



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

Bava Kamma Daf Kuf Tes

MISHNA

- If an owner asked a shomer chinam "where is my deposit" and the shomer says it was lost, and the owner then demands an oath, and the shomer accepts the taking of the oath, and witnesses then testify that the shomer consumed the item, he must pay the principle value. If the shomer admitted on his own, he must pay for principle, a fifth, and bring an Asham.
- If an owner asked a shomer chinam "where is my deposit" and the shomer says it was stolen, and the owner then demands an oath, and the shomer accepts the taking of the oath, and witnesses then testify that the shomer consumed the item, he must pay keifel. If the shomer admitted on his own, he must pay for principle, a fifth, and bring an Asham.
- If someone steals from his father and swears falsely that he did not steal, and the father then died, and the son then admitted his guilt, he must pay the principle and the fifth to the father's other sons or (if there are no other sons) his brothers. If he does not want to give away his part of the principle that he stole, or if he does not have the money to do so, he may borrow money and then return principle to the other sons or brothers, and the creditors can then collect from them.
- If a father makes a neder, saying to his son "you may not benefit from what is mine", and the father then died, the son may inherit his father (it is no longer the father's). If he said he may not benefit during his lifetime or after his death, he may not inherit his father and must instead give his portion to his brothers or his father's brothers. If he does not have money for food, he may borrow money and then return the portion to the other sons or brothers, and the creditors can then collect from them.

GEMARA

- **R' Yosef** said, if there are no other heirs, the son who stole from his father must give the money to tzedaka. **R' Pappa** said, when he does so he must say "this is the property stolen from my father".
- **Q:** Why does he have to give the money away? Why can't he forgive himself for his portion of the debt that he owes the estate? The previous Mishna said that one can forgive the principle amount and absolve the obligation to return it!? **A: R' Yochanan** said, the previous Mishna follows **R' Yose Haglili**, and our Mishna follows **R' Akiva**. A Braisa says, if one stole from a ger and swore falsely to him, and he then heard that the ger died, making him think that he has to return the money to the Kohen, and he then meets the ger (for he hadn't died) who converts the stolen money into a loan, and the ger then died, **R' Yose Haglili** says the ganav is koneh the loan. **R' Akiva** says he must remove the stolen property from his possession. It must be that **R' Yose** holds that a person may be mochel stolen property for himself or for others, and **R' Akiva** says that a person may not be mochel for himself or for others. In truth, **R' Yose** could have had the case where the ger didn't convert it into a loan. The reason that case was given was to show the extent of **R' Akiva**, that even in that case, he must rid the money from his possession.
 - **Q: R' Sheishes** asked, if it is so that **R' Yose** holds that way even if it had not been converted to a loan, then the Mishna should have taught the halacha of **R' Yose** in a case where one is mochel for himself, and we would then know that he certainly says so when one is mochel for someone else. Also, when teaching the halacha of **R' Akiva**, the Mishna should have taught a case where one is mochel someone else, and we would know that a person can certainly not be mochel himself!? From the fact that the first Mishna teaches that a person can be mochel the robbery of another, and the second Mishna teaches that one cannot be mochel it for himself, this suggests that both Mishnayos are one Tanna, who makes a difference between one who is mochel for

others and one who is mochel himself!? **A: R' Sheishes** said, both Mishnayos follow **R' Yose Haglili**, and he says that one can only be mochel for other people, not for himself. The reason he can be mochel for himself in the case with the ger is only because it was first converted into a debt.

- **Rava** said both Mishnayos follow **R' Akiva**, and he says one can only not be mochel for himself, but he could be mochel for other people.
 - **Q:** That would mean that **R' Yose** holds a person can even be mochel for himself. If so, what would be the case when the pasuk teaches that items stolen from a ger who then died must be given to a Kohen? Why can't the person just be mochel for himself? **A: Rava** said, the case is where he stole from a ger and swore falsely to him, and the ger then died, and the ganav then admitted his guilt after the ger died. In that case, at the time of his admission, Hashem is koneh the property and gives it to the Kohanim.
- **Q: Ravina** asked, what is the halacha for someone who stole from a giyores who then died without heirs? The pasuk that says the stolen property should be given to the Kohanim says "ish". Is that meant to exclude women, or is it simply the normal way for a pasuk to be written in the masculine, and was not meant to exclude women? **A: R' Aharon** said to **Ravina**, a Braisa says it even applies to a female giyores, and the word "ish" teaches that if the ger is an adult we must search to see if he has any heirs, but if he is a katan, we can assume that he has no heirs (because he can't have children).
- A Braisa says, we learn from pesukim that the stolen property of the ger that died without heirs is given to the Kohanim of the mishmar of that week.
- A Braisa says, if a Kohen stole from a ger who then died without heirs, and he admits his guilt during the week of his own mishmar, how do we know that he can't just keep it? After all, he should keep it based on a kal v'chomer – if he is koneh from others, he should surely be koneh from his own! **R' Nossan** said the kal v'chomer is as follows – if something that a Kohen of the mishmar has no share in before it enters his possession (i.e. the korbos of another Kohen), once it enters his possession another Kohen may not take it from him, then something that he has a share in before it enters his possession (property stolen from a ger with no heirs) should surely not be able to be taken from him by another Kohen! The Braisa says this logic is not sound. Regarding the first category (the korbos of a Kohen) no Kohen had a share in it. Therefore, when it is then given to one Kohen, no other Kohen can take it from him. However, regarding the second category (the stolen items of the ger), every Kohen has a share of it, and therefore, even if one Kohen has possession of it, the others can demand it from him!? Rather, it must be that the ganav who is a Kohen must take the property and divide it among all the Kohanim of the mishmar.
 - **Q:** A pasuk teaches that a Kohen may keep the portions of his own Korbos. If so, just as he can keep the Asham that he brings, he should also be able to keep the stolen property for himself as well!? **A:** We are talking about a Kohen who is tamei, who cannot keep the portions of his Asham.
 - **Q:** If the Kohen is tamei, he would not be entitled to a share of the stolen property, because only the tahor members of the mishmar are entitled to that!? **A:** Rather, we learn from a gezeira shava from an inherited field that was sold and not redeemed, which is split among the Kohanim at Yovel. In that case a Braisa teaches that if a Kohen had bought the land that is destined to be divided among the Kohanim, and he will be entitled to a share of that, he may not simply keep the field. Rather, he must give it to be divided among all the Kohanim of the mishmar of Yom Kippur of Yovel. We learn from there, that regarding stolen property of a ger as well, the Kohen can't keep it for himself. Rather, he must give it to be divided among all the Kohanim of the mishmar.