



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bava Kamma Daf Kuf Hey

CHUTZ MIPACHOS SHAVEH PERUTAH B'KEREN...

- **R' Pappa** said, when the Mishna says that less than a perutah of value need not be returned, that is when the stolen item is no longer in existence. However, if it is, it must still be returned and the victim must be chased down to return the item to him. The reason is, we are concerned that the value of the item will increase to a perutah, in which case it would then be required to be returned, and if it wasn't, the Asham that was previously brought (which must be brought after the return obligation has been fulfilled) is retroactively passul. **Others** say that **R' Pappa** said, that even if the stolen item is still in existence, if it is worth less than a perutah it need not be returned, because we are not concerned that the price will increase to a perutah or more.
 - **Rava** said, if one stole three bundles that were worth a total of 3 perutos, and their value depreciated to a total of 2 perutos, if the ganav then returned two bundles, he still must return the third bundle as well (even though it is worth less than a perutah now, he must return it because it was worth a perutah at the time it was stolen). We can see this from a Mishna as well. The Mishna says, if one stole chametz and Pesach then passes (making it worthless), if he has the chametz he may simply return it. This suggests that if he no longer has the chametz he would have to pay the value of the chametz as it was at the time he stole it, even though now it is worthless. The same would be in the case of the bundles.
 - **Rava** asked, what if he stole 2 bundles that were together worth a perutah and he returned one of them to the victim? Do we say that there is nothing of value left in his hand from what was stolen (and he therefore need not return it), or do we say that he did not return the items that he stole (he gave back less than a perutah, and that is not called a "return" of a stolen item)? **Rava** then said, there is no stolen item here, and there is no returned item here.
 - **Q:** If there is no stolen item, by definition that means there was a return!? **A:** He means, that although there is not a perutah of stolen items left, he has also not fulfilled the mitzvah of returning the stolen items, because he never returned items worth a perutah.
 - **Rava** said, if a nazir who was obligated to shave his head, left two hairs unshaved, he has not fulfilled the shaving requirement. **Rava** asked, what if he shaves one of the two remaining hairs?
 - **Q: R' Acha MiDifti** said to **Ravina**, how is that different than a nazir who shaves off one hair at a time? Surely he will have fulfilled his obligation to shave his head!? **A: Ravina** said, **Rava** was asking where one of the two hairs fell out, and he then shaved the last remaining hair. Do we say that there is no hair left, so the obligation is fulfilled, or do we say that since there were two hairs to shave, and he only shaved it when there were less than 2 hairs, he has not done an act of "shaving" and has therefore not fulfilled his obligation?
 - **Rava** answered, there is no hair here, and there is no shaving here.
 - **Q:** If there is no hair, that means a shaving was done!? **A: Rava** meant, although there is no hair on his head, he did not fulfil the mitzvah of shaving his head.
 - **Rava** said, a Mishna says, if a barrel was put in a hole that separated a lower and an upper floor, that barrel will prevent tumah from spreading from one floor to the next. If the barrel gets a hole (making the barrel tamei), tumah will pass through to the other floor. If the hole gets sealed with sediment from the barrel,

tumah will no longer pass through. **Rava** asked, what if the opening between floors was large enough for tumah to pass though (a tefach), and a person then sealed half the opening (leaving an opening that would not have been large enough for tumah transfer initially)?

