

31.4.2

28a → (משנה ג) 29b (מאי אריג תיכי)

1. ראה למדתי אתכם חקים ומשפטים כאשר צוני ה' אלהי לעשות כן בקרב הארץ אשר אתם באים שמה לרשתה: דברים ד, ה.
2. אמת קנה ואל תמכר חכמה ומוסר ובינה: משלי כג, כג

I שחיטה pre-confirmation משנה ג

- a If: he slaughtered the בכור and then got the מום confirmed by a מומחה
- i ד' יהודה may be eaten
 - ii ד"מ may not be eaten, since it was not confirmed by a מומחה beforehand
 - 1 Clarification of dispute (רבנ"ח): only disagree about a withered spot in the eye (דוקין שבעין)
 - (a) Reason: that is likely to change at death, i.e. seeing it after death doesn't prove it was a בע"מ before
 - (b) Dispute ד"מ/ר"י whether we prohibit all מומים as a precaution against דוקין שבעין
 - 2 Support: ד"מ agrees that in case of דוקין שבעין, meat may not be eaten – because they change
 - (a) ד"מ: all are prohibited on account of those that change (i.e. דוקין שבעין)
 - (b) ר"מ: careful read of our משנה gives same conclusion – ר"מ prohibits "הואיל ולא נשחט" → it is a קנס
 - (c) Question: is the assertion that they change inevitable or occasional?
 - (i) Practical difference: if witnesses testify that the eyes looked like this while alive
 1. If: they always change, the witnesses are lying (→ meat is אסור)
 2. But if: they sometimes change, we can rely on witnesses and (לר"י) permit the meat
 - (ii) Solution: ד"מ reported that ר' אושעיא told him that he could show him a case of changing eyes
 1. Implication: they only change on occasion → we may rely on witnesses that they didn't change

II משנה דו: if someone is not a מומחה (but pretends to be) and permits a בכור and it is slaughtered on his say-so

- a Then: it must be buried, and the faux-מומחה must pay for the loss out of his own pocket
- i Inference: seems to support ר"מ (who forbids all cases of מומים "after the fact")
 - ii Rejection: might be a case of דוקין שבעין, where all agree it is prohibited
- b גסה when the faux-מומחה pays, he must pay ¼ the value of a דקה and ½ the value of the גסה
- i Reason (ל"פ): it takes more work (by כהן) to care for גסה
 - 1 Challenge: if so – he should be paid per expense
 - ii Rather (ל"י הונא בר מנח): the lesser payment for דקה is part of the decree against raising דקה (discourages it)

III משנה דז: general consequences of a judge erring (בשיקול הדעת) – whether finding liable or acquitting, declaring טהור or טמא

- a Consequence: ruling remains and he must pay for the loss from his own pocket
- b But if: he was a מומחה – exempt from payment
- i Note: this seems to support ר"מ who rules in favor of damages caused w/o direct action (דינא דגרמי)
 - ii Rejection: perhaps in these cases, the judge handed over the funds (to the wrong party)
 - 1 Challenge: how would this work if he exempted a liable party from payment?
 - (a) Answer: could have had a collateral on the loan which the judge handed back to borrower
 - 2 Challenge: how do טמא and טהור take on demonstrative acts?
 - (a) Answer: if "טהור" – he touches it to שרץ (to prove point); if "טהור", he mixes into טהרות of owner

IV משנה דח: story – ר"ט declared a cow w/o uterus to be טריפה; he was overturned, on evidence from Alexandrian practice

- a ד"ט he must pay
- b no need to pay, as he is מומחה לב"ד (per דז above)
- i Note: ר"ע also exempted him as this was such an egregious error (טעה בדבר משנה) that the ruling wouldn't stand

V משנה ה: validity of paid מום-checker

- a Someone: the rulings of a "paid מום-checker" are invalid
- i Unless: he has an arrangement like אילא, who got 4 איסר for דקה and 6 for גסה, regardless of the outcome
 - ii Reason for disparity: it takes more effort to check a גסה
 - 1 Challenge to system: understood why he must be paid same for תם and בע"מ – so we don't suspect him that he saw a תם and declared it to be בע"מ to get paid
 - (a) However: why aren't we concerned that he will declare a בע"מ to be תם to get a "2nd bit at the apple"?
 - (b) Answer: we don't allow him to be paid twice for the same animal

VI ו משנה: accepting payment for various other discretionary acts

- a If: someone is paid to judge, testify, make מי חטאת or sprinkle them – act is invalid (פסולים are אפר and מים)
- i Source: v. 1 (also ברייתא uses v. 1) – just as משה taught for no fee, so too בני must teach (etc.) for no fee
 - 1 However: if he can't find a teacher at no cost, must hire one – per v. 2
 - 2 Nonetheless: he must still teach for free, as per next phrase in v. 2 – ואל תמכור
- ii Challenge (to ruling of מי חטאת): giving מי חטאת or אפר חטאת as קידושין is valid, even if donor is ישראל
 - 1 In other words: one may be paid for processing
 - 2 Resolution: payment for delivery is acceptable; payment for the act of קידוש מ"ח or הזאה – prohibited
 - (a) Note: careful read of sources bears this out;
 - (i) In our משנה: מלךש ולקדש
 - (ii) In קידושין במי חטאת etc.
- b But: if כהן becomes טמא as a result of his going to judge, testify etc.
 - i Then: plaintiff must feed him etc. during טומאה ימי
 - 1 Question: how did כהן go there in the first place?
 - (a) Answer1: could have gone through בית הפרס, which one may go through if he blows ahead of him
 - (b) Answer2: could have had some other טומאה there (e.g. גבלה) which כהנים are not banned from
 - ii And if: he is an elder, the plaintiff must provide him with transportation
 - iii In any case: the judge, witness etc. may be paid as a פועל בטל (lost wages)
 - 1 Means (אבוי): like someone who has lost wages from the work he normally does

VII ז משנה: purchasing meat-related items from someone suspected of violating בכורה

- a If: someone is suspected of selling בכור meat as חולין
 - i Prohibited: to buy deer meat from him (too similar to calf-meat)
 - ii And: may not buy untanned hides
 - 1 Reason: he wouldn't go to trouble of tanning hides that, if he were caught (בכור) he would lose
 - iii ד"א may purchase hides of females (can see from hide that it was female → בכור no)
 - 1 חכמים: he may cut out the genital area and claim rats ate it
 - 2 ד"א: one can see if rats have eaten it
 - iv And: may not purchase white or dirty wool
 - 1 Challenge: if we may not buy white wool, certainly may not buy dirty wool (טירחא no)
 - 2 Answer: text should read "wool that has been cleansed from its dirt"
 - v But: may purchase spun wool and garments (same reasoning as above re: hides)
 - 1 Challenge: if we may buy spun wool, certainly we may buy garments
 - 2 Answer: garments may be of unspun wool

VIII ח משנה: purchasing agricultural goods from someone suspected of violating שביעית

- a If: someone is suspected of violating שביעית, we may not buy flax – even if combed out
 - i But: we may buy spun flax or garments
 - 1 Challenge: if we may buy spun flax, certainly we may buy garments
 - 2 Answer: garments may be of unspun flax