The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שט"ז סעיף א'-ב'

Overview

Siman 316 Seif 1:

If one traps a sparrow into a box shaped like a tower in which it is fully trapped or if one traps other birds or deer in a house or enclosure in which it is fully trapped, he is liable. If it is confined in a place where it is not trapped one is exempt from liability but it is nevertheless, prohibited.

- Even if one did not touch the sparrow he is liable by closing the box. If he confined it in a house he is not liable even if the house is small and the windows are closed since it is not yet trapped. (M.B. 1)
- Regarding birds one is not liable unless the house has a roof and the windows are closed and regarding animals one is liable even if the house does not have a roof and the windows are open. (M.B. 3)
- The house or enclosure is large so that he will not be able to capture it in one swoop, meaning in one chase and will have to rest before actually capturing the creature. Therefore, one who traps a creature in such a house or enclosure is liable. One who takes a fish from the sea and puts it into a bowl is liable for trapping but if one merely chases it into a pool of water he has not trapped it since it can still escape into holes and crevices. (M.B. 4)
- Therefore, if a sparrow flies into a house, even though it is not trapped there, it is prohibited to close the door. If it is cold or there is some other distress generated by the door remaining open Chaye Adam rules that one may close the door as long as one's intent is to avoid the cold. Regarding other creatures that are Biblically trapped, once the door is closed it is prohibited since closing the door will inevitably trap the creature. (M.B. 5)

Siman 316 Seif 2:

One who traps a sleeping or blind deer is liable. If it is sick or elderly he is exempt. Sending a dog to catch an animal on Shabbos is regarded as trapping and some maintain that even during the week it is prohibited to hunt with dogs since it constitutes a gathering of scoffers.

- A sleeping or blind deer senses when someone is approaching and thus if one captures it he has violated the prohibition of trapping as opposed to one that is lame or has some similar condition that does not allow it to escape. (M.B. 7)
- The same is true if it is young, meaning, that it does not yet know how to run. (M.B. 8)
- There is a disagreement whether one who grabs a sick hare has violated a Biblical or Rabbinic prohibition but either way it is prohibited since it is *muktzah*. (M.B. 9)

Halacha Highlight

Sending a dog to trap an animal

Rema Siman 316 Seif 2
המשסה כלב אחר חיה
One who sends a dog after an animal

Rema (סע' ב') rules that if one sends his dog to catch an animal on Shabbos he has violated the prohibition against trapping. Mishnah Berurah (סק"י) explains that Rema refers to where the person did not do anything to trap the animal other than send the dog to catch it and it is considered to be a Rabbinic violation of the prohibition. If one assists in trapping the animal, e.g., the animal became wearied from running away from the dog and the owner also started to pursue the animal so that the dog could catch it, he has violated the Biblical prohibition of trapping.

Teshuvas Avnei Nezer (או"ח סי' קצ"ו אות ג') wonders why sending a dog to trap an animal is not a violation of the prohibition of מחמר which is the general prohibition for having an animal perform a *melacha* on Shabbos. He answers that in our *seif* the person only excites the dog to run after the animal but the dog does all of the work by itself. Rav Nissim Karelitz (חוט שני ח"א פט"ו סק"ב) finds support for this ruling from Shulchan Aruch below (סי' שכ"ד סע' י"ג) where he rules that it is permitted for one to stand an animal on grass on Shabbos even though one knows that the animal will uproot the grass from the ground since the animal will perform that *melacha* for its own benefit. Rav Shmuel HaLevi Wosner (שבט הלוי ח"ג סי' נ"ב אות ב') answers that the prohibition of מחמר is violated when one performs a *melacha* together with an animal. In our *seif* one does not perform the *melacha* with the dog, it does the *melacha* on its own and thus it is categorized as trapping rather than מחמר. Interestingly, Rav Nissim Karelitz (שם) ruled that it is permitted for one to put a cat in a room that contains a mouse. The reason this does not violate the prohibition of trapping is that one does not have to do anything to encourage the cat to trap the mouse as opposed to a dog which requires encouragement to pursue the animal that one wishes to trap.

- If the dog does all the work it is a Rabbinic violation of trapping but if one assists the dog it is a Biblical violation, even if one just stood there and frightened the animal until the dog could catch it since that is a normal way for trappers to trap animals. (M.B. 10)
- And one will not merit to celebrate the meal of the *livyasan*. (M.B. 11)