

15.7.1

54a (משנה א') → 54b (סוף אוכלא)

Note: when an agent fulfills the owner's request to violate sancta (מעילה), the owner is liable; if the agent deviates from the request – even if both the owner and the agent intended מעילה, the agent is liable

- I משנה א': banning vegetables ("vegetables cooked in a pot" – else, gourds wouldn't be considered)
 - a ת"ק: doesn't include gourds
 - i reason: when sending someone to buy vegetables, he'll return and ask if gourds are acceptable
 - ii note: ת"ק identified as רשב"ג who says that banning meat doesn't include named parts (e.g. the head)
 - 1 addendum: he stated that anyone who eats entrails isn't a man in the context of commerce³
 - iii note: in that ברייתא ת"ק, (of רשב"ג) prohibits fowl but permits fish
 - 1 reason for distinction: case where fish isn't eaten but fowl is –
 - (a) e. g. after blood-letting, where all fish is unhealthy but boiled fowl is acceptable
 - (b) or if his eyes are aching, where, at the beginning of the affliction, fish are unhealthy
 - b ר"ע: includes gourds
 - i reason: as per above – that proves that, unlike legumes, gourds are considered "vegetables"
 - ii note: ר"ע agrees that there are no מלקות for eating gourds in this case
 - iii note: ר"ע wouldn't extend his reasoning to agency vis-à-vis מעילה (see note)
 - 1 reason: even though "liver" is considered "meat" (e.g.), the agent would still need to check with the owner if he intended to serve "liver" - thus making his acting independently and serving liver a deviation from the explicit instructions (רבא – validated by אביי)
 - c he may not have moist Egyptian beans, but may have dry ones

³he is irrational and we shouldn't do business with him (רש"י) or if he finds the entrails unfit, he has not right to demand money back (תוס' מעילה כ:)