



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

### Shavuos Daf Mem Tes

#### PEREK ARBA'AH SHOMRIN -- PEREK SHMINI

#### MISHNA

- There are 4 types of shomrim: a shomer chinam, a sho'el (borrower), a shomer sachar, and a socher (a renter). A shomer chinam swears regarding everything (on everything that the other shomrim would be chayuv on, he swears that he was not negligent and is patur). A sho'el pay for everything (for theft, loss, and oneis). A shomer sachar and a socher swear regarding an animal that broke a limb or that was captured or that died, and pays for loss and for theft.
  - If the owner asks the shomer chinam "Where is the ox that I gave you to watch?" and the shomer responds that it died on its own, when in fact the animal had broken a limb, was captured, was stolen or was lost; or if he responded that it had broken a limb, when in fact it had died on its own, was captured, was stolen or was lost; or if he responded that it was captured, when in fact it had died on its own, the animal had broken a limb, was stolen or was lost; or if he responded that it was stolen when in fact it had died on its own, the animal had broken a limb, was captured, or was lost; or if he responded that it was lost when in fact the animal had died on its own, had broken a limb, was captured, or was stolen; and the owner then adjures the shomer that his response is true and the shomer says "Amen", he would be patur from having to bring an asham and from paying the additional fifth for this false oath.
  - If the owner asks the shomer chinam "Where is the ox that I gave you to watch?" and the shomer responds "I don't know what you are talking about" (he denies ever receiving the animal) and in truth the animal had died on its own, had broken a limb, was captured, was stolen or was lost, and the owner then adjures the shomer that his response is true and the shomer says "Amen", he would be patur from having to bring an asham and from paying the additional fifth for this false oath.
  - If the owner asks the shomer chinam "Where is the ox that I gave you to watch?" and the shomer responds that it was lost, and the owner then adjures the shomer that his response is true and the shomer says "Amen", and witnesses then testify that he had eaten the animal, he must pay the value of the animal to the owner. If he admitted on his own that he swore falsely, he pays the value, plus an additional fifth, and must bring a korbon asham.
  - If the owner asks the shomer chinam "Where is the ox that I gave you to watch?" and the shomer responds that it was stolen, and the owner then adjures the shomer that his response is true and the shomer says "Amen", and witnesses then testify that the shomer himself stole the animal, he must pay keifel to the owner. If he admitted on his own that he swore falsely, he pays the value, plus an additional fifth, and must bring a korbon asham (and does not pay the keifel payment).
    - If a person says to someone in the street, "Where is my ox that you stole from me?", and the accused responds "I did not steal your ox", and witnesses testify that he in fact did steal it, he must pay keifel. If they testified that he then shechted or sold the animal, he would have to pay daled v'hey. If the thief saw witnesses coming to testify against him, so he said "I did steal it but I did not shecht or sell it", he would only be chayuv to pay the principal value to the owner.
  - If the owner asks a shoel (borrower) "Where is the ox that I lent you?" and the shoel responds that it died on its own, when in fact the animal had broken a limb, was captured, was stolen or was lost; or if he responded that it had broken a limb, when in

fact it had died on its own, was captured, was stolen or was lost; or if he responded that it was captured, when in fact it had died on its own, the animal had broken a limb, was stolen or was lost; or if he responded that it was stolen when in fact it had died on its own, the animal had broken a limb, was captured, or was lost; or if he responded that it was lost when in fact the animal had died on its own, had broken a limb, was captured, or was stolen; and the owner then adjures the shoel that his response is true and the shoel says "Amen", he would be patur from having to bring an asham and from paying the additional fifth for this false oath.

