



Daf In Review – Weekly Chazarah

Maseches Bava Metzia, Daf א – Daf טז

Daf In Review is being sent l'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H
vl'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

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MISHNA

- A shomer chinam can stipulate that if he makes a claim (e.g. that the item was lost or stolen), he will be believed without having to swear. A sho'el can stipulate that he be patur from having to pay (for what he would normally be chayuv to pay for). A shomer sachar and a socher can stipulate to be believed without swearing (on something that they would have to swear to be patur) and to not have to pay (for something that they would normally be chayuv to pay).
- Anyone who makes a stipulation conflicting with what it says in the Torah, the stipulation is batel. Any condition where the result is stated before the condition is stated, is batel. Any condition which is possible to fulfill at some point, and the condition was stated before the result, the condition takes effect.

GEMARA

- **Q:** Why can a shomer stipulate to be patur? It is making a stipulation that conflicts what is written in the Torah and should therefore be batel!? **A:** The Mishna follows **R' Yehuda**, who holds that such a stipulation takes effect when it is regarding a monetary matter, as we find in a Braisa regarding kiddushin.
 - **Q:** The Mishna can't be said to be following **R' Yehuda**, because the end of the Mishna says that anyone who makes a stipulation conflicting with what it says in the Torah, the stipulation is batel. This follows **R' Meir**!? **A:** The Mishna can be following **R' Yehuda**, and the end of the Mishna is discussing something other than monetary matters.
 - **Q:** The Mishna says, any condition where the result is stated before the condition is stated, is batel. This logic follows **R' Meir**, as stated by **Abba Chalafta of Kfar Chananya in the name of R' Meir**!? **A:** We must say that the entire Mishna follows **R' Meir**, and the reason it works when the shomer makes this stipulation is because he is stipulating that he is actually not a shomer as described by the Torah. This is different than a case of kiddushin, because a person can't stipulate to be married in a way other than expressed by the Torah.
- A Braisa says, a shomer sachar may stipulate to be chayuv like a sho'el.
 - **Q:** One cannot obligate himself with simple words!? **A:** **Shmuel** said, it was done with a kinyan. **R' Yochanan** said it can even be done without a kinyan. With the hana'ah he gets that people will consider him to be very trustworthy, he can obligate himself to a higher level of obligation.

V'CHOL SHE'EFSHAR LO L'KAYMO B'SOFO...

- **R' Tavla in the name of Rav** said, this is the view of **R' Yehuda ben Teima**. However, the **Chachomim** say that even if it is impossible to fulfill the condition, it can take effect. This is seen in a Braisa. The Braisa says, if a man says "here is your get on condition that you go up to the sky" or "that you go down to the depths" or do some other physically impossible feat, since the condition cannot be fulfilled, it is not a valid get. **R' Yehuda ben Teima** says a get "like this" is a get. **R' Yehuda ben Teima** said a general rule, whenever a condition is made that is impossible to satisfy, he is simply trying to torment her, and the get is valid.
 - **R' Nachman in the name of Rav** paskens like **R' Yehuda ben Teima**. **R' Nachman bar Yitzchak** says our Mishna suggests this as well.

HADRAN ALACH PEREK HASOCHER ES HAPO'ALIM!!!

PEREK HASHO'EL ES HAPARAH -- PEREK SHMINI

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MISHNA

- If a person borrows a cow and borrows its owner along with it (to do work), or hired its owner along with it, or if he borrowed the owner or hired him and then borrowed the cow, and the cow then died, the borrower is patur, based on the pasuk of “ihm ba'alav imo lo yishalem”. However, if he borrowed the cow and *then* borrowed the owner or hired him, and the cow died, he would be chayuv, based on the pasuk of “ba'alav ein imo shalem yishalem”.

GEMARA

- **Q:** From the fact that the end of the Mishna says that the halacha differs if the owner was hired *after* the borrowing, it must mean that when the beginning of the Mishna says he was hired “along with it”, it must mean at exactly the same time. How is that possible? He is koneh the cow with meshicha, whereas the owner is hired by verbal agreement before that!? **A:** We can answer that the case is that the cow is in the chatzer of the borrower, so once an agreement is made he is koneh it without meshicha. We can also answer that he told the owner, you are not considered to be hired (or borrowed) until meshicha is done on the cow.
- **Q:** The Mishna in the last perek listed the 4 types of shomrim and their respective halachos. Where do we learn these halachos from? **A:** A Braisa says, the first parsha (group of pesukim) is written regarding a shomer chinam, the second parsha is regarding a shomer sachar, and the third parsha is regarding a sho'el.
 - **Q:** It is obvious that the third parsha speaks regarding a sho'el, because the pasuk says so explicitly. How do we know that the first parsha was said in regard to a shomer chinam and the second in regard to a shomer sachar? Maybe it is the reverse? **A:** The second parsha says there is responsibility for loss or theft, so it is logical to say that it was said regarding a shomer sachar.
 - **Q:** Maybe it makes more sense to say that the first parsha was said regarding a shomer sachar, because it says that he must pay keifel if he claimed it was stolen and had in fact stole the item himself!? **A:** The second parsha is considered to be more stringent, because responsibility for loss and theft without the ability to swear is more stringent than having to pay keifel after having sworn falsely. This can be proven from the fact that a sho'el, who only benefits from the transaction, still does not pay keifel.
 - **Q:** How can it be said that a sho'el only benefits? He has to pay to feed the animal!? **A:** In a case where the animal stands in a swamp, it feeds off the wild, and need not be provided with food.
 - **Q:** He must still guard the animal!? **A:** In a case where there is a city watchman, he need not guard the animal. **A2:** We can also say that a sho'el doesn't have *only* benefit, but has *mostly* benefit, and therefore is treated most stringently. **A3:** We can also answer that we are talking about borrowed keilim, which don't need to be fed, and can be guarded in his home at no cost.
 - **Q:** The Mishna said that a shomer sachar and socher swear regarding an animal that broke a limb, that was captured, or that died, but must pay for loss or theft. We know they pay for theft, because the pasuk explicitly says so. How do we know that they pay for loss as well? **A:** A Braisa says, the pasuk could have said “v'ihm ganov”, but instead says “v'ihm ganov yiganeiv”, which teaches to include the case of loss.
 - **Q:** That makes sense according to the view that the Torah does not speak like people do, and therefore a double verbiage is meant for a drasha. However, according to the view that a double verbiage is not to be darshened, how do we know that they must pay for loss as well? **A:** In EY they said a kal v'chomer – if they must pay for theft, which is closer to being an oneis, then they must surely pay for loss, which is closer to being negligence.
 - The view that learns this from the drasha agrees that a kal v'chomer could be made, but says that at times the Torah more explicitly writes something that could have been learned from a kal v'chomer.
 - **Q:** The Mishna said that a sho'el must pay for everything. We know that he must pay if the item breaks or dies, because that is explicitly written in the pasuk. How do we know that he must pay if the animal is captured? It can't be learned from the case of breaking or dying, because those are anticipated types of

