

Oaths in Robbery

Ref: *Sefer Nezikin, Hilchot Gezelah Vaaveidah, Chapter 4*

Reminder

Pack on Oaths



A robber cannot take an oath because he is not trusted. Normally it is the defendant who has to take the oath (i.e. in this case, the robber). This would be Scriptural.



So in the case of robbery it is the litigant (owner) who take the oath and then robber has to pay the exact value of the stolen goods.

There has to be 2 witnesses who said that the robber robbed. Thereafter the owner takes an oath and whatever he specifies was stolen, has to be paid for by the robber.

If however he was seen robbing by only 1 witness, he is not yet categorised as a robber, and therefore the 'robber' is allowed to take an oath. How much more so if there were no witnesses.

Deoraita, if a defendant totally denied a claim against him, he would not need take any oaths.



However as people began to lie more, *Rabanan* introduced for the defendant to take an oath called *shvuat hesset*.

If the defendant admits part guilt, he then has to take a Scriptural oath regarding the rest of his debt.

If the defendant says, 'yes, I took it because it belongs to me' and there was one witness who claims to know what was taken, the article has to be returned. (An oath cannot be taken because he is saying the same as the witness, and whenever a person is obligated to take an oath and cannot, he must pay)

Reminder

Pack on Witnesses

