

2.13.2

106a (משנה ה) → 107a (סיום הפרק)

- I. צידה 3 opinions about paraemters of משנה ה
- a. *ד' יהודה*: trapping a bird is liable only if he then puts it into a cage or a deer – into a house
 - b. *חכמים*: agree about a bird; but trapping a deer into a garden, courtyard or vivarium (zoo) is also liable
 - c. *דשב"ג*: not all vivaria are the same; rule – if it is still un"held" (מחוסר צידה) – he is exempt; otherwise – liable
 - i. *ד' יוסף* (ר' יהודה בשם שמואל per): רשב"ג follows הלכה (רב יהודה בשם שמואל per)
 - ii. *תוספתא שבת יב:ד*: if someone traps a sleeping (or blind) deer – he is liable
 1. *But*: a lame, old or sick deer – exempt
 2. *Question* (*אב"י מרב יוסף*): why the distinction?
 - a. *Answer*: the blind or sleeping one may try to escape when it senses capture unlike the חולה etc.
 - b. *Challenge*: we have a *ברייתא* that rules that trapping a sick deer is *חייב*
 - c. *Resolution* (*ר' ששת*): he is liable if the animal has fever (e.g. –it could flee); exempt if (e.g.) anemic
- II. Analysis: ביצה ג:א: *אסור* to trap fish from a *vivarium* (fishery) on *יום טוב* and to feed them there
- a. *But*: מותר to trap and feed animals (and birds) in a *vivarium*
 - i. *Challenge* (*ברייתא*): Bird and animal *vivaria* - *אסור* to feed or trap
 - ii. *resolution*: *חיות*: *ר' יהודה/חכמים* – *עופות*; *ר' יהודה/חכמים* – *חיות* (not covered vs. uncovered cage; house is covered and *יהודה* and *חכמים* agree that a house is not *צידה* for a bird) free bird vs. domesticated
 1. *note*: could answer same for *חיות* – small *ביבר* vs. large one (several distinctions offered)
 - a. *small* (*ר' אשי*): if he can catch it in one leap
 - b. *Or*: if the shade of the different walls overlaps each other
 - c. *Or*: if there aren't multiple turns and corners
- III. Trapping locusts and other insects
- a. *ר"מ ברייתא* maintains that trapping locusts, cicadas, wasps or mosquitoes is *חייב*
 - i. *חכמים*: anything that is typically trapped generates liability; if not – exempt (→gnats etc. are exempt)
 - b. *תוספתא שבת יב:ה*: trapping locusts when there is dew – exempt (locusts can't move); if during a heat wave – liable
 - i. *אלעזר בן מהבאי*: if they are in a swarm – exempt (easy to catch them)
 - ii. *Question*: is his comment on *רישא* (לחומרא – even in winter liable except in swarm) or on *סיפא* (lenient)?
 1. *Answer*: from other *ברייתא* – he explicitly states that if in a swarm during heat wave – exempt (לקולא)
- IV. משנה ו: trapping alone or with another
- a. *If*: a deer walked into a house and one closed the door on him – he is liable; if 2 closed the door – they are exempt
 - b. *But if*: one could not do so alone and two closed the door – the are liable
 - i. *ד"ש*: exempts even in this case
 1. *שמואל*: not liable for trapping a lion until it is in its cage
- V. משנה ז: further about "partnered trapping"
- a. *If*: one sat in front of the door and didn't fill it (i.e. still free) and a 2nd came and filled it – the latter is *חייב*
 - b. *If*: the 1st sat in front of the doorway and blocked it and a 2nd came and sat next to him –
 - i. *Even if*: the 1st got up and walked away, he is still liable and the 2nd is exempt
 - ii. *Analogy*: is he locked the house up to keep it safe and it turned out that there was a deer inside
- VI. רב's ruling: if a bird flew under his garment, he may watch it until *שבת* is over and then take it
- a. *Challenge* (*רנב"י*): from our משנה; if the 1st fully closes door, the 2nd one who comes is *פטור*
 - i. *Doesn't that mean*: *פטור אבל אסור* (the usual implication of "פטור")?
 - ii. *Rejection*: in this case (and 2 others, per שמואל - below) it means *פטור ומותר* (→he may act as "2nd" with coat)
- VII. שמואל's observation about "פטור" in משניות שבת – always means *אסור אבל אסור* except in 3 cases
- a. *Trapping a deer*: our משנה (when 2nd comes along to join the 1st who completely blocked doorway)
 - i. *Proof*: from analogy – it is like closing up a house (which is *מותר*) and a deer happens to be in there
 - b. *Lancing a boil*: if to make an opening – *חייב* (*מכה בפטיש* or *בונה*); if to get pus out – *פטור* (=מותר)
 - i. *Proof*: *שבת יז:ב* – *שבת יז:ב* – permitted (not *אסור בטלטול*) to take a needle to remove a thorn
 - c. *Trapping a snake*: if to keep it from biting him – *פטור* (=מותר); if for medicinal purposes – *חייב*
 - i. *Proof*: *שבת טז:ז* – *שבת טז:ז* – *מותר* to turn bowl over *נר* to prevent fire, on *צואה* or on scorpion to prevent it from biting