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onsim, whereas capture is not!? **A:** We learn from shomer sachar. By shomer sachar it says broken or death and captured is then included along with them, so by sho'el when it says broken or death it means to include captured as well.

- **Q:** We can ask that these were written regarding a shomer sachar to make him patur, so maybe we can't learn from there to a sho'el, where we are making him chayuv!? **A:** We learn it from **R' Nossan**, who says in a Braisa that the word "oy" written in the pasuk of sho'el comes to include the case of capture.
 - **Q:** This word "oy" is needed to separate between broken and death, to teach that either of them makes him chayuv, and not only if both happen!? Now, according to **R' Yonason**, the word "oy" is not needed to separate, because he holds that without specifically connecting two words, we know they are considered separate, so it is available for the drasha of **R' Nossan**. However, according to **R' Yoshiya**, the word "oy" is needed to separate the two, and is therefore not available for another drasha!? **A:** In this case even **R' Yoshiya** would agree that we don't need the "oy" to separate them. Breaking of the animal is considered to be a partial death. Therefore, we would know that there is an obligation for it alone. There would be no reason to say that he is only chayuv for a full death, but not for a partial death. Therefore, the word "oy" is extra and available for a drasha.

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- **Q:** How do we know that a sho'el is chayuv to pay when the item is stolen or lost? We can't say that we learn it from a broken animal or one that dies, because those are different in that they can't be brought back to the state in which they were, but a lost or stolen animal could! **A:** A Braisa says, we learn that a borrower is chayuv to pay for a stolen or lost item from a kal v'chomer from shomer Sachar – if a shomer Sachar, which is patur if the item breaks or dies, is chayuv if it is stolen, then a borrower, which is chayuv if the item breaks or dies, will surely be chayuv if it is lost or stolen. This is a kal v'chomer that has no refutation.
 - **Q:** What possible refutation would you think there could be? **A:** You would think to say that a shomer sachar is more stringent in that he pays keifel if he falsely claims that it was stolen by armed robbers. However, this is not a refutation, because the fact that a borrower must always pay the principle is more stringent than the possibility of sometimes paying keifel. Or we can say that an armed robber is considered to be a gazlan, and therefore there is actually no keifel associated with it.
 - **Q:** How do we know that a sho'el is patur for loss or theft if the owner of the borrowed item is working for him at the time of the borrowing? It can't be learned from the case of the animal that breaks or dies, because those are a case of oneis, and theft and loss are not! **A:** We learn it from a shomer sachar (just like he is patur for theft or loss if the owner was working for him, a sho'el would be patur as well).
 - **Q:** How do we know that a shomer sachar is patur if the owner is working for him? **A:** We learn it from sho'el. Just as a sho'el is patur from what he is normally chayuv (breaking or death) if the owner was working for him, so too a shomer sachar is patur from what he is normally chayuv (loss or theft) if the owner was working for him at the time.
 - **Q:** What type of derivation is this? If it is a "mah matzinu", we can ask that the case of breaking and death is a case of oneis whereas theft and loss are not, and therefore it cannot be learned from them!? **A:** Rather, it is learned as follows. The parsha of sho'el follows the parsha of shomer sachar, and the parsha of sho'el begins with a "vuv" ("v'chi yishal"). This "vuv" connects the parshiyos and we then learn shomer sachar from sho'el.
 - **Q:** How can we learn sho'el from shomer sachar? Maybe he is patur from loss and theft when the owner is with him because he is also patur for breaking and death. However, a sho'el, who is chayuv for breaking and death maybe is also chayuv for loss and theft even when the owner was working for him!? **A:** Rather, we must say as follows. We said above that we learn that a sho'el is

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chayuv for loss and theft based on a kal v'chomer from shomer sachar. We say “dayo” that just as the shomer sachar is only chayuv when the owner was not working for him, the same is true for a sho’el.

