

Let these first sets say, etc.

לימרו הנך קמאי כולי –

OVERVIEW

The **ברייטא** states if they were **עדים** all three sets of **עדים** (who testified that his ox is a **מועד**), the **עדים** are all liable to pay ([the extra **ח"נ**] for the following **נגיחה**). The **גמרא** asks if we maintain **גברא** **לייעודי** (which means that the owner must be warned on three separate days), why are the first two sets of **עדים** liable for making the ox a **מועד**, they can claim, 'we did not know that after three days another set of **עדים** will make him into a **מועד**'.¹ Our **תוספות** suggests there is another (but similar) question on the ruling of the **ברייטא** (if we maintain **גברא** **לייעודי**).

הוא הדין דהוי מצי למפרך מבתראי שלא ידעו בראשונים² כיון שבאו בג' ימים -

It is equally true that the **גמרא could have asked from the last (the third) set of **עדים**, who were not aware of the first two sets of **עדים**, since (according to the **מ"ד** **מ"ד**) the three sets of **עדים** came on three different days.**

אלא מקמאי פריך בפשיטות טפי:

But the **גמרא would rather ask from the first sets of **עדים** which is much simpler.**

The first sets of **עדים** could not have known that others would come in the future to testify falsely and make him a **מועד**; however it is possible that the last set was aware that he was already warned twice.

SUMMARY

Any set of **עדים** can claim we were not aware of any other **עדים**.

THINKING IT OVER

1. Can we argue and say that the claim of the **בתראי** that they were not aware, will not be acceptable, since the first two sets testified in **בי"ד**, it was well publicized, so they knew about it.³

2. Would anything be gained by asking from the **בתראי** as opposed to the **קמאי**?

¹ Their claim is that their intent was just to make him pay the **ח"נ** for this one goring for which they testified, but not to make him into a **מועד**.

² The last set of **עדים** can claim we had no idea that he was already warned twice; our only intent was to make him pay a **ח"נ** for this one **נגיחה**, but not to make him a **מועד**.

³ See **חידושי הרשב"א**.