

## Talmud - Mas. Gittin 2a

### CHAPTER I

MISHNAH. THE BEARER OF A BILL OF DIVORCE [GET] FROM [A HUSBAND IN] FOREIGN PARTS<sup>1</sup> [TO THE LAND OF ISRAEL] IS REQUIRED TO DECLARE [ON PRESENTING IT TO THE WIFE]. 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.' RABBAN GAMALIEL SAYS: [THIS DECLARATION IS] ALSO [REQUIRED] IF HE BRINGS IT FROM REKEM OR FROM HEGAR.<sup>2</sup> R. ELEAZAR SAYS: EVEN IF HE BRINGS IT FROM KEFAR LUDIM TO LUD.<sup>3</sup> THE SAGES, HOWEVER, SAY THAT THE DECLARATION 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED' IS REQUIRED ONLY FROM ONE WHO BRINGS A BILL OF DIVORCE [FROM FOREIGN PARTS TO THE LAND OF ISRAEL] OR WHO TAKES IT [FROM THE LAND OF ISRAEL TO FOREIGN PARTS].<sup>4</sup> THE BEARER [OF SUCH A DOCUMENT] FROM ONE PROVINCE TO ANOTHER IN FOREIGN PARTS IS ALSO REQUIRED TO DECLARE, 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.' RABBAN SIMEON B. GAMALIEL SAYS IT IS REQUIRED EVEN IF HE TAKES IT FROM ONE GOVERNORSHIP<sup>5</sup> TO ANOTHER. R. JUDAH SAYS: [FOREIGN PARTS EXTEND] FROM REKEM EASTWARDS, REKEM BEING INCLUDED; FROM ASKELON SOUTHWARDS, ASKELON INCLUDED; AND FROM ACCO<sup>6</sup> NORTHWARDS, ACCO INCLUDED. R. MEIR, [HOWEVER,] HELD THAT ACCO COUNTS AS ERETZ ISRAEL IN THE MATTER OF BILLS OF DIVORCE. THE BEARER OF A BILL OF DIVORCE [FROM ONE PLACE TO ANOTHER] IN THE LAND OF ISRAEL IS NOT REQUIRED TO DECLARE, 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED;' IF ITS VALIDITY IS CHALLENGED IT MUST BE ESTABLISHED THROUGH THE SIGNATURES.<sup>7</sup> GEMARA.

What is the reason [for this requirement]? Rabbah Says:

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(1) Lit., 'province of the sea': a name given to all countries outside of Palestine and Babylonia.

(2) The Biblical Kadesh and Bared (Gen. XVI, 14), on the southern border of Palestine, [v. Targum Onkelos loc. cit. Josephus (Ant. IV. 7, 1) who names the place Arekem (cf. **הַרְקֵם** in our Mishnah) identifies it with Petra. Hegar is identified by Hildesheimer, *Beitrage zur Geographie Palastinas* (pp. 53 and 68) with the wilderness of Shur on the South-western Palestine border of Egypt].

(3) Lydda. Two neighbouring places on opposite sides of the border. [Kefar Ludim was about two hours walking distance from Lud on the north-west, v. Kaftorhwa-Ferah (Luncz ed.) p. 128].

(4) The point of this remark is discussed infra 4b.

(5) GR. \*\*. V. infra 4b.

(6) The modern Acre.

(7) I.e., by bringing proof that the signatures are authentic.

## Talmud - Mas. Gittin 2b

It is because [the Jews in foreign parts] are [for the most part] ignorant of the rule of 'special intention'.<sup>1</sup> Raba says: It is because it is not easy to find witnesses who can confirm the signatures.<sup>2</sup> What difference does it make [in practice] which reason we adopt? — [It does] in the case where the Get has been brought by two persons;<sup>3</sup> or again, where it has been taken from one province to another in the Land of Israel;<sup>4</sup> or again, from one place to another in the same foreign country.<sup>5</sup> Seeing that Rabbah's reason is that Jews abroad are ignorant of the rule of 'special intention', why does he not require that the Get should be brought by two bearers, so as to bring this case into line with the general rule of the Torah regarding evidence?<sup>6</sup> — One witness is sufficient where the question at issue is a ritual prohibition.<sup>7</sup> But presumably the rule that one witness is sufficient where the question at issue is a ritual prohibition applies for instance to the case of a piece of fat of which

we do not know whether it is permitted or forbidden, there being no prima facie ground for declaring it prohibited. Here, however, since there is prima facie ground for assuming the prohibition regarding a married woman,<sup>8</sup> the question becomes one of prohibited sex relationship, and for disproving such a relationship the evidence of two witnesses is required?<sup>9</sup> — Most [of the Jews abroad] are acquainted [with the rule of ‘special intention’].<sup>10</sup> And even if, following the practice of R. Meir, we take account of the exceptions, [it will make no difference.] for most of the scribes of the Beth din know the law, and it was the Rabbis who [on their own authority] insisted [on this declaration], and in this case,

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- (1) **לשמה** Lit., ‘for her name’: the rule that the Get must from its inception have been intended expressly for that woman.
- (2) In case the husband comes and questions the validity of the Get, and the declaration of the bearer is regarded as an authentication of the signatures by two witnesses.
- (3) Rabbah would still require the declaration, Raba not.
- (4) Here Raba would require the declaration, Rabbah not.
- (5) Here Rabbah would require the declaration, Raba not.
- (6) By the mouth of two witnesses a matter shall be established, Deut. XIX, 15.
- (7) As opposed to a pecuniary liability.
- (8) Since the recipient of the Get is a married woman she is prima facie (until we know that the Get is valid) forbidden to all other men.
- (9) V. Sot. 3.
- (10) Hence we do not suspect the husband of having broken this rule.

