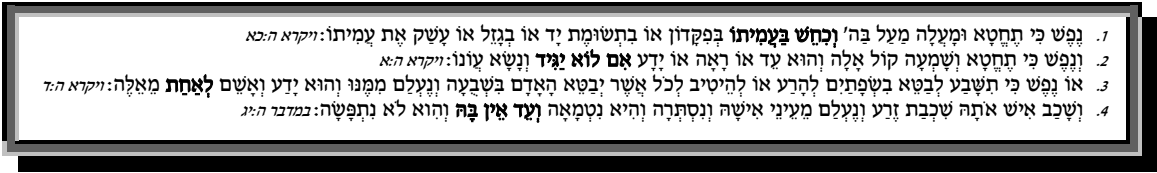


25.4.2

31b (משנה ג') → 33a (קמ"ל)



- I 'משנה ג': the process of שבועת העדות
 - a Plaintiff: says to two – “come and testify on my behalf” and they answer
 - i Either: “we swear that we know no testimony for you”
 - ii Or: “we know no testimony for you”, he responds by administering an oath and they say “אמן” - liable
 - 1 שמואל מימרא – if they saw the תובע chasing them and initiated an oath of denial – exempt
 - (a) Challenge: this is obvious, as the later משנה rules that they must hear the claim from the תובע
 - (i) Defense: we might have thought that his chasing them was tantamount to a request to testify
 - (b) Challenge: this is also obvious, as our משנה presents the procedure as the תובע addressing them
 - (i) Defense: the same is found in ה:א, in re: שבועת הפקדון, and there it is certainly not needed (v. 1)
 - (ii) Answer: we must assume that in our משנה, אמר is needed; else why state it (and then we understand why it was stated in ה:א, following the pattern of our משנה)
 - 1. Alternative: perhaps the משניות are just describing the common setting (תובע initiates verbally)
 - (c) Support: שמואל ברייתא supports שבועה – in re: שבועה – chasing doesn't generate חיוב; in re: שבועה"פ – it does
 - b If: he administered multiple oaths outside of court –
 - i And if: they came to court and admitted to their testimony – exempt
 - ii But if: they denied their testimony (and they prove to have been lying), they are liable for each
 - 1 But if: he administered multiple oaths in court – only liable once
 - 2 Explanation (ר"ש): in court, they could no longer admit (and testify) after the first denial (... כיון שהגיד...)
 - iii Explanation: why denial must take place in ב"ד – per v. 2 – his denial must be in the place of testimony
 - 1 Challenge (ר"פ): even his oath should be in ב"ד
 - 2 Answer (אב"י): v. 3 allows for multiple חיובים; can only happen if he swears outside of ב"ד as per above
- II 'משנה ד': denial only leads to liability if testimony would have been effective
 - a Therefore: if they deny simultaneously (to אפשר לצמצם[ריה"ג], as one; to רבנן, תוך כדי דיבור, רבנן of each other) – both liable
 - i But if: they deny in sequence, only the first is liable (since the 2nd's testimony wouldn't have been effective)
 - 1 Note: שמואל רב"ש would disagree, as he allows ע"א to be liable for שבועה"ע
 - (a) Suggestion: their disagreement is whether 1 witness chiefly comes for שבועה (ת"ק) or ממון (רב"ש)
 - (i) Rejection: רב"ש's ruling (see below) implies that רב"ש agrees that ע"א can only generate שבועה
 - (ii) Rather: dispute is whether דבר הגורם לממון (i.e. חיוב שבועה) is considered ממון
 - ii And if: one denied and the next one admitted to his testimony – only the first is liable
 - 1 Challenge: this is obvious; if denial after denial is exempt, certainly admission is exempt
 - (a) Answer: case where both denied then first one recanted תוך כ"ד – teaching that תל"ד works for recanting
 - iii However: if there were 2 כתי עדים and both denied- both liable; testimony of the 2nd כת would've been accepted
 - 1 Question: why is 1st group liable? The 2nd כת is there to testify
 - (a) Answer: case where 2nd group were קרובים (through marriage) at time of denial of 1st and their wives were גוססות – we may have thought that קמ"ל – מת: גוסס – until they are dead, the פסול קירבה holds
 - III אב"י's epigram:
 - a הכל מודים בעד סוטה והכל מודים בעדי סוטה ומחלוקת בעדי סוטה הכל מודים בעד אחד והכל מודים בעד שנגדו חשוד על השבועה
 - i All agree: that עד סוטה (i.e. קניני וסתירה) is חייב (i.e. for שבועה"ע, as his testimony is accepted – v. 4)
 - ii All agree: that עדי קניני are exempt, as they are גורם דגורם (2 steps away from any financial liability)
 - iii Dispute (רב"ש/רבנן): whether עדי סתירה are liable, as they are לממון גורם
 - iv All agree: if both are חשוד על השבועה, as per ruling that the original claimant collects – directly ממון
 - v All agree: that one עד, in case like ר' אבא where the defendant cannot swear so he pays – liable (directly ממון)
 - b Similar epigram (ר"פ)
 - i exempt: when he already told the wife; based on his report, she may marry
 - ii liable: if he didn't tell her; his withholding his testimony keeps her from marrying
 - 1 note: it seems that עדי קרקע are reliable (she collects כתובה from קרקע)
 - (a) rejection: she may have seized מטלטלי