



## Daf In Review – Weekly Chazarah

### Maseches Bava Kamma, Daf כצ – Daf טצ

Daf In Review is being sent I'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H  
vI'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

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- **R' Chanan** said, if a person looks for someone to be punished by Heaven, the person himself will be punished for his own misdeeds first. We see this from Sarah, who said to Avrohom that Hashem should judge between them, and ultimately Sarah died first. However, this concept only applies where a person could get justice done on this world, and need not look to have the other punished by Heaven.
- **R' Yitzchak** said, woe is to the one who cries out, more than to the one who caused him to cry out. A Braisa suggests this as well.
  - **R' Yitzchak** also said, do not treat the curse of a common person lightly, for we find that Avimelech cursed Sarah with blindness for covering up that she was Avrohom's wife, and the curse came to bear in her child Yitzchak.
  - **R' Avahu** said, a person should always rather be from the chased, rather than from the chasers, because the most chased birds are the "torim" and the "bnei yonah", and they are the birds that are kosher for the Mizbeach.

HAOMER SAMEI ES EINI...

- **R' Assi bar Chama** said to **Rabbah**, why is it different when he damages the person than when he damages his property? **Rabbah** said, a person is never mochel to allow someone to damage his limbs, and therefore, even though he said he was, he cannot be understood to actually mean that. **R' Assi** asked, using that logic a person should not be taken seriously even if he gives permission to cause him pain, and yet a Braisa says, if someone tells another person "hit me on the condition that you will be patur", and the person then hit him, he will be patur!? **Rabbah** remained silent and asked "have you heard a reason for this?" **R' Assi** said, **R' Sheishes** has said, the reason a person is chayuv when he damages another person even though he had permission is that the victim's injury is embarrassing to his family, and the victim could not be mochel for that.
  - We have learned, **R' Oshaya** says the reason he remains chayuv is because of the embarrassment to the victim's family, **Rava** says it is because people are not truly mochel on permanent injury to their limbs, and **R' Yochanan** said it is because one can say "yes" and truly mean "no", and visa-versa, and the Mishna is discussing where he said "yes" sarcastically. A Braisa says like **R' Yochanan**.

SHABER ES KADI KARA ES KISUSI CHAYUV

- **Q:** A Braisa seems to say based on the pasuk of "lishmor" that a person would not be chayuv for breaking a keili that the owner told him to break!? **A:** **R' Huna** said, the Mishna is talking about where the person was in possession of the other person's keili before he was told to break it, and the Braisa is talking about where he did not get it until after he was told to break it.
  - **Q: Rabbah** asked, the word "lishmor" suggests that it came to his hand before the instruction to break it!? **A:** Rather, the difference is that in the Mishna the item came to his hand for safekeeping and the owner later told him to break it. The Braisa is discussing where it came to his hand with the purpose of breaking it.
  - **R' Yosef** once gave tzedaka money to someone to watch. The person was negligent and the money was stolen. **R' Yosef** said the person is chayuv to pay back the money. **Abaye** asked, the Braisa says "lishmor" teaches he is chayuv if given to him for safekeeping, but not if given to give out to poor people!? **R' Yosef** said, the people of Pumbedisa are given steady amounts of money from this fund every week, and therefore the money is considered to have been given to the person for safekeeping for the poor people.

**HADRAN ALACH PEREK HACHOVEL!!!**

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## PEREK HAGOZEL EITZIM -- PEREK TESI'İ

### MISHNA

- If one steals wood and makes it into a keili, or steals wool and makes it into a garment, he must pay the value like the time of the stealing.
- If one stole a pregnant cow and it gave birth, or a sheep full of wool and sheared it, he must pay the value of a cow that is ready to give birth or a sheep that is ready to be shorn.
- If one steals a cow and it became pregnant and gave birth, or he stole a sheep and it grew wool and was shorn, he must pay its value at the time of the stealing.
- The general rule is, a gazlan pays the value of the item as it was at the time of the stealing.

### GEMARA

- **Q:** They said, the Mishna says if he stole wood and made them into keilim, that is when he is koneh them, but if he only smoothed out the wood, he would not be koneh it. Also, it says if he made the wool into clothing he would be koneh it, but if he only whitened the wool, it seems he would not be koneh. However, a Braisa says, if one steals wood and smooths it, stones and smoothed them, wool and whitened it, or flax and cleaned it he pays like the time of the stealing (which means he is koneh then as well)!? **A: Abaye** said, our Mishna is talking about the wood or wool undergoing a change only D'Rabanan – where the change can be reversed. For example, he stole smoothed wood and made it into something that can be taken apart, or he stole spun wool, which he made into clothing that can be taken apart. The Mishna would certainly agree that smoothing wood and whitening wool, which are actions that can't be reversed, are surely ways that the gazlan is koneh. **A2: R' Ashi** said, the Mishna is talking about where he stole wood and smoothed it into a crusher, in which case the smoothing is all that had to be done, and the Mishna therefore agrees that smoothing the wood would make him koneh as well. The case of the wool would be that he made the wool into felt.
  - **Q:** Is whitening wool considered to be a change that would bring about a kinyan? A Mishna says that if a person whitened the first shearings before giving it to the Kohen he must still give it to the Kohen. We see that it is not considered a change that would effect kinyan!? **A: Abaye** said, the Mishna follows the view of the **Rabanan** in a Braisa (that whitening does not create a change for kinyan) and the Braisa follows **R' Shimon**, who holds that it does. **A2: Rava** said, both follow **R' Shimon**. The Mishna is talking about where the wool was only combed by hand, and therefore any whitening would not effect kinyan, and the Braisa is discussing where it was properly combed, and therefore the whitening would effect kinyan. **A3: R' Chiya bar Avin** said, the Mishna is talking about where he only washed the wool, whereas the Braisa is talking about where he used sulfur to clean it.
    - **Q:** We find a Braisa where **R' Shimon ben Yehuda in the name of R' Shimon** says that even dyeing wool is not considered to be a change for kinyan. If so, how can we say that he holds that whitening is a change for kinyan? **A: Abaye** said, the first Braisa is the view of the **R' Shimon according to the Rabanan**, and the second Braisa is the view of **R' Shimon according to R' Shimon ben Yehuda**. **A2: Rava** said, there are no 2 versions of **R' Shimon**. The reason dyeing is not considered to be a change is that the dye can be removed with washing. Whitening cannot be removed once it is done.

