33.1.4

5b (הבית קונה) → 6b (והרי מקדיש תמימין לבדק הבית)

- I Dispute אביי/רבא of efficacy of a prohibited act (continued)
 - a challenge (to מקדיש: מקדיש animal to בדק הבית (per v. 1 –בדה"ב (בדה"ב)
 - i answer: same source which validates הקדש הקדש בע"מ למזבח validates הקדש תמימים לבדה"ב
 - b challenge (to גזל: (if followed by שנוי) v. 2, yet he acquires it and pays כשעת הגזילה
 - i answer: v. 3 אשר הגזילה determines payment as per שעת הגזילה
 - ii אשר גזל אביי ito his own theft, to the exclusion of father's theft (and, as heir, he is repaying)
 - c challenge: taking a pledge from a poor man; per v. 4, it is prohibited, yet משנה rules that he must return one that the needs at the time and keeps the other (if, e.g. he took two)
 - i answer: v. 5 השב תשיב he must continually return (in staggered form 1 at night, other during day)
 - ii השב תשיב teaches that he must return; else, we would think that he violated איסור (by taking) but isn't obligated to return it
 - d challenge (to ממרים, כרי) v. 6 prohibits clear-cutting, yet per תוספתא פאה א:ה v. 6 prohibits clear-cutting, yet per עמרים, כרי)
 - i (note: per ר' ישמעאל even from the dough)
 - ii answer: תעזוב x 2 (vv. 6, 7) extends קמה past קמה
 - iii תעזוב extra חעזוב → another "abandonment" like this:
 - 1 ברייתא: if he disowns his vineyard and the next morning gets up and harvests it
 - (a) then: he must give all מתנות עניים, but is exempt from מעשר
 - e *observation (ר' אחא בריה דרבא לר' אשי)*: since we have an answer for each position to every challenge, where is exactly the point of dispute between אביי?
 - i answer1: רבית קצוצה (preset, agreed-up רבית) as to whether it may be recovered in court
 - 1 *per*: אלעזר, it may be recovered, but אבק רבית (which is מד"ס) may not be recovered
 - 2 רבית קצוצה may not be recovered
 - (a) assumption: they have same disagreement; רבא::ר"א not recoverable); רבא::ר"א not recoverable); רבא
 - (b) rejection: they disagree about פסוקים, per ר' יצחק.
 - (i) מב"ש 'r's reason (per מב"ש): v. 8 punishment is מב"ש, not to return (via court)
 - (ii) איייחנן s reason (per ר' אחא בר אדא יוחנן: v. 9 given to the lender's conscience, not for return via ב"ד
 - (iii) א יע. vv. 8-9 juxtapose מלוה ברבית to murderer; just as רוצח cannot make reparation, so too מלוה ברבית 1. And: א"s reason − v. 10 − he must be allowed to survive (→allow him to sue for רצית) back)
 - ii Answer2: whether שינוי קונה (theoretical question: does violating the law "work")
 - 1 (alternative explanation: practical שנוי קונה)
 - f Alternate version (in answer to אחא 'ז's question):after these defenses they only disagree about returning רבית קצוצה
 - i Positions: רבא no return; רבא return
 - 1 Challenge: רבית rules that רבית is recoverable per his dictum that if someone is suing for 4 אביי and he is given an item worth 5 the לווה may reclaim 4 of it, but the extra זוו is considered a מתנה
 - (a) אבא. we return all five, as the entire pledge was taken as רבית
 - ii Rather: they disagree about שנוי קונה (as above)