



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

Bava Kamma Daf Samach Beis

- A Braisa says, if a person lit a pile of grain on fire, and there were keilim inside the pile that got burned along with them, **R' Yehuda** says he must pay for whatever was hidden in the pile. The **Chachomim** say he must only pay for the pile as if it were a full pile of wheat or barley, and we view the place of the keilim as if it was filled with the grain. This is only the case if the person lit the fire in his own property and it went into someone else's property and burned the pile there. However, if he lit the fire in the other person's property, he would have to pay for anything hidden inside the pile as well. **R' Yehuda** would agree that if a person lends a place in his reshus to another person to leave a pile of grain there, and the owner of the grain hid keilim in the pile, and the owner of the property then lit a fire that burned the grain and the keilim, the person would only be chayuv for the grain, and not for the hidden keilim. Also, if he gave him permission to put a pile of wheat there and he instead put a pile of barley, or if he gave him permission to put barley there and he instead put wheat, or even if he was given permission for wheat and he put wheat but put an outer layer of barley, or if he was given permission for barley and put barley there and covered it with an outer layer of wheat, and the owner of the land lit a fire and burned the pile, he would only be chayuv to pay for the value of a pile of barley.
 - **Rava** said, if a person gives a golden dinar to a woman to guard and tells her, "Be careful with this, it is a silver dinar", if she then intentionally damages it she must pay for a golden dinar, because he can tell her that she had no right to purposely damage it. If she was negligent and that caused it to get damaged, she need only pay for a silver dinar, because she can tell him "I only accepted to watch a silver dinar, not to watch a gold dinar" (which would require a higher level of watching).
 - **R' Mordechai** said to **R' Ashi**, you taught this halacha in the name of **Rava**, we learned it from the Braisa (above). Just as there the owner of the field need only pay for barley, because he can say that is all I accepted upon myself to watch, so too here the woman need only pay for a silver dinar for the same reason.
- **Rav** said, I heard something regarding the shitah of **R' Yehuda**, but I don't remember what it was. **Shmuel** told him, you heard that according to **R' Yehuda** who says one is chayuv when his fire burns hidden items, the **Rabanan** instituted the takanah that they instituted for the victim of theft. Just as there the victim may swear as to what was stolen, so too here, the owner of the hidden items may swear as to what was hidden and damaged.
 - **Q: Ameimar** asked, did they also extend this takanah to one who was damaged through a "moiser" (an informer)? According to the view that one is not chayuv when his act was one of "garmi" (an indirect cause), a moiser would be patur. The question is according to the view that garmi is chayuv, would we allow the victim to swear regarding what was damaged? **TEIKU**.
 - A person once kicked the money storage box of another into the river. The owner of the box claimed to have had certain items in the box. **R' Ashi** contemplated whether the owner may swear and get paid based on that oath. **Ravina** said to **R' Acha the son of Rava**, this seems to be answered by our Mishna, which says that the **Rabanan** agree that one would be chayuv for anything in a house that he burned down, because it is normal for people to store things in their house! **R' Acha** said, if the owner was claiming that he had money in the box, he would be able to swear and collect. However, the person was claiming to have had jewels in the box. The question is whether it is considered to be normal to store jewels in this type of box. **TEIKU**.
 - **R' Yeimar** asked **R' Ashi**, what is the halacha if the owner of the house that was set on fire claims to have had a silver cup in the house? Can he swear and collect? **R' Ashi** said,

we make a determination – if he is wealthy and can afford that type of cup, or if he is trustworthy and therefore other people may have given him such a cup to watch, he may swear and collect. If not, he may not swear and collect.

- **R' Adda the son of R' Avya** asked **R' Ashi**, what is the difference between a “gazlan” and a “chamsan”? He said, a chamsan gives money for the item and a gazlan does not. He asked, if he gave money, how can he be called a chamsan? **R' Huna** has said, if someone is pressured to sell and gives in to the pressure, it is considered to be a valid sale!? **R' Ashi** said, **R' Huna** is referring to when the person gives in to the pressure and says he is willing to sell, whereas a chamsan is where the person never agrees to sell.

