



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

Bava Metzia Daf Vuv

- **Q: R' Zeira** asked, if one of the parties grabbed the talis away from the other party in front of Beis Din (after they had come in both holding it together), what is the halacha?
 - **Q:** What is the case? If he remained quiet, it shows that he admits that it is not his. If he started yelling, what else should he have done? **A:** The case is that at first he was quiet and then began yelling. Do we say that since he was first quiet it shows that he admits that it is not his, or do we say that since he then started yelling, it shows that when he was at first quiet, it was because he figured that Beis Din saw what happened so there was no reason to protest.
 - **A: R' Nachman** said, a Braisa on our Mishna says, the Mishna's halacha only applies when they are both holding the talis. However, if only one is holding the talis, we would say "hamotzi meichaveiro alav haraya". Now, this can't be talking about where one person walked into Beis Din holding the talis by himself, because that would be obvious. Rather, the case must be where they were both holding it when they came into Beis Din, and then one grabbed it from the other in front of Beis Din, and was at first quiet and then protested, and we see that Beis Din does not take it away from him.
 - The Gemara says, this is no proof. The Braisa can be talking about where they came to Beis Din both grabbing the talis. Beis Din then told them to go and divide it. They then came back to Beis Din with only one of them holding the talis. The one holding it says the other person admitted to him that it was his talis. The one not holding it says he rented it to the other person, but did not give it to him! Beis Din allows the person holding it to keep it, because they tell the other person, until now you claimed the other person was a gazlan and you now went and rented it to him without witnesses!? We can also say that the Braisa is talking about where they came to Beis Din with one person holding most of the talis and the second person clinging onto it as well. The Braisa is teaching that clinging onto it is not called holding it, and therefore the other person gets to keep the talis.
 - **Q:** If we say that when one person grabs it from the other in Beis Din we take it away from him, then even if he were to make it hekdesch, it wouldn't become hekdesch. However, if we say that if he grabbed it in front of Beis Din we would not take it away from him, what would happen if he verbally made it hekdesch? Do we say that since orally giving something to hekdesch is considered like physically giving something to a regular person, this oral giving to hekdesch is as if he grabbed the entire talis, or do we say that he has not physically grabbed it, and therefore does not have it in his possession and can't make it hekdesch? **A:** There was once a bathhouse that was the subject of a fight. One of the parties went and gave the bathhouse to hekdesch. The **Rabanan** stayed away from that bathhouse. **R' Oshaya** told **Rabbah** to ask **R' Chisda** what the halacha is with this bathhouse. **Rabbah** met **R' Hamnuna** and asked him. He said, a Mishna says regarding a safek bechor, that hamotzi meichaveiro alav haraya, which presumably means that if the Kohen got this safek bechor we could not take it away from him. A Braisa on this Mishna says that the safek bechor is assur to shear and to work with. Now, if the Kohen grabbed it we would not take it away from him, and yet if he doesn't grab it, it remains assur for shearing and working. This would teach that if by grabbing it, it wouldn't be taken away from him, then even without grabbing it, hekdesch would take effect, and therefore, back to the case of the bathhouse, it would be assur as hekdesch. **Rabbah** said, this is not a valid proof. The kedusha of a bechor is different. It may be that if the Kohen grabbed it we *would* take it away from him. Still, it

remains assur to shear and to work, because it is a kedusha that comes automatically, and therefore cannot be compared to the bathhouse which was made hekdesch by a person.

- **R' Chananya** said to **Rabbah**, a Mishna is a proof to you. The Mishna says that sheep used to redeem safek donkey bechors must be included in the animal maaser process. Now, if you say that if the Kohen would grab it he would keep it, it turns out that the owner is giving maaser with an animal of the Kohen!? It must be that the Kohen would not be allowed to keep it.
 - **Abaye** said, this is no proof. It may be that the Kohen would be allowed to keep it. The case in the Mishna is that the owner has only 9 other animals. Therefore, he can join this sheep with the others. If it truly is his, he must give maaser. If it is not his, he only has 9 and does not have to give maaser. So, in either case he has done nothing wrong. **Abaye** then said, what I said is incorrect. We see in a Mishna that an animal that is a safek whether it is subject to maaser is not subject to maaser at all. Therefore, when the Mishna said that it is subject to maaser along with his other animals, it must be teaching that if the Kohen were to grab it, he would not be allowed to keep it.
 - **R' Acha MiDifti** said, the Mishna quoted by **R' Chananya** must be referring to sheep redeemed for a safek donkey bechor, but not an actual safek bechor (the words of the Mishna are inconclusive), because a bechor cannot be counted as maaser, based on a pasuk. Therefore, it must be the sheep that was used to redeem a safek donkey bechor.