

נקשר מאליו פטור – If it became entangled on its own he is exempt

OVERVIEW

The ruling of רב הונא is if the דליל became entangled in the foot of the תרנגול and it damaged after it came to rest, the בעל התרנגול is פטור. Our תוספות explains the reason for the פטור, for seemingly the תרנגול made this בור.

דאיש¹ בור ולא שור בור:

For the תורה writes,² כי יכרה איש בור (if a man digs a pit); we derive from this that one is liable, for damages caused by a בור, only if a person makes the בור, but not if an ox (or other animal) makes the בור.

SUMMARY

The בעל התרנגול is not liable for the בור that the תרנגול made, for it is excluded by the לימוד of בור ולא שור בור.

THINKING IT OVER

This exclusion of בור ולא שור בור was already clearly mentioned in the גמרא previously regarding the בעל התרנגול in the same case of נקשר מאליו. Why is it necessary for תוספות to repeat it here?!³

¹ It seems that this exclusion is derived for the word איש (somewhat) superfluous.

² נא,א (משפטים) כא,לג. See later נא,א.

³ It may be necessary to distinguish between the (reaction of the גמרא to the) assumption of ר"ה's ruling initially, and the final assumption here.