MISHNA

- If a spark flew out from under the hammer of the blacksmith and damaged another's property, he is chayuv.
- If a camel was carrying flax in the reshus harabim, and its flax went into a store and caught fire from a candle in the store and then burned a house down, the owner of the camel is chayuv. However, if the storekeeper had kept his flame outside the store, it would be the storekeeper who would be chayuv. **R' Yehuda** says, if the candles left outside the store were “ner Chanukah”, the storeowner would be patur.

GEMARA

- **Ravina** said in the name of **Rava**, from **R' Yehuda** we can learn that ner Chanuka must be lit within 10 tefachim to the ground, because if not, the storekeeper should not be patur, because he should have put the ner Chanuka higher than any camel with its rider!
 - The Gemara says, this is no proof. It may be that it can even be put up high. The reason why he is patur even when he left it low and available for damage is because since it is done for a mitzvah, the **Rabanan** did not want to bother him to have to light it up high, since that may lead him to not do the mitzvah at all.
 - **R' Kahana** said, **R' Nosson bar Menyumei** darshened in the name of **R' Tanchum**, if ner Chanuka is lit above 20 amos, it is passul, just like the case of a succah or a mavuy that is higher than 20 amos.

HADRAN ALACH PEREK HAKONEIS!!!

PEREK MERUBAH -- PEREK SHEVI'I

MISHNA

- The halacha of keifel is more inclusive than the rule of “daled v'hey”, because keifel applies to a living item and to an inanimate object, whereas “daled v'hey” only applies to stolen sheep and oxen, as is stated clearly in the pasuk.
- If a ganav steals from another ganav the item that he had stolen from somebody else, the second ganav does not pay keifel to the first ganav. Similarly, if the second ganav stole from the first ganav a sheep or ox that he had stolen from someone else, and the second ganav then sells or shechts the animal, he would not be subject to “daled v'hey” payment.

GEMARA

- The Mishna doesn't say that keifel is also more inclusive in that it applies to a ganav and to a shomer who claimed that a ganav stole the watched item from him, and where it was found that he lied and that the item was never stolen from him (in which case he must pay keifel to the owner), whereas such a person would not pay “daled v'hey”. This seems to support **R' Chiya bar Abba** who says in the name of **R' Yochanan**, that such a shomer *would* pay “daled v'hey” if he made the claim about a sheep or ox, and then sold or shechted the animal.
 - Others say that the Gemara asks, shall we say that the Mishna supports **R' Chiya bar Abba in the name of R' Yochanan**? The Gemara says, this is no proof, because the Mishna is just giving one example, and is not meant to be an exhaustive list.

SHEMIDAS TASHLUMEI KEIFEL NOHEGES...

- **Q:** How do we know that keifel applies to all items? **A:** A Braisa says, the pasuk regarding keifel says “ahl kol dvar pasha”, which is a klal, “ahl shor ahl chamor ahl seh ahl salma” is a prat, “ahl

kol aveidah" is another klal. We have a klal, prat, uklal, which teaches to include items like the prat. Just as the prat are moveable items and have intrinsic value, so too all items that are moveable and have intrinsic value are subject to keifel payment. This excludes land, which is not moveable, it excludes servants, which are compared in the pasuk to land, and excludes documents, which have no intrinsic value. The pasuk also says that keifel is paid "l'rei'eihu", which therefore also excludes hekdesch from being paid keifel.

- **Q:** We should say that just like an ox, donkey, and sheep are animals whose carcasses give off tumah by touching and by carrying, so too only such living beings should be included, which would exclude birds from the klal? **A:** If that was true, the pasuk should have only given one example of a prat. The extra prat therefore teaches that even birds are included as well.
- **Q:** None of the pratim are extra, because each could not be learned from the other!? If it would only have said an ox, we would say that only things that can go on the Mizbe'ach are included, and if it would only say a donkey we would say that only animals whose firstborns have kedusha are included. Therefore, both are needed and cannot come to include birds, so how do we know to include even birds as well!? **A:** The prat of "seh" is extra, and comes to include birds as well.
 - **Q:** Maybe it only comes to include kosher birds, that give off tumah when swallowed, and in giving off some tumah are more similar to a sheep, but non-kosher birds are not included? **A:** The word "kol" in the pasuk is an inclusionary word, and teaches to include all items in the halacha of keifel, which therefore includes non-kosher birds as well.