

15.5.3

48a (משנה ר') → 48b (סיום הפרק)

- I משנה ר' getting around the problem
- a A may give food to X who then gives it to B
 - b *However*: story of בית חורון, where A banned his father (B) from הנאה and then, when marrying off his son, gifted the entire wedding to X in order to invite B. X thereupon declared all of it to be הקדש, and A tried to retract the gift
 - i *Ruling*: if the gift is so controlled by the donor that הקדש isn't available, it isn't a gift
 - ii *Reason*: the end result demonstrates the purpose of the gift (to get around the נדר) – invalid
 - iii *Possible limitation (רבא)*: if he said "take this on condition that you allow my father to eat here" invalid; but if he said "take this and allow my father to eat here" – it's valid, that's the recipient's own decision
 - iv *Possibly not*: (version #2 of רבא) – no distinction between the formulae, since the meal proves his intent
 - c *Case law*: man saw that his son was stealing his flax, and he banned him; when asked what he would do if that son had a son who was a scholar (and he would certainly want that grandson to inherit), he answered: let (the thief) inherit on condition that it goes to his (scholarly) son
 - i *Ruling#1 (פומבדיתאי)*: this is a case of קנה ע"מ להקנות (acquire on condition that you pass it on to another) – קנין no
 - ii *Ruling#2 (ר' נחמן)*: valid, as in the case of a סודר, where the donor gets the סודר in order to give something in return
 - 1 *Challenge#1*: if the donor wants to keep the סודר, he may be able to
 - 2 *Challenge#2*: in the case of the סודר, the secondary קנין happens immediately, unlike our case – by the time his grandson (perhaps) becomes a חכם, the סודר has already been returned
 - 3 *Challenge#3*: מתנת בית חורון was a case of קני ע"מ להקנות and it was invalid
 - 4 *Answer#1*: מתנת בית חורון was different, since the feast (with father and son there together) proves what the intent was
 - 5 *Answer#2*: that ruling follows ר"א who ruled that הנאה במודר הנאה
 - d *Observation*: the wording of חכמים – כול מתנה שאינה – etc. includes:
 - i A case like the flax-thief
 - ii *Rejection*: it includes that which was included via the 2nd version of רבא's ruling (above)