

20.6.5

59b (משנה ג') → 60a (וגרמא בנזקין פטור) →

1. וַיָּרָא מִלְאָךְ ה' אֵלָיו בְּלִבַּת אֵשׁ מִתּוֹךְ הַסֵּנֶה וַיָּרָא וְהִנֵּה הַסֵּנֶה בֶּעָר בְּאֵשׁ וְהַסֵּנֶה אֵינּוּ אֶכְל: שְׁמוֹת פֶּרֶק ג פֶּסוּק ב  
 2. בּוֹרָא נִיב שְׁפָתַיִם שְׁלוֹם שְׁלוֹם לְרַחוּק וְלִקְרוֹב אָמַר ה' וְרָפְאֵתִיו: יִשְׁעִיהוּ פֶּרֶק נו פֶּסוּק יט

- I רשות: placing food in another's yard without permission: משנה ג'
- a If: A stacks his wheat in B's yard without B's permission
- i And if: B's animal eats A's grain, B is exempt
- ii If: B's animal is hurt by A's grain, A is liable
- b If, however: B had A's permission – A is liable
- i Note: even רבי אש (ה:ג) would agree; it's a common area with a watchman (who accepts responsibility)
- II נזקי אש: roles of liability in re: משנה ד'
- a If: he sent a fire with a חש"ו, he has moral culpability only (פטור מדיני אדם וחייב בדיני שמים)
- i application: ר"ל v. ר"י יוחנן in re: the role of the חש"ו
- 1 ד"ל only exempt if he gave the חש"ו a coal which the חש"ו then enflamed
- (a) But: if he gave him a flame, he is liable – it was his actions that caused the flame
- 2 ד"י even if he gave him a flame, still exempt
- (a) Reason: it was the handling of the חש"ו that caused the flame
- (b) And: he would only be liable if he handed him thorns, kindling and a light
- b If: he sent a fire with a competent person, the agent is liable
- c If: one person brought the fire and another brought the wood
- i Ruling: whichever came last is liable
- d If: in that case, another came and fanned the flame – he is liable (and the other two are now "off the hook")
- i Note: "fanning" may be read ליבה, as per v. 1, or ניבה as per v. 2
- e If, however: the wind fanned the flame, both (the one who contributed the wood as well as the one who brought the fire) are exempt
- i ברייתא: if he fanned it and the wind then fanned it
- 1 If: his own fanning was enough to cause the fire – he is liable
- 2 But if: his own fanning wasn't enough – he is exempt
- (a) Challenge: in re: מלאכת זורה, if he winnows and the wind assists him, he is still liable
- (b) Answer1 (אב"י): in this case, he fanned on one side and wind fanned on the other (where it spread)
- (c) Answer2 (רבא): he fanned in a normal wind and then an unusual wind came and made it spread
- (d) Answer3 (ר' זירא): his own fanning was just like "hand-warming", not enough to spread the fire
- (e) Answer4 (ר' אשי): no challenge from שבת
- (i) In re: שבת, the consideration is מלאכת מחשבת and his intent was accomplished (winnowing)
1. Whereas, here: it is simply גרמא (secondary causation) which is always exempt in נזקין