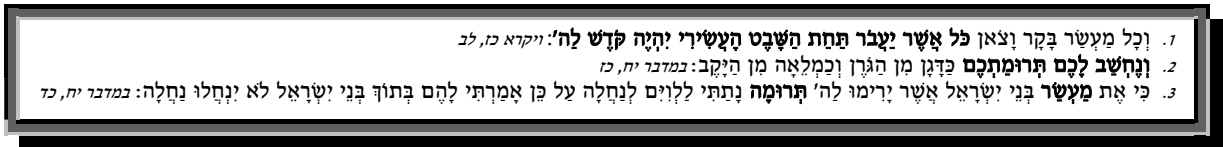


31.9.6

58b (משנה ז) → 60a (כשמעתיא בריגלא כשמעתיא) → (משנה ז)



I ז משנה: Method of tithing

- a *First*: the animals are all put in the corral and he makes one single, narrow exit, so that only one can exit at a time
- i *First*: תוספתא בכורות ז: (adds) – we put the mothers outside of pen; their lowing draws the young out through exit
- 1 *Note*: we don't push them out, as the text stipulates יַעֲבֹר – must pass on its own
 - 2 *Note*: we don't entice it with food, as that may lead to using bought and orphaned young
- b *Counting*: he counts (aloud) each number, 1-9, then the 10th is marked with red paint and he declares "הרי זה מעשר"
- c *Counting*: valid post-facto...
- i *If*: he didn't mark it
- ii *Or*: or if he didn't count them with the staff
- iii *Or*: if he counted them while they were standing or crouched – valid
- d *Taking 10%*: if he removed 10 of 100 (e.g.) – invalid
- i *Dissent*: ר' יוסי בר יהודה considers this valid
- ii *Explanation*: תר"ג presents rules of our משנה, adding the exclusion of טריפה (... עיבור...) and sources for...
- 1 *Standing or crouched*: קודש העשירי קודש
 - 2 *Without counting aloud*: יהיה קודש
 - 3 *עשירי's position on taking 10%*: invalid, per עשירי
 - 4 *עשירי's dissent*: unexplained
- (a) *Explanation*: תר"ג with תר"מ associated תרומתכם – תר"ג read of v. 2 – אלעזר בן גומל follows
- (i) *Just as*: תר"ג is taken by estimation, so too תר"מ may be taken ובמחשבה
 - (ii) *And*: מעשר is called תרומה (v. 3)
 - (iii) *And*: מעשר דגן is compared to מעשר בהמה (above – עשר תעשר and מעשרותיכם)
1. *Therefore*: מע"ב may also be taken ובמחשבה
- e *If*: one of the "counted" (1-9) returns to the corral, all of them are exempt
- f *But if*: one of the מעשר animals returns, none may be eaten until they get a מום and are treated as מעשר ספק

II רבא's rulings

- a *עשירי קדוש*: the tenth is sanctified by itself, without declaration
- i *Proposed source*: from ברייתא (above) – even if he doesn't say "עשירי"
- 1 *Block*: perhaps, in that case, he *did* say "קדוש"
- ii *Proposed source*: ברייתא – if he called #9 "ten" and then #10 went out (w/o declaration) – #10 is מעשר (#9 במומו)
- 1 *Block*: in that case, #10 was "clarified" (it walked out); or – perhaps he pointed at it
- iii *Proposed source*: ברייתא – if he called #9 "ten" and then #10 died in the corral, they are פטור (#9 במומו)
- 1 *Block*: perhaps they became exempt due to מנין הראוי (רבא's next ruling – see below [b])
- iv *Source*: ברייתא – if he called #9 "ten" and #10 remained in corral – #10 is מעשר (#9 במומו)
- 1 *Challenge*: ברייתא rules that in same case, #9 is חולין
 - 2 *Answer* (אמת before ששת): ר"ש בן יהודה in the name of ר"ש, who rules that #9 is also not קדוש unless #10 had its number נעקר (as is the rule in our משנה for #11)
- (a) *Per*: if #11, which can generate תמורה, is only קדוש is #10 had its number נעקר
- (i) *Then certainly*: #9, which cannot generate תמורה, is only קדוש if #10 had its number נעקר
 - (ii) *Counter*: #11, which is strong enough to generate תמורה, requires עקירת שם of #10
1. *Alternatively*: #11 came after #10 – only works if #10 "lost its number"; not so for #9 (QED)
- b *מנין הראוי פטור*: any animal counted while there is a sufficient number for מע"ב is exempted
- i *Proposed source*: our משנה – if one of the "counted" jumps back in, all are exempt
- 1 *Block*: they were already completely tithed
- ii *Source*: v. 1 – יַעֲבֹר (future tense) – did not have to already pass through to exempt the others
- 1 *Support*: ברייתא – if he had 10 in the corral, counted 5 and then 1 of them died
- (a) *If*: one of those already counted died, he counts out more and completes the 10
 - (b) *But if*: one of those not yet counted died, the ones counted are exempt and the rest join a later גורן

- c *Case with 14 lambs and 2 exits:*
- i *If:* 6 first went out gate "A" and then 4 went out gate "B" (and 4 remain)
 - 1 *If:* the 4 went out gate "A", he tithes one of them and the 4 that went out gate "B" join a later גורן
 - 2 *If:* the 4 went out gate "B" (or not at all), the 6 are exempt and the other 8 join a later גורן
 - ii *But if:* 4 first went out gate "A" and then 6 went out gate "B" (and 4 remain)
 - 1 *If:* the 4 went out gate "B", tithes one of them and all others are exempt
 - 2 *If:* the 4 went out gate "A" (or not at all), the first 4 and the 6 are exempt; the last four join a later גורן
 - iii *But if:* 4 went out gate "A" and 4 went out gate "B" and 6 remain
 - 1 *If:* the 6 go out through either gate, all are exempt
 - 2 *If:* the 6 don't go out at all, both sets of 4 are exempt and the 6 join a later גורן
 - iv *Challenge:* רבא already ruled that מנין הראוי פוטר מנין הראוי exempts; but here the מנין may work with gate "A" or gate "B" → it isn't פוטר קמ"ל – פוטר that even מנין הראוי פוטר ספק מנין הראוי פוטר
- d *Choosing lambs:* if he has 15 lambs, he shouldn't select 15 to put into corral and leave 5 out (→exempting them)
- i *Rather:* he puts all 15 in, tithes from 10 and the remaining 5 join a later גורן (supporting ברייתא)
 - ii *Challenge:* ברייתא rules that if he has 19 lambs, he shouldn't choose 10 and leave 9 out and exempt them
 - 1 *Rather:* he puts them all in the corral, tithes from 10 – and the remainder are exempt!
 - 2 *Answer (רגל ר"ה בר סחורה before רבא at רגל):* this must be a case of a corral with 2 exits ("רנ"י praised him for this)
 - (a) *And:* 9 went out gate "A" and 9 went out gate "B", so that the remaining 1 could join either group
 - (b) *Challenge:* why didn't he explain it as a case where after 9 went through, he began counting again "1"?
 - (i) *Answer:* he holds that #10 is קדוש by itself, regardless of the count
 - (c) *Challenge:* why didn't he explain it as a case where he counted them by pairs ($9 \times 2 = 18$)
 - (i) *Answer:* he holds (see p. 50) if counting pairs, it is still the number of animals that determines מע"ב