

OVERVIEW of the Daf

1) A slave's emancipation document (cont.)

R' Ada bar Masna concludes formulating the challenge to Rava's explanation that in all cases the slave acquires himself but does not acquire his possessions. The essence of the challenge is that Rava's opinion is built on the opinion of R' Shimon that we can divide a statement and R' Nachman reports that halacha does not follow that opinion.

The assertion that R' Nachman rejects the principle that we can divide a statement is challenged.

R' Ashi resolves the contradiction between the two statements of R' Nachman.

2) Defining the ערער

The Gemara inquires about the nature of the protest (ערער) referred to in the Mishnah.

The Gemara explains that it refers to a protest filed by the woman's husband.

3) MISHNAH: The Mishnah begins with a ruling concerning an agent who cannot declare that the גט was written and signed in his presence. The last discussion of the Mishnah teaches that gittin and slave emancipation documents are treated the same regarding the necessity to make a declaration about the document's validity.

4) Clarifying the Mishnah

R' Yosef explains that the Mishnah's case of one who cannot declare that the גט was written and signed in his presence refers to a case of an agent who becomes deaf-mute before he could make his declaration.

5) Gittin and emancipation documents

A Baraisa presents three characteristics shared by gittin and emancipation documents. R' Meir adds a fourth characteristic to the list.

The Gemara identifies which case R' Meir excluded by emphasizing that there are four characteristics that gittin and emancipation documents share.

The Gemara suggests different cases that could have been included in the list of the Baraisa and explains why they were not included in that list.

The last explanation assumes that the Baraisa follows the position of R' Elazar who maintains that it is the witnesses to the delivery of the גט who sever the marriage. This explanation is challenged. ■

Distinctive INSIGHT

Helping those who cannot write

עדים שאינם יודעים לחתום מקרעין להם נייר חלק

We provide assistance for witnesses who do not know how to sign their names. The Gemara describes how we "tear (or etch) for them on blank paper," and the witnesses then come and fill in ink accordingly. The Rishonim explain what the Gemara means.

Rashi explains that we scrape and make an indentation on the paper, creating an outline of the name of each witness. The witnesses then come and fill in the outline which we made for them.

Tosafos questions the explanation of Rashi from the Gemara later (20a) where we find that carving into a tablet or plate is considered to be writing. Therefore, if we prepare the paper by scratching into it, we have, in effect, already "written" their names for them, and when the witnesses come and fill in the outline with ink, they are simply writing on top of a recorded name, and the Gemara later (19a) rules that if one writes (or traces) upon writing, the writing on top is not valid. Here, too, the filling in the outline by the witnesses should be invalid.

Tosafos answers that the initial scraping on the paper is just a casual act of making an impression, and in this case it is not actual writing to disqualify the subsequent filling of the spaces with ink by the witnesses. Or else, Tosafos notes, we find that tracing with black ink on top of red ink is considered to be writing, even though writing with red ink alone is certainly considered valid writing (in terms of being liable for writing on Shabbos). We therefore see that if the second layer of writing creates a qualitative improvement for the script, this second level of writing is valid. Therefore, the case of the witnesses filling in the blank with ink is certainly legally valid.

Ran suggests that the Gemara is suggesting that we do not make indentations upon the paper for the full shape of every letter. Rather, we shape the general outline of each letter, leaving it somewhat incomplete. Therefore, the witnesses not only fill in the outline with ink, but they also complete each letter as well.

Rashba answers that making indentations is not the same as carving or chiseling upon a tablet. Our scraping a few marks is not writing. Tosafos, however, rejects the interpretation of Rashi due to the implication of the words of the Gemara which say "we tear (מקרעין) for the witnesses." Tosafos explains, according to Rabbeinu Chananel, that we create a stencil with the letter of the names of the witnesses. We then place it on the גט where the witnesses are to sign, and they fill in the area of the letters of their names, thus producing the names of the witnesses upon the גט. ■

HALACHAH Highlight

A גט without signatures

אם יש עליו עדים יתקיים בחותמי

If there are witnesses signed on the גט it should be confirmed by their signatures

The Mishnah states that if there are witnesses the גט should be certified from their signatures. This language implies that when there are witnesses the גט is confirmed from their signatures but this seemingly recognizes the possibility of a case of a גט that was written without the signature of witnesses. How is it possible to have a valid גט without the signature of witnesses? Tosafos Yom Tov¹ answers that the Mishnah follows the opinion of R' Elazar who maintains that it is the witnesses to the delivery of the גט who sever the marriage (עדי מסירה כרתי). Accordingly, it is possible to have a גט that does not have the signature of witnesses and thus the Mishnah is teaching that in the event witnesses did sign the גט, the validity of the גט can be confirmed from their signatures.

Kesav Sofer² disagrees with the inference altogether. He maintains that the language of the Mishnah does not imply the possibility of a גט that does not have signatures altogether; rather the language implies that there are witnesses signed on the גט but they are incapable of confirming their signature because they became mute. Consequently, he suggests a different explanation of the novelty of the Mishnah's ruling. The Mishnah is teaching that if the agent delivering the גט has a document of authorization (שטר הרשאה) from the husband that states that he is the agent to deliver the גט and the names of the designated witnesses are

REVIEW and Remember

1. How did R' Yosi express appreciation for the words of R' Shimon?

2. What are the three ways in which gittin and documents are similar?

3. What case does R' Meir intend to exclude when he asserts that there are four similarities between gittin and other documents?

4. Explain the principle אין שטר לאחר מיתה.

included in this document of authorization, nevertheless, it is necessary for the agent to declare that the גט was written and signed in his presence (בפני נכתב ובפני נחתם).

This explanation has practical ramifications since there is a dispute between Rashba³ and Rivash⁴ whether an agent delivering the גט who has an authorization from the husband is required to declare that the גט was written and signed in his presence. Rashba maintains that the declaration is unnecessary whereas Rivash holds that it is still required. Rema⁵ writes that the custom is for the agent to make the declaration even if he has an authorization from the husband and this is consistent with the explanation of the Mishnah suggested by Kesav Sofer. ■

1. תוסי יו"ט פ"א מ"ג.
2. כתב סופר ד"ה מתניתין אמ.
3. שו"ת הרשב"א ח"א סי' תקס"א.
4. שו"ת הריב"ש סי' ש"ח.
5. רמ"א אה"ע סי' קמ"ב סעי' א'.

STORIES Off the Daf

The Lost גט

"והא ערכאות של עובדי כוכבים..."

A certain woman wished to remarry. She had been divorced in a distant beis din but had lost her גט. She and her betrothed approached the local Rav to officiate at her marriage.

"Were you ever married?" asked the Rav.

"Yes, but I was divorced in a distant city."

"Where is your גט?"

"I lost it, but the Rav can telegraph the beis din in the city where I was divorced to get the particulars."

The Rav explained that there was a halachic problem with this since it is forbidden to even rely on non-Jewish courts regarding gittin, as we see in Gittin 9.

Understandably, the couple didn't want to wait for a messenger to come from the distant city to their own since this might take a year or more. The Rav consulted with the Beis Yitzchak, zt"l, to find if there was some way to permit

the two to marry.

The Beis Yitzchak replied, "It is true that a non-Jewish operative writes the message, but you can rely on it since if they are lying we will definitely find out. Why would the woman do such a foolish thing? The very best way to proceed is for the beis din of the city she divorced in to contact you and ask you to officiate at this marriage as their messenger. If they know that she is divorced, they can definitely delegate a shaliach to marry this woman off!" ■