- If the owner asks the shoel "Where is the ox that I lent you?" and the shoel responds "I don't know what you are talking about" (he denies ever receiving the animal) and in truth the animal had died on its own, had broken a limb, was captured, was stolen or was lost, and the owner then adjures the shoel that his response is true and the shomer says "Amen", he would be chayuv to bring an asham and to pay the additional fifth for this false oath (if he confessed to swearing falsely).
- If the owner asks the shomer sachar or a renter "Where is the ox that I gave you to watch?" and the shomer sachar or renter responds that it died on its own, when in fact the animal had broken a limb or was captured; or if he responded that it had broken a limb, when in fact it had died on its own or was captured; or if he responded that it was captured, when in fact it had died on its own or had broken a limb; or if he responded that it was stolen when in fact it had been lost; or if he responded that it was lost when in fact it was stolen; and the owner then adjures the shomer that his response is true and the shomer says "Amen", he would be patur from having to bring an asham and from paying the additional fifth for this false oath.
- If the owner asks the shomer sachar or a renter "Where is the ox that I gave you to watch?" and the shomer sachar or renter responds that it had died on its own, had broken a limb, or was captured, when in fact the animal had been stolen or lost, and the owner then adjures the shomer that his response is true and the shomer says "Amen", he would be chayuv to bring an asham and to pay the additional fifth for this false oath (if he confessed to swearing falsely).
- If the owner asks the shomer sachar or a renter "Where is the ox that I gave you to watch?" and the shomer sachar or renter responds that it was lost or stolen, when in fact the animal had died on its own, had broken a limb, or was captured, and the owner then adjures the shomer that his response is true and the shomer says "Amen", he would be patur from having to bring an asham and from paying the additional fifth for this false oath.
- The general rule is, whoever changes from one chiyuv to another, or from one pitur to another, or from a pitur to a chiyuv, he would be patur from having to bring an asham and from paying the additional fifth. However, if one changes from a chiyuv to a pitur, he would be chayuv the asham and the fifth. The general rule is, when one swears falsely to make it more lenient for himself, he is chayuv for the asham and the fifth, and when ones swears falsely to make it more stringent on himself, he is patur from having to bring the asham or the fifth.

#### GEMARA

- **Q:** Who is the Tanna who holds that there are four types of shomrim? **A: R' Nachman in the name of Rabbah bar Avuha** said, it is **R' Meir**.
  - **Q: Rava** asked **R' Nachman**, is there anyone who holds that there are *not* four types of shomrim? **A: R' Nachman** said, I meant to say that the Tanna that holds that a renter has the status of a shomer sachar is **R' Meir**.
    - **Q: R' Meir** in a Braisa says the opposite (that a renter is like a shomer chinam)!? **A: Rabbah bar Avuha** had a version of the Braisa where **R' Meir** says that a renter is like a shomer sachar.
- **Q:** Why does the Mishna say there are four shomrim, when in essence they are 3? **A: R' Nachman bar Yitzchak** said, the Mishna means that there are four types of shomrim, who only have 3 different halachos.

#### AMAR L'SHOMER CHINAM...

- **Rav** said, in all the cases where the Mishna says he is patur, although he is patur for shvuas shomrin, he is chayuv for a false shvuas bituy. **Shmuel** said he is also patur for shvuas bituy.

- **Shmuel** holds that since these oaths cannot be said pertaining to the future, they are patur when said pertaining to the past. **Rav** holds, since they can be said in the positive and negative formats, he would be chayuv.
  - **Q:** They already state this argument regarding one who falsely swears that “Ploni threw a pebble into the sea” or “Ploni did not throw a pebble into the sea”!? **A:** The argument is needed in both places. If they would only argue regarding the case of the throwing of the pebble, we would say that **Rav** holds he is chayuv there, because he decided on his own to make that oath. However, in the case of the shomer, where Beis Din makes him swear, maybe he would agree with **Shmuel** that he is patur, which would be like **R’ Ami** said, that whenever Beis Din makes someone swear, there is no liability for having made a false shvuas bituy. And, if we would only have the case of our Mishna, we would say that there **Shmuel** says he is patur, for this reason. However, in the case of the throwing of the pebble maybe he agrees with **Rav** that he would be chayuv. That is why both cases are needed.
    - **R’ Ami** learns his halacha from the pasuk of “oy nefesh ki (if) sishava l’vatei bisfasayim”, which suggests that he took the oath based on his own decision to do so.
- **R’ Elazar** said, in all the cases in the Mishna where the shomer is patur for shvuas shomrim, he is still chayuv for shvuas bituy. This is true except for the case of the shoel, where he responds by denying having borrowed the item and then admits to having done so, and the case of the shomer sachar and renter where the animal was stolen or lost and they claimed it happened through an oneis. In these cases he would be chayuv for a false shvuas shomrim, because he denied owing money with his shvuah.

**HADRAN ALACH PEREK ARBA’AH SHOMRIN!!!**

**HADRAN ALACH MESECHTA SHEVUOS!!!**

**MAZAL TOV!!!**