

CHAPTER V.

Digression concerning Trove and Plundered Property.

SECTION I.

1. Cases which are liable to reversal having been treated of, next is propounded property liable to restoration. Trove property to be restored to the owner.  
“Trove property is to be restored by the king to its owner: but if he fails to identify it, he is to be amerced with an equivalent penalty.”\*

2. Gold or other property, having been lost by the owner and found by tax-gatherers, police officers, and such like people, and having been delivered to the king, is to be restored by the king to its rightful owner, if the owner identify it by marks of its quality and quantity; but if he fail to identify it, he is to be fined in an amount equivalent [to the value of the property claimed], from his having uttered a falsehood. Explanation of the text.

3. The rule for the restoration of trove property is here specially propounded, because finding has already been enumerated among the causes of property, and therefore what is found is property. Reason for declaring this rule.

4. A period of limitation has also been declared: “Trove or waif property having been recovered by tax-gatherers or police officers, the rightful owner will recover within the period of one year: after the king will take it.”† *Menu* has extended the period of limitation to three years in the following text. “Three years let the king detain the property of which no owner appears, after a distinct proclamation: the owner appearing within the three years may take Period for which trove property should be kept in deposit.

\* *Veeramitrodaya.*

† *Veeramitrodaya.*

it, but, after that term, the king may confiscate it.”\* Hence it would appear necessary to keep it in deposit for three years.

Deductions to be made after certain periods

5. If the rightful owner appear within the year, he will recover the whole. If he appear after the expiration of the year, a sixth is to be deducted as a fee on the deposit, and the residue restored, as has been declared. “The king may take a sixth part of the property so detained by him, or a tenth, or a twelfth, remembering the duty of a good king.”† Whence it is inferrible, that if the owner arrive within the year, the whole is to be restored. If in the second year, a twelfth; in the third, a tenth; and in the fourth and succeeding years, a sixth is to be deducted.

Reward to the finder.

6. The king is to give a fourth of his own share to the finder; but if the owner appear not at all, he is to give a fourth of the whole to the finder, and to take the rest, as has been declared by *Goutama*: “The king is to keep in deposit unclaimed trove property for a year; afterwards a fourth share of it goes to the finder, and to the king the rest.”‡

Period of limitation defined not to annul the owner's right, but to authorize the king to use the property.

7. The use of the word “*year*” here in the singular number is not intended to confine the period to one year, as is evident from the text, “Three years let the king detain the property,” &c. (§ 4;) and the conclusion of the text, “after that term the king may confiscate it,” (§ 4,) merely intends that, should the owner not appear within that period, the king is at liberty to use the property after the expiration of such period; but should the owner [subsequently] appear, the king, having deducted his own share, shall restore to him a sum equivalent [to the value of the property consumed].

Rules relative to stray cattle will subsequently be declared.

8. The rules above recited relate only to gold and similar valuables. But the rules relative to stray cattle will

\* *Menu*, 8, § 30.

† *Menu*, 8, § 33.

‡ *Ratnâcara*, &c.

subsequently be propounded under the texts, "He shall give *panás* for an animal with uncloven hoofs," &c.

9. Having thus declared the law relative to trove property, such as gold, &c., found lying on the high road or at toll and police stations, next is propounded the law relative to gold, &c., long buried in the earth, and usually called treasure. "But of a treasure anciently repositied under ground, *which any other subject, or the king has discovered, the king may lay up half in his treasury, having given half to the Brahmins. A learned Brahmin, having found a treasure formerly hidden, may take it without any deduction, since he is the lord of all.*"\* But if it be found by any other person, the king is to keep the whole, giving one sixth to the finder. But not having represented, and being known, the king shall cause him to relinquish the whole, and amerce him."†

Law relative to hidden treasure.

