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

Bechoros Daf Mem Ches

MISHNA

- If one's wife had never given birth and then gave birth to twin boys (and he doesn't know which was born first), the father must give 5 sela'im to the Kohen. If one of the babies died within 30 days, the father is patur from giving the 5 sela'im. If the father died, but the sons are still alive – **R' Meir** says, if they gave 5 sela'im from the estate before they divided the estate it is considered properly given, but if they did not give it before they divided the estate they are patur from doing so after. **R' Yehuda** says the estate has become chayuv.
    - If the wife had given birth to twins – a boy and a girl, the Kohen gets nothing at all.

GEMARA

- **Q:** In the case of the Mishna that the father died – when did he die? It can't be that he died after the boys were 30 days old, because in that case his estate has become chayuv to pay the 5 sela'im and therefore **R' Meir** would say that it must be given to the Kohen even after the estate was divided!? If the father died within 30 days of their birth, then even if the estate was not divided, if the Kohen goes to collect from one of the sons he can push him to his brother, and the other can do the same, so why would they be chayuv to pay!? **A: R' Yirmiya** said, the case is where the father died within the 30 days, and this Mishna teaches that if there are two people in a city with the same name and a loan document against one of them is produced (in which case it can't be used to collect from either, because each one can say it is not him, but the other, who owes the money) and these two people then buy a field in partnership, the borrower can collect from that field. He can tell each of the partners – if you are the one who owes me the money, I am taking from your share of the field, and if it is the other partner, I am taking from his share. That is why in our Mishna the Kohen can collect from the estate while it is still owned by both of them in partnership.
    - **Q: Rava** asked, the property of a person acts as the guarantor (the "arev") for that person (which is why one may collect from a field). If one may not collect from the debtor himself he may not collect from the arev! If so, how can it be that the Kohen, who can't collect from either brother, may still collect from their possessions!? **A:** Rather, **Rava** said, the case of the Mishna is where the father died after the boys were 30 days old (and his estate is therefore obligated to pay the 5 sela'im). Now, if the estate was a "large estate" (in this case, at least 10 sela'im) all would agree that the Kohen would collect 5 sela'im from the estate even after it was divided. The case in the Mishna is where there is only 5 sela'im in the estate (with each brother getting 2.5 sela'im). All agree with **R' Assi** that when brothers divide an estate they are viewed as being half heirs and half purchasers of the estate (a machlokes elsewhere whether we say "breira" and each brother gets his inherited share of the estate, or we don't say "breira" and each is viewed as having traded for the share from his brother in exchange for what the brother ends up getting), and therefore each boy only has 1.25 sela'im that are viewed as having been inherited. Everyone also holds that a loan written in the Torah (an obligation, like the obligation to give the Kohen 5 sela'im) is not considered as if it is a debt written in a loan document. Everyone also agrees with **R' Pappa** who says that an oral loan may only be collected from heirs, and not from purchasers (which means that only the 1.25 sela'im of each brother is subject to collection by the Kohen). The machlokes in the Mishna is whether the Torah allows the Kohen to collect less than the full 5 sela'im (in this case he can only collect a total of 2.5 sela'im). **R' Meir** says he may not, and therefore he collects nothing, and **R' Yehuda** says he does, and therefore he collects the 2.5 sela'im.

