

- A) The first five words of the mishna
- 1) Where has mention been made previously of the phrase שור המזיק ברשות הניזק?
 - 2) What would appear to be the relationship between this mishna and the one that the above mentioned phrase is earlier found in?
 - 3) Where have we earlier seen the word כיצד in this chapter?
 - 4) What would appear to be the relationship between this whole chapter and the mishna referred to in question one?
 - 5) Where does mishna 3 of this chapter fit into the scheme of things developed in the answers to the previous questions?
 - 6) What part of mishna 3 would seem to be out of place?
 - 7) Why do you think that that part of mishna 3 is nevertheless where it is?
 - 8) What have said in the past about the meaning of the phrase שור המזיק ברשות הניזק in its original context?
- B) The rest of the mishna
- 1) Where have we seen earlier in the tractate this list of five activities of an ox?
 - 2) Divide these five activities into two distinct groups!
 - 3) What is the conceptual definition that binds the five together?
 - 4) What is the biblical source of the law that in these five cases, if the damage occurs in רשות הרבים the payment is חצי נזק?
 - 5) What is the logic for the opinion of רבי טרפון being recorded here before the opinion of the חכמים?
 - 6) How do we call the logical principle being applied by רבי טרפון?
 - 7) In what rabbinic text is this logical principle set forth for us as a method of textual interpretation?
 - 8) What one or two words that רבי טרפון uses actually state the logical principle?
 - 9) Explain the full argument imbedded in the first logical proof of רבי טרפון!
 - 10) Explain the logic behind the principle that דיו לבא מין הדין להיות כנידון!
 - 11) Where do we end up at the conclusion of the mishna?
 - 12) In conceptual terms – leaving behind the matter of technical logic – make a case for each of the two positions respectively!
- C) Babylonian Talmud, Tractate Baba Kama page 25a (and see Sefer Bmidbar chapter 12, verses 1, 8b – 10, 14)

תלמוד בבלי מסכת בבא קמא דף כה עמוד א

גמ'. ורבי טרפון לית ליה דיו? והא דיו דאורייתא הוא! דתניא: מדין קל וחומר כיצד? + במדבר י"ב+ ויאמר ה' אל משה ואביה ירק ירק בפניה הלא תכלם שבעת ימים, קל וחומר לשכינה ארבעה עשר יום, אלא דיו לבא מן הדין להיות כנדון! כי לית ליה דיו - היכא דמפריך קל וחומר, היכא דלא מפריך קל וחומר - אית ליה דיו, התם שבעה דשכינה לא כתיבי, אתא קל וחומר אייתי ארבסר, אתא דיו אפיק שבעה ואוקי שבעה, אבל הכא חצי נזק כתיבי, ואתא קל וחומר ואייתי חצי נזק אחרינא ונעשה נזק שלם, אי דרשת דיו אפריך ליה קל וחומר.

Babylonian Talmud, Tractate Baba Kama page 25a

GEMARA. Does R. Tarfon really ignore the principle of Dayyo?3 Is not Dayyo of Biblical origin as taught:4 'How does the rule of Kal va-homer5 work? And the Lord said unto Moses, If her father had but spit in her face, should she not be ashamed seven days?6 How much the more so then in the case of divine [reproof] should she be ashamed fourteen days? Yet the number of days remains seven, for it is sufficient if the law in respect of the thing inferred7 be equivalent to that from which it is derived!8 The principle of Dayyo is ignored by him [R. Tarfon] only when it would defeat the purpose of the a fortiori,9 but where it does not defeat the purpose of the a fortiori, even he maintains the principle of Dayyo. In the instance quoted there is no mention made at all of seven days in the case of divine reproof; nevertheless, by the working of the a fortiori, fourteen days may be suggested: there follows, however, the principle of Dayyo so that the additional seven days are excluded, whilst the original seven are retained. Whereas in the case before us10 the payment of not less than half damages has been explicitly ordained [in all kinds of premises]. When therefore an a fortiori is employed, another half-payment is added [for damage on the plaintiff's premises], making thus the compensation complete. If [however] you apply the principle of Dayyo, the sole purpose of the a fortiori would thereby be defeated.11

- (3) The Hebrew term meaning it is sufficient for it, and denoting the qualification applied by the Rabbis to check the full force of the a fortiori; v. Glos.
- (4) B.B. II 1a; Zeb. 69b.
- (5) The technical term for the logical inference, From minor to major, v. Glos.
- (6) Num. XII, 14.
- (7) I.e., in the case of Divinity.
- (8) I.e., the case of her father. [Hence, even in the case of Divinity, no more than seven days are inferred proving that Dayyo has a Biblical basis.]
- (9) I.e., render it completely ineffective.
- (10) Regarding compensation whether it be half or full in the case of Horn doing damage.
- (11) V. p. 126, n. 9

Additional sources

אוצר התלמוד לסיף שכטר, ערך 'דיו'