- **Q:** That makes sense according to the view that we say “dayo”. However, according to the view that we do not, how will we learn that a sho’el is patur for loss or theft when the owner is working for him? **A:** Rather, it is learned as follows. The parsha of sho’el follows the parsha of shomer sachar, and the parsha of sho’el begins with a “vuv” (“v’chi yishal”). This “vuv” connects the parshiyos and we then learn sho’el from shomer sachar.
- We have learned, whether a shomer becomes patur for negligence if the owner is working for him is actually a machlokes between **R’ Acha and Ravina** – one says he would be chayuv and the other says he would be patur.
 - The one who says he is chayuv holds that the parsha of sho’el can be used to teach to the immediately preceding parsha (of shomer sachar), but not to the parsha preceding that one (of shomer chinam), and since the concept of negligence is only written in the parsha of shomer chinam, the concept of being patur because the owner is working for him does not apply to negligence. The one who holds he is patur holds that the parsha of sho’el can even be used to teach to two parshiyos earlier (of shomer chinam) and therefore the concept of being patur when the owner works for him applies to negligence as well.
 - **Q:** Our Mishna discusses the exemption of when the owner works for the shomer, but only discusses the sho’el, not a shomer chinam. This refutes the second view!? **A:** The Mishna doesn’t mention shomer sachar, and yet we know that this exemption applies to shomer sachar as well. We must therefore say that the Tanna only mentioned the shomer with regard to which the halacha was mentioned explicitly. That is why it only mentioned sho’el.
 - **Q:** A Braisa says that a sho’el is patur if the owner was working for him and that a renter is patur if the owner was working for him. Now, they thought that the Braisa follows **R’ Yehuda**, who says that a renter is treated like a a shomer sachar. Based on that, this Braisa is listing even shomrim that are learned from a drasha, and still it does not list a shomer chinam, which would seem to refute the second view of the machlokes!? **A:** We can say that the Braisa follows the view of **R’ Meir**, who holds that a renter is like a shomer chinam, and by mentioning a shomer chinam the Braisa means to certainly include a shomer sachar as well. **A2:** We can also say that the Braisa follows **R’ Yehuda** if we follow **Rabbah bar Avuha’s** version of the machlokes, where **R’ Yehuda** holds that a renter has the status of a shomer chinam.
- **R’ Hamnuna** said, a borrower remains chayuv unless he borrows an item for a purpose, and the owner works for the shomer for that same purpose (e.g. he borrowed a cow for plowing and the owner helps with the plowing, or he hires a donkey to transport items and the owner helps the donkey along), and the owner works for him from the time of the borrowing until the time of the breaking or death.
 - We see that he holds that the pasuk’s exemption of “ba’alav imo” applies to the entire borrowing process.
 - **Q: Rava** asked, the Braisa mentioned above says that if the owner was borrowed or rented along with the animal, even if the owner did work somewhere else (away from the animal) the borrower or renter is patur if the animal breaks or dies. We see that even when the owner is not doing the same work as the animal the shomer is patur!? **A:** The Braisa means that they are working on the same job – for example, the owner is up ahead softening the ground and the cow then follows him, dragging the plow.
 - **Q:** The next part of the Braisa says, if the owner was borrowed or rented after the animal, then even if they were working together, the shomer remains chayuv. By stressing in this case that they were working on the same job, it must mean that in the first case when it says that the owner was working “somewhere else” it must mean that he was working on a different job!? **A:** Both cases are where he was working on the same job. The first case is teaching that even if they are not physically close together, since they are working on the same job the shomer is patur. The second case teaches that even though they are physically together, since the owner was hired after the animal was borrowed or rented, the shomer is chayuv.

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- **Q:** There is no reason to think that there is more of a reason for the shomer to be patur just because the owner and the animal are working physically close to each other!? Therefore, it must be that the difference between the cases is that the first case is where the owner is doing a different job altogether. Therefore, **R' Hamnuna** can't be right that they owner and animal have to be working on the same job. **Q2:** With regard to **R' Hamnuna's** other halacha (that the owner must be working for the shomer from the time of the borrowing until the time of the breaking or death), a Braisa says the pasuk says that if the owner is working for the shomer the shomer is patur. Why does the pasuk then have to say that if the owner is not working for him he is chayuv? This teaches that the owner has to be working for him at the time of the borrowing, but need not be working for him at the time of the breaking or death. This refutes **R' Hamnuna!**? **Q3:** Another Braisa says, the pasuk says that if the owner is not working for the shomer the shomer is chayuv, so why does the pasuk have to also say that if he is working for him he is patur? It is teaching that as long as the owner is working for the shomer at the moment of the borrowing, the shomer will be patur. This again refutes **R' Hamnuna!**? **TEYUFTA of R' Hamnuna.**
- **Abaye** holds like **R' Yoshiya** (that a “vuv” does not mean “or”) and therefore explains the pesukim according to **R' Yoshiya**, and **Rava** holds like **R' Yonason** (that a “vuv” can mean “and” or “or”) and therefore explains the pesukim according to him.
 - **Abaye** said, the pasuk says “ba'alav ein imo shalem yishalem”, which suggests that he must pay only when the owner did not work with him at the time of the borrowing or the time of the damage. However, if he was working for him at either of those times he would be patur. However, the other pasuk says “ihm ba'alav imo lo yishalem”, which suggests that if the owner worked for him at both periods of time he would be patur, but if he only worked for him at one of those periods he would be chayuv. The way to understand this seeming contradiction is that if the owner worked for him at the time of the borrowing, he is patur even if he wasn't working for him at the time of the damage. However, if he didn't work for him at the time of the borrowing, only at the time of the damage, he would be chayuv.
 - **Rava** said, the pasuk of “ihm ba'alav imo lo yishalem” suggests that if he is working for him at both time periods, *and* even if he is only working for him at only one of those two times, he will be patur. The other pasuk of “ba'alav ein imo shalem yishalem” suggests that he is chayuv if the owner did not work for him at both of the two periods, and even if he only worked for him at one of the two time periods. To answer these contradictory understandings we must say that if the owner worked for him at the time of the borrowing, he is patur even if he wasn't working for him at the time of the damage. However, if he didn't work for him at the time of the borrowing, only at the time of the damage, he would be chayuv.
 - **Q:** Maybe we should reverse our understanding and say that if he is working for him at the time of the damage he is patur, but working for him at the time of the borrowing does not make him patur? **A:** It is more logical to say that the time of borrowing is more essential, because that is when he accepts responsibility for the animal.
 - **Q:** It would seem to be more logical that the time of the damage is more essential, because that is when he actually becomes chayuv for the oneis!? **A:** If not for the time of borrowing, which is when he accepts responsibility, he would not have become chayuv for any damage altogether.
 - **Q:** We can also say that if not for the damage, the act of borrowing would not have made him chayuv in anything!? **A:** Still, the time of borrowing is more important with regard to making him patur, because it is at that time that he becomes chayuv to provide food for the animal.
 - **R' Ashi** said, we learn that the time of borrowing is the essential time based on the pasuk. The pasuk says “v'chi yishal ish mei'ihm rei'eihu” (if a person borrows from his friend), but does not borrow his friend along with it, then “shalem yishalem”. Now, this pasuk is talking about the

