

## Bais HaVaad on the Parsha, Parshas Mishpatim

### The Seven Seize

*Excerpted and adapted from a shiur by Dayan Yosef Greenwald*

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[https://baishavaad.org/wp-content/uploads/2022/01/SHE82\\_006\\_Mishpatim\\_Ownerless-Hefker\\_of\\_Sheviis\\_Produce.mp3](https://baishavaad.org/wp-content/uploads/2022/01/SHE82_006_Mishpatim_Ownerless-Hefker_of_Sheviis_Produce.mp3)

*But in the seventh year you shall release it and abandon it; the poor of your people shall eat it, and what they leave over, the beasts of the field shall eat. So shall you do to your vineyard and to your olive tree.*

Shmos 23:11

The Torah mandates that produce grown in Eretz Yisrael during Shmitah must be abandoned and declared *hefker* (ownerless). But the *poskim* disagree about the mechanics of this halacha. According to the Mabit (1:11), it is “*afka’asa d’malka*”—rendered ownerless by the King—so it is automatic. According to the Bais Yosef (Avkas Rocheil 22-24), the owner must declare it ownerless, and if he fails to do so, it does not become ownerless automatically.

There are at least two major ramifications of this dispute. First, *hefker* produce is not subject to *trumos uma’asros*, so according to the Mabit, Shmitah produce is exempt, but according to the Bais Yosef, produce not rendered ownerless by the owner is subject to *trumos uma’asros*.

Second, according to the Mabit, Shmitah produce grown entirely by gentiles is automatically *hefker*, so there is no *trumos uma’asros* obligation.

The produce has *kedushas shvi’is* and must not be wasted or ruined.

According to the Bais Yosef, however, such produce requires *trumos uma’asros* and lacks *kedushas shvi’is*.

The position of the Mabit was accepted by the Chazon Ish. His view is followed by many in his town of Bnei Brak, who treat gentile produce (“*yevul nachri*”) with *kedushas shvi’is*. In Yerushalayim, the Bais Yosef’s position is generally accepted, and most do not treat *yevul nachri* with *kedushas shvi’is*.