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- **Abaye** said, **R' Shimon ben Yehuda, Beis Shammai, R' Eliezer ben Yaakov, R' Shimon ben Elazar, and R' Yishmael** all hold that when something undergoes a change it does not cause it to change possession.
  - **R' Shimon ben Yehuda** – as was seen in the Braisa quoted previously.
  - **B"Š** – we see this in a Braisa where **B"Š** darshen a pasuk to teach that the payment given to a zonah which then underwent a change (she was paid in wheat, and it was turned into flour) may still not be used for a Korbon. We see that they hold that it is still considered to be the original item, and would therefore not effect kinyan in our case either.

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- **R' Eliezer ben Yaakov** – we see this in a Braisa where he says that if someone steals wheat, grinds it into flour and makes bread, he cannot make a bracha on it, because it is considered to be a stolen item.
- **R' Shimon ben Elazar** – we see this in a Braisa, explained by **R' Sheishes**, where **R' Shimon ben Elazar** says, if a ganav steals and the item then changes and depreciates, he may still return the actual item and be patur.
- **R' Yishmael** – we see this in a Braisa where he says that although the mitzvah is to separate pe'ah while the produce is still attached to the ground, if pe'ah was not separated and the produce was already cut, ground and made into a dough, there would still be a chiyuv to separate pe'ah at that point. We see that physical change does not render the item as a different item.
- **Q: R' Pappa** asked **Abaye**, did all these Tanna'im go and follow **B"R**? **A: Abaye** said, they held that **B"R** and **B"R** do not argue about this.
- **Q: Rava** asked, why do you think all these Tanna'im must hold that a change does not effect kinyan? Maybe **R' Shimon ben Yehuda** only holds that way regarding dye, which can be washed off? Maybe **B"R** only hold that way regarding a korbon, because to bring that item for a korbon is considered to be disgusting? Maybe **R' Eliezer ben Yaakov** only holds that way regarding a bracha, because the mitzvah came about through an aveirah? Maybe **R' Shimon ben Elazar** only held that way regarding a depreciation that is reversible? Maybe **R' Yishmael** only held that way regarding pe'ah, because of the extra word "taazov" in the pasuk, as we see that **R' Yonason** thought that **R' Yishmael's** view may be based on this word of "taazov".
- **R' Yehuda in the name of Shmuel** said, the halacha follows **R' Shimon ben Elazar**.
  - **Q:** We find that **Shmuel** says that we do not assess the loss of an item for a ganav to allow him to give back the item and the loss, rather he must keep the damaged item and give back the full value. Now, according to **Rava** we can say that **Shmuel** paskened like **R' Shimon ben Elazar** in a case of depreciation that is reversible, and in the case of the ganav he was talking about a change that was irreversible. However, according to **Abaye**, who says that **R' Shimon ben Elazar** was talking about depreciation that was irreversible, how can **Shmuel** pasken like him and also hold the way he does regarding a ganav!? **A: Abaye** will say as follows: **R' Yehuda in the name of Shmuel** said, they have said that the halacha follows **R' Shimon ben Elazar**, but **Shmuel** himself does not hold that way.
- **R' Chiya bar Abba in the name of R' Yochanan** said, D'Oraisa, if a stolen item was changed, it is returned to the owner as is (a change does not effect a kinyan), as the pasuk says "v'heishiv es hagzeila asher gazal". If you will ask that our Mishna says that if the gazlan changed the wood into a keili he just pays for the value and does not give back the actual item, I will tell you that the reason behind the Mishna is a takana to help the gazlan do teshuva, by not requiring him to give up the work he put into making the keili.
  - **Q:** We know that **R' Yochanan** paskens like an anonymous Mishna, and there is an anonymous Mishna that says that a physical change *does* effect kinyan!? **A: R' Yaakov** said, **R' Yochanan** was talking about a reversible change. It is that type of change that does not effect kinyan D'Oraisa.
- A Braisa says, if a gazlan or one who lent with interest want to do teshuva and offer payment to the one they harmed, the person should not accept the payment from them, and if the person does take it, the **Chachomim** are not happy with such a person. This was done to assist those who want to do teshuva, and not have them hold back from doing so out of fear of the financial consequences.
  - **Q:** A Braisa says, if heirs inherit money that their father got by charging interest, they do not need to return the money to the person it was taken from. This suggests that this is a special halacha for heirs, but the people themselves would have to return the ill-gotten gains!? **A:** In truth their father would not have had to return the money either. It is just that the end of the Braisa discusses that if the interest was a recognizable item the heirs should return it so as not to embarrass their father, the beginning of the Braisa also talks in terms of the heirs.
    - **Q:** Why would they have to take pains to avoid embarrassing their father, when it was he who did the aveirah!? **A:** The case is that the father did teshuva but didn't have time

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to return the item before he died. In that case the children do have an obligation to respect him, to prevent further embarrassment.

- **Q:** A Braisa says, gazlanim and lenders with interest [which the Gemara explains to be one case – gazlanim, who have lent with interest], must return it. This contradicts the earlier Braisa!? **A:** They must offer to return it, to discharge their chiyuv, but the people should not accept it back from them.
- **Q:** A Braisa says that shepherds and tax collectors have a hard path to teshuva (because they steal from so many people) and they should return what they stole to those who they know they stole from. This contradicts the earlier Braisa!? **A:** They must offer to return it, to discharge their chiyuv, but the people should not accept it back from them.
  - **Q:** If so, why do they have a “hard path to teshuva”? Also, the Braisa then says that for the people they don’t know, they should spend money for the tzibbur. We see the Braisa means that the money must actually be given back!? **A:** This Braisa is discussing before the enactment was made to assist the people in doing teshuva, and the earlier Braisa was done after the enactment. **A2:** Based on **R’ Nachman**, who says that where the actual stolen item is in existence, even after the enactment it must be returned, we can say that both Braisos are discussing after the enactment. The earlier Braisa is discussing where the item no longer exists, and the later Braisa is discussing where it still exists.
  - **Q:** We have learned that the **Rabanan** enacted that if a beam was stolen and put into a house, it need not be removed and returned. We see that even when it still exists, it does not need to be returned!? **A:** Since removing the beam would cause a significant loss, the **Rabanan** considered the beam as if it no longer exists.