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time of borrowing, and we see that that is the determinant time for when the owner must be working for him to make the shomer patur.

- **Q:** Based on this, what are the other pesukim cited previously needed for? **A:** If not for those other pesukim we would say the “mei’ihm rei’eihu” is just a figure of speech used by the pasuk, and is not meant to be darshened.

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- **Q: Rami bar Chama** asked, if someone borrowed an animal to be mezaneh with it, is he treated like a regular borrower and chayuv even for oneis, or not? Do we say that this is not a normal case of borrowing and he therefore is not treated like a normal borrower, or do we say that since he is getting hana’ah from the animal it is considered to be a case of borrowing? **Q2:** What if he borrowed an animal so that he appears as a wealthy person? Do we say that he borrowed something of value, and therefore he is treated as any other borrower, or do we say that he does not get any major level of hana’ah from the animal and he is therefore not considered to be a borrower? **Q3:** What if he borrowed an animal to do work less than the value of a perutah? Do we say that he borrowed something of value, and therefore he is treated as any other borrower, or do we say that since the benefit was less than a perutah it is considered as if nothing at all was borrowed? **Q4:** What if he borrowed two cows to do one perutah value of work? Do we look at the borrower and the lender and there was a loan of a full perutah, or do we look at the cows, and each cow is doing less than a perutah, and it is therefore as if nothing at all was borrowed?
- **Q:** If a person borrowed an animal from partners, and borrowed one of the partners along with the animal, what is the halacha? In order to be patur do we need *all* the owners to be working for the shomer or do we say that he at least becomes patur from the working owner’s share of the animal? **Q2:** What if partners borrowed an animal and the owner was working for one of the two partners? Do we say that to be patur the owner must be working for all who borrowed the animal, or do we say that at least the partner for whom the owner was working becomes patur on his share? **Q3:** What if a person borrowed an animal from a woman’s nichsei melug and borrowed her husband along with the animal, or if a woman borrowed a cow and its owner was working for her husband? Do we say that the husband’s ownership of the produce is considered to be ownership of the property or not?
 - **Q: Ravina** asked **R’ Ashi**, what if a lender tells a shaliach “go and be borrowed in my place along with my cow”? Do we say that the actual owner must be working for the borrower, and therefore this borrower will be chayuv, or do we say that a shaliach is treated like the principle himself and therefore it is as if the owner is working for the borrower? **A: R’ Acha the son of R’ Avya** said to **R’ Ashi**, the case of the husband with the nichsei melog would be subject to a machlokes between **R’ Yochanan and Reish Lakish**, and the case of the shaliach is subject to a machlokes between **R’ Yonanson and R’ Yoshiya**.
 - The machlokes between **R’ Yochanan and Reish Lakish** is as follows. We have learned, if one sells the rights to the produce of his field (but not the actual field) to another, **R’ Yochanan** says the purchaser brings bikkurim and even reads the parsha, because the rights to produce is equal to having the rights to the actual field. **Reish Lakish** says that he would bring bikkurim but would not read the parsha, because rights to the produce are not equal to rights in the actual field.
 - The machlokes between **R’ Yonanson and R’ Yoshiya** is as follows. A Braisa says, if a person sets up an administrator over his affairs for when he travels, and instructs the administrator to be meifer the nedarim that his wife makes while he is away, **R’ Yoshiya** says that he cannot be meifer because the pasuk says “her husband shall confirm and her husband shall be meifer” – teaching that no one can take the place of the husband. **R’ Yonanson** said, we find all over the Torah that a person can set a shaliach to take his place, and this should be no different.
 - **Q: R’ Illish** asked **Rava**, what would be the halacha if someone tells his non-Jewish slave, “go and be borrowed in my place along with my cow”? Even according to the view that a shaliach is like the person himself, maybe that is only true when the shaliach is someone who is chayuv in mitzvos. On the other hand, even according to the view that a shaliach is not like the person

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himself for these purposes, maybe a slave would be, because “the hand of a slave is like the hand of his master”. **A: Rava** said, it is logical to say that “the hand of a slave is like the hand of his master”.

