

15.4.8

42a (משנה ה') → 43a (וכן בכולהו גזירה)

Note: on שביעית, all foods are considered הפקר, therefore, there is no consideration of הנאה involved

- I שמיטה – and during – getting benefit in advance of – משנה ה'
- a if B is מודר הנאה from A:
- i Before שביעית, he can neither go in to his field nor eat from out-leaning plants
- ii During שביעית, he may not enter but may eat out-leaning plants
- 1 Reason: (for not entering)
- (a) עולא: the תורה only “disowned” his land for purposes of allowing all to collect; if these trees are on the border of his property, he can collect without going in
- (b) ר"ש בן אליקים: precaution against him loitering there beyond his need to reap
- b If B is מודר מאכל (as above, משנה א) from A:
- i Before שביעית, he may enter his property but not eat from his fruit
- ii During שביעית, he may enter and may eat from his fruit
- II Related “dispute”
- a Banning someone from your fruits:
- i רב ושמואל: if he said נכסים אלו and the נדר was taken before שביעית,
- 1 he may not even eat from outleaners during שביעית
- 2 if the נדר was taken during שביעית, he may eat from outleaners
- ii ר' יוחנן ור"ל: if he said נכסי – he may only eat from outleaners during שביעית (even if נדר was taken beforehand)
- 1 Suggestion #1: dispute re: ability to ban something in his domain even after it leaves his domain
- (a) רב ושמואל: able to (therefore the ban continues into שביעית)
- (b) ר"י ור"ל: unable to (therefore the ban is lifted at שביעית)
- (c) rejection: if so, let them disagree about נכסים אלו (and נכסי will follow, a *miniori*)
- (d) rejection: all agree that a person may ban something, remaining in effect after it leaves his domain
- (i) proof: man bans his son from benefiting from him “during my life and after my death” – valid
- (ii) block: that case is different, since he stated “during my life and after my death”
- 2 suggestion #2: dispute only regarding distinction between נכסי and אלו
- (a) רב ושמואל: there is no difference – a ban outlives the ownership of the banner
- (b) ר"י ור"ל: only נכסים אלו work beyond his ownership
- (c) rejection: all agree that there is a distinction
- (i) proof: banning “my house” lasts while he owns it; “this house” lasts forever
- 3 rather: they don't disagree and were simply stating independent rulings
- III משנה ו'
- a question: why can't the מודר borrow or buy?
- i Answer1: case where they are מודר from each other
- ii Answer2: borrowing is a precaution against lending, etc.