### -----Daf 95-----

#### GAZAL PARAH ME’UBERES V’YALDA...

- A Braisa says, if a ganav steals a sheep and had it sheared, or a pregnant cow that then gave birth, **R’ Meir** says he must return all the items that he stole (the sheep, the wool, the cow, the calf) along with any appreciation that took place. **R’ Yehuda** says he returns just the sheep or the cow and then pays the value of the wool and the fetus as they were at the time of the stealing. **R’ Shimon** says we view all the items as if they were appraised at the time of the stealing.
  - **Q:** What is the logic of **R’ Meir**? Is it because he holds that a change does not effect a kinyan, or does he agree that in general a change does, and only when dealing with a ganav we penalize him by not allowing him to benefit from any appreciation? The difference between these reasons would be where the stolen item underwent a change and depreciated.
    - Maybe we can answer from a Mishna, which says, if a ganav stole an animal and it aged, or he stole a slave and it aged, he pays the value as it was at the time of the stealing. **R’ Meir** says, with regard to slaves he can just return the slave as is (a slave is compared to land, and just as land cannot be halachically stolen, the same is true for slaves). This seems to suggest that with regard to the animal, he would agree that he pays the value at the time of the stealing. Now, if **R’ Meir** truly holds that a change does not effect a kinyan, even in the case of the stolen animal he should be able to just return the animal! Rather, it must be that he holds a change does effect a kinyan, and the reason he holds the ganav must return the calf and the wool is a penalty so that he not benefit from the appreciation.
      - This is no proof. It may be that **R’ Meir** was speaking according to the **Rabanan**, and saying “according to me that change does not effect kinyan, even the animal can be returned as is. However, according to you, at least agree with me that a slave can be returned as is, because he is like land!” The **Rabanan** answer, “we disagree, because we

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hold that a slave is considered to be moveable property, and as such cannot be returned in a depreciated state”.

- We can answer from a different Mishna, which says, if a person gave wool to a dyer to color for him, and it was dyed the wrong color, **R' Meir** says, he gives the owner of the wool the value of the wool as it was before it was dyed, and not the higher amount it is worth now that it is dyed. We clearly see that he holds that change does effect a kinyan, and it must be that in the case of the ganav the reason he must return all the items is for a penalty so that he not profit from the appreciation.
- **Others** say that it was known that **R' Meir's** reason is because he holds that change effects a kinyan, and that in the case of the ganav the reason he must return the items is because of a penalty. The question was whether this penalty is only put in place for a meizid (for one who stole an item) or was it put in place even for a shogeg (e.g. someone who unknowingly bought the stolen item from the ganav)?
  - Maybe we can answer this from a Braisa. The Braisa says, there are 5 creditors who only collect from unencumbered properties, with one of them being a person who has a claim for produce and the improvement of produce, and another one being one who is collecting on a debt document that was written without a guarantee. This Braisa must follow **R' Meir**, because he is the one who holds that if a document is written without a guarantee we do not assume it was a mistake of the sofer who wrote the document. Now, what is the case of “the improvement of produce”? The case must be where a ganav stole a field and sold it to a second person, who then improved the land, and the true landowner then goes to Beis Din and gets the land to be taken back for him. The buyer can sue the ganav for the purchase price from encumbered properties, but for the improvements that he made he can only collect from unencumbered property. We see that the buyer has the land and the improvements taken from him, so we see that the penalty is applied even to someone who acted b'shogeg.
    - The Gemara said this is no proof. The case is that it was a talmid chochom who bought the land. He knew that land cannot actually be stolen, and therefore knew that since he bought it from someone who “stole” it, it was not a proper acquisition. In that way he was a meizid, not a shogeg.
  - We can answer from a Mishna which says, if a person gave wool to a dyer to color for him, and it was dyed the wrong color, **R' Meir** says, he gives the owner of the wool the value of the wool as it was before it was dyed, and not the higher amount it is worth now that it is dyed. Now, if we say that the penalty is applied to a shogeg as well, he should have to pay for the entire amount of the wool after it was dyed. We see that the penalty is only applied to a meizid. **HEMA MINAH.**
- In the Braisa quoted above, **R' Yehuda** said he returns just the sheep or the cow and then pays the value of the wool and the fetus as it was at the time of the stealing. **R' Shimon** said we view all the items as if they were appraised at the time of the stealing.
  - **Q:** What is the difference between these shitos? **A:** **R' Zvid** said, they only argue in a case where the improvements are still attached to the stolen item. In that case, **R' Yehuda** says they would belong to the true owner of the item, and **R' Shimon** says they belong to the ganav. **A2:** **R' Pappa** said, when the improvement is attached to the stolen item all would agree that it belongs to the ganav. The machlokes is whether the ganav gets the entire improvement or only a share of the improvement. **R' Yehuda** holds the entire amount goes to the ganav. **R' Shimon** says the ganav is only paid a rate as if he was hired to care for the stolen item during that time, and the rest of the value of the improvement goes to the owner of the item.
    - **Q:** Our Mishna said, if a ganav stole a cow, and it then got pregnant and gave birth, he need only pay the value of the cow as it was at the time of the stealing. This suggests that if it did not yet give birth, he would have to return the cow in its pregnant state. Now, according to **R' Zvid**, he can say the Mishna follows **R' Yehuda**. However, according to **R' Pappa**, this doesn't follow anybody!? **A:** **R' Pappa** would say, in truth

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even if it did not yet give birth the ganav would only pay the value as it was at the time of the stealing. The reason the Mishna gives the case of where it already gave birth is because that is the case that it gave in the first part of the Mishna.