10. The king having found treasure of the nature above described, and having given half of it to Brahmins, will keep the residue in his treasury; but if a learned Brahmin, that is, a priest versed in scriptural lore and of good conduct, find the treasure, he is to keep the whole, because he is the chief of the whole world: but if the treasure be found by any other than the king or a learned Brahmin, for instance, by an illiterate Brahmin, or by a man of the military tribe, the king, having given a sixth of it to the finder, will keep the residue, as *Vasishtha* has ordained: "Whoever finds property whose owner is unknown, the king will take it, giving to the finder a sixth;‡ as *Goutama* has also declared: "Treasure found is the property of the king, excepting [that found by] a learned Brahmin. But any other than such Brahmin finding it, and representing the circumstance, will obtain a sixth."§ "*Anibedita*," not having represented.

Exposition of the preceding text.

\* *Menu*, chap. 8, § 38 and 37, cited in the *Dáyatatwa*.

† *Menu*, cited in the *Dáyatatwa*, but not found in the *Institutes*.

‡ *Ratnácara*, *Smritichandricá*.

§ *Ibid*.

The participle is here in an active signification,\* not having represented, “*anibedita*,” and having been discovered, “*vignyata*,” forms the compound *anibeditavignyata*. Thus whoever has found treasure, and does not represent the circumstance, and is afterwards discovered by the king, is to be made to restore the whole, and to be amerced according to his circumstances.

Treasure to be restored to the owner after certain deductions.

11. In this case also, if the owner of the treasure appear, and identify his property by description of its quantity and quality, the king shall restore it to him, after having made deductions of a sixth or twelfth part. As *Menu* has declared: “From the man, who shall say with truth, ‘This property which has been kept, belongs to me,’ the king may take a sixth or twelfth part for having secured it.”† The amount of the deduction is to be regulated by the tribe of the claimant, and the period [expired].

The king must restore to his subjects property plundered from them.

12. Plundered property is next treated of. “The king must restore to his subjects property plundered from them; not restoring it, he incurs the sin of the person [from whom it was robbed].”‡ Having recovered from the robbers the property robbed, it is to be restored to that subject, living within his realm, from whom it was taken; and not restoring it, the sin of the person robbed devolves upon him, and likewise the sin of that theft, as *Menu* has said: “To men of all classes, the king should restore their property which robbers have seized; since a king who takes it for himself, incurs the guilt of a robber.”§ Property seized by robbers

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\* “When क् is affixed to *Dhatoo*s, which mean knowing, serving or desiring, or to those with an *Umibhundhu* जि, the words formed, thereby are active, passive, or containing, and are either in the present or past tense.”—*Carey’s Sanscrit Grammar*, p. 572. In the instance in the text, the participle is, properly speaking, in the passive form, but being derived from the *Dhatoo* विद् to know, it may be used in an active signification, agreeably to the above rule.

† *Menu*, 8, § 35.

‡ *Ratnācara*.

§ *Menu*, 8, § 40.

must be restored by the king to men of all classes. The king consuming it himself, incurs the sin of robbery.

13. If having recovered it from the robber, he enjoys it himself, he incurs the sin of the person who seized the property; and if he is careless about the plundered property, he incurs the sin of his subject [from whom it was taken].

Neglect also culpable.

14. If, having used every endeavour, he fail to recover the plundered property, he must refund the amount of it from his treasury; as *Goutama* has declared: "Having recovered property seized by robbers, he must restore it to its right place; or he must pay out of his treasury."\* So also has *Crishna Dwaypayana* declared: "If unable to recover the plundered property, by the king so incapable, its amount must be restored out of his own treasury." Having thus propounded both the general and special introduction to judicial proceedings, debt on loans will next be treated of, as the first of the eighteen titles of law.†

If plundered property be not recovered, its amount must be paid from the royal treasury.

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\* Formerly there was a clause in the engagements of all landholders and farmers of land, by which they were bound to keep the peace, and in the event of any robbery being committed in their respective estates or farms, to produce both the robbers and the property plundered.

† The next Chapter treats of non-payment of loans (*rinádanum*), comprehending rates of interest, mortgages, &c., but as the introduction of it here would appear inappropriate, and not pertinent to the subject-matter, and as it, with other subjects of litigation, has been amply discussed in Mr. Colebrooke's translation of *Juggunátha's* Digest, I shall proceed at once to the Chapter on Testimony.

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