



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

### Bava Kamma Daf Ayin Gimmel

- **Q:** Our Mishna said, if witnesses testify that someone stole an ox and then testify that he shechted the animal, and these witnesses are then found to be zomemim, they must pay for the full daled v'hey. Presumably the case is where they first testified that he stole, and at a later time testified that he shechted it, and they were then found to be zomemim regarding the theft and later found zomemim regarding the shechting. Now, according to what **Abaye** said earlier, that when witnesses become zomemim they become passul retroactively to the time of their testimony, that would mean that when they are found zomemim on the testimony of the theft, it means they were passul from the moment of their testimony. This means further, that their testimony regarding the shechita was never valid testimony, which means they can't become zomemim regarding that testimony. If so, why do they have to pay daled v'hey!? **A:** The case is where they were first found to be zomemim regarding the testimony on the shechita.
  - **Q:** Still, when they are then found to be zomemim on the theft, we determine that they were passul from their testimony on the theft, and therefore still become passul from the time of that testimony!? **A:** The case of the Mishna is where they testified regarding the theft and the shechita at the same time.
- **Q:** Maybe we can say that the machlokes between **Abaye** (zomemim become passul retroactively from the time of their testimony) and **Rava** (zomemim become passul from the time they are found to be zomemim) is actually a machlokes among Tanna'im. A Braisa says, if witnesses testify to a theft, and they then testify to a subsequent shechita, and are then found to be zomemim regarding the theft, this falls into the rule that testimony that becomes batul in part becomes fully batul. If they became zomemim on the shechita (but not on the theft), the ganav pays keifel and the zomemim pay the difference to daled v'hey. **R' Yose** said, that is only if there are 2 sets of witnesses (one on the theft and one on the shechita). However, if there is only one set (who testify on the theft and the shechita), this would fall into the rule that testimony that becomes batul in part becomes fully batul. Now, **R' Yose** can't be understood as his words are read simply, because why would it be that if there is a single set of witnesses, and they become zomemim on the shechita, they would automatically become batul for the testimony on the theft as well? Rather, we must say that when **R' Yose** says "2 sets" he is referring to one set who first testified on the theft and later testified on the shechita, and when he says "one set" he is referring to where they testified on the theft and the shechita at the same time. Presumably, all hold that testimony said "toch kidei dibur" is considered to be one testimony. The machlokes between **R' Yose** and the **Rabanan** would therefore seem to be that the **Rabanan** hold that zomemim become passul only from the time that they are made zomemim. Therefore, when the testimony for the theft and the shechita are given together, since they only become passul later, the testimony regarding the part that they did not become zomemim on remains valid, whereas **R' Yose** holds that they become passul retroactively, and therefore, since the testimony was all said together, the entire testimony becomes batul. This would be the same machlokes as the one between **Abaye** and **Rava**! **A:** The Gemara says, it could be that all agree that zomemim become passul retroactively. The machlokes between the **Rabanan** and **R' Yose** is whether toch kidei dibur renders the entire testimony as one. The **Rabanan** hold it is not rendered as one, and therefore he only becomes passul for the testimony of the shechita, and not of the theft, and **R' Yose** holds it is one testimony, and the entire thing therefore becomes batul.
  - **Q:** We see from a Mishna in Nedarim that **R' Yose** holds that two statements made toch kidei dibur are not considered to be one statement!? **A:** **R' Yose** holds of a shorter time for toch kidei dibur ("shalom alecha"), and not of a longer time period (the time it takes

to say “shalom alecha rebbi umori”). The Mishna in Nedarim is discussing the longer time period, and the Braisa is discussing the shorter time period.

- **Rava** said, if witnesses testified that a person murdered, and the witnesses were first contradicted and then found to be zomemim, the witnesses would be put to death (like regular zomemim), because contradiction is considered to be the beginning stages of zomemim. **Rava** said, I can prove this from a Braisa. The Braisa says, if witnesses testified that a master blinded the eye of his slave (which would set him free) and then knocked out his tooth (which would make the master chayuv to pay for the tooth), which would be beneficial for the master, and the witnesses were found to be zomemim, they must pay the value of the eye to the slave. Now, if they are the only set of witnesses, why would they pay the value of the eye to the slave? They set him free!? Also, they should have to pay the value of the slave to the master, for they tried to free the slave from the master’s control!? Also, how would this have been beneficial to the master!? Rather, we must say that first witnesses came and said that the master knocked out the slave’s tooth and then blinded his eye, which would require the master to pay for the eye. A second set of witnesses then came and said first the eye was blinded and then the tooth was knocked out, in which case the master need only pay for the tooth, which is why this testimony is more beneficial to the owner. Now, the first set contradict the second set. If the second is then found to be zomemim, they must pay the value of the eye to the slave (because they tried to take that away from him and give him only the value of a tooth). We see from here that although they were contradicted, they can still become zomemim.
  - **Abaye** said, this is no proof. The case could be where there were only 2 sets of witnesses, and the second set contradicted *and* made the first set into zomemim. It may be that only in that case do they become zomemim, but if they were contradicted by another set, they could no longer become zomemim for that testimony. In fact, the case must be talking about where there are only two sets, because the next part of the Braisa talks about only 2 sets of witnesses.