

22.5.13

87a (משנה ח') → 88a (ודובר אמת בלבבו)

ז. הולך תמים ופגעל צדק ודבר אמת בלבבו: תולים פרק טו פסוק ב

## I 'משנה ח': price fluctuations in mid-purchase

- a *If*: while selling wine or oil the price changed
- i *If*: the measuring vessel wasn't yet full – seller gains (may raise price or renege)
- ii *If*: the measuring vessel was filled, buyer has discretion
- b *If*: there was a middleman and the barrel broke before the deal was complete, the middleman is liable
- i *Note*: vessel in (a) cannot belong to buyer (wine would be his immediately) nor seller (should be his after)
- 1 *Rather*: must belong to middleman
- (a) *Challenge*: middleman is mentioned in (b) → in (a) there's no טרסור
- (b) *Answer*: in (a), he lent his מדה (but isn't there); in (b) he is there
- c *Additional rule of sale*: liquids sold require an extra 3 drops to be given; anything beyond that is the seller's
- i *Challenge*: ruling in re: תרומה that if the owner draws out תרומה liquid and then a few extra drops follow – תרומה
- 1 *Answer*: in our case, the buyer has ייאוש after 3 drops; ייאוש doesn't apply to תרומה
- ii *Exceptions*: a storekeeper who is always involved doesn't have time to get the 3 drops out
- iii *ד' יהודה* selling just before שבת is exempt (no time, busy getting ready for שבת)
- 1 *Question*: is ר' יהודה commenting on (c) and extending the leniency to anyone on ע"ש
- (a) *Or*: is he restricting the leniency of the storekeeper to ע"ש
- (b) *Answer*: he explicitly applies the ע"ש exemption to the storekeeper only

## II 'משנה ט': liability for merchandise lost or destroyed when given to a child

- a *If*: a man sends his son to the storekeeper with a פנידיון (2 איסר) to buy שמן worth 1 איסר
- i *And*: the storekeeper gave the child the oil and איסר of change
- ii *And*: the child either broke the plate or lost the coin (before getting home)
- 1 *Then*: the storekeeper is liable (for entrusting these to a child)
- 2 *Dissent* (ר' יהודה): he is exempt; that's why the father sent his child – to retrieve goods and change
- (a) *But*: חנווני פטור – חכמים will concede in a case where the child was holding the plate

III *Analysis*:

- a *Understood*: the ruling regarding the coin and the oil
- i *Reasoning*:
- 1 *דבנן*: father sent his son to inform חנווני that he wants to buy
- 2 *ד' יהודה*: father sent his son to buy and bring back goods
- ii *But*: the plate is hard to figure – isn't the child's breaking it the father's responsibility? (אבדה מדעת)
- 1 *Answer1*: father is a plate-seller and the חנווני took it to check it out
- (a) *As per*: שמואל's ruling that if someone takes a כלי from an artisan to check out – חייב באונסין –
- (i) *Note*: this only applies if the price is fixed, as per stories about thigh and squash seller
- (b) *Rejection*: if so, שמואל's ruling is mired in controversy
- 2 *Answer2*: חנווני is a plate-seller, and each of רבנן and ר' יהודה follow reasoning above
- (a) *Challenge*: last clause, why would חכמים cede to ר' יהודה, if father sent son to inform חנווני?
- 3 *Answer3*: חנווני took it to use as a measure, as per רבה's ruling that once a finder moves an animal – even by whipping – he is liable for אבדה השבת
- (a) *Rejection*: that ruling only applies to animals, who are caused to move by humans
- 4 *Answer4*: חנווני took plate to use to measure for another sale – שואל שלא מדעת – and must return to בעלים themselves
- (a) *דבנן* הוא גנב – שואל שלא מדעת שואל גנב הוא – and returning to child is sufficient
- (b) *ד' יהודה* הוא – שואל שלא מדעת שואל הוא –
- b *Tangential ruling* (to שמואל's ruling above): if someone is buying fruit from one who doesn't take תרומה and was selecting out the better quality fruit but didn't decide to buy – no קנין and no liability for מעשרות
- i *But*: if he decided to buy, it is now חייב במעשרות
- 1 *Quandry*: can't return it to seller (already במעשרות); he can't separate מעשרות and then return it – worth less
- (a) *Rather*: he separates מעשר and gives that value to seller
- (i) *Question*: why is his decision to buy enough to obligate him?
- (ii) *Answer*: if buyer is absolutely honest - like ר' ספרא (story with v. 1 in מכות כד)