

## That of *Ilfoh* and *Rabi Oishayoh*

## דאילפא ורבי אושעיא –

### OVERVIEW

The conclusion of the גמרא is that the מחלוקת between ר"מ ור"י and ר"א is regarding the rulings of אושעיא ור' אילפא previously.<sup>1</sup> ר"מ ור"י disagree with אילפא and maintain that מתוך הרחבה is always פטור, while ר"א agree with the rulings of אילפא ור"א that in those cases he is חייב (since אין דרך לאכול אלא להלך)

לאו מענין אחד -

The cases of אילפא ור"א are not of the same content -

דרכי אושעיא<sup>2</sup> מיידי בקופצת דהוי קרן<sup>3</sup> ואילפא איירי על גבי חבירתה<sup>4</sup> דחשיב שן:  
For ר"א is discussing a case where the בהמה jumped in order to eat, which is considered קרן (for it is unusual for a בהמה to jump), while אילפא is discussing a case where a בהמה ate from the back of a neighboring animal which is considered שן in the רשות הניזק.

### SUMMARY

The cases of אילפא (which is שן) and ר"א (which is קרן) differ from each other.

### THINKING IT OVER

1. The case of אושעיא ר' by קופצת is considered משונה and is חייב on account of קרן; the case of גבי חבירתה מעל גבי חבירתה is also unusual since the reason he is חייב according to ר"י is because אין דרכה לאכול אלא להלך<sup>5</sup>, why is the case of אושעיא ר' considered קרן and the case of אילפא considered שן?<sup>6</sup>

2. The גמרא mentions אילפא first and then אושעיא ר'.<sup>7</sup> Is there any reason why תוספות reverses this order and discusses ר"א first?!

<sup>1</sup> כ, א.

<sup>2</sup> See 'Thinking it over' # 2.

<sup>3</sup> The ת"ק (seemingly) maintains that it is not קרן, therefore it is פטור ברה"ר, while ר"א ור"י agree with ר"א that it is קרן (that is what they mean אין דרכה לאכול אלא להלך [and certainly not to jump and eat]).

<sup>4</sup> The ת"ק maintains that since it is ברה"ר even though it was מעל חבירתה it is not considered רשות הניזק, while ר"א ור"י agree with אילפא that it is considered רשות הניזק (since אין דרכה לאכול אלא להלך; see מהוד"ב למהרש"א א). See 'Thinking it over' # 1.

<sup>5</sup> See footnote # 4.

<sup>6</sup> See (ד"ה והביאור בזה) בית לחם יהודה אות קיז

<sup>7</sup> See footnote # 2.