21.1.05 6a (פלוג הכי) → 7a (פלוג הכי)

b

ז, **וְאָדִי יִזְקַ, אֶת יֵתוֹ לֶדָ לָה'** וְהָעֲרִיכוֹ הַ הֵן יֵזְטוֹב בֵּין רָע אָ רַיַעֲרִיק אַתוֹ הַ הֵן וֵזְק ם:*ויקרא פרק כו פסוק יד* 2. וְכָל מַעְרַ רְקָרוַצֹאן 'ל אֶ, רַיַעֲבר וַחַת הַבֶּבֶט הָעַ, יִרִי **תְהָה דָר** לָה'*: ויקרא פרק כו פסוק לב* 3. וְזֹאת לְפָנִים יְיִרָאַל עַל הַאָ הוְעַל הַ מִרָה לְקַ ם לְבָר לַף אִי נַעֲלוֹ **וְתָבו לְרַעֵה** וְזֹאת הַ, עדָה יְיָרָאֵל: *וות פרק ד פסוק ז*

- I משנה 's question: if one of the (two in our משנה) grabbed it in our presence
 - And: the other was silent, then protested (if he was silent the entire time, cedes garment; if he protests immediately, case in stasis)
 i Lemmal: is his silence indication of ceding OR
 - ii *Lemma2:* was he silent since he figured that the "" was watching and they'd intervene
 - Answer (ב"ג): המע"ה our משנה s ruling is only if both are equally holding, but if 1 is holding, other is המע"ה
 - i *Comment:* if read simply, the ruling is too obvious
 - ii Rather: must be case where one seized it in our presence
 - *Rejection*: could be case where they came in holding together, we sent them out to settle and came back:
 (a) *With*: 1 holding, claiming the other ceded, and the other claims he rented out half
 - (i) And we: reject his claim, since he didn't trust him before, why would he rent w/o witnesses
 - (b) Or with: 1 holding and other grasping at a corner even סומכוס would agree that "grasping" is nothing
 - iii If: we rule that the grabber keeps it all, what if, instead, one was מקדיש?
 - 1 *Lemmal*: since declaration of מסירה::הקדש to a citizen (קידושין א:ו) valid OR
 - 2 Lemma2: as per v. 1, an item must be fully in possession of declarant to be valid הקדש
 - 3 Proposed answer: story of bathhouse over which 2 men were fighting (for title); one was מקדיש and הכמים avoiding using it, waiting for a ruling;

(a) Ruling (רבה סור' המנונא): infer from משנה טהרות ד:יב that ספק בכורות are governed by המע"ה (vis-à-vis)
 (i) And: they are bound by איסורי גיזה ועבודה (as בכור וודאי (as))

- (ii) Inference: if the cosn't seize it, he would keep it (from המע"ה); yet, even if he doesn't seize it, אסור
- (iii) *Application:* bathhouse should be valid הקדש
- 1. Application to our case: הקדש should be valid and other claimant should be out
- (iv) Challenge (כהן מוציאין אותו מידו אותו מידו): even if רכה), תקפו כהן מוציאין אותו מידו is directed to המע"ה is directed to המע"ה nonetheless, איסורי גיזה ועבודה are in place since קדושת בכור is inherent (ספן isn't one of ownership but of fact)
 - 1. *Application:* no longer works to case of bathhouse \rightarrow no application to our question
 - 2. Support (to ספקות : (see below) are put into corral for מעשר בהמה
 - a. *Analysis:* assumption ספק בכורות; must not be property of כהן, else how does owner exempt his own animals with animals of כהן?
 - b. challenge (אביי): in this case, there are only 9+ספק, so in either case it's ok to use it
 - c. Self-block: בכורות ט:ז as per מעשר בהמה aren't liable for מעשר בהמה, as per נבכורות ט
 - i. *If:* one of the already counted animals jumps back, they're all exempt
 - ii. *And if: ספק* חייב לעשר, recount in any case either it will be the one picked or else it will already have been exempted by the proper (earlier) count
 - iii. *Rather:* we only have to separate the certain עשירי
 - d. *Re-analysis:* ספקות refers to ספקי פטר חמור (can't be ספקות as per v. 2)
- (b) *Final ruling re bathhouse:* as per ר"ג's ruling:
 - (i) Any disputed item: which could be extracted via הקדש, the הקדש is valid (→ in our case, invalid)
 - 1. Note: if disputant doesn't extract, how can his הקדש be valid ר"י ruled that גזל בל יאוש cannot be נגל בל יאוש by either גזל בל יאון, since he doesn't have possession
 - 2. *Answer:* since the bathhouse is קרקע; once it *could* be extracted via דיינים, it's in his possession
- II Version of our אבהו taught before ר' אבהו (in Caesaria): if two are holding a טלית, each is given the part he is holding and they split the rest equally; אבהו added that they split with an oath.
 - a Challenge: how could our משנה be actuated
 - b Answer (**7**"): if each was holding on to strings
 - i Inference: if someone is holding 3x3 of a סודר, that is a valid קנין חליפין as per v. 3
 - ii As opposed to: requirement that a גט be totally given to woman (due to requirement of כריתות, non-existent in re: קנין)
 - דבא. if the garment had gold on it, they still divide equally, even though one's hold may be closer to it

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