



Volume 8. Issue 26

The Volunteer Guard

The *Mishnah* (*Shekalim* 4:1) records a dispute between the *Tanna Kamma* and *R' Yose* in relation to guards that were appointed by the *Bet Din* during the *Shemittah* year. The *omer* offering (brought on the second day of *Pesach*) and the *shtei halechem* (brought on *Shavuot*) must be brought from grain of the new crop. However, during the *Shemittah* year it was forbidden to plant crops. Therefore, during the *Shemittah* year these offerings must be brought from *sefichim* (aftergrowth) which grew spontaneously from seeds that were dropped.

During the *Shemittah* year all produce that grows is considered ownerless and is free for everyone to take. Therefore, the *Bet Din* appointed guards to watch over some aftergrowth to ensure that sufficient produce was still available for the *korbanot* mentioned above. At the appropriate time, the *Bet Din* sent separate employees to collect the aftergrowth for use in the *Bet Hamikdash*. The *Tanna Kamma* holds that the guards were paid out of the shekels that were collected from *Bnei Yisrael*. *R' Yose* holds that the guards could undertake this work in a volunteer capacity and thus forego their pay. What is the basis for their differing views?

The Gemara (*Baba Metzia* 118a) gives three explanations of the dispute between the *Tanna Kamma* and *R' Yose*. Underlying the three explanations is the question of how one can acquire property that is *hefker* (ownerless). For an object to be acquired from another person, the *halacha* requires a *kinyan* – an act whereby the acquirer obtains legal rights over that property. There are various modes of *kinyan*, depending on the nature of the property and the custom among local merchants. For instance, valid acts of *kinyan* include lifting the object, pulling the object, and, in the case of an animal, striking or calling the animal so that it comes to the acquirer. It was important that the aftergrowth be *halachically* acquired by the community because communal *korbanot* are invalid if they are owned by an individual.

According to the first explanation of the dispute, brought by *Rabba*, the *Tanna Kamma* holds that a *kinyan* is not required to acquire an object that is *hefker*. Merely guarding the object is sufficient. However, according to this opinion, guarding can only acquire the object for the person who is doing the guarding, not for someone else. So according to the *Tanna Kamma*, it is necessary to pay the guard a salary so that the guard becomes an employee of the community. That way, anything that the guard acquires in the course of his duties will automatically become the property of the community, as his employer. The problem is – if the guard acquires the property himself (by guarding it) he may not surrender it wholeheartedly and that could make the communal *korban* invalid.

According to *R' Yose*, *hefker* property does require a *kinyan* so the guard will not acquire the aftergrowth just by watching it¹. Rather, at the appropriate time, the *Bet Din* will send an employee to collect the aftergrowth on behalf of the community. By physically taking the aftergrowth this employee will be performing a *kinyan* and therefore he will acquire the aftergrowth on behalf of the community. So according to *R' Yose* there is no problem with the guard being a volunteer because we are not concerned that he will acquire the aftergrowth for himself.

According to the second explanation of the dispute (brought by *Rava*), the *Tanna Kamma* and *R' Yose* both agree that *hefker* objects can be acquired by watching them, without the need for a *kinyan*. So what is the dispute? According to *Rava*, the *Tanna Kamma* is concerned that the guard will acquire the aftergrowth for himself and will then be reluctant to transfer ownership to the community because he wants the honour of his own property being used for the communal sacrifice. If the transfer to the community is not wholehearted then the communal *korban* may be invalid. By paying the guard, the guard becomes the employee of the *Bet Din* (and therefore of the community) and anything that the guard acquires is automatically acquired by the community. In contrast, *R' Yose* is not concerned about the possibility that the guards may not transfer the aftergrowth to the community wholeheartedly and thus does not have a problem with the guards being volunteers.

The Gemara then presents a different version of *Rava's* explanation. According to this third explanation, the *Tanna Kamma* and *R' Yose* both agree that *hefker* objects cannot be acquired by just watching them and a *kinyan* is required. So what is the dispute?

The *Tanna Kamma* holds that a law was passed that all guards receive a salary. He believes that this law was passed because the *Rabbanim* were concerned about unsavoury characters who would attempt to steal the aftergrowth. If the guards were paid by the *Bet Din* the unsavoury characters would be unwilling to steal the aftergrowth. Given this law, if a guard wanted to be a volunteer, he would have to actively forego his salary. There was a concern that he would not forego his salary wholeheartedly and therefore his salary would still belong to him. Communal offerings bought with this money would therefore not be owned wholly by the community and would be invalid. *R' Yose* holds that there was no law requiring guards to be paid. According to *R' Yose* the *Rabbanim* were not concerned about unsavoury characters taking the aftergrowth and therefore no such law was needed.

The Gemara favours this third explanation.

Allon Ledder

Revision Questions

שקלים ג' די - ה' די:

- After filling the coin boxes, when and with what did they cover the coins remaining in the storeroom? (ג' די)
- For which sacrifices was the money used? (א' די)
- Was the money used for anything else? (ד' די)
- What was done with the leftover funds found in the storeroom? (ג' די)
- What was done with the leftover funds found in the coin boxes? (Include all four opinions) (ד' די)
- What was done with the leftover *ketoret*? (ה' די)
- What was done with items that were 'sanctified' and given to the *Beit Mikdash* funds and were also suitable for use in the *ketoret*? (Include both opinions) (ז' די)
- What was done with items that were 'sanctified' and given to the *Beit Mikdash* funds and were also suitable for use in the *korbanot*? (Include both opinions) (ז' די)
- How does *R' Papyas* reconcile the two opinions referred to in the previous question. (ז' די)
- What was done with wine and oil that were 'sanctified' and given to the *Beit Mikdash* funds? (ח' די)
- How was the *Beit Ha'Mikdash's* supplier agreements managed in the event of market value fluctuations? (ט' די)
- When were the suppliers paid and why? (ט' די)
- By what other name was *Mordechai* referred to and why? (ה' די)
- Which family were experts in preparing the *ketoret*? (ה' די)
- How many treasurers (*gizbarin*) were there in charge of the *Beit Ha'Mikdash's* funds? (ב' די)
- How many financial controllers (*amarkalin*) were there overseeing the *Beit Ha'Mikdash's* funds? (ב' די)
- In general what is the minimum number of people that should be placed in charge of public funds? (ב' די)
- How many *chotamot* were there and what were they used for? (ה' די)
- Explain how one would purchase the *nechasim* required for their *korban*? (ה' די)

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Beit Ha'Roeh
Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

**SHIUR
ON KOL HALOSHON**

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 - 2 - 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
20 th November כ"ג חשוון	21 th November כ"ד חשוון	22 th November כ"ה חשוון	23 th November כ"ו חשוון	24 th November כ"ז חשוון	25 th November כ"ח חשוון	27 th November כ"ט חשוון
Shekalim 5:5-6	Shekalim 6:1-2	Shekalim 6:3-4	Shekalim 6:5-6	Shekalim 7:1-2	Shekalim 7:3-4	Shekalim 7:5-6