- **Q: Rami bar Chama** asked, is a husband with regard to his wife’s nichsei melug considered to be a borrower or a renter?
 - **Q: Rava** asked, what difference does it make? In either case the owner (the wife) is “working” for the husband and therefore whether he is a borrower or a renter he will be patur!? **A:** The case in which it would make a difference would be where he rented a cow from a woman and then married her. Is he considered to be a borrower or a renter? Do we say he is a borrower, and this new act of borrowing removes the act of renting, and this act of borrowing was done while the owner was working for him, and therefore he would be patur, or do we say that he remains a renter, which is an extension of the earlier renting, and he therefore would remain chayuv (because that renting was entered into without the owner working for the renter).
 - **Q:** The Gemara asks, the same way you say the later act of borrowing would remove the earlier act of renting, we can also say that the later act of renting while the owner is working for him can remove the earlier act of renting where the owner was not working for him!? **A:** Rather, **Rami bar Chama’s** question was in the following case. A single woman rented a cow and then got married. Now, according to the **Rabanan**, who say that one who borrows from a renter would be chayuv to pay the renter if the animal were to die, it is clear that the husband would not have to pay this to his wife, because she is “working” for him at the time that he would be said to have borrowed the animal. The question is according to **R’ Yose**, who says that when one borrows from a renter and the animal dies, he must pay the owner of the animal. Do we say that the husband is considered to be a borrower and therefore would be chayuv to pay the owner for an oneis, or do we say he is considered to be a renter, in which case he would be patur from an oneis?
 - **A:** Based on this understanding of the question, **Rava** said, the husband is not considered to be a borrower or a renter. Rather, he is considered to be a purchaser, as was explained by **R’ Yose the son of R’ Chanina**.
- **Q: Rami bar Chama** asked, if a married woman inherits property which includes coins of hekdesh, in which case her husband gets automatic rights to the inherited property, and they do not realize that these coins are coins of hekdesh, who is considered to be oiver me’ilah (for the transfer of hekdesh to chullin)? **A: Rava** said, we can’t say that the husband is oiver, because he only wants to be koneh things that are mutar, not things that are assur. We also can’t say that the wife is oiver, because she doesn’t want him to be koneh anything at all. We also can’t say that it is Beis Din who is oiver (it is they who said the husband is treated like a purchaser of the wife’s nichsei melug), because they only make this takanah for mutar things, not for assur things. Rather, we must say that the husband is oiver when he goes and uses the coins of hekdesh.
- **Q:** What if the animal became weak from the work of the borrower? Would he be chayuv for that? **A: R’ Chilkiya the son of R’ Avya** said to the one who asked the question, it would seem that if the animal actually died from the work you would hold the borrower to be chayuv. Why can’t the borrower say, “I did not borrow the animal to sit in a pen!”? Rather, **Rava** said, it is clear that if the animal only became weaker, the borrower would be patur. Moreover, even if the animal actually died from doing the work that it was borrowed to do, the borrower would also be patur, because he can say to the owner, “I did not borrow the animal to sit in a pen!”
 - There was a person who borrowed an ax, which broke as it was being used for the intended use of the borrowing. **Rava** told the borrower, bring witnesses that you did not change from the intended use, and you will be patur.

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- **Q:** If he would not have witnesses, what would he have to pay? **A:** We can answer from the following story that took place. There was a person who borrowed an ax, which broke due to negligence. **Rav** told him that he must pay for a good ax. **R' Kahana and R' Assi** said to **Rav**, is that really the halacha? **Rav** remained quiet.
 - The Gemara paskens like **R' Kahana and R' Assi**, that the borrower gives the broken pieces of the ax back to the owner and pays the difference in the value (from the way it was).
- There was a person who borrowed a bucket, which broke as it was being used for the intended use of the borrowing. **R' Pappa** told him, bring witnesses that you did not change from the intended use, and you will be patur.

-----Daf תצ--97-----

- There was a person who borrowed a cat to scare away the mice. The mice ganged up on the cat and killed it. **R' Ashi** asked, what is the halacha in this case? Is it as if it died in the course of the work it was borrowed to do (and the borrower would be patur) or not? **R' Mordechai** told him, **Avimi of Hagraunya in the name of Rava** said, if a man was killed by women there is no recourse, meaning that one need not expect something that is totally unexpected, and therefore the borrower would be patur in this case.
 - **Others** said that the case was that the cat ate too many mice and died from overeating. **R' Ashi** asked, what is the halacha in this case? Is it as if it died in the course of the work it was borrowed to do (and the borrower would be patur) or not? **R' Mordechai** told him, **Avimi of Hagraunya in the name of Rava** said, if a man died from being mezeveh too many times, there is no recourse, meaning that one need not expect something that is totally unexpected, and therefore the borrower would be patur in this case.
- **Rava** said, if one wants to borrow something and be patur if anything happens to it, he should ask the owner to bring him a drink of water as he is borrowing the item. If the owner is smart, he will tell the borrower “first borrow, and then I will give you a drink”.
- **Rava** said, a teacher of children, one who plants vineyards and takes a share, a butcher, a blood letter, and a city barber (all these people are city employees and are therefore considered to be working for all the people of the city), if they are working when they lend an item, it is considered to be lent while the owner is working for the borrower.
 - The **Rabanan** told **Rava**, “Rebbi (meaning **Rava**) is considered lent to us as at all times, because of the Torah you teach us, and therefore we would be patur for anything that you lent to us”. **Rava** was upset at hearing that and asked, “are you trying to take away all of my money!?” **Rava** said, “in fact, you talmidim are considered to be working for me, not me for you, because I can decide to teach whatever I want, whereas you cannot dictate to me what to teach”.
 - The Gemara says, in truth, **Rava** is considered to be working for them on the “yoma d’kallah” (before Yom Tov when he must teach them regarding the Yom Tov, and can’t change the topic), and they are considered to be working for him the rest of the year.
- **Mareimar bar Chanina** rented a mule to the people of Chuzai, and he went with them to load the animal. The renters were negligent and the animal died. **Rava** said they were chayuv to pay. The **Rabanan** said to **Rava**, the owner was working for the renters at the time of the rental (he was helping them load) so they should be patur!? **Rava** was embarrassed. At the end it was discovered that he had only gone to watch the loading, not to help, and therefore was not considered to be working for them, and **Rava’s** psak was therefore correct.
 - **Q:** According to the view that one is even patur for negligence if the owner was working for him, we can understand why **Rava** was embarrassed. However, according to the view that for negligence he is always chayuv, why did **Rava** get embarrassed? **A:** The case was that the mule was stolen, not through negligence. **Rava** said they should be chayuv, and the **Rabanan** asked that he should be patur, because the owner was working for them. That is why **Rava** was embarrassed. At the end it was discovered that

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he had only gone to watch the loading, not to help, and therefore was not considered to be working for them, and **Rava's** psak was therefore correct.

