3.3.10

36b (משנה ה') ← 38a (לכשיבקע)

note: ברירה means retroactive designation. When a person acts and his act has equivocal meaning, if we accept the principle of יש ברירה, then his meaning can be retroactively fixed; if we hold אין ברירה, no such option exists.

I. ה משנה: conditional עירוב; set up on both sides and decision to be made on שבת
    a. *if*: fleeing non-Jews or going to greet חכם, may set up 2 עירובין and
        i. *determine*: based on which direction is needed, and if both are needed – leave to his discretion or refuse both
    b. ר' יהודה: if one of the חכמים (in case both cities visited) is his teacher – that's the default (if both רבותיו – his choice)
        i. חכמים (in גמרא): sometimes a person prefers to hear a colleague than his רב מובהק
        ii. *Note*: ר' יצחק had alternate version (running towards נכרים, avoiding חכם)
        iii. *Resolution*: fleeing from tax collector, approaching governor; fleeing elementary teacher, approaching חכם

II. איו's version of the משנה and its impact on our version
    a. איו: disallows discretionary clause, allowing him to decide in case חכמים come to both towns
        i. *Only*: allows east/west option
        ii. *Justification*: only works if חכם already arrived there before שבת, but he heard about it on שבת – no ברירה
    b. *Support*: we know that ר' יהודה rejects ברירה from his position in דמאי ז:ד, re: buying wine from כותים (נחשדו על תרו"מ)
        i. ר"מ: may designate "remains" as תרו"מ and drink the rest first
        ii. ר' יוסי, ר"ש, ר' יהודה: disallow
            1. *Assumption*: their disagreement is about ברירה (ר' יהודה→ rejects ברירה)
            2. עולא: rejects איו's version in favor of ours – because he reads, in דמאי ז:ד, that ר' יהודה permits (with ר"מ)

III. Tangent: ר' יוסי's position vis-à-vis ברירה (in דמאי ז:ד – seems to reject ברירה)
    a. *Challenge*: קנין א:ד ר' יוסי allows for ברירה with 2 יולדות (e.g.) whose קנין were brought together
        i. *Defense*: case where they made their gift conditional on the כהן's choice
            1. *Teaching*: in accord with ר"ח, that קנין are designated at purchase or at time of offering (ביד כהן)
    b. *Challenge*: if ע"ה asks חבר to purchase produce for him, ר' יוסי: he need not be מעשר (assume מעושר one was his)
        i. חכמים: disagree and obligate
        ii. *Answer*: positions are reversed and ר' יוסי is the one who obligates taking דמאי
    c. *Challenge*: תוספתא מע"ש ד:יב – if he declares that מע"ש is מחולל on whichever coin comes out of his purse, מחולל – ר' יוסי
        i. חכמים: disagree and disallow חילול
        ii. *Answer*: positions are reversed
            1. *Challenge*: why do we reverse positions in 2 ברייתות to support 1 (standard version of דמאי ד:ז)
            2. *Answer*: end of ברייתא (תוספתא שם) proves that ר' יוסי was the one who disallowed חילול in 1st clause
               a) *Note*: in the סיפא, there must be only one "new" coin – "תעלה" is just parallel construction

IV. רבא's question: who holds that אין ברירה even in a case which is דרבנן?
    a. *Per*: ברייתא which disallows retroactive determination about עירוב on שבת
        i. *Answer (ר"נ)*: no answer – hadn't heard איו's version
        ii. רב יוסף: this is ר"ש's position (*contra* חכמים) in re: perennial עירוב
            1. *Note*: רב יוסף then switched them (ר"ש disallows) due to our משנה (דמאי) – ר"ש rejects ברירה
               a) *Challenge*: why not argue that ר"ש accepts ברירה in a דרבנן only?
               b) *Answer*: רב יוסף doesn't distinguish; positions on ברירה cross דרבנן/דאורייתא lines

V. Revisiting דמאי ד:ז (buying wine from כותים)
    a. רבא: dispute isn't about ברירה; rather, the requirement that תרומה have a *recognizable* remainder (שיירה ניכרין)
        i. *Challenge (אביי)*: if so, if he conditionally designated תרומה based on (e.g.) rain – should be invalid
        ii. *And*: it is valid, per his purview to declare תרו"מ from within the pile itself
            1. *Rejection*: in that case, the surrounding חולין are שיירה הניכרין
    b. תוספתא דמאי ח:ז: colleagues challenged ר"מ that the flask may break before he finishes
        i. *And then*; all he drunk will become טבל (retroactively)
        ii. ר"מ: if it breaks – but now it is whole
            1. *Yet*: we can "salvage" רבא's explanation:
               a) *Colleagues*: held that we require שיירה ניכרין
               b) *But*: argued to ר"מ that even if he doesn't require שיירה ניכרין, should be considered שמא יבקע הנוד
                  i. *And*: ר"מ answered - לכשיבקע