

# Zera Shimshon

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## Chapter LIX: Kohelet (Ecclesiastes)

### Essay 18. Dangerous activities

"מְסִיעַ אֲבָנִים יַעֲצַב בָּהֶם בּוֹקֵעַ עֲצִים יִסְכּוּ בָּם". יוֹבֵן בְּמַאי דְאִמְרִינוּן בְּבִבְאָ קַמָּא פֶּרֶק ה', מַעֲשֵׂה בְּאֶחָד שְׁהִיָּה מְסַקֵּל מְרֻשׁוֹתוֹ לְרֻשׁוֹת הַרְבִּיּוֹת, מְצִאוּ חֲסִיד אֶחָד אָמַר לוֹ רִיקָה מִפְּנֵי מָה אַתָּה מְסַקֵּל מְרֻשׁוֹת שְׂאִינוּ שְׁלָךְ לְרֻשׁוֹת שְׁלָךְ. לְגַלְגַּל עָלֶיךָ. לְיָמִים נֶצְרָךְ לְמַכּוֹר שְׂדֵהוֹ, וְהָיָה מְהֵלֶךְ בְּאוֹתוֹ רֻשׁוֹת הַרְבִּיּוֹת, וְנִכְשַׁל בְּאוֹתוֹן אֲבָנִים. אָמַר, יָפָה אָמַר לִי אוֹתוֹ חֲסִיד, מִפְּנֵי מָה אַתָּה מְסַקֵּל מְרֻשׁוֹת שְׂאִינוּ שְׁלָךְ לְרֻשׁוֹת שְׁלָךְ עַכ"ל. וְעַל זֶה אָמַר הַפְּתוּב "מְסִיעַ אֲבָנִים יַעֲצַב בָּהֶם", זֶה הִרְיָקָה שְׁהִסִּיעַ אֲבָנִים מְרֻשׁוֹתוֹ לְרֻשׁוֹת הַרְבִּיּוֹת, "יַעֲצַב בָּהֶם", מִפְּנֵי שְׁנִתְקַל בָּהֶם.

**“He who quarries stones will be hurt by them; he who splits wood will be endangered by it.”<sup>1</sup> This can be understood in light of what is said in Bava Kamma, chapter 5:**

The Sages taught: A person should not throw stones from his property into the public domain. **There was an incident where a man was throwing stones from his property into the public domain, and a certain pious man found him.** [The pious man] **said to him: Lowlife, why are you throwing stones from property that is not yours into your property?** [The man] **mocked [the pious man]** [as he did not understand what he meant, as the property from which he was throwing stones was his].

**Days later, he was forced to sell his field** [from which he had thrown the stones]. **And he was walking in the same public domain** [into which he had thrown them], **and he stumbled on those same stones. He said: That pious man spoke well to me** [when he said]: **Why are you throwing stones from property that is not yours into your own property.** [I.e., one’s ownership of property may only be temporary, but he’ll always be able to use the public domain.]

- Bava Kamma 50b

**Regarding this, the verse states “He who quarries stones will be hurt by them,” this is the fool who threw stones from his property to the public domain, “he will be hurt by them,” because he will stumble over them.**

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<sup>1</sup> Eccl. 10:9.

ונדוע מה שאמרו ז"ל "וכי-יפתח איש בור" וכו' "ונפל-שמה שור או חמור", "שור", ולא אדם, "חמור", ולא כלים. אם כן מי שהוא מטיע אבנים דבור, אי נמי מניח אבנים מרשותו לרשות הרבים דהני תולדה דבור, יכול לבא לידי כד שיעצב בהם, דהיינו שיפול שור או חמור ויהיה חייב לשלם הגזק. ומשום הכי נקט לשון "יעצב" דוקא, אמנם ב"בוקע עצים" נקט לשון "יסכן", לפי שאם ינשל הברזל מן העץ חס ושלום אפילו אם יהיה בשוגג הוא בסכנה גדולה, שאם ימצאהו גואל הדם נהרגהו.

