



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

Bava Metzia Daf Tzaddik Tes

GEMARA

- **Q:** Why would the borrower be chayuv if the cow was sent to him with the owner's slave? We have learned that "the hand of a servant is like the hand of his master", and therefore the cow should not be considered to be in the borrower's reshus until it leaves the hand of the slave!?
A: **Shmuel** said, the Mishna is discussing a Jewish slave, whose body is not acquired by his master. Therefore, when it is in his hand it is no longer in the owner's reshus. **A2:** **Rav** said the Mishna can even be talking about a non-Jewish slave. This case is like a case where the borrower told the owner "hit the cow with a stick and make it come to me (and I will be koneh as soon as it leaves your property)". In our Mishna as well, the case is that the borrower accepted responsibility from when it leaves the owner's property.
 - **Q:** A Braisa says, if one borrows a cow and the owner sends it to him with the owner's son or shaliach, the borrower becomes chayuv. If he sends it with the owner's slave, the borrower does not yet become chayuv (until he actually receives it). Now, **Shmuel** can explain the difference between this Braisa and our Mishna by saying that our Mishna is talking about a Jewish slave and the Braisa is talking about a non-Jewish slave. How will **Rav** explain the contradiction? **A:** **Rav** will say, do not say that when the owner gives it to his non-Jewish slave "it is as if the borrower said" that he accepts responsibility, rather, the case of the Mishna was where the borrower explicitly said to the owner "send the cow and I will accept responsibility when it leaves your property". That is why he is chayuv. In the Braisa's case he did not say that, and that is why he remains patur.
 - In fact, we find that if someone asks to borrow a cow, and the owner asks "with whom should I send it?", and the borrower says "hit it with a stick and make it come", **R' Nachman in the name of Rabbah bar Avuha in the name of Rav** said, as soon as it leaves the reshus of the owner, the borrower becomes responsible for it.
 - **Q:** Maybe we can say that a Braisa supports **Rav**. The Braisa says, if someone asks to borrow a cow, and the owner asks "with whom should I send it?", and the borrower says "hit it with a stick and make it come", as soon as it leaves the reshus of the owner, the borrower becomes responsible for it. **A:** **R' Ashi** said this is no proof. The Braisa can be talking about where the chatzer of the owner is within the chatzer of the borrower, and therefore, as soon as it leaves the chatzer of the owner it is in the chatzer of the borrower.
 - **Q:** If that is the case, why is it even necessary to be taught by the Braisa? **A:** The case is where there are places in the owner's chatzer for the cow to hide. We would think that the borrower does not rely on receiving the cow when it is simply sent. Therefore, the Braisa teaches that he does rely on receiving it, and therefore becomes responsible.
- **R' Huna** said, if someone borrows an ax, as soon as he chops with it he is koneh it. If he did not chop with it, he is not koneh it.
 - **Q:** With regard to what is he koneh at that point? It can't be in regard to being chayuv for oneis, because why would it be different than a borrowed cow, which we said he becomes chayuv for oneis as soon as it is borrowed? **A:** He means that if the borrower chopped wood with it the owner can no longer renege on the loan, but if he did not yet chop with it, he can still renege.
 - **R' Huna** argues on **R' Ami**, who says that if someone takes an ax of hekdesch and lends it to another person, the lender is oiver for me'ilah and the borrower is allowed to use it. Now, if he is not koneh until he uses it, why is the lender oiver me'ilah right away and

why can the borrower use it? It must be that he argues and says he is koneh immediately at the meshicha.

- **R' Huna** also argues on **R' Elazar**, who says that just as meshicha was instituted for a buyer, it was also instituted for a shomer. A Braisa says this as well, and then adds “just as land is koneh with money, shtar, or chazaka, so too a rental is koneh with money, shtar, or chazaka.”
 - **Q:** What type of rental is the Braisa referring to? It can't be a rental of moveable items, because that can't be koneh with shtar!? **A: R' Chisda** said, it refers to rental of land.
- **Shmuel** said, if someone steals a cake of pressed dates, containing 50 dates, which is normally sold for 49 perutos (to allow the buyer to sell them for one perutah each and thereby make a profit), if he stole it from a private individual, he must pay 49 perutos. If he stole it from hekdesch, he must pay 50 perutos plus an additional fifth. This is different than the case of a damager of hekdesch, who, based on a pasuk, would not pay the additional fifth.
 - **Q: R' Bibi bar Abaye** asked, why can't the individual from whom it was stolen say that he was planning to sell it date by date, and therefore he should get reimbursed 50 perutos!? **A: R' Huna the son of R' Yehoshua** said, we find that we are lenient when reimbursing an individual for damage – for example we don't assess the value of the damaged produce, but rather assess the value of the damaged area when it is viewed as part of the field at large – so we do the same here.
 - **Q:** Are you saying that **Shmuel** holds that an individual is treated differently than hekdesch? There is a Mishna that says that if the “gizbar” took a beam from hekdesch and built it into his house, he is only chayuv for me'ilah after he sits underneath it for a little bit. **R' Avahu in the name of Shmuel** said, from here we can learn that one who lives in another's chatzer without him knowing must still pay him the rental value of the chatzer. We see that **Shmuel** holds that individuals are treated like hekdesch (to the point that he learns the case of individuals from hekdesch)!? **A: Shmuel** retracted from this statement that he made based on the Mishna. This would be based on the statement of **Rabbah**, who says that using hekdesch without the knowledge of hekdesch is considered like with knowledge in the case of an individual. Based on this concept, anything learned from hekdesch could only be learned to a case of an individual *with* knowledge.
- There were transporters who broke a barrel of wine of a storekeeper. This barrel would sell for 5 on a market day, and 4 on another day. **Rava** said, if they pay before the next market day, they can simply give a barrel of wine. If they pay on another day, they must pay the 5, and can't give a barrel of wine (which is only worth 4 on that day).
 - This ruling was only said when the storekeeper had no other wine to sell. However, if he had other wine, he should have sold that other wine. Also, when they pay for the damage, they take off some value for the labor that the storekeeper saved by not having to go and sell the wine, and for the value he would have had to pay for someone to announce that he has wine to sell or for the person to make the hole in the barrel to take the wine from.