

### 1) Etymology of Teiku – תיקו

- Teikum – תיקום (Let it stand)
- Tik – תיק (The resolution is “within a pouch,” i.e., concealed)
- Acronym: Elijah the Prophet will resolve these questions – תשבי יתרץ קושיות ואבעיות

### 2) Resolving the Teiku – תיקו

#### Bava Kama 46a

- **Mishnah:** An ox gores a cow and the cow’s fetus is found dead next to her. It is not known whether the ox gored the cow while she was still carrying the fetus, causing her to abort, or whether the cow had spontaneously aborted before being gored. **The owner of the ox must pay half the compensation for the fetus.**
- **Talmud:** This ruling reflects the view of **Sumchos**, that money whose ownership is in doubt is divided. However, the **Rabbis** (the majority opinion) say that the burden of proof rests upon the one who seeks to exact payment from his fellow (in this case, therefore, the money remains with the possessor).
- **Halachic Ruling:** In accordance with the Rabbis, and disputed money remains in the hands of whoever is in possession of it.

#### Our 11 Unresolved Questions:

**Rosh** - R’ Asher ben Yechiel (1250-1327): The penalty payment remains in the possession of the owner.

- *Rationale:* This is in accordance with the Halachic ruling cited above.

**Maimonides** (1137-1204): The penalty payment is equally divided between the owner and the guardian.

- *Rationale:* Since neither owner nor custodian is in prior possession of the penalty payment, the payment is divided equally between them.
  - *Rosh’s challenge to Maimonides:* The doubt of ownership is about the deposit item (the cow), not the penalty payment. The owner is clearly in legal possession of that item.
  - *Possible Resolution for Maimonides:* The ruling of the Rabbis only applies when the doubt is about the facts; the circumstance. If, however, there is a legal doubt, what significance does “being in possession” have with regard to legal doubt?

### 3) Talmudic Currency

1 Sela = 2 Shekel = 4 Dinar (1 Shekel = close to 20 grams of pure silver)

### 4) When is a defendant obligated to make an oath?

Exodus 22:7-8:

"...the homeowner must approach the judges ... In every case of ... any lost article, about which he [the guardian] says, "**This is it**" ... their claims shall come to the court."

Claim	Law	Reason
<b>Modeh b'miktzas</b> - מודה במקצת One who admits to partial liability	Must swear	A defendant needs to provide proof to his denial of the plaintiff's claim.
<b>Kofer hakol</b> - כופר הכל One who denies the entire claim	Exempt from swearing	"It is presumed, that a person is not so brazen as to deny his obligation to the face of his creditor."