MISHNA

- If one borrows a cow, with the arrangement that it should be a loan for half the day and a rental for half the day, or that it should be a loan for today and a rental for tomorrow, or he borrowed one cow and rented a second one, and the cow died, and the lender says it was the borrowed cow that died, or it was on the day of borrowing or the time of borrowing that the cow died, and the borrower says “I do not know”, he is chayuv.
 - If the renter said that it was the rented animal that died, or it was during the rental day or the rental time that it died, and the lender says “I do not know”, he is patur.
 - If the owner said it was the borrowed cow that died and the borrower said it was the rented cow, the renter swears that it was the rented cow that died, and he is then patur.
 - If both of them say they do not know which one died, they divide the amount in question.

GEMARA

- **Q:** It seems that we can learn from here, that if someone tells a second person “You owe me a maneh” and the second person says “I do not know”, he would be chayuv. This would refute **R' Nachman**, who says that in that case that he would be patur, for we learned that regarding that case **R' Huna and R' Yehuda** say he is chayuv and **R' Nachman and R' Yochanan** say he is patur!? **A:** We can answer as **R' Nachman** said elsewhere, that the case is that there was a claim that required the second person to swear, and because he cannot swear (because he truly does not know) he must pay.
 - **Q:** What would be the case of a claim requiring an oath to be taken, which therefore results in the party unable to make the oath being required to pay? **A:** It is like **Rava** said, that if someone said to another person “you owe me 100” and the other person responds “I owe you 50, and don't know about the other 50”, since the second person can't swear that he doesn't owe him the other 50, he must pay.
 - Based on this, we would explain the beginning of our Mishna as dealing with a case of 2 cows and the end of the Mishna as dealing with a case of 3 cows, as follows. The owner says he gave two cows – to be used half the day as a loan and half the day as a rental, or one day as a loan and the next day as a rental, and both cows died. The owner claims that both died during the time of borrowing. The borrower responds that one did die during the time of borrowing, but I don't know during which period the other cow died. Since he can't swear regarding the second cow, he must pay. The last case of the Mishna is where the owner says he gave 3 cows – 2 as a loan and one as a rental, and two of the cows died. The owner says the 2 borrowed cows died. The borrower says that one of the borrowed cows died, and with regard to the other cow, “I don't know if it was the borrowed or the rented”. Since he can't swear regarding the second cow, he must pay.

-----Daf טז-----98-----

- The Gemara just explained how our Mishna's cases conform with **Rava's** example. The Gemara explained that the earlier cases of the Mishna involve 2 cows and the later case involves 3 cows.
 - The Gemara says, according to **Rami bar Chama**, who taught a Braisa that says, in order for the 4 shomrim to become chayuv to make an oath, they must deny part of the claim and admit to part of the claim, we will have to explain the cases of our Mishna as dealing with 3 cows in the first two cases, and 4 cows in the last case, as follows. The owner says he gave three cows – to be used half the day as a loan and half the day as a rental, or one day as a loan and the next day as a rental, and says that all three cows died. The owner claims that they all died during the time of borrowing. The borrower denies the entire claim with regard to one cow. With regard to the other two he responds that one did die during the time for borrowing, but I don't know during which period the other cow died. Since he can't swear regarding the second cow, he must pay. The last case of the Mishna is where the owner says he gave 4

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cows – 3 as a loan and one as a rental, and three of the cows died. The owner says the 3 borrowed cows died. The borrower denies the entire claim with regard to one of the cows. With regard to the others he says that one of the borrowed cows died, and with regard to the other cow he says, “I don’t know if it was the borrowed or the rented”. Since he can’t swear regarding the second cow, he must pay.

ZEH OMER SHE’ULAH V’ZEH OMER SECHURAH...

- **Q:** Why does he swear in this case? He is not admitting to anything that was claimed against him, and what he admits was never claimed!? **A: Ulla** said, he is made to swear through a gilgul shavuah. The owner demands that the shomer swear that the animal died naturally. Once he has to swear for that, he can also be made to swear that it was the rented cow that died.

ZEH OMER EINI YODEYA V’ZEH OMER...

- This follows **Sumchos**, who says that when there is doubt regarding ownership of money, it is divided (the **Rabanan** argue and say “hamotzi meichaveio alav haraya”).
- **Q: R’ Abba bar Mamal** asked, if someone borrowed an animal while the owner was working for him, and before giving the animal back he rented it from the owner, but at that time the owner was not working for him, what is the halacha? Do we say that the rental is the start of something new and therefore has no connection to the borrowing, or do we say that since borrowing and renting are both chayuv for loss and theft, the renting is considered a continuation of the borrowing? **Q2:** If you say that the renting is a continuation of the borrowing, what would be the halacha if he first rented the cow while the owner was working for him, and before returning it he borrowed it from the owner? Will he still be patur as one who borrows with the owner working for him? Do we say that since the borrowing makes him chayuv in more things than he was chayuv under the rental, it cannot connect to the rental, or do we say that since in some aspects they are the same (certain of the responsibilities continue) it is a continuation of the rental period? **Q3:** If you say that in this last case the borrowing is not considered a continuation of the renting, what would be the halacha if one borrowed an animal while the owner was working for him, and before giving the animal back he rented it from the owner, but at that time the owner was not working for him, and then before returning the animal from the rental, he went ahead and borrowed it from him again? Do we say it is like part of the original borrowing, or do we say that the rental period separates the two? **Q4:** What would be the halacha if he first rented the cow while the owner was working for him, and before returning it he borrowed it from the owner, and then before returning it from the borrowing period he rented it again? Do we say that it is like part of the original rental, or do we say that the borrowing period separates the two? **A:** The Gemara says **TEIKU**.

