

## OVERVIEW of the Daf

### 1) Removing a neighbor's roots (cont.)

The Gemara concludes its analysis of the Mishnah cited to prove Ulla's assertion that bikkurim are not brought from a tree which grows within sixteen amos of the property line.

Several unsuccessful attempts are made to refute Ulla's ruling.

Ulla's assumption that roots only extend for sixteen amos is unsuccessfully challenged.

R' Dimi cites support for Ulla's ruling whereas Ravin cites opinions which assert that Yehoshua enacted that people may plant trees right up to the edge of their property.

2) **MISHNAH:** The Mishnah discusses cutting branches from a neighbor's tree that extends over the property line.

### 3) Clarifying Abba Shaul's position

The Gemara inquires whether Abba Shaul disagrees with the first ruling of the Mishnah or with the latter ruling of the Mishnah.

A Baraisa is cited that demonstrates that Abba Shaul disagrees with the Mishnah's first ruling.

R' Ashi arrives at the same conclusion from an inference from the Mishnah.

4) **MISHNAH:** The Mishnah discusses how much of a tree may be removed if it extends over the public domain.

### 5) Removing only the present damage

The Gemara inquires about the author of our Mishnah who indicates that we only take care of the present damage and we do not concern ourselves with future damage.

Reish Lakish asserts that the Mishnah follows the position of R' Eliezer who expresses a similar position in a Mishnah.

R' Yochanan explains how our Mishnah could even be consistent with Rabanan.

### 6) Clarifying the Mishnah

The Gemara inquires whether the measurement given by R' Yehudah or the measurement given by Rabanan is larger.

It is demonstrated that the measurement of Rabanan is larger.

This assertion is unsuccessfully challenged.

A Baraisa is cited that elaborates on the rationale of R' Shimon's position.

The necessity for this additional explanation is clarified. ■

הדרן עלך לא יחפור

## Distinctive INSIGHT

### Cutting branches which overhang the public domain

אינן הנוטה לרשות הרבים קוצץ כדי שיהא גמל עובר ורוכבו

**S**efer **Q**erai Moad learns from our Gemara that if someone has an aravos (willow) tree in his property which overhangs into the public domain, and it interferes with people's passage of the walkway, anyone has the right to cut the branches which are in the public area, and he may even keep the branches for himself. These branches may then be used by the one who cut them for the mitzvah of the four species on the first day of Sukkos, when it is critical that he be the rightful owner of the branches. In the case where a person is digging a pit in his own property, and he comes across roots of the tree of his neighbor, the one digging is allowed to cut the roots. In that case, the Gemara has a doubt who keeps the roots which are cut, whether they belong to the owner of the tree or whether the one digging the pit may keep them. Nevertheless, in the case of the overhanging tree the branches may certainly be taken by the passerby who cuts them. The difference between these cases is that in our case of the tree, the branches are a glaring obstacle and impediment to the public, and anyone who offers to remove this "pit" may acquire them.

There is an opinion of Zeiri (Bava Kamma 30a) regarding a similar case. A pile of refuse with straw and sticks was left in the public domain. The owner intended for the pile to be tread upon and for it to become compost. Zeiri rules that a passerby may take from the pile only the increased value (שבח) which has been added, but the pile itself may not be confiscated. How does this opinion compare with the halacha in our Gemara where the branches themselves may be taken? We can still say that Zeiri would agree that our case is different. The straw and sticks did not grow illegally, and it

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## REVIEW and Remember

- Under what conditions is it acceptable for a person to give imprecise measurements?
- How many trees does one have to purchase to be given the land around the trees?
- What function do roots perform between the distance of sixteen and twenty-five amos from the tree?
- בבנייקין בתר אומדנא דהשתא אזלינן.