### **Talmud - Mas. Gittin 3a**

on account of the danger of the woman becoming a ‘deserted wife’, those [same] Rabbis made a concession<sup>1</sup> [by allowing one bearer to suffice]. You call this a concession? It is rather a hardship. since if you require that the Get should be brought by two [bearers], there is no danger of the husband coming and challenging it<sup>2</sup> and getting it declared invalid; but if only one is required, he will be able to do so? — No. You know what a Master has told us:<sup>3</sup> [‘On the question] how many persons must be present when he [the bearer] gives [the writ] to her [the wife], there was a difference of opinion between R. Johanan and R. Haninah, one holding that [at least] two were required, and the other that [at least] three.’ This being so, [the bearer] will make sure [of the husband’s intentions] from the first, and [the husband] will not come [and invalidate the Get] and bring himself into trouble later.<sup>4</sup> Since Raba’s reason is that it is not easy to find witnesses to confirm the signatures, why does not he also require two [bearers]. so as to bring this document into line with all others [which may require such confirmation]? — One witness is sufficient where the question at issue is a ritual prohibition. But presumably the rule that one witness is sufficient where the question at issue is a ritual prohibition applies for instance to the case of a piece of fat of which we do not know whether it is permitted or forbidden, there being no prima facie ground for declaring it prohibited. Here, however, since there is prima facie ground for assuming the prohibition regarding a married woman, the question becomes one of prohibited sex relationship, and for disproving such a relationship the evidence of two witnesses is required? — By rights no witnesses should be required for confirming [the signature on] other documents<sup>5</sup> either, as may be inferred from the dictum of Resh Lakish, that signatures of witnesses to a document are just as reliable as if their evidence had been sifted in the Beth din. It is the Rabbis who on their own authority insisted [on two witnesses for this], and here on account of the danger of the woman becoming a ‘deserted wife’, these [same] Rabbis made a concession. You call this a concession? It is rather a hardship, since if you require that the Get should be brought by two bearers, there is no danger of the husband coming and challenging it and getting it declared invalid; but if only one is required, he will be able to do so? — No. You know what a certain Master has told us: [‘On the question] how many persons must be present when he gives her the Get, there was a difference of opinion between R. Johanan and R.

Haninah, one holding that [at least] two were required and the other [at least] three.’ This being so, the bearer will make sure of the husband’s intentions, and [the husband] will not come [and invalidate the Get] and bring himself into trouble later.

Why did not Raba give the same reason that Rabbah gave? — He will tell you: Does the Mishnah then require him to declare, ‘In my presence it was written in her name, in my presence it was signed in her name’? And Rabbah? — He might retort that by rights the formula ought to run thus, and the reason why it does not is because if you give the bearer too many words to say, he will leave out some. As it is he may leave something out? — He might omit one word out of three,<sup>6</sup> he will hardly omit one word from two.<sup>7</sup>

Why did not Rabbah give the reason which Raba gave? — He will tell you: If this were the reason the Mishnah should require the bearer to declare simply, ‘In my presence it was signed’ and no more, the fact that he has also to say, ‘In my presence it was written’ shows that ‘Special intention’ is required. And Raba? — He might retort that by rights the formula should run thus, but if it did the impression might be created that the confirmation of signatures to documents in general requires only one witness. And Rabbah? — He might rejoin that the two cases<sup>8</sup> are not similar. There the formula is, ‘We know [this to be So-and-so’s signature],’ here it is, ‘In my presence etc.’; there a woman is debarred,<sup>9</sup> here a woman is not debarred;<sup>10</sup> there the party concerned<sup>11</sup> is debarred, here the party concerned is not debarred.<sup>12</sup> And Raba? — He could rejoin that here also if [the bearer] says ‘I know etc.’ his word is accepted, and since this is so there is a danger<sup>13</sup> of creating the impression that confirmation of signatures to documents in general requires only one witness.

According to Rabbah, as we have seen, the reason [for requiring the declaration] is that [Jews outside the Land of Israel] are not familiar with the rule of ‘special intention’. [Assuming that this is so,] who is the authority that requires the Get to be both written

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(1) To enable her to remarry.

(2) Finding some flaw in the drafting or procedure.

(3) *Infra* 5b.

(4) [Lit., ‘do injury’ to himself (i.e., to his reputation). He realises that no attack against the validity of the Get is likely to be admitted merely on his own word so as to reverse the decision of the two or three before whom it had been presented. V. Rashi and Adreth, *Hiddushim* a.l., and *infra* p. 14, n. 2.]