MISHNA

- If one borrowed a cow and the owner sent it to him with his son or his slave or his shaliach, or with the son, slave, or shaliach of the borrower, and the cow died on its own in transit, the borrower is patur. However, if the borrower told the owner to send it with his son, slave, or shaliach, or with the son, slave, or shaliach of the owner, or if the owner told the borrower that he will be sending it with one of these people, and the borrower says “send it”, and he sends it and it dies on the way, the borrower would be chayuv.
- The same law applies when the borrower returns the cow to the owner as well (if he sends it back with someone else, he remains chayuv until it reaches the owner, unless the owner asked that it be returned by sending with those people, or at least agreed that it should be sent with them).

-----Daf טז-----99-----

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

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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

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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.

-----Daf 100-----

MISHNA

- If a person trades a cow for the donkey of another person, and at some point the cow gave birth, or if one sold his maidservant to another and she gave birth, and the seller (of the cow or the maidservant) says it gave birth before the transaction took place, and the buyer says it happened after the transaction took place, they divide the value of the calf or the child.
- If a person had two slaves – a large one and a small one, or he had two fields – a large one and a small one, and he sold one of them, and the buyer says he bought the large one, but the seller says he doesn’t know which one was sold, the buyer gets the large one. If the seller says he sold the small one and the buyer says he does not know which one was bought, the buyer only gets the small one. If the buyer says it was the large one and the seller says it was the small one, the seller should swear that he only sold the small one and the buyer then only gets the small one. If they both say that they don’t know what was sold, they divide the value.

GEMARA

- **Q:** Why do they divide the value in the Mishna’s first case? Why don’t we see in whose reshut the birth took place and then make the other person be a “motzi meichaveiro alav haraya”? **A:** **R’ Chiya bar Avin in the name of Shmuel** said, the case is where the cow or the maidservant were in a place that belonged to neither party.
 - **Q:** Why don’t we say that there is a chazaka that the cow or maidservant is owned by the seller, and therefore the buyer should be a motzi meichaveiro alav haraya? **A:** The Mishna follows **Sumchos**, who holds that money that sits in doubt is divided without the need for anyone to swear.
 - **Q:** **Sumchos** only says that when both parties are uncertain about their claims, but in the Mishna both parties are making their claims with certainty!? **A:** **Rabbah bar R’ Huna** said, **Sumchos** said his halacha even when both parties claim with certainty. **A2:** **Rava** said that **Sumchos** only says his halacha when the claims are uncertain. However, we must read our Mishna to say that each party claimed that “maybe” the birth took place before or after the transaction.

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- **Q:** Our Mishna's last case is where both parties say that they do not know what happened, and the Mishna says that the parties divide the value. Now, according to **Rava** this can make sense, since the end of the Mishna is talking about a case of claims of uncertainty, the first case can be talking about that also. However, according to **Rabbah bar R' Huna**, since the first case says they divide in a case of claims of certainty, then they would surely divide in a case of claims of uncertainty, so why do we need the last case at all!? **A:** If not for the last case we would think that the first case is a case of uncertain claims, and that is why we say they divide the value. By having the last case, it teaches that the first case must be one of certain claims, and still we say that they divide the value.
- **Q:** Our Mishna said, if the buyer says he bought the large (slave or field) and the seller says he sold the small one, the seller swears that he sold the smaller one and that is what the buyer gets. Now, according to **Rava** who says that **Sumchos** only said his halacha by claims of uncertainty, that is why in this case (of claims of certainty) the seller must swear. However, according to **Rabbah bar R' Huna**, that **Sumchos** even said so in cases of claims of certainty, why must the seller swear in this case? The halacha should simply be that the value is divided!? **A:** **Sumchos** would agree that in a case where one of the parties must swear D'Oraisa (like in the case where there is a partial admission), we don't simply divide the value, as the Gemara will say later.

HAYU LO BEIS AVADIM ECHAD GADOL V'ECHAD KATAN...

- **Q:** Why must the seller swear? What was claimed by the buyer was not admitted to by the seller, and what was admitted to by the seller was not claimed by the buyer!? Also, this is a case of "heilech" (the slave is present, ready to be given), and therefore is not considered to be part of the claim, and there is therefore no partial admission!? Also, this is case of slaves, and we don't impose oaths in cases of slaves!? **A:** **Rav** said, the case is where the claim is for money, not the actual slave. **Shmuel** said the case is that the buyer claims he bought the clothing of a large slave or the produce from a large field, whereas the seller says it was the clothing of a small slave, or the produce of a small field.
 - **Q:** According to **Shmuel**, why would he have to swear? What was claimed by the buyer was not admitted to by the seller, and what was admitted to by the seller was not claimed by the buyer!? **A:** The case is where the argument is over a garment made of a bunch of smaller pieces of material. Therefore, admitting to having sold a smaller one is considered to be a partial admission.
 - **Q:** **R' Hoshaya** asked, the Mishna says the argument was about a slave, not about clothing!? **A:** **R' Hoshaya** therefore says, the case is where the buyer claims that he bought the large slave with his clothing, and the seller says he sold the small slave with his clothing. The admission to the smaller amount of clothing is what gives it the status of a partial admission.
 - **Q:** Why would he have to swear? What was claimed by the buyer was not admitted to by the seller, and what was admitted to by the seller was not claimed by the buyer!? **A:** **R' Pappa** said, the case is where the argument is over a garment made of a bunch of smaller pieces of material. Therefore, admitting to having sold a smaller one is considered to be a partial admission.
 - **Q:** **R' Sheishes** asked, is **R' Hoshaya** saying that the Mishna is teaching us the concept that once he has to swear regarding the clothing we can also make him swear regarding the slave as well? That is something that is taught explicitly in another Mishna!? **A:** **R' Sheishes** said, the Tanna of the Mishna is **R' Meir**, who says that slaves are treated like moveable property (as opposed to land) and therefore one does swear regarding them.
 - **Q:** We still have the question that what was claimed by the buyer was not admitted to by the seller, and what was admitted to by the seller was not claimed by the buyer!? **A:** The Mishna holds like **R' Gamliel**, who holds that in such a case one *does* swear.
 - **Q:** We still have the question that this is a case of "heilech" (the slave is present, ready to be given), and therefore is not considered to be part of the claim, and there is therefore no partial admission!? **A:** **Rava** said, the case is that after the transaction, the seller cut off the hand of the slave he admits to selling, or dug ditches in the land he

