

21.5.11

72b (משנה ז') → 74a (משנה קנ')

1. והתנחלתם אתם לבניכם אחרים לרשת אחיזה לעלם בהם תעבדו ובאחיקם בגניש'ראל איש באחיז לא-תרדה בו בפרך: ויקרא כה-מו

I ז משנה: buying futures

- a *Forbidden*: to agree to a futures sale before the market value (שער) has been announced; once it's announced, he may agree, even though this seller doesn't yet have any (someone else does have now).
- i שוק-price ruled that we may not use the *ד' יוחנן*
- 1 *Clarification*: only refers to small-town שווקים, that change their prices based on larger markets
- 2 *Observation*: per our original assumption, משנה would only apply to wheat coming from large distributors
- b *If*: this seller was the first harvester (and the שער hadn't yet been set)
- i *Then*: he may purchase whatever the seller currently has and is in the process of being finished
- c *Permitted*: to agree to a price for dung at any time of the year
- i *אשפה* (חכמים) permit *ד' יוסי* may not set price for dung unless he had it currently in his
- d *And*: he may set the lowest price (whatever that may be when season is up)
- i *יהודה* *ד' יהודה* even if the buyer didn't agree to שער הגבוה, he may insist on that low price or get his money back
- e *Expanded ברייתא*: if new grain and old grain have different values, must wait for both values to be posted
- i *And*: if "collector" grain (from different fields) and seller value is different – have to wait for both
- 1 *ד' ג'נ* permitted to sell for collectors if that rate has been posted
- (a) *דבא* if a לוקט doesn't have (to sell), he'll borrow from another לוקט – so will a מוכר?
- (b) *Answer*: a בעה"ב sees that as beneath him;
- (i) *Alternatively*: if someone pays a מוכר, he expects better quality from a single field
- f *הונא* *ר' הונא* (quoted by *ששת*): may not borrow against the posted rate
- i *Challenge*: *ר"ה* was asked about students who borrow in the fall and pay back in the winter –
- 1 *He answered*: wheat is available elsewhere at that time; they could buy and pay back then
- ii *Explanation*: *ר"ה* originally thought that it was אסור; he heard *ר"א* בשם *ר"א* that it was מותר → he changed his position

II *ברייתא*: if someone is carrying a bundle of fruit (to sell elsewhere) and another encounters him, offering to pay what he would have received there

- a *if*: the seller has liability for the trip, permitted; if the buyer does – אסור (:loan→*רבית*)
- b *and*: same with fruit; fellow offers to give him fruit at the destination – permitted if he has fruit there (else→*רבית*)
- c *and*: donkey drivers may set a consistent price (regardless of whether they are במקום יוקר or במקום הזול) - no concern
- i *reason*: *ר"פ* – they get the market started; *ראב"א* – they get lower price as people hear that they are selling low
- ii *Split the difference*: a new salesman (wants market to open for him; but they won't believe him about selling low)

III In *בבל*:

- a *דב* would pay 1 חמרים and take 5 סאים (price – 4 in סורא, 6 in villages) as an אדם חשוב, avoided appearance of *רבית*
- i *Question* (of *יוחנן*): permissible to do this with other produce?
- 1 *Answer*: *רב"י* wanted to do this with linen garments and *רבי* stopped him (or vice-versa) → inappropriate
- ii *Question*: what about an orchard (e.g. buying up all fruits before season at discount)?
- 1 *דב* forbidden – since the later price will be higher, looks like אגר נטר
- 2 *שמואל* permitted – since there is a possibility of depreciation (which the buyer accepts) – not אגר נטר
- (a) *Note*: *רב* concedes that with oxen it is permitted, since there is a potentially great loss (see *ר"ח* & *רמב"ם*)
- b *שמואל* directed vine-buyers to make a קנין on the land, since the loss was negligible, looks like *רבית*
- c *דבא* told שומרים to help at גורן, so that when they pay you extra at end, not considered *רבית* since משלמת בסוף
- d *דבא* would pay sharecropper more and leave him on field until אייר (everyone else – at ניסן); students suggested *רבית*
- i *Answer* (*דבא*): everyone else is wronging אריס; land is encumbered to אריס;
- 1 *Removing him*: early deprives him of last bit of harvest he could get in ניסן; I'm benefiting him
- e *דב מרי בר רחל* held land as משכון from a נכרי, who then sold it to רבא. ר. רבא paid rent after a year
- i *דב מרי* is 1 year; סתם משכנתא *דב מרי* couldn't have removed me until then;
- ii *דבא* wouldn't have bought it if he had known; now he wanted it to be treated per Sassanian law
- 1 "their law": until he pays, מלוה holds land → רבא didn't want to take rent until borrower pays up

- f **דבא מברניש**: complained to ר' אשי that students are taking רבית, buying wine months in advance when they select it
 i *Answer (ר' אשי)*: they bought wine (or vinegar) - then they select which remained wine for themselves
- g **דבניא**: would pay for wine in advance and sellers would, of their own accord, add an extra amount of wine
 i **ד' אשי**: permitted it, as they were מוחל that amount (as a gift)
 ii *Challenge (דבניא)*: the land isn't theirs (they would squat on land abandoned by owners who couldn't pay property tax)
 iii *Answer (ר' אשי)*: belongs to crown; king rules that whoever pays tax may use the land; they pay tax → their land
- h **ד' פפא**: complained that רבנן are paying כרנא for the poor and then making them work – more than that amount
 i **דבא**: all are slaves to crown; king said that whoever doesn't pay property tax is משועבד to one who does
- i **דב סעורם**: would seize people who behave inappropriately and make them work, carrying sedan of his brother, רבא
 i **דבא**: this is proper behavior, per v1 (only if they behave like אחיכם are you bound from making them work)
- j **ד' חמא**: if someone gives another money to buy him wine and he neglects to do so, must pay him as per the going price of wine at the port of Zolshpat (big wine market – price could be more than he was given)
 i **ד' זביד**: ר"ח only meant this if he asked for יין without specification; if he said יין זה – no such obligation
 1 *Reason*: we don't know that he would have even found that type of wine (קנין was in doubt)
 ii **ד' אשי**: even יין סתם – it was an אסמכתא לא קניא and אסמכתא ט:ג
 1 *Challenge*: ב"מ ט:ג - a sharecropper who leaves the field fallow must pay loss to owner
 2 *Answer*: in that case, it is in the אריס's control; unlike the wine-shopper
- k **דבא**: if someone takes money from 3 to buy on their behalf and bought for one of them – they share it
 i *Note*: this only holds if they didn't give separate, sealed bundles of money
- l **דבא** (via פפי סימן): a סימן (mark on goods purchased but remaining at seller's house) is קונה
 i *Practicum*: ר' חביבא – real קנין – owned by buyer (w/o משיכה)
 1 הלכה – מי שפרע – raise responsibility of seller to שפרע
 (a) *But*: in place where מנהג is to make that a full קנין – it is a full קנין.