**It is known what the [rabbis] of blessed memory said about the verse, “When someone opens a pit, or when someone digs a pit and does not cover it, and an ox or a donkey falls into it,”<sup>2</sup> the person is liable only when the damage is to “an ox, but not a person, or a donkey, but not vessels.”<sup>3</sup> If so, it is one who throws stones, which is considered a primary category of the forbidden action of digging a pit in a public domain, or alternatively who places stones from his property into the public domain, which is considered a subcategory of digging a pit in the public domain, is able to be harmed by them, which is that an ox or donkey falls and he will be liable to pay damages. Because of this, [the verse] specifically used the language “will be hurt,” since it refers to liability for damages.**

**However, regarding “he who splits wood will be endangered by it,” [the verse] used the term “endangered,” because if the iron axehead flies off the handle, G-d forbid, it could cause great danger, even if it was unintentional. If such a thing were to happen and kill someone, and if he is found outside a city of refuge, then if an avenger of blood of the decedent finds him, he could kill him.**

ובדבר זה יובן הפתוב "כרה-שחת בה יפל וגלל אבן אליו תשוב", דתנו בפרק קמא דבבא קמא הכשרתי במקצת נזקו, סבתי בתשלומי נזקו כהכשר כל נזקו. ופירש הרב עבדיה מברטנורא כגון החופר בור תשעה ובה אחר והשלימו לעשרה, אף על פי שלא הזמין אלא מקצת הגזק חייב כאילו עשה כל הגזק. וזהו "כרה-שחת" דהיינו החופר בור, "בה יפל" כלומר חייב בתשלומי הגזק, ולא דוקא החופר בור כלו אלא אפילו ה"גלל אבן" דהשלימו לעשרה חייב, וזהו "אליו תשוב", ולא לראשון שקפר הבור. אי נמי דאבנו שהניחה ברשות הרבים הני תולדה דבור, ולכן אמר אם הוא "כרה-שחת" דהיינו אב, או "גלל אבן" דהיינו תולדה, אליו תשוב.

**In this way, we can understand the verse, “He who digs a pit will fall in it, and whoever rolls a stone, it will roll back on him.”<sup>4</sup> As we learned in a Mishnah in the first chapter of Bava Kamma, “[In any case in which] I facilitated part of the damage [caused], I am liable for payments [of restitution] for the damage, as [if I were the] one who facilitated the entire damage.”<sup>5</sup> Rabbi Ovadiah from Bartenura explains that this is like one who digs a pit nine handbreadths deep, and another comes and completes it to ten handbreadths. Even though the second person only caused part of the damage, he is liable as if he caused the entire damage.**

<sup>2</sup> Ex. 21:33.

<sup>3</sup> Bava Kamma 28b.

<sup>4</sup> Prov. 26:27.

<sup>5</sup> Bava Kamma 1:2; Bava Kamma 9b.

**This is the meaning of “he who digs a pit,” referring to one who digs a pit,<sup>6</sup> “will fall into it,” as if to say that he will be liable for paying for the damage. This is not just referring to one who digs the entire pit, but even one “who rolls a stone,” i.e., who completes it to ten handbreadths is liable, and this is the meaning of “it will roll back on him,” and not to the first person who dug the pit.**

**Alternatively, a stone placed in the public domain is considered a subcategory of the law of a pit.<sup>7</sup> Therefore, [the verse] said: “he who digs a pit,” which refers to the primary category of the law of a pit, or “whoever rolls a stone,” which refers to its subcategory, “it will roll back on him,” whether one is liable for violating the primary category or subcategory of causing damage by digging a pit, he will be liable for the damages.**

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<sup>6</sup> The language of Prov. 26:27, "כִּפְרוֹתֵי שִׁחָת", could mean “one who plots destruction,” but the translation “who digs a pit” is widely cited.

<sup>7</sup> Bava Kamma 3a.