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admits to selling, and therefore it is not “ready to be given” and is not heilech, and therefore one does swear regarding them.

- **Q:** A Mishna says, if a ganav stole an animal and it aged, or he stole a slave and it aged, he pays the value it had at the time of the stealing. **R’ Meir** says, with regard to slaves he can just return the slave as is. We see that **R’ Meir** holds that a slave is compared to land, and just as land cannot be halachically stolen, the same is true for slaves!? **A:** We will follow **Rabbah bar Avuha’s** version of that Mishna in which **R’ Meir** is the first view and the **Rabanan** are the second view.
- **Q:** Why would we assume that **R’ Meir** would hold that just as one swears regarding slaves he also swears regarding land? Maybe he holds that we only swear regarding a slave, but not regarding land!? **A:** That cannot be, because a Braisa says, if a person exchanges his cow for a donkey and the cow gave birth, or he sold a maidservant and she gave birth, and one party says it happened when he owned the asset, whereas the other party remained quiet, the one who makes the claim gets the baby. If they both say that they do not know when the baby was born, they divide the value. If they both claim with certainty that it happened during their ownership, the seller swears and keeps the baby, because **R’ Meir** says that any case of swearing is always where the one who swears does not have to then pay. The **Chachomim** say that we do not swear regarding slaves or land. Now, this suggests that **R’ Meir** holds we would swear regarding land!
 - This is no proof. It may be that the **Rabanan** are saying to **R’ Meir** – just as you agree that one does not swear regarding land, you should likewise agree with us that one does not swear regarding slaves either.
- **Q:** A Mishna clearly shows that **R’ Meir** would say that we do not swear regarding land. The Mishna says that **R’ Meir** says, if one gives a partial monetary admission of guilt on grapes still on the vine he must swear, for although one does not swear when the asset is real estate, he would swear on the grapes. The **Chachomim** say that he does not swear, because it is considered to be real estate. **R’ Yose the son of R’ Chanina** explained, that the machlokes is regarding grapes that ready to be cut off the vine. In that case **R’ Meir** says they are considered as if they are already cut off. Clearly, regarding unripe fruit, and certainly regarding land itself, he would say that we do not swear!? This refutes the explanation of **R’ Sheishes**!? **A:** We must explain the Mishna like **R’ Hoshaya** said. Although we asked that the Mishna is not needed to teach the halacha that the concept that once he has to swear regarding the clothing we can also make him swear regarding the slave as well, because that is already taught in another Mishna, our Mishna is still necessary. We would think that the clothing is considered part of the slave and the bundles of produce are considered part of the field, and therefore cannot be considered as something to be sworn about on their own. The Mishna therefore teaches that they are separate and distinct items, that require their own oath, and thereby also require an oath of the slave and the land as well.

ZEH OMER EINI YODEYA V’ZEH OMER EINI YODEYA YACHLOKU

- **Q:** This part of the Braisa seems to follow **Sumchos**, who says that money that lies in doubt is divided. However, the last case of the Braisa says that if both parties make claims with certainty, the seller swears and then keeps the baby. Now, according to **Rabbah bar R’ Huna** who says that **Sumchos** said his halacha even when there are claims of certainty, why does the seller swear? They should simply divide in this case as well!? **A:** **Sumchos** would agree that if there is a D’Oraisa oath that needs to be taken, the value is not divided. Further, we will say that the seller cut off the slave’s hand, so that it is also not a case of “heilech”.

MISHNA

- If someone sold his olive trees for their wood, and the trees (before they were chopped down) produced less than a revi’is of oil per se’ah, they belong to the owner of the trees. However, if they produced a revi’is per

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se'ah, and the owner of the trees says his trees produced these fruits and the owner of the land says it was his land that produced it, they divide the olives.

- If a river swept away one's olive trees and put them into someone else's field (and they grew olives there), and the owner of the tree says it was his trees that produced the olives and the owner of the land says it was his land that produced the olives, they divide the olives.

GEMARA

- **Q:** What is the case? If the seller of the trees instructed the buyer to cut them down immediately, then even if it produces less than a revi'is it should belong to the owner of the land!? If he had told him to cut it down whenever he wanted to, then even if it produced a revi'is it should belong to the buyer of the trees!? **A:** The case is where he gave no instruction. Therefore, if it is less than a revi'is, since people are not particular about such a small amount, it goes to the buyer of the trees. If it is more than a revi'is, since people are particular about such a large amount, it must be divided.
 - **Reish Lakish** said, when the Mishna says a revi'is, it means after taking into account the expense of picking and pressing the olives.