# HALACHAH Highlight

## The status of a tree that rests on the border of Eretz Yisroel

אילן מקצתו בארץ ומקצתו בחוץ לארץ

The tree that stands partially in Eretz Yisroel and partially outside of Eretz Yisroel

Rambam<sup>1</sup> rules that the status of a tree is always determined by its roots<sup>2</sup>. Therefore, if a tree is standing in Eretz Yisroel but the branches extend outside of Eretz Yisroel, the fruit is subject to the laws of terumah. Similarly, if the tree is standing outside of Eretz Yisroel and the branches extend into the airspace of Eretz Yisroel the fruit of that tree is not subject to terumah. In the event that the roots extend in both directions or even if there is a rock that separates the roots that are located in Eretz Yisroel from the roots that are located outside of Eretz Yisroel, the fruit is considered to be a mixture of tevel and unconsecrated fruit together. Radvaz<sup>3</sup> explains that the first ruling of Rambam is derived from our Gemara. The Gemara presents a dispute between Rabbi and R' Shimon Gamliel regarding the status of a tree that is partially in Eretz Yisroel and partially outside of Eretz Yisroel. The dispute is limited to the case where some of the roots extend into the land of Eretz Yisroel and some of the roots extend outside of Eretz Yisroel. This implies that were the roots to be on one side of the border or the other, the tree would be categorized based on the location of the roots regardless of the location of the branches.

Since Rambam ruled that the fruit of a tree that straddles the border between Eretz Yisroel and outside of Eretz Yisroel is considered a mixture of tevel and unconsecrated fruit together, it is evident that he is ruling in favor of the position of Rabbi rather than R' Shimon ben Gamliel. Minchas Chinuch notes that

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is their being placed in the street that interferes with peoples walking in the street. In our case of the overhanging branches, the branches grew in a state of illegally interfering with the passage of the public, and we penalize its owner by declaring the branches ownerless.

HaRav Elyashiv explains that perhaps the one who cuts the branches may keep them only when he cuts all the branches which overhang the public area. Perhaps our sages only permit a person to confiscate an item when he fully clears away an obstacle which blocks passage of the walkway. When he performs this noble act, he merits to keep the branches he has cut. However, if he simply cuts two branches for himself, he has not contributed to the public's welfare, as the overhang blocks the walkway afterwards just as before. Here, the sages did not reward the one who cuts a few branches with ownership of these items. On the other hand, perhaps once the original owner has his possession suspended, anyone could come and take whatever they please. ■

apparently the reason Rambam followed the position of Rabbi is based on the principle that halacha follows the opinion of Rabbi when he argues with another Tanna (הלכה כרבי מחבירו) even if that other Tanna is his father. Whether or not the principle that halacha follows the opinion of Rabbi in a dispute with a colleague even when he disagrees with his father is subject to dispute and sefer Toras Chessed cites this ruling of Rambam as evidence that halacha does follow Rabbi even if the disputant is his father. ■

1. רמב"ם פ"א מהל' תרומות הכ"ד.
2. ע' רדב"ז שם שפ"י דתיבת "עיקר" שנקט הרמב"ם – פירושו השרשים.
3. ע' רדב"ז שם.
4. מנחת חינוך מצוה תק"ז אות ז' ד"ה עציץ נקוב. ■

# STORIES Off the Daf

## A supernatural problem

"אכתי פש ליה פלגא דאמתא..."

Today's daf continues to discuss exactly how far a tree must be from a neighboring field to be obligated in bikkurim.

Rav Yitzchak Zilberstein, shlit"a, tells a fascinating story on this subject. "Once when I was at a resort in Switzerland, I was approached by a local non-Jew who wanted help with what seemed to him to be a supernatural problem. 'Rabbi, for the past several days, the floor in my house is elevated and depressed for short intervals throughout the day. I even called in many

friends who were as astounded as I was and advised me to consult with professionals who should be able to explain what is happening to my house. The expert told us that he had never seen anything like it and that he could only conclude that it is a supernatural phenomenon. So I figured maybe a rabbi will understand how to remove witchcraft from my house. I know it sounds crazy, but what other cause could there be?"

Rav Zilberstien replied, "I don't know about sorcery, but I think I may have a more natural resolution to your problem. The Talmud tells us that a person who plants a tree within sixteen amos of his friend's field is a thief and may not bring bikkurim from this tree. The reason given

is because that is the maximum distance from which a tree's root system can penetrate and removes nutrients from the ground. It seems quite plausible that if a neighboring tree is extending its roots under your home in just the right manner, it might literally shake up the floor of your house. So why don't you go and check if there is a tree within this distance from your home," suggested Rav Zilberstein.

The non-Jew checked and returned to report that there was a tree well within this distance. "If that's the case, why not remove the tree and see what happens?"

The non-Jew cut down the tree and the floor in his house went back to acting like a normal floor should!<sup>1</sup> ■

1. עלינו לשבח, ח"א, ע' תע"ו. ■