

20.2.08

23b (משנה ד') → 24b (לבעוטי בן לית לך רשותא)

1. ואם שור נגח הוא מתמל שלשם והועד בקעליו ולא ישמרנו והמית איש או אשה השור יסקל וגם בקעליו יומת: שמות כא, כט  
 2. זאת תהיה טמאיתו בזובו רר בשרו את זובו או החתים בשרו מזובו טמאתו הוא: ויקרא פרק טו פסוק ג  
 3. והדנה בנדתה והזב את זובו לזכר ולנקבה ולאיש אשר ישכב עם טמאה: ויקרא פרק טו פסוק לג  
 4. ועשיתם לו כאשר זמם לעשות לאחיו ובערת הרע מקרבך: דברים פרק יט פסוק יט

## I מועד and תם definition of משנה ד'

## a ר' יהודה:

i definition of מועד: attestation of נזק on 3 days – ר' יוסי (ר"ג, הלכה, since נמוקו עמו)

ii definition of תם: 3 days of cessation of violent behavior (ר"ש agrees)

1 source: (v. 1)

(a) נ"ש is 4<sup>th</sup> goring is ש"ו and 3 days – שלשום; 2 days – מתמול; 1 day – תמול: אביי(b) נ"ש is now liable (on 3<sup>rd</sup> day) – ולא ישמרנו; 2 days – שלשום; 1 day – מתמול: רבא

## b ר"מ:

i definition of מועד: attestation of 3 instances of נזק (ר"ש agrees)

ii definition of תם: once the children play with him and he doesn't gore – ר' יוסי (הלכה as above)

1 argument (countering ר' יהודה נגוחות): ק"ו, העדאה נגוחות (daily) if less frequent (daily) generate נגוחות → מועד

2 response: proof from זב, who is only טמאה after 3 consecutive days of ראייה, regardless of how many ראיות

(a) defense: v. 2 – ואת indicates that the reasoning here is נזירת הכתוב and not accessible to ק"ו

(b) tangent: proving that v. 2 excludes זב from ראיות alone; and v. 3 equates זב::זב for (3) days

## II question posed about "3 days": is it testimony about the שור (3 days of goring) or 3 days of testimony against the owner

a split the difference: if 3 groups of עדים came on one day (about 3 days of goring)

b proof: ברייתא stipulating that:

i Testimony: must take place in front of בית דין and owners

ii If 3 different groups testified, it is considered 1 group of הזמה

1 Therefore: if 1<sup>st</sup> or 1<sup>st</sup> and 2<sup>nd</sup> groups were מוּזם, both the owner and they are exempt

2 But if: all three groups are מוּזם, they are all liable as per v. 4

iii Provisional conclusion: they must be testifying about the ox; else, the 1<sup>st</sup> group could claim that they didn't know that others would come and testify against him1 Challenge (ר' כהנא): why doesn't 1<sup>st</sup> group make similar claim – they didn't know other עדים were coming to testify against שור

(a) Answer: they hinted to each other, or came one after the other

(b) Answer3 (ר' בניא): if they know the owner but not the ox

(i) Challenge: how can they testify about the ox if they don't know it?

(ii) Answer: they testify that one of his oxen is dangerous and he has to guard all of them

## III Question posed about A "sicking" B's dog on C (A is certainly exempt – גרמא בנזקין; what about B?)

a Argument for exemption: may claim that he didn't do anything

b Argument for liability: C may claim that since he knew that his dog was easily incited, he should have gotten rid of him

i Proof (ר' זירא): ר"מ (&amp; ר' יוסי תם) – when children play with (incite) him and he doesn't gore → if he did gore – liable

1 Rejection (אביי): doesn't state that he'd be liable; perhaps that keeps him from returning to תמות, but he's exempt

ii Proof: if someone "sics" a dog or snake on another, he is exempt

1 → owner of animal is liable

2 rejection: "even" the inciter is exempt (certainly the owner is exempt)

iii tangent: רבא if someone incites another's dog and the dog bites the inciter – owner is certainly exempt

1 Reason: כל המשנה ובה אחר ושינה בו פטור

2 Comment (ר' פפא): ר"ל agrees (case of 2 cows – 1 lying down and other walking – see above, p. 17)

3 Rejection: in that case, רבא disagrees, as the רבוצה "claims" that the מהלכת had no right to kick him