

Bava Kamma Chapter Ten Mishnayoth Nine and Ten

Introduction

Mishnah nine deals with items one may purchase from certain people without concern that they may have been stolen.

Mishnah ten deals with a craftsman's rights to keep the by-products of their work. In the days of the mishnah a craftsman often did the work but did not provide the raw materials. For instance, a person would bring some cloth to a tailor and the tailor would sew it into a dress. Or a person would bring wood to a carpenter, who would use the wood to make a table. Inevitably there will be material that was given to the craftsman that is not part of the finished product. Our mishnah asks the question to whom do these materials belong.

Mishnah Nine

- 1) One is not to buy wool or milk or kids from herdsmen, not fruit from those that watch over fruit-trees.
 - One) However, one may buy garments of wool from women in Judea and garments of flax from women in the Galilee or calves in the Sharon.
 - Two) And in all cases in which [the seller] says to hide them away, it is forbidden [to purchase the item].
- 2) One may buy eggs and fowls in any case.

Explanation—Mishnah Nine

Our mishnah is concerned with the possibility that one may unknowingly purchase stolen goods from another person. Therefore, the mishnah lists those from whom one should not purchase certain items lest they be stolen and those from whom one can purchase. Section one states that one should not purchase things from herdsmen that may have been illegally obtained from the herd which belongs to someone else.

Likewise one may not buy things from an orchard watcher that he may have illegally obtained from the orchard. Although we cannot be sure that the product was stolen, the mishnah states that society should avoid giving the herdsmen or orchard watcher the temptation to steal and sell. If no one buys from him then he will not be able to peddle his stolen goods. Section 1a is a contrast to section 1. The women mentioned in this mishnah are probably doing work with things that belong to their husbands. For instance women in Judea spin and make cloth from the wool that their husbands gather from sheep. The same is true with regards to flax in the Galilee and calves in the Sharon. In these cases one may purchase the items without fear that the wife is stealing from the husband. Since the husband in general expects that his wife will sell the product which she makes, one need not fear of her doing so without her husband's permission.

Section 1c and 2 state general reservations on the previous two sections. If one states that the purchaser should not let anyone know about the purchase, obviously something is wrong and the purchaser should not buy the item. Section 2 states that one need never fear when purchasing eggs or chickens. Evidently these items are so common that even those who have access to other people's chickens and eggs will also have their own to sell, and therefore we can assume that when they sell, they are not selling stolen property.

Mishnah Ten

- 1) Shreds of wool which the laundryman pulls out belong to him, but those which the woolcomber pull out belong to the householder.
- 2) If the laundryman pulled out three threads, they belong to him, but if more than this they belong to the householder.
- One) If there were black threads among the white, he may take them all and they are his.
- 3) If the tailor left over thread sufficient to sew with or a piece of cloth three fingerbreadths by three fingerbreadths, these belong to the householder.
- 4) What a carpenter takes off with a plane belongs to him, but what [he takes off] with a hatchet belongs to the householder.
- One) And if he was working in the householder's domain, even the sawdust belongs to the householder.

Explanation—Mishnah Ten

The central idea in this mishnah is that a craftsman may keep any material which the householder would not expect to get in return or would not care if he did not get.

With this principle we can explain all of the sections of the mishnah.

Section one—a laundryman will not generally find a lot of shreds and therefore the owner does not expect to recover what little thread the laundryman does find.

Therefore the laundryman may keep them. In contrast a woolcomber finds many shreds and therefore the owner will wish to recover them. In that case the woolcomber is obligated to return them.

Section two—a householder does not generally care if he loses one, two or three threads while the laundryman cleans his clothes. If, however, the laundryman should find more, he must return them to the owner because the owner would expect to get them back. Black threads found on a white garment are undesirable to the owner of the garment and therefore the laundryman may keep them.

Section three—a tailor who receives cloth and thread from his customer in order to sew a garment will inevitably not use all of the materials. If more than a minimal amount of thread or garment is left he must return it to the owner.

Section four—a carpenter's work by nature creates sawdust and splinters and other left over material from the wood. The owner may want this material back in order to light his oven or to do with it some other type of work. Again, if the material is minimal, such as is left by a plane, the carpenter need not return it. Since an owner does not expect to receive this minimal material, the carpenter need not give it back. If, however, the material is more substantial, than he must return it. Finally, all of this was only with regards to someone working at his own home. If he was working at the householder's home, he must give over everything to him.

Questions for Further Thought:

- What might be some laws in our society that are similar to the laws in mishnah nine?
- Mishnah ten, section two: What would the law be if the laundryman found more than three black threads on a white garment?

Congratulations! We have finished Bava Kamma.