediately, but nonetheless leaves behind, fall subject to the law. For example, the worker at A–B harvests and binds grain at night, or is blind, and so is constrained to leave some sheaves uncollected.<sup>40</sup> Nonetheless, by beginning to harvest despite his inability to see the sheaves, the worker indicates that his intention is to accept the possibility of forgetting some of the bundles. Whatever he leaves behind therefore falls into the category of the forgotten sheaf. The rule at C–D further illustrates the power of the farmer’s intention. We now consider a person who, at this time, wishes to remove only the large sheaves from the field (C–D). Since he intentionally leaves behind the small sheaves, but does not forget them, the law cannot apply. Finally, at E–F we take up a case in which human intention is of no effect. Here a worker proposes a condition that would overrule Scripture’s law<sup>41</sup> regarding forgotten sheaves. Accordingly, his intention—namely, to declare that any sheaves he forgets actually are not subject to the law—is irrelevant to the application of the law. Whatever he leaves behind must be given to the poor.

*T. 3:8b*

- A. A certain righteous man (*ḥsyd*) forgot a sheaf in the middle of his field. He said to his son, “Go and offer in my behalf a bullock as a burnt-offering and a bullock as a whole-offering.”<sup>42</sup>
- B. [His son] said to him, “Daddy, why do you (*mh r’yth*) rejoice [for performing] this commandment [i.e., the forgotten sheaf] more than all other commandments set forth in the Torah?”
- C. [The father] said to him, “The Omnipresent has given us all of the commandments mentioned in the Torah [such that we perform them]

<sup>40</sup> This case attracts the interest of Mishnah’s framers because, as we recall from M. 5:7, sheaves that are hidden from sight should be exempt from the restrictions of the law. In fact, TYY and Albeck, p. 59, claim that the produce a blind harvester leaves behind should not be subject to the law because it was hidden from sight, not forgotten (cf. M. 5:7). However, neither commentator explains why these sheaves are in fact deemed subject to the law, as B rules. As I have explained, this is because the harvester began to harvest even though he knew that he almost certainly would leave some sheaves behind.

<sup>41</sup> So Y. 6:11[19d], followed by all commentaries.

<sup>42</sup> Lieberman, TK, p. 169, states that the sacrifices offered on behalf of the father are thank-offerings. On the basis of a parallel passage in Ruth Zuta (2:16) he suggests that A should read, A certain righteous man forgot a sheaf in the middle of his field. On that very day he prepared a great feast. His son said to him . . . Lieberman says that this alternative better fits the context provided by B. His reading, of course, does not affect the story’s main point, which is at C.

intentionally (*ld'tynu*). But this [one commandment] he gave to us [such that we perform it] unintentionally. For if anyone purposely performs [this commandment] before the Omnipresent, [i.e., he purposely left a sheaf in the field, but did not genuinely forget it], he has not performed this commandment."

- D. [His son] said to him, "Lo, [Scripture] says, 'When you reap the harvest of your field, and have forgotten a sheaf in the field, you shall not go back to get it; it shall be for the sojourner, the fatherless, and the widow (Deut. 24:19).' Thus Scripture sets forth a blessing [for the unintentional performance of the commandment]."
- E. "Is not the matter to be reasoned *a minori ad maius*? If one who did not intend to acquire merit [by performing the commandment], but nonetheless did acquire this merit (*P ntkawn lzkwz wzkh*) is deemed as one who has acquired merit [by performing it], how much more should he who [in fact] intends to acquire merit [by performing the commandment], and does acquire this merit [be deemed to have acquired merit]!
- F. "Similarly, [Scripture states], 'If anyone sins, doing any of the things which the Lord has commanded not to be done, though he does not know it, yet he is guilty and shall bear his iniquity. He shall bring to the priest a ram without blemish out of the flock, valued by you at the price of a guilt-offering, and the priest shall make atonement for him for the error which he committed unintentionally, and he shall be forgiven (Lev. 5:17–18).'
- G. "Is not this matter [also] to be reasoned *a minori ad maius*? If someone who did not intend to transgress, yet in fact does transgress<sup>43</sup> is deemed to have sinned, how much more should he who intends to transgress and then does transgress [be deemed guilty of sinning]."

The short narrative has no direct relationship to Mishnah, but takes up an interesting issue with respect to the law of the forgotten sheaf. This commandment, as the righteous man at A states, cannot be performed intentionally. That is to say, one cannot purposely forget a sheaf. His intention to leave the sheaf behind implies that it always remains in mind. The man's son presents two cases of exegesis *a minori ad maius* (B–E, F–G), in order to show his father that one can intentionally fulfill the commandment of the forgotten sheaf. In both cases, he reasons that what one does intentionally deserves the same treatment as that which one does unintentionally. If one is praiseworthy for inadvertently leaving sheaves in the field, he certainly is to be praised if he purposely leaves them for the poor.

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<sup>43</sup> So E, *ed. princ.*; V reads: does not transgress.