

20.9.8

99b → 100b (ה"ז קידש וחייב באחריותו) → (אמר שמואל טבח אומן שקלקל)

1. הולך ורכיל מגלה סוד ונאמן רוח מכסה דבר: משלי פרק יא פסוק יג
 2. והזהרתה אתהם את החקים ואת התורת והודעת להם את הדרך ולכו בה ואת המעשה אשר יעשון: שמות פרק יח פסוק כ

- I פושע and a מזיק who fouls the slaughtering is liable – he is a פושע, and a מזיק
- a Question: why the doubled language – פושע and מזיק?
- i Answer: מזיק only obtains if he is being paid; פושע addresses case of someone doing it for free
- ii Challenge: if a professional slaughters for free, he isn't liable
- 1 Answer: שמואל was adopting ר"מ's position
- (a) Identifying which statement of ר"מ: that a person must take extra care
- (i) Possibility: ר"מ's position re: liability for an ox that damages, even תם, even if properly locked
 1. Rejection: that dispute (and his position) is based on issues of interpretation (ולא ישמרנו)
- (ii) Rather: ר"מ's ruling re: dyeing the wrong color, that the dyer must pay for the wool
 1. Rejection: there, he did the damage directly with his hands
- (iii) Rather: ר"מ's opinion of full liability for someone who slips on a discarded item and damages it
 1. And: we know that the dispute (ר"מ/חכמים) is about the liability of the one who tripped (נתקל פושע)
- II ר' יוחנן: if an expert slaughterer fouled the שחיטה, he is liable
- a Contradictory story: טבח came before ר"י and he responded that if he could prove he was an expert שוחט, he'd be exempt
- i Answer: if it was for pay, he'd be liable
- ii Hence: the advice – to get money from a טבח, pay him first!
- b Challenge: an artisan who fouls his work is liable because he is like a נושא שכר (→ even for free, still liable)
- c Answer: read "he is a שכר" (i.e. he's getting paid)
- d Story: an animal, נבילה according to רבנן (but not בר יהודה) was brought to רב – he invalidated the שחיטה but found the טבח to be exempt.
- i Comment: of ר' אסי and ר' כהנא "רב עביד לך תרתי":
- 1 Proposed meaning: two unfavorable rulings (contra נבילה) and exempted the טבח and ר' יוסי בר יהודה
- (a) Challenge: this is a violation of v. 1
- 2 Rather: two favorable rulings – saving him from ספק גולה and from ספק נבילה
- III Similar discussion in re: coin appraisals
- a ר' יוחנן: if he shows a coin to a שלחני (and he confirms it to be good) and it proves to be bad:
- i Version 1: a professional is exempt; an amateur is liable
- ii Version 2: both are liable
- 1 Resolution: only experts, like איסור and דנכו are exempt – since they are such experts, they generally don't need to be so careful (the error – it was a new minting)
- iii Story: woman brought coin to ר' חייא; he pronounced it valid but was in error
- 1 Consequence: ר' חייא told רב to pay (from his money) and to make a note that it was an avoidable error
- 2 Note: ר' חייא, like דנכו ואיסור, was exempt; he paid as a supererogatory act (לפנים משורת הדין) as per v. 2
- iv Story: ר"ל showed a coin to ר"א, who confirmed it to be valid
- 1 Response: ר"א noted that it shouldn't matter, as he assumed that ר"ל rejected ר"מ (who affirmed דגרמי)
- 2 Correction: ר"ל supported דגרמי and would have found him liable if the coin was invalid
- (a) Question: where is the statement of ר"מ that is the source of his position on דגרמי
- (i) Proposal: ruling that if a judge judged incorrectly, it is recorded but he must pay the losses
 1. Rejection: we read that ruling as in re: a case where the judge acts on the rulings "with his hands"
- (ii) Rather: the next משנה, where ר"מ finds dyer liable for value of wool
 1. Rejection: there, too, he acted "with his hands" (i.e. it was an active and direct נזק)
- (iii) Rather: ר"מ's ruling that if someone covered another's wheat with his grape arbor – קידש (=כלאים)
 1. Rejection: there, too, he acted "with his hands"
- (iv) Final suggestion: ר"מ's ruling that if a wall separating his field from his neighbor's vineyard fell and he failed to build it up in the time allotted him - כלאים