

21.6.7

82b (משנה ח') → 83a (סיום הפרק)

1. כי יתן איש אל רעהו חמור או שור או שׂה וְכָל בְּהֵמָה לְשׁוֹמֵר וּמֵת או נִשְׁבַּר או נִשְׁבָּה אֵין רֹאֵה: שְׁבַעַת ה' תְּהִיָּה בֵּין שְׁנֵיהֶם אִם לֹא שָׁלַח יָדוֹ בְּמִלְאֶכֶת רְעֵהוּ וְלָקַח בְּעַלְיוֹ וְלֹא יֵשְׁלֵם: שְׁמוֹת פְּרָק כָּב פְּסוּק ט-2.
2. לְמַעַן תִּלְוֶה בְּדִרְוֹ טוֹבִים וְאֶרְחוֹת צְדִיקִים תִּשְׁמֹר: מִשְׁלֵי פְּרָק ב פְּסוּק כ

- I שומר liability for a watched item that breaks when being moved by משנה ח'
- a ר"מ: both ש"ח and ש"ש take an oath that they weren't neglectful
- b ר"א: accepts ר"מ's tradition, but doesn't understand how ש"ש can take the oath
- c ר' יהודה: only ש"ח takes oath; ש"ש is liable in any case, each following his proper level of liability
- i Challenge: ר"מ holds that נִתְקַל פּוֹשֵׁעַ (in re: liability for broken items left in street) - how will this oath help?
- ii Answer1 (ר"א): 2 versions of ר"מ (can't be reconciled)
- 1 And: ר' יהודה disagrees, assigning each שומר his usual liability and exemption
- 2 And: ר"א accepts ר"מ's tradition, but doesn't understand how ש"ש can take oath
- (a) Furthermore: even ש"ח can only take oath if there was a slope;
- (b) Furthermore: even if there was slope, oath only if there were no עדים (as per איסי's interpretation of v. 1)
- iii Answer2 (ר' יוחנן): this oath is תְּקַנַּת חֲכָמִים; else, no שומר will ever move items around
- 1 And: ר' יהודה disagrees, assigning each שומר his usual liability and exemption
- 2 And: ר"א accepts ר"מ's tradition, but doesn't understand how ש"ש can take oath
- (a) Furthermore: even ש"ח can only take oath if there was a slope;
- (b) Furthermore: even if there was slope, oath only if there were no עדים (as per איסי's interpretation of v. 1)
- iv Related stories:
- 1 Man was moving a barrel around a house in מחוּזָא and it broke on a beam
- (a) רבא: this is a public area, provide witnesses and be exempt (following איסי)
- 2 Man bought 400 barrels of wine for another, when he delivered them he reported that they went sour
- (a) רבא: 400 barrels going sour is a well-known event; provide witnesses that they were originally good and be exempt (as per איסי)
- v Ordinance (סיכרא in ר' חייא בר אבא): porters who break items, if carried with yoke, pay ½
- 1 Reason: it's too heavy for 1, too light for 2; midway between פשיעה and אונס (split the difference)
- 2 However: if he carried it on a pole, pays all
- vi Final story: בר רב חנן's porters broke his barrel of wine; he seized their clothes against payment
- 1 Case: came to רב, who ordered him to return clothes
- (a) רב ר"ח: "is this the law"?
- (i) דב yes, as per v. 1a
- 2 Then: רב ordered him to pay them for their work
- (a) רב ר"ח: "is this the law"?
- (i) דב yes, as per v. 1b