- **Q: R' Yeimar** asked **R' Ashi**, the Mishna itself says that if the hole was stuffed with vines, it does not prevent tumah from passing unless one fills the spaces around the vines with clay. We see that filling half the hole is insufficient! **A:** It could be that clay must be added there only because that is the only way to make sure the vines won't move. However, if one plugged half the opening with something that would stay put, maybe it would be sufficient.
- **Rava** said, the Mishna taught, if one stole chametz and Pesach then passes, the ganav may simply return the worthless chametz after Pesach and has fulfilled his return obligation. **Rava** asked, what if the ganav swore falsely about having stolen that chametz? Do we say that since if it gets stolen from him now he would have to pay the original value, and therefore he has sworn falsely regarding a monetary obligation, or do we say that right now it is worthless, and therefore he did not?
 - We find that **Rabbah** wasn't unsure about this question, because he said, in a case where one had another's ox, and claimed that he didn't steal it, but rather had it as some form of shomer, if he swore falsely to that, he would be chayuv an Asham (because he swore in a way that would make him patur, depending on the type of shomer he claimed to be) and he would have to pay. Even though right now he can simply return the ox, since if the ox was taken from him he would have to pay, he is said to have sworn falsely on a monetary obligation. The same would be for the ganav who stole the chametz.
 - **Rabbah** repeated this halacha, that the ganav who swore that he was a shomer must bring an Asham, because he tried to make himself patur in certain circumstances. **R' Amram** asked, a Braisa learns from the pasuk of "v'kicheish bah", that if a ganav swore that he received the stolen item as a shomer, he would *not* have to bring an Asham! **Rabbah** answered, this Braisa is discussing where the ganav immediately gives the animal back to the owner. I was talking about a case where the animal was in a swamp, not ready to be returned.
- A Braisa says, **Ben Azzai** said, there are 3 cases of a person losing an item and asking witnesses to give information regarding the lost item, and they swear that they don't have information: 1) where they swore that they had no information, but in fact had seen the lost animal, but did not know who it was that they saw had found it; 2) they saw someone (who they knew) find an animal, but did not know whose animal it was; 3) they did recognize the lost animal and the person who found it.
 - **Q:** In what halachic way did **Ben Azzai** want to make us aware that these 3 circumstances exist? **A: R' Ami in the name of R' Chanina** said, he meant to teach that the witnesses in all these cases would be patur from bringing a korbon for swearing falsely regarding not knowing testimony that could help somebody. **Shmuel** said, he meant to teach that they would be chayuv in all these cases.
 - They argue as the Tanna'im in a Braisa, which says, if one makes a single witness swear that he doesn't know testimony, the witness is patur if he swore false. **R' Elazar the son of R' Shimon** says he is chayuv. The machlokes is, that **R' Elazar the son of R' Shimon** holds that something that can cause a benefit of money is considered to be money itself, whereas the **T"K** holds that it is not.
- **R' Sheishes** said, a shomer who denies having the item given to him becomes a gazlan at the time of the denial, and becomes chayuv even for an oneis. We can see this from a Braisa as well. The Braisa says, we learn from a pasuk that one who denies a deposited item becomes chayuv to return it, and would therefore be chayuv for ay oneis that may happen to it. We see this happens after a simple denial.
 - **Q:** The Braisa may be referring to a case where he swore falsely, and only there is there such treatment!? **A:** The later part of the Braisa discusses a person who swore falsely, so this earlier part must be discussing someone who did not.

- The Gemara says, it may be that both parts of the Braisa are discussing where he swore falsely. The first case is discussing where witnesses testified that he swore falsely, in which case he becomes chayuv for the item even if an oneis happens, and the second case is discussing where he admitted to his guilt, in which case he is chayuv for principle, an additional fifth, and for a Korbon Asham. Understood in this way, the Braisa cannot be cited as support for **R' Sheishes**.
- **Q: Rami bar Chama** asked, a Mishna says, if a defendant is in a situation where he should swear and not have to pay, but he is one who has previously sworn falsely, even if he swore falsely regarding testimony, or a deposit as a shomer, the plaintiff swears in his place and collects based on his swearing. Now, according to **R' Sheishes**, even without having sworn falsely, if a person simply denied having an item as a shomer he should become passul, without having sworn falsely!? **A:** The Mishna is talking about where the item given to him to watch was in a swamp at the time that it was being asked for, and he denied having it to try and give himself some time to fetch it and return it. That is why it was not considered a true denial.
- **Q: Ilfa** has said that an oath is koneh, which presumably means that he would then be responsible even for an oneis. We see that this only happens when he swears, and not just from a denial!? **A:** Here too, the case is that the item is in a swamp. **A2:** We can say that "an oath is koneh" is meant like **R' Huna said in the name of Rav** has said, that if someone denies having money of a second person and swears to that effect, and witnesses then come and say that he does have the money, he is patur from paying. This is based on the pasuk that says that once a plaintiff has accepted the defendant's oath, the defendant no longer has to pay. This is what is meant that upon oath he is koneh. However, he may agree with **R' Sheishes** that even from the time of denial, the shomer is already chayuv for even an oneis that happens to the item.