

- 22.10.13;175a (משנה ט') → 176b (סיום המסכת)
- I 'ט: rights of collection from oral debt, written debt
- a **עדים** משועבדים: can only be collected from **מלוה בשטר** with proper **עדים**
- b בני חורין: even from **מלוה ע"פ עדים**, an "IOU" signed by debtor or from an **ערב** signed on after **עדים**
- i **Story**: ר' ישמעאל had a **שטר** come with **ערב** signed below **עדים** and he permitted collection from בני חורין
- ii **Dissent** (בן ננס) **ערב** is only liable if he generates the loan, not if he "saves the day"
- 1 **Analogy**: if a creditor is choking a debtor and a 3rd party steps in to save him and promised to pay if the **בע"ח** leaves him alone – he certainly isn't liable to pay
- (a) **Response**: ר"י's praise for **דיני ממונות** and the wisdom involved – and for the genius of **בן ננס**
- II **Discussion re: שעבודא דאורייתא** (if the **תורה** provides for property becoming **משועבד** to a debt)
- a **עולא**; essentially, even an oral debt should be collectible from **משועבדים**;
- i **Reason**: **שעבודא דאורייתא**; **מלוה ע"פ** is excepted → **לקוח בשטר** (in re: **מלוה בשטר**, should have researched- has a **קול**)
- b **דבה**; essentially, no debt should be able to be collected from **משועבדים**;
- i **Reason**: **שעבוד** is not **מה"ת** **בשטר** – **מלוה בשטר** may collect from **לקוחות** to encourage lending – but oral debt has no **קול**
- ii **Challenge**: **רבה** ruled (in re: ruling coming from **א"י** that a **בכור** gets **פני שנים** in case of a **מלווה** loaned by his father that is collected) that he only gets **פני שנים** if they collect land → **שעבודא דאורייתא** and land of the **לווה** was father's
- 1 **Suggestion**: perhaps our positions are reversed (**עולא** – **שעבודא לאו דאורייתא**)
- 2 **Rejection**: **עולא** clearly rules that a **בע"ח** has claim on **זיבורית** (inferred from **פסוקים** in **ב"ק**)
- iii **Answer**: **רבה** was only explaining the position of **א"י** – but he holds **שעבודא לאו דאורייתא**
- c **שעבודא לאו דאורייתא** – **לקוחות** or **יורשין** – **שעבודא לאו דאורייתא**
- d **שעבודא דאורייתא** – **לקוחות** and **יורשין**
- i **Challenge** (to **שמואל**): if someone digs a **בור** **ברה"ר** and an animal falls and kills digger – owner of animal is **פטור**
- 1 **Furthermore**: if animal dies, heirs of **בעל הבור** have to pay
- 2 **Implication**: a **מלוה על פה** (liability for **נזקין**) is collected from **יורשים**
- (a) **Answer**: case where there the digger was found liable in **ב"ד**
- (i) **Challenge**: **ברייתא** uses **הרגו** as example (i.e. animal killed him there)
- (b) **Answer**: animal made him a **טריפה**, but he was able to come to **דין**
- (i) **Challenge**: **תנא** taught the case as the ox killed him and buried him there (in the **בור**)
- (c) **Answer**: the **ב"ד** was standing over him at the **בור** and passing sentence as he died
- e **Final ruling** (**ר"פ**): oral debt is collected from **יורשין** (encourage lending) – but not from **לקוחות** (no **קול**)
- III Analysis of the "IOU"
- a **Question** (asked of **יוחנן**): what if debtor's signature is recognized in **ב"ד**
- i **Answer**: still may only collect from בני חורין
- b **Challenge**: 3 **גיטין פסולין** – but if a woman remarries via any one of them – child is **נשר**
- i **Includes**: written by husband and there are no **עדים** & she may collect her **כתובה** – even from **משועבדים**
- c **Answer**: in that case, it was originally written to be given in front of **עדי מסירה** and he was **משעבד** himself
- IV Analysis of the **ערב** signed after the **עדים** (can only collect from בני חורין of the **ערב**)
- a **רב1**: but if **ערב** is signed above **עדים**, may collect from **משועבדים**
- b **רב2**: even if **ערב** signed above **עדים**, may only collect from **ב"ח**
- i **Resolution**: if it states **נפלוני ערב**, witnesses are also testifying to that → **משועבדים**
- 1 **But if**: it states **פלוני ערב**, this is an autonomous statement, unrelated to **עדים**' signature
- c **נפלוני ערב**: in any case, only collect from בני חורין – even if it states **נפלוני ערב**
- i **Challenge**: **יוחנן** himself distinguished between **שאילו** and **ושאילו** (in former case, it is independent)
- 1 **Answer**: correction – **יוחנן** ruled like **רב** – **נפלוני ערב** will allow for **משועבדים**
- V Analysis of **ר' ישמעאל**'s evaluation of **בן ננס**'s position
- a **Ruling** (**יוחנן**): **ר' ישמעאל** follows **הלכה**, **בן ננס** praised **ר' ישמעאל** (may collect from בני חורין)
- i **Question**: did **ר"י** disagree with **בן ננס** about his example of the man attacking his debtor?
- ii **Answer**: yes he did, and **ר"י** follows **הלכה** there, as well (man stepping in to help is **חייב** to pay, as he promised)
- b **שמואל** (dissent from **יוחנן**) in the case of the **חנוק**, if the **ערב** makes a **קנין** with the **בע"ח**, he is liable
- i **Implication**: a regular **ערב** needs no **קנין** to become liable
- 1 **contra**: **ר"י** – only **ערב** in **ב"ד** needs no **קנין**
- 2 **Final הלכה**: **ערב** needs no **קנין** if he commits at point of loan; if after, he needs **קנין**
- (a) **Exception**: if he is **ערב בב"ד**; the **הנאה** he gets from being trusted is the vehicle for **שעבוד**

תפ ושלם ליה אברא עולם

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