        - **Q:** If this is correct, the Mishna should not say that **R' Yehuda** argues and holds that "the estate has become chayuv", but should rather say that "the boy is chayuv"!? Also, a Braisa seems to say that **R' Yehuda** would agree that a Kohen may not collect if there is less than the full amount of 5 sela'im available for collection!? **A:** Rather, all agree that a Kohen may not collect less than the full 5 sela'im. The machlokes in the Mishna is either regarding the halacha of **R' Assi** or regarding the halacha of **R' Pappa**.
    - **Others** say that this above discussion was originated on the later part of the Mishna, where **R' Yehdua** said that the estate is chayuv to pay even if the estate was already divided. The Gemara asks, if the father died after the boys were 30 days old, why would **R' Meir** say the estate is patur – it became obligated at the 30 days!? Rather, it must be that the father died within the 30 days. If so, when it was divided already why would **R' Yehuda** say it is chayuv? Each boy can push off the Kohen to his brother!? **R' Yirmiya** said, we see from here that if there are two people with the same name in a city and there is a loan document against one of them, and one of these people bought a field from the other, the creditor can then go and collect from that purchased field, because he can tell the owner – if you are the one who owes the money, I am collecting from you, and if it is the other one who owes the money, this field became mortgaged to me before it was sold to you. The same can be said in our Mishna, because each brother is considered to have purchased his share of the estate from his brother. **Rava** asked, the property is only an areiv…and the discussion then continues as it did above.

MISHNA

- If a man had two wives and each gave birth to a firstborn son (but they became mixed up) he must give 10 sela'im to the Kohen. If one of them died within 30 days (and he had already given the money), if he had given all 10 to one Kohen, the Kohen must return 5 sela'im. If he had given 5 to one Kohen and 5 to another, he cannot demand return from either of them.
    - If one wife gave birth to a boy and the other gave birth to a girl, or if they gave birth to a total of 2 boys and one girl, he gives 5 sela'im to the Kohen.
    - If they gave birth to a total of 2 girls and one boy, or 2 boys and 2 girls, the Kohen does not get anything at all.
- If a man had 2 wives – one that had previously had a child and one that had not – and they each give birth to a boy (and the babies become mixed up), he must give 5 sela'im to the Kohen. If one of the babies died within 30 days, the father is patur. If the father died and the sons are alive, **R' Meir** says, if they gave the Kohen 5 sela'im before diving the estate, it was rightfully given to the Kohen. If not, they are patur. **R' Yehuda** says the estate became chayuv to give 5 sela'im to the Kohen.
    - If they gave birth to a boy and girl (total between the two of them), the Kohen does not get anything at all.
- If there are two wives of two different men and neither have ever given birth and they each have a boy (and they become mixed up), each father must give 5 sela'im to the Kohen. If one of the babies died within 30 days, if they had both given their 5 sela'im to the same Kohen, this Kohen must return 5 sela'im to them. If they had each given to a different Kohen, they cannot demand return of the money from either Kohen.
    - If one woman had a boy and one had a girl, both fathers are patur from giving anything to the Kohen, and the boy is chayuv to redeem himself.
    - If they gave birth to two girls and one boy in total, or to two girls and two boys, the Kohen gets nothing at all.
- If there are 2 wives of different men, one of the women having already given birth previously and one having never given birth, and they each give birth to a boy (and the babies become mixed up), the husband of the woman who had never yet given birth must give 5 sela'im to the Kohen. If the woman gave birth to a boy and a girl in total, the Kohen gets nothing at all.

GEMARA

- **Q:** In the Mishna's first case, why is it that when they gave it to two different Kohanim each Kohen can refuse to return the money, but when they gave it to one Kohen he must return the money? In this case as well the Kohen should be able to tell each father – you are not the one

that deserves the return of the money (and since they can't prove it, he should not have to return it)!? **A: Shmuel** said, the case is where one gave power of attorney to the other, and therefore, the father that demands the money is coming with the power of both fathers.

- **Q:** In Neharda'ah they said, that we don't write power of attorney for collection of moveable property!? **A:** That is only true where the defendant denies the claim.

ZACHAR UNIKEIVA HA'AVOS PETURIN

- **R' Huna** taught a Braisa that if there are two wives of two men and the wives had never given birth, and then they have 2 boys and one girl between them, the Kohen gets nothing at all.
  - The reason our Mishna does not mention this case is because it can only be true when dealing with two husbands, but not when dealing with 2 wives of one husband, and the Mishna wanted to stay consistent with cases that could apply to cases of where there is even only one husband.