(5) I.e., relating to money matters.

(6) If he says ‘In my presence it was written in her name’ which in Hebrew is expressed in three words.

(7) The formula in the Mishnah is expressed in two Hebrew words.

(8) The case of a Get and the case of documents in general.

(9) From attesting.

(10) V. *infra* 23b.

(11) The party claiming on the document.

(12) Because a woman may act as bearer of her own Get. *Infra* 23b.

(13) If he says only, ‘In my presence it was signed’.

### **Talmud - Mas. Gittin 3b**

and signed with special reference to that woman? It cannot be R. Meir, for he requires only that it should be signed, but not that it should be written with this intention, as we learn:<sup>1</sup> ‘A Get must not be written on something still attached to the soil. If it was written on something still attached to the soil, then torn off, signed and given to the woman, it is valid.’<sup>2</sup> Nor again can it be R. Eleazar, for [as we know] R. Eleazar requires that it should be written but not necessarily that it should be signed with ‘special intention’.<sup>3</sup> Nor can you maintain that after all it is R. Eleazar, and that in saying that ‘special intention’ is not required, he means ‘not required by the Torah’, but he admits that it is

required by the Rabbis. This cannot be; for there are three kinds of Get [which the Rabbis have declared invalid, though they are not invalid according to the Torah], and R. Eleazar does not include among them one which has not been signed with ‘special intention’, as appears from the following Mishnah:<sup>4</sup> Three kinds of Get are invalid, but if a woman marries on the strength of one of them, the child is legitimate. [One,] if the husband wrote it with his own hand but it was attested by no witnesses; [a second,] if there are witnesses to it but no date; [a third,] if it has a date but the signature of only one witness. These three kinds of Get are invalid, but if the woman remarries on the strength of one of them, the child is legitimate. R. Eleazar says that even though it was not attested by witnesses at all, so long as he gave it to her in the presence of witnesses it is valid, and on the strength of it she may recover her kethubah from mortgaged property, since signatures of witnesses are required to a Get only as a safeguard.<sup>5</sup> Are we to say then that after all R. Meir is the authority, and that he dispenses with ‘special intention’ only as a requirement of the Torah but not as a requirement of the Rabbis? How can this be, in view of what we have been told by R. Nahman, that R. Meir used to rule that even if the husband found a Get ready written on a rubbish heap

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(1) *Infra* 21b.

(2) Which shows that if the signing is in order, the writing does not matter.

(3) Because according to R. Eleazar, it is not necessary that the Get should be signed at all.

(4) *V. infra* 86a.

(5) This shows that R. Eleazar does not require the Get to be signed with ‘special intention’.

## **Talmud - Mas. Gittin 4a**

and signed it and gave it to her, it is valid? Nor can you say that this ruling means ‘valid as far as the Torah is concerned,’ for in that case R. Nahman should have said not, ‘R. Meir used to rule,’ but ‘It is a rule of the Torah’? — After all, we come back to the opinion that R. Eleazar was the authority, and [we say that] where he dispenses with the requirement of ‘special intention’ is in the case where there are no witnesses at all, but if [the Get] is signed, it must be signed with such intention. This accords with the statement of R. Abba, that R. Eleazar admitted that a Get which contains a flaw in itself<sup>1</sup> is invalid.

R. Ashi said: Shall I tell you who the authority [of the Mishnah] is? It is R. Judah, as shown by the following Mishnah: R. Judah declares the Get invalid unless it has been both written and signed on something not attached to the soil.<sup>2</sup> Why did we not at the outset declare R. Judah to be the authority? — We tried if possible [to base ourselves on the authority of] R. Meir because, where a Mishnah is stated anonymously [its author is] R. Meir.<sup>3</sup> We also try if possible [to base ourselves on the authority of] R. Eleazar, because it is generally agreed that his ruling is decisive in questions of writs of divorce.

Our Mishnah says: RABBAN GAMALIEL SAYS, THE DECLARATION MUST ALSO BE MADE BY ONE WHO BRINGS A GET FROM REKEM AND FROM HEGAR. R. ELEAZAR SAYS, EVEN IF HE BRINGS IT FROM KEFAR LUDIM TO LUD. [Commenting on this passage,] Abaye said that it refers to places adjoining<sup>4</sup> the Land of Israel and to places within the ambit of<sup>5</sup> the Land of Israel.<sup>6</sup> Rabbah b. Bar Hanah said: I have myself seen that placed and am able to state that the distance<sup>7</sup> is the same as from Be Kubi to Pumbeditha. Now [from the words of the Mishnah just quoted] we infer that the first Tanna<sup>8</sup> was of opinion that in these cases the declaration was not necessary. May we assume that the point of divergence between them is that one authority<sup>9</sup> holds that the reason why the declaration is required is because [Jews outside of the Land of Israel] are not familiar with the rule of ‘special intention’, and he excepts [the Jews of] these places because they are familiar,<sup>10</sup> whereas the other authority<sup>11</sup> holds that the reason [why the declaration is required] is because it is not easy to find witnesses to confirm the signatures, and he [includes the Jews of] these places