

22.2.8

25b (משנה יא) → 26b (אמה עשרה אמה) →

- I **יא** משנה: distancing a tree from a cistern – whether higher than it (on slope) or level
- i *Note*: even if בור is higher, as the tree softens the earth and hurts the בור
 - b *Usual tree*: 25 אמות (root damage to בור)
 - c *Big tree (e.g. carob or sycamore)*: 50 אמה
 - d *If*: the בור was there first, the tree must be cut down and the owner recompensed
 - e *But if*: the tree was there first, he needn't cut down
 - i *Note*: same is true if we are in doubt as to which came first
 - f *Dissent (ר' יוסי)*: even if the cistern was there first, he needn't cut down, as each is operating in his own territory
 - i **ר' יוסי הלכה שמואל** follows
 - 1 *Note*: **ר' כהנא** ruled that **ר' יוסי** agrees that the perpetrator must move if his presence causes direct damage
 - 2 *Story*: poor man became rich and then built a mansion; he lived near sesame-seed oil pressers; when they pressed the seeds, the house shook and he demanded that they move
 - (a) *Ruling (ר' אשי)*: based on **ר' כהנא**'s ruling (as per **ר' יוסי**) – they must move
 - (i) *Question*: how much (movement) justifies forcing their eviction?
 - (ii) *Answer*: enough to shake a barrel from off of a wall
 - 3 *Story*: **בר מריון** would thresh flax and the dust would go far and cause damage
 - (a) *Ruling (רבינא)*: **ר' יוסי** only obligated **דידיה** if it was direct causation; this is indirect, as the wind carries
 - (i) *Challenge*: how is this different than winnowing (with wind) – which carries liability for **חילול שבת**?
 - 1. *Answer (מרמר)*: it isn't different and they must move
 - (ii) *Question*: how would **רבינא** explain the difference between this and the liability for a spark shooting out of an anvil, where the smith is liable?
 - 1. *Answer*: the smith is interested in the spark shooting out (away from himself), not so with the flax
- II **יב** משנה: distancing a tree from another's field
- a Must distance – whether trees or vines – ד"א (enough to work the vineyard)
 - i **שמואל**: this only holds in א"י; in בבל, only 2 אמות are required (solves apparent contradiction with **ברייתא**)
 - b *If*: there was a fence between them, each may plant right up to the fence
 - i *But if*: the roots go into the other's property, he buries them ג"ט deep to avoid interfering with the plow
 - ii *If, however*: he was digging a trench or bunker, he may cut the roots and keep them
 - c *Story*: **ר' יוסף** had a vineyard, **ר' חנן** planted a tree nearby (but ד"א away) and the birds would nest in his tree and then eat the grapes; **ר' יוסף** demanded he uproot the tree
 - i *Response*: he had distanced properly
 - ii *Counter (ר' יוסף)*: that only applies to trees, not to vineyards
 - 1 *Response*: our משנה states – “trees and vineyards”
 - 2 *Counter*: that's only true if both are trees or both are vineyards, not a tree near a vineyard
 - (a) *Acquiescence*: agreed to allow it to be cut down, wouldn't do it himself due to it being a bad omen
 - d *Story*: **ר"פ** had trees on his border with **דר"י**; **ר"ה** **בריה** **דר"י**; he came and found him digging and cutting the roots
 - i *Challenge*: he was digging deeper than ג"ט
 - ii *Response*: he was digging a trench, as per משנה
 - iii *Conclusion*: **ר"פ** convinced him to leave roots alone by invoking מצר שהחזיקו בו רבים which must be left undisturbed
 - 1 “shoulda”: **ר"ה** wondered why he didn't counter **ר"פ** by pointing out that a tree only has a claim over 16 אמה...