- There is a Braisa which states the view of **R' Shimon** in the way that **R' Pappa** said it.
- **R' Ashi** said, when he was by **R' Kahana** the talmidim asked, according to **R' Shimon**, who says that the ganav is given a share of the improvement, can the owner just pay him money equal to that value, or can the ganav insist on taking an actual portion of the improvement? He said that they answered based on **R' Nachman in the name of Shmuel**, who says there are 3 people for whom we appraise the improvement and allow them to be bought out with money – a bechor can pay his brother for the improvement to the inheritance, a creditor can pay for the improvement the buyer made to a property that he is taking for his debt, and a creditor can pay orphans for the improvement they made to inherited property. Based on this we would say that similarly, the owner can buy out the share of the ganav for money.
- **Q: Ravina** asked **R' Ashi**, how can you say that **Shmuel** says that a creditor has to pay for the improvement on the land that he is collecting for his debt? **Shmuel** has said that a creditor collects the improvements without paying for them!? **A: R' Ashi** said, **Shmuel** says he must pay for it when it is fully grown produce, but he does not have to pay for it if it is less than fully grown.
  - **Q:** We find that **Shmuel** would allow creditors to collect even fully grown produce without paying for that improvement!? **A: R' Ashi** said, if his debt equaled the value of the land with the improvement, he doesn't pay for it. If the debt was for less, he does pay for it.
  - **Q:** That makes sense according to the view that the buyer of the land cannot give money to the creditor instead of the land. However, according to the view that he can do that, why can't he tell the creditor, if I would have money I can take the whole field back, now that I don't, I should at least keep a piece of the field for the value of the improvements that you are taking from me, instead of you giving me money!? **A: R' Ashi** said, the case would be that the debtor had made that field an "apotiki", in which case all agree that the buyer cannot give money to the creditor in place of the field.

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- **Rava** said, if a person stole something, improved it, and then sold it, or if he stole it, improved it, and it was then inherited by his heirs, the buyer or the heirs are entitled to the share of the improvements that the ganav himself would have kept if the item was returned.
  - **Rava** asked, what about if the buyer improves the item? He then answered, the ganav sells any right that he had to the item, and therefore, just as the ganav had a right to a share of the improvements, the buyer does as well when he improves the property.
  - **Rava** asked, what if a goy improved the stolen item?
    - **R' Acha MiDifti** asked **Ravina**, does **Rava** think we would make an enactment to help a goy who stole!? **Ravina** explained, the question was where a goy stole and sold it to a Yid, and the question is whether that Yid gets a share of the improvements.
      - **Q:** This Yid is coming on the basis of a goy and therefore will have no more rights than that goy would have!? **A:** The case of **Rava** is where a Yid stole an item, sold it to a goy who improved it, who then sold it to a Yid. The question is, since the chain begins with a Yid, do we treat it as if there was no goy involved, or do we say that since a goy was in the chain, no enactment was made for him.
    - With regard to **Rava's** question, the Gemara stays with a **TEIKU**.

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- **R' Pappa** said, if a person steals a palm tree and cuts it down, even if it falls into the ganav's property, he is not koneh the tree, because when it stood it was called a palm tree and now in its fallen state it is still called a palm tree (therefore there is no "change" to effect a kinyan). If he stole a palm tree and cut it into logs he is also not koneh, because before it was called a palm tree and now it is called palm tree logs, which is considered to be the same thing. However, if he stole logs and made them into beams he is koneh. If he stole large beams and made them into small beams he is not koneh, because they are the same thing, but if he made the beams into boards he is koneh.
- **Rava** said, if a person steals a lulav and tore off the leaves, he is koneh it, because initially it was called a lulav and now they are called leaves. If he stole lulav leaves and made them into a broom he is koneh it, because initially they were leaves and now they are a broom. If he stole a broom and made the leaves into a rope he is not koneh, because he can undo the rope and have the broom again.
  - **Q: R' Pappa** asked, what if he stole a lulav and split the middle leaf in two? **A:** We have learned that **R' Mason in the name of R' Yehoshua ben Levi** said, if the middle leaf of a lulav is missing, it is passul. Presumably the same halacha would apply if the leaf was split, and if so, splitting that leaf makes a change and he should be koneh.
    - The Gemara says this is no proof, because it may be that a lulav is only passul when the leaf is missing, not when it is split.
    - **Others** say that **R' Mason in the name of R' Yehoshua ben Levi** said, if the middle leaf of a lulav is split it is considered as if it is missing, and is passul. This would be a proof that splitting the middle leaf creates a change that causes the ganav to be koneh.
- **R' Pappa** said, if someone stole earth and made it into a brick he is not koneh, because the brick can be turned back into the earth. If he stole a brick and made it into earth he is koneh, because although he could make it back into a brick, that is considered to be a new brick, and not a reformation of the old brick.
  - **R' Pappa** also said, if a person stole silver and made it into a coin he is not koneh, because he can melt it back down into plain silver. If he stole coins and melted them down into silver he is koneh, because although he could make it back into a coin, that is considered to be a new coin, and not a reformation of the old coin. If he stole tarnished coins and made them like new he is not koneh. If he stole new coins and tarnished them, he is koneh, because even if he were to then make them shiny again, it will be noticeable that they were tarnished.

### ZEH HAKLAL KOL HAGAZLANIN MISHALMIN KISHAS HAGZEILAH

- The "general rule" comes to include the case of **R' Illa**, who said that if a ganav steals a lamb and it becomes a ram, or he steals a calf and it becomes an ox, it is considered to be a change that makes him be koneh, and if he were then to shecht or sell the animal he would not pay daled v'hey, because he is considered to have shechted or sold his own animal.
- A person once stole a pair of oxen and worked his field with them. When he returned them to the owner, **R' Nachman** told him that he must appraise the improvement that he did with the animals and give that value to the owner of the animals. **Rava** asked, the land was involved in the improvement as well, so why should he give the full value to the owner of the oxen? **R' Nachman** said, I meant that he should give half the value to the owner of the oxen. **Rava** asked, we have learned in our Mishna, when a gazlan returns the stolen item he only need pay the value at the time of the stealing!? **R' Nachman** said, this case is different, because this robber was a repeat offender and therefore was fit to be penalized.

### MISHNA

- If a ganav stole an animal and it aged, or he stole a slave and it aged, he must pay the value at the time of the stealing. **R' Meir** says, in the case of the slave he can simply give it back (he was not koneh it).
- If he stole a coin and it broke, or he stole fruit and it spoiled, or wine and it spoiled, he pays the value at the time of the stealing. However, if he stole a coin and it was taken out of currency and rendered worthless, or he stole terumah and it became tamei, or chametz and Pesach arrived, or an animal and an aveirah was done with it or it became passul for the Mizbe'ach, or it became chayuv misah, the ganav may simply return the item to the owner.

