21.4.15

57a (אמר רבא אמר רב חסא בעי רבי אמי) → 58b (מפני שיש בהן חיי נפש)

1. **על כֶּל דְּבַר פָשַע**עַל שוֹר עַל חֶמוֹר עַל שֶׂה עַל שַׁלְמָה **על כֶּל אֲבַדָה** אֲשֶׁר יֹאמֵר כִּי הוּא זֶה עַד הָאֱלֹהִים יָבֹא דְּבַר שְׁנֵיהֶם אֲשֶׁר יַרְשִׁיעַן אֱלֹהִים יְשַׁלֵּם שְׁנַיִם **לְרָעַהוּ**: שמות כ*ב:ח* 2. כִּי יִ**תְּן** אִישׁ אֶל **רַעַהוּ** כֶּסֶף אוֹ בַלִים לְשְׁמֹר וְגָבַב מְבֵּית הָאִישׁ אָם יִמְּצֵא הַגַּנָב יְשַׁלֵּם שְׁנָיִם: שמות *פרק כב פסוק ו* 3. כִּי יִתָּן אִישׁ אֶל **רָעַהוּ** חֲמוֹר אוֹ שֵׁר אוֹ שֶׂה **וְלַ בְּהָמָה לִשְׁמֹר** וּמֵת אוֹ נִשְׁבֵּר אוֹ נִשְׁבָּר אוֹ לְאָה: שמות *פרק כב פסוק ט* 

- I אמי 's question about the excluded categories from אונאה do all transactions hold? (ביטול מקח)
  - a ביטול מקח: he resolved it in the affirmative there is ביטול
    - i ר' יונה בשם ר' יוחנן: in re: הקדשות
    - ii ר' ירמיה בשם ר' יוחנן: in re: קרקעות
      - 1 Observation: יונה would certainly agree re: ירמיה but יר' ירמיה wouldn't extend to יונה, as per ירמיה שמואל
        - (a) If: you redeem ש"פ on a ש"e (far below its value) it's redeemed
        - (b) Tangent: if בעל מום is swapped it now becomes חולין but must be appraised (and difference paid, if any)
          - (i) מה"ת this requirement is מה"ת (i.e. מה"ת it is redeemed even at מים מה"ת.
          - (ii) מה"ת this requirement is מה"ת (redemption doesn't take place without full value payment)
        - (c) Circumstance: can't be amount of משנה excludes משנה (no one could claim דמים מה"ת (ran't be amount of הקדשות)
          - (i) But: can't be מה"ת (as quoted above) certainly allows for מה"ת to be cancelled מה"ת
        - (d) Rather: must be ביטול מקח and positions are reversed (מה"ת ר"י), as above)
          - (i) And: they disagree about whether to accept שמואל's ruling (above)
          - (ii) Or: both accept שמואל, disagree about whether it may be employed לכתחילה or not
        - (e) Alternatively: (no reversal) it's about אונאה and they disagree about how to interpret אין להם אונאה (ר' חסדא) אין להם אונאה
          - (i) ר' יוחנן: they are excluded (against ר' חסדא's interpretation)
          - (ii) ל"ל: they aren't defined by 1/6 (ר' חסדא)
            - 1. Challenge: ruling that there is neither רבית nor אונאה for הקדש
            - 2. Block: just as משנה interpreted our משנה as meaning "not bound by 1/6", same here
              - a. Challenge: end of משנה lists this is a הדיוט of הדיוט
              - b. Answer: that's in re: רבית
                - i. Challenge: why not also list that this is a חומרא of אונאה) even less than 1/6)
                - ii. Block: this is far from the only stringency of הקדש!
            - 3. Tangent: discussion of רבית בהקדש how can this occur?
              - a. Contention: can't be that the הקדש funds at interest that's חולין → מעילה
              - b. Solution1: someone committed to provide flour @4 סאלע per אלע and it went up to 3
              - c. Solution2 (ב״בר): the גזבר lent money used for as-yet-unsanctified building materials
- II Analysis and sources of additional categorical exclusions:
  - a הקדש :תשלומי בפל excluded via הקדש (v. 1); כלל ופרט וכלל is excluded via רעהו
  - b 'תשלומי ד' in since the תורה doesn't allow for 'ד' where there is no כפל, above list applies here as well
  - c שומר חנם doesn't take an oath excluded via כלל ופרט וכלל (v. 2); הקדש is excluded via רעהו
  - doesn't pay (for גנבה ) excluded via כלל ופרט וכלל (v. 3); הקדש is excluded via רעהו
    - i Challenge: ruling that if someone was bringing שקלים on behalf of townsfolk and they were stolen or lost, he takes an oath that he didn't abscond/neglect
      - Answer1 (שמואל): he is a ש"ש and he swears in order to collect his fee but he swears to the townsfolk in the presence of the עקלים to remove suspicion from him or from them (that they didn't send their שקלים)
        - (a) Challenge: it refers to theft or loss both of which a "v" is liable for (i.e. how can he claim his fee?)
          - (i) Answer (בנה): "stolen" here means מזיין, "lost" means "at sea"- i.e. both are פטור (בטור) אונסין
      - 2 Answer2 (משנה on ר"ש): follows שקלים on משנה there is a חיוב אחריות on שקלים
        - (a) Challenge: if they already did שקלים, there is no שקלים are included)
    - 3 Rather (ר"א): this מד"ס is מד"ס to ensure that people don't treat קדשים lightly
  - e Challenge (to ש"ש): ruling that if someone was hired to watch something associated with הברה אדומה, he is liable
    - i Answer: in that case, they made a קנין, generating an exception and creating liability
- III שאינו חייב באחריותן there we apply הקד"ר etse, בה' וכחש בעמיתו there we apply הי"ר"ש there we apply בה' וכחש
- IV ס"ת, animals, jewels מ"ל, animals, jewels
  - a ס"ת people will pay any amount
  - b בהמה ומרגלית people often are "desparate" to find a match limit until 200% of value
    - i Addendum: ריב"ב extends this notion to horses, weapons and shields, as they are used for survival