

20.2.07

23a (על החררה) → 23b (תניב אמסחתא וקבל זוזך)

1. כי יבער איש שדה או כרם ושלח את בעירו ובער בשדה אחר מיטב שדהו ומיטב כרמו ושלם: שמות פרק כב פסוק  
 2. ... ובערתי אחרי בית רבועם פאשר יבער הנל עד תמו: מלכים א פרק יד פסוק י

- I Analysis of final clause of ג' משנה – liability for ½ נזק for the coal
- a Question: who is assessed the liability – the owner of the dog or the owner of the coal?
- i Answer: owner of the dog
- 1 Question: why isn't the owner of the coal liable (as well)?
- 2 Answer: case is where the coal was properly buried
- (a) Implication: the assumption is that all "doors" are considered burrowed for dogs
- (i) Explanation: it isn't משונה for a dog to burrow and find something and use it for נזק → נזק שלם
- b Question: where did the dog eat the cake?
- i Couldn't be: some "neutral" field – failure of v. 1
- ii Must be: field of owner of cake
- 1 Implication: the mouth of a cow (eating in חצר הניזק) is considered חצר הניזק (and not חצר המזיק)
- (a) Proof: otherwise, the owner of the dog could claim – "what is your cake doing in my dog's mouth?"
- 2 Background: question was raised: is the mouth of the (מזיק) cow considered חצר הניזק or חצר המזיק?
- (a) Challenge: how could it be חצר המזיק? There would never be liability for שן!
- (i) Answer: תולדות שן – e.g. rubbing against a wall or urinating on fruit (הנאה)
- (ii) Challenge: requirement of "complete obliteration" as per v. 2
1. Answer: could be that it utterly destroyed the wall or the fruit
- (b) Challenge: if someone "sics" a dog or snake on someone, he is exempt
- (i) Clarification: exemption extends to provoker → owner of animal is liable
1. Explanation: if פרה כחצר המזיק, he could claim – "why is your hand in my animal's mouth?"
- a. Defense1: perhaps the provoker is also exempt (as well as the owner of the animal)
- b. Defense2: could be a case where the animal or snake bared his teeth and bit (not in the mouth)
- (c) Challenge: if someone "sics" a snake on someone and the snake poisons and kills him
- (i) Ruling: ר' יהודה – liable; חכמים – exempt
- (ii) Analysis: ר"י holds that the poison is sitting "between his teeth" and the provoker is the lone cause
- (iii) Analysis: חכמים hold that the poison is spit up by him – the snake is the lone cause (and is stoned)
1. Challenge: if פרה כחצר המזיק, owner of snake could claim: "Why's your hand in my snake's mouth?"
- a. Defense: we wouldn't apply this reasoning to a capital case
- b. Proof: if someone walks into מזיק's yard and is killed by his ox
- c. Ruling: animal is killed, but owner is exempt from כופר
- i. Reasoning: he doesn't have to pay כופר, since the ניזק had no business going into his yard
- ii. Nonetheless: we don't apply that argument to the stoning of the ox
- c Story: ר' יוסף's neighbors had goats that were hurting his property; he told אב"י to warn them to keep the goats locked up
- i אב"י refused to go, saying that the owners would retort that ר' יוסף should build a fence
- 1 If he did that, the only liability for שן would be if they pulled the fence down or it fell at night
- 2 Announcement: (made by ר' יוסף or רבה) – butchers must be warned about the goats kept in the marketplace for market day that they are liable for damages done; if they don't listen, they must be told to slaughter them immediately and not wait for market day.