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### GEMARA

- **R' Pappa** said, the Mishna doesn't mean that the animal must actually age, rather even if it merely got weak, it would be considered changed and the ganav would be koneh.
  - **Q:** The Mishna specifically says "it aged"!? **A:** It means that it became weak in a way similar to aging, meaning that it is permanent.
  - **Mar Kashisha the son of R' Chisda** said to **R' Ashi**, it is said in the name of **R' Yochanan**, even if one steals a lamb and it becomes a ram, or a calf and it becomes an ox, he is koneh the animal, and if he were then to shecht or sell the animal he would not pay daled v'hey, because he is considered to have shechted or sold his own animal. **R' Ashi** replied, that was said in the name of **R' Illa**.

### R' MEIR OMER BA'AVADIM OMER LO HAREI SHELICHA LIFANECHA

- **R' Chanina bar Avdimi in the name of Rav** said the halacha follows **R' Meir**.
  - **Q:** Would **Rav** pasken like **R' Meir** over the **Rabanan**? **A:** He does so because a Braisa reverses the shitos.
  - **Q:** Why would he follow a Braisa over a Mishna? **A:** **Rav** reversed the Mishna as well.
  - **Q:** Why would he reverse the Mishna to conform with the Braisa instead of reversing the Braisa to conform with the Mishna? **A:** **Rav's** version of the Mishna was reversed compared to the way we have the Mishna. **A2:** The reason he reversed the Mishna is because there are two Braisos that have the shitos reversed from the Mishna.
    - **Q:** If so, he should have said the halacha follows the **Rabanan**!? **A:** He was saying that according to your version of the Mishna, the halacha follows **R' Meir**.

### -----Daf תל"ט---97-----

- **Q:** How can we say that **Rav** holds that slaves have the status of land? We find that **R' Daniel bar Katina in the name of Rav** said, if someone grabs someone else's slave and works with him, he does not have to pay for the work done when he returns the slave to the owner. Now, if he holds that slaves are like land, he should say that since land can't be stolen the ganav was not koneh and he should therefore have to pay for the work of the slave!? **A:** The case there was where he grabbed the slave at a time when he wasn't working for the master, so the master suffered no loss. This is like the case of where a person lived in someone else's chatzer without the owner's knowledge, in which case **R' Huna** said that he does not have to pay for the use.
  - **Q:** That case is very different, because there is benefit from someone living in the house, because he keeps up the maintenance of the house, but in the case of the slave, the work weakens the slave, and therefore he should have to pay for the work!? **A:** The master is happy that his slave was put to work, so that he not learn to be lazy.
  - In the household of **R' Yosef bar Chama** they would seize the slaves of people who owed them money. His son **Rava** said to him, how do you use slaves that don't belong to you? **R' Yosef** answered, I am following **R' Nachman** who said it costs more to feed a slave than the value of his work, and since I am feeding the slaves I am using, the masters are happy that I am using them. **Rava** said, **R' Nachman** only said that about lazy slaves, not all slaves! **R' Yosef** said, I hold like **R' Daniel bar Katina in the name of Rav** who said, if someone grabs someone else's slave and works with him, he does not have to pay for the work done when he returns the slave to the owner. We see that a master is happy when someone works with his slave, so that he does not learn to be lazy. **Rava** said, that applies in a normal case, but since you are taking the slaves of people who owe you money, it looks like you are taking ribis, and **R' Yosef bar Menyumei in the name of R' Nachman** said, that although one who lives in another's chatzer without his knowledge need not pay rent, if the squatter is also a creditor of the owner of the chatzer, he must pay rent!? **R' Yosef** said, if so, I will stop seizing these slaves.
- If a person seizes another's boat and does work with it, **Rav** says the owner may either take rent or the depreciation to the boat, and **Shmuel** says he may only take the depreciation.
  - **R' Pappa** said, **Rav** and **Shmuel** do not argue. **Rav** was talking about a boat that was used for renting out, and **Shmuel** was talking about a boat that was not used for renting out. We can also say that they



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are both talking about boats that are used for renting out, but **Rav** is talking about a case where the person seized the boat with intent to pay rent, and **Shmuel** is talking about a case where the person seized it with intent to steal it.

GAZAL MATBEI'AH V'NISDAK...

- **R' Huna** said, when the Mishna says the coin broke, it means that it physically cracked, and when it says it became decertified as currency, it means that the king decertified it (so it is no longer valid currency anywhere). **R' Yehuda** said, decertification of the coin by the king is also considered to be a case of a coin that “broke”, and the case of decertification in the Mishna refers to a case where the people of one city or country no longer accept this coin, but it is still accepted elsewhere.
  - **Q: R' Chisda** asked **R' Huna**, according to you who says decertification means the king did so and the coins are absolutely useless, why is that case different than when the ganav stole fruit or wine and they spoiled, in which case he can't just return the item, and must instead return the value as it was at the time of the stealing? **A: R' Huna** said, the fruits and wine have undergone a physical change, whereas the coin has not.
  - **Q: Rabbah** asked **R' Yehuda**, according to you who says decertification of a coin by the king is equivalent to a physical change, why is this different than where he stole terumah and it became tamei, in which case the Mishna said he may simply return the terumah as is? **A: R' Yehuda** answered, the damage to the terumah is not noticeable. The damage to the coin is (because this coin is now different than all the other coins being used for currency).
- If a person lends merchandise to another person and they set a price to be paid back based on a particular coin, and the coin is then decertified, **Rav** says he must pay back with whatever the new currency is. **Shmuel** says, he can even pay with the old currency and tell the lender to go and use these coins in some distant land that still accepts them.
  - **R' Nachman** said, it would make sense that **Shmuel** only said this when the lender was planning to go to this distant land in any event. However, if he was not, he would not be able to repay with the old currency.
    - **Q: Rava** asked **R' Nachman**, a Braisa says one may not use coins that are no longer accepted as currency anywhere in the world, to redeem maaser sheini. This suggests, that if they are still accepted somewhere they can be used. This applies even if the owner of the food does not plan on travelling to the place that they are accepted!? **A: R' Nachman** said, the case in the Braisa is where the kingdoms don't mind if their citizens have currency of other kings. That is why it is valid.
      - **Q:** That would mean that the case of **Shmuel** is talking about where the kingdoms do mind. If so, how can the lender take the money and travel to that distant land? **A: Shmuel** is talking about a land where they mind, but they don't actively search for foreign currency by people. Therefore, with some difficulty, the lender could travel to the distant land with that currency and use it.
  - **Q:** A Braisa says, a person cannot redeem maaser sheini in Bavel using currency of EY, and one cannot redeem in EY with currency of Bavel. However, one may redeem in Bavel with currency of Bavel. Now, the Braisa says coins of EY may not be used in Bavel even though the person will be going to EY. This refutes **Shmuel**!? **A:** The case here is that the kingdoms are particular against each other.
    - **Q:** If so, why can he redeem with coins of Bavel in Bavel, since he cannot bring them up to EY!? **A:** He can use the money to buy an animal in Bavel and bring it up to EY.
    - **Q:** A Braisa says that the **Rabanan** enacted that all currency should be accepted in EY, so why does the Braisa say that Bavel currency would not be accepted in EY? **A: R' Zeira** said, this Braisa is dealing with a time when the Yidden controlled the other nations, whereas the other Braisa deals with a time when the other nations controlled.
    - A Braisa says, what is the coin of Yerushalayim? Dovid and Shlomo were on one side and Yerushalayim was on the other side. What is the coin of Avrohom Avinu? An old man and an old woman were on one side and a young man and young lady were on the other side.

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- **Rava** asked **R' Chisda**, if one borrowed merchandise and set repayment based on a particular coin, and the government then increased that coin, would he have to pay using the new, larger coin or not? **R' Chisda** said, he would pay using the new coin. **Rava** asked, even if the new coin is really huge? He said, yes.
  - **Q:** The Gemara asks, if so he is getting more than the amount of the loan, and it is ribis!? **A: R' Ashi** said, we make a determination, and if the amount he can buy with the new coin is because of the larger size of the coin, he would reduce the payment.
    - **Q:** The larger size means there is more silver, so it is always more valuable!? **A:** We would reduce the amount of the payment so that the amount of silver borrowed is the amount of silver returned.

### -----Daf פ"ט-----98-----

- **Rabbah** said, if someone throws the coin of another person into the sea, he does not have to pay for any damages. Why is that? Because the first person can tell the owner of the coin, “your coin is right there, if you want it, go get it” (even though he will have to hire people to dive to the sea floor and get it, it is not considered to be lost, and therefore no actual damage has taken place). Now, this only applies when the water is clear, and the coin can therefore be seen. This also only applies when the person knocked into the hand of the owner, who was holding his coin, and caused it to be thrown into the sea. However, if he took the coin and actually threw it into the sea, his action of taking it is gezeilah, and he would then have to do an actual act of returning the coin to the owner.
  - **Q: Rava** asked, a Braisa says, one may not redeem maaser on coins that were in a wallet that fell into the sea. We see they are considered to be entirely lost (even though the wallet can be retrieved by divers)!? **A: Rabbah** said, the case of maaser is different, because the pasuk says “v'tzarta hakesef b'yadcha”, and in this case the coin is not in his hand.
- **Rabbah** said, if someone erases the images on another's coin (and it is now worth less than before), he is patur. The reason is, that he has done no real physical damage to the metal of the coin. Now, this is only if he hammered the image down. However, if he filed it off, he would be chayuv, because he has removed metal from the coin.
  - **Q: Rava** asked, a Braisa says that blinding the eye of a slave, or deafening his ear, sets him free. Now, there is no physical damage done to the eye or ear, and yet we see it is considered to be actual damage, and therefore hammering the image of the coin should be considered actual damage as well!? **A: Rabbah** follows his logic elsewhere, where he says that loss of hearing is the result of physical damage and wounding of the internal ear. Therefore, in that case actual damage has taken place.
- **Rabbah** said, if a person nicks the ear of another's animal he is patur (even though the animal now becomes passul to be used as a korbon). The reason is, the animal is not worth any less than it was before, and most animals are not brought on the Mizbe'ach anyway.
  - **Q: Rava** asked, a Braisa says that if someone did work with the parah adumah water, or with the parah adumah itself, he is patur in Beis Din (even though he made the water or the animal passul to be used for the process), but chayuv by the Heavenly Court. It seems that he is patur at Beis Din only because his action (his work) is not noticeable. However, if it was he would be chayuv. In the case of the nicking of the ear, since his action is noticeable, he should be chayuv!? **A:** The Braisa agrees that he would be patur in this case as well. The reason it gives a case of where the action is not noticeable is to teach that even in such a case, the person is still chayuv by the Heavenly Court.
- **Rabbah** said, if a person burned the loan document of another (who was the creditor in the document), he is patur. The reason is, because he can say, “I just burned a piece of paper”.
  - **Q: Rami bar Chama** asked, if there are witnesses to what was written in the document, let them write another one? If there are no witnesses, we couldn't make the burner chayuv in any case!? **A: Rava** said, the case is where the burner says he believes the person with regard to what he says was written in the document.

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- **R' Dimi bar Chanina** said, this is actually a machlokes between **R' Shimon and the Rabanan**. According to **R' Shimon**, who says that something that can cause a benefit of money is considered as money itself, this person would be chayuv for burning the document. According to the **Rabanan** who say it is not, he would be patur.
  - **Q: R' Huna the son of R' Yehoshua** asked, **R' Shimon** only holds that way when the item in question has intrinsic value itself. However, in this case where it does not, he would presumably agree that he would not be chayuv!?
- **Ameimar** said, according to the view that we pasken laws of “garmi” (causative damages), the burner would be chayuv. According to the view that he would not, he would only be chayuv to pay for the value of the piece of paper.
  - In an actual case, **Rafram** pressured **R' Ashi** to pay for the full amount written in the loan document.

### CHAMETZ V'AVAR ALAV HAPESACH OMER LO HAREI SHELICHA LIFANECHA

- **Q:** Who is the shitah that holds that even if something is assur b'hana'ah, the ganav can give the item to the owner and say “here is your item” and be patur? **A: R' Chisda** said, it is the shitah of **R' Yaakov** from a Braisa. The Braisa says, if an ox killed a person, if the owner then sold it or shechted it or made it hekdesch before the verdict of its death sentence was reached, the sale is valid, the meat is mutar, and the hekdesch is valid. If at that time the shomer returned it to its owner, it is considered to be returned. Once the verdict was reached, and he sold it, etc., the sale would not be valid, the meat would not be mutar, the hekdesch would not be hekdesch, and the return by the shomer would not be considered to be a valid return. **R' Yaakov** says, even after the verdict was reached, the return by the shomer would be considered a valid return. Presumably the machlokes is that **R' Yaakov** holds that even by something assur b'hana'ah we say “here is your item”, and the **Rabanan** says that we do not say that.
  - **Rabbah** said to **R' Chisda** this is no proof. It may be all agree that even by something assur b'hana'ah we say “here is your item”. The machlokes here is whether we can have the Din Torah in the absence of the ox. The **Rabanan** say that the ox must be present, and the owner can therefore tell the shomer “if you would have given the ox to me I would have hid it, but because you now brought it to Beis Din, you have caused me the loss of the ox”. **R' Yaakov** says the ox need not be present, and the shomer has therefore caused no loss.
  - **R' Chisda** met **Rabbah bar Shmuel**, who taught him a Braisa that says, the pasuk teaches that if one stole chametz and then Pesach came, or he stole an ox and it killed but was not yet sentenced to death, the gazlan can give the item back to the owner and be patur. Now, this must follow the **Rabanan**, because the Braisa seems to say that after the verdict he would not be able to simply return the ox, and we see that the **Rabanan** hold that even by something assur b'hana'ah we say “here is your item” (which refutes **R' Chisda's** explanation). **R' Chisda** asked him not to repeat this Braisa to the talmidim.
    - **Q:** The Braisa also stated that if he stole produce and it spoiled he can simply return the produce to the owner and be patur. Our Mishna said that in that case he would have to pay the value as it was at the time of the stealing! **A: R' Pappa** said, the Mishna is discussing where they were entirely rotten. The Braisa is discussing where they were partially rotten.

### MISHNA

- If a person gave something to a craftsman to fix and they ruined it, they must pay. If he gave a “shidah”, “teivah”, or “migdal” box to a carpenter to fix and he ruined it, he must pay. If a builder was hired to knock down a wall and broke or damaged the stones, he is chayuv to pay. If he was demolishing from one side and it fell from the other side, he is patur. However, if it fell because of the blow to the wall, he is chayuv.

### GEMARA

- **R' Assi** said, when the Mishna says he is chayuv it is only talking about the case where the person gave a finished keili to the craftsman to repair, and he broke it. However, if he gave pieces of wood, which the craftsman made

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into a keili, and then broke it, he would be patur, because a craftsman is koneh the improvements that he makes (and would only have to pay for the value of the wood).

- **Q:** The Mishna in the first case said, if a person gave something to a craftsman to fix and they ruined it, they must pay. Presumably this is referring to where he gave him wood to make into a keili, and still it says that he is chayuv!? **A:** The case is that he gave a completed “shidah”, “teivah”, or “migdal” box to fix.
  - **Q:** That is the next case of the Mishna, which would suggest that the earlier case is where he gave him pieces of wood!? **A:** The second case is explaining that the first case is where he gave him a completed “shidah”, “teivah”, or “migdal” box to fix. In fact, that must be the understanding, because if not, once the Mishna says that he is chayuv even when he was given wood to make into a keili, why would the Mishna then need to say that if he was given a “shidah”, “teivah”, or “migdal” box to fix he is chayuv? That would be obvious!? It must be that the second case is an explanation of the first case.
    - That is no proof. It may be that without the second case we would think the first case is talking about where he gave him a completed “shidah”, “teivah”, or “migdal” box to fix. That is why we need to clearly give that case so that we then know that the first case is talking about where he gave him wood to make into a keili, and still he is chayuv.

### -----Daf ט"ט-----99-----

- The Gemara had previously brought the statement of **R' Assi**, that when the Mishna says he is chayuv it is only talking about the case where the person gave a finished keili to the craftsman to repair, and he broke it. However, if he gave pieces of wood, which the craftsman made into a keili, and then broke it, he would be patur, because a craftsman is koneh the improvements that he makes (and would only have to pay for the value of the wood).
  - **Q:** Maybe we can bring a proof from a Mishna. The Mishna says, if one gives wool to be dyed, and the vat of dye burned it, the dyer must pay for the value of the wool. This suggests that he does not need to pay for the improvement to the wool. Presumably the case is that the dye was fully applied and after that the wool burned, and although there was improvement to the wool, the dyer does not have to pay for the improvement, which proves that a craftsman is koneh the improvement he makes! **A: Shmuel** said, the case is where the wool burned before it was dyed, so there was no improvement that took place.
    - **Q:** Does that mean **Shmuel** would hold if it did get dyed first he would have to pay for the improvement? If so, that means **Shmuel** does not hold of **R' Assi**!? **A: Shmuel** is discussing a case where the owner of the wool provided the dye as well. Therefore, there is no improvement being provided by the dyer (he is simply earning a wage for his work) and that is why he is not koneh any improvement.
    - **Q:** If that is the case, the Mishna should say that the dyer must pay the value of the wool and the dye!? **A: Shmuel** really agrees with **R' Assi**. He didn't mean that the Mishna *must* be explained this way, he meant that the Mishna *can* be explained this way, and therefore it is not a proof.
  - **Q:** Maybe we can bring a proof from a Braisa. The Braisa says, if someone gives a garment to a craftsman to make, and when it is completed he picks up the garment and does not pay the craftsman before sundown, he has transgressed the lav of “lo salin” (a worker must be paid for his work on the day the work is performed). Now, if the craftsman is considered to be koneh the improvement, he is not being paid as a worker, rather he is selling the improvement, and his money would therefore not be subject to the lav of “lo salin”!? **A: R' Mari the son of R' Kahana** said, the case in the Braisa is where the craftsman is doing a service of raising the hairs on the garment, which provides no improvement, and as such is a worker rather than a person who is providing improvement.
    - **Q:** Raising the hairs softens the garment, and that softening is considered to be an improvement!? **A:** The case is that the craftsman was hired to stamp down on the cloth, where

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there is typically a set price for every series of stamping. That is why he is considered to be earning a wage.

- The Braisa as it was understood originally, said that the craftsman was paid for the improvement, not a wage, and yet his fee is subject to “lo salin”, would provide support for **R’ Sheishes**, who says such a fee is subject to the lav of “lo salin”.
- **Q:** Should we say that **R’ Sheishes** argues on **R’ Assi**? **A:** **R’ Shmuel bar Acha** said, **R’ Sheishes** was referring to a fee for a service like a messenger service, where the service adds no value to the item. However, he would agree that if value was added, the craftsman would be koneh that improvement and the fee would not be considered as a wage.
- **Q:** Maybe we can say that the halacha of **R’ Assi** is actually subject to a machlokes among Tanna’im. A Braisa says, if a woman gives gold to a goldsmith and tells him to make jewelry out of it, and tells him “make the jewelry and I will become mekudeshes to you”, **R’ Meir** says as soon as he makes the jewelry, she becomes mekudeshes. The **Chachomim** say that she does not become mekudeshes until money reaches her hand. Now, what do the **Chachomim** mean? If they mean the gold that she gave him, and they mean to say that when he returns it to her she is mekudeshes, that would mean that **R’ Meir** holds she is mekudeshes even if he doesn’t give it back to her? That can’t be right, because with what would she be mekudeshes!? Rather, it clearly refers to other money. The Gemara assumes that all agree that a worker earns his wages as every bit is accomplished, and all also agree that being mekadesh a woman with a loan is not effective. The machlokes is whether a craftsman is koneh the value added to the keili. **R’ Meir** says he is, and it is this value that he uses for kiddushin. The **Rabanan** say that he is not, and therefore the only thing he gives her is a loan (which she owes him for his wages)! **A:** It may be that all agree that a craftsman is not koneh the improvements he makes. The machlokes here is that the **Rabanan** hold that the goldsmith is owed the money from when he begins to work on the project. Therefore it is a loan and can’t be used for kiddushin. **R’ Meir** holds that he does not earn his money until he completes the project and returns it to her. Therefore, when he gives it to her and tells her not to pay for it, it is not yet a loan and therefore can be used for kiddushin. **A2:** It may be that all agree that wages are earned at every step along the way. The machlokes is whether one may be mekadesh a woman with a loan – **R’ Meir** says he can and the **Rabanan** say that he cannot. **A3:** **Rava** said, it may be that all agree that he is not koneh the portion of the keili, and that his wages are earned at each step along the way, and that a woman cannot be mekudeshes with a loan. The case is that the goldsmith added a jewel of his own onto the gold. The machlokes is whether when a woman is given a loan and an additional prutah she focuses on that additional prutah or the entire thing. **R’ Meir** says she focuses on the prutah, and the **Rabanan** say she focuses on the entire thing. This point is actually a point of machlokes between other Tanna’im in another Braisa.
- **Shmuel** said, if an expert shochet did a passul shechita he must for the damage, because he is a mazik and he is negligent. It is as if he was told to shecht in the proper place and went and shechted in another place.
  - **Q:** Why did he have to say “he is a mazik” and “he is negligent”? **A:** If we would just say he was a mazik we would think he must pay only if he was hired to shecht, but if he did it for free he should be patur. Therefore he also said that he was negligent, to teach that he must pay even if he shechted for free.
  - **Q:** **R’ Chama bar Gurya** asked **Shmuel**, a Braisa says that an expert who made a passul shechita is patur if he was doing the shechita for free!? **A:** **Shmuel** said, I was talking according to **R’ Meir**, who uses this logic (that a person would be considered negligent for not being careful even for something unusual that takes place), and the Braisa you are asking from follows the **Rabanan**!
    - **Q:** Where do we see that **R’ Meir** holds this way? It can’t be in the Mishna where he says the owner of a tam or a muad is chayuv if the animal damages, even if the animal was properly locked up or tied to a rein, because that is based on a pasuk, not logic!? It can’t be in the Mishna where he says that a dyer is chayuv if he colors the wool with the wrong dye, because that may be talking about where he did so intentionally!? **A:** It is in a Braisa, where he says that if someone trips and a pitcher that he is holding breaks, or his camel then trips over him, and another person is then damaged by that pitcher or that camel, **R’ Meir** says he is chayuv.

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- **Rabbah bar bar Chana in the name of R' Yochanan** said, if an expert shochet made a passul shechita he is chayuv to pay for the damage, even if he is an utmost expert.
  - **Q:** How could **R' Yochanan** have said that? We find that **Rabbah bar bar Chana** said that when a shochet made a passul shechita **R' Yochanan** told him to bring proof that he was an expert and he would then hold him to be patur!? **A:** In this incident he was shechting for free, whereas in the statement he was referring to a shochet who was getting paid. We see that **R' Zeira** makes this distinction as well.
  - **Q:** A Braisa says that if a shochet makes a passul shechita he is chayuv because he is “like” a paid worker. This suggests that although he is truly not getting paid he would still be chayuv!? **A:** Change the Braisa to read that he is chayuv *because he is paid*.
- It once happened that a shochet shechted a questionable shechita, and **Rav** said it was passul (following the view of the **Rabanan**), but said that the shochet does not have to pay (following the view of **R' Yose bar R' Yehuda** that that shechita was valid). **R' Kahana** and **R' Assi** met the owner of the animal and told him “**Rav** did two things to you”.
  - **Q:** What is meant when they said **Rav** did 2 things? It can't be that they were telling him that they felt that **Rav** wronged him by saying it was not valid and by saying that the shochet does not have to pay, because one may not tell a person that they feel they were wronged by a dayan!? **A:** Rather, it must be that they told him, **Rav** did 2 *good* things for you – he did not allow you to eat meat that was possibly not mutar, and he didn't let you take money from the shochet, thereby preventing you from possible taking money that does not belong to you.
- We have learned, if a person shows a coin to a moneychanger, and was advised that the coins were good coins, and it turns out that they were bad coins, one Braisa says if he was an expert he would be patur and if he was not he would be chayuv, and another Braisa says that in either case he would be chayuv. **R' Pappa** explained that the Braisa that said that the expert is patur is referring to people who are the absolute experts in their field.
  - **Q:** If they were such experts, how did they make a mistake? **A:** The case was that a brand new coin was minted and the old was disqualified immediately before they were presented with the question, and even they didn't yet have the time to study this.
  - A woman once brought a dinar to **R' Chiya**, who advised her that it was good currency. She later came back to him and told him that no one would accept it, because it is not good currency. **R' Chiya** told **Rav** to change the coin for this woman to a good coin (from **R' Chiya's** own coins).
    - **Q:** **R' Chiya** was an utmost expert, so why did he have to pay for the bad advice? **A:** In fact, he didn't have to pay. He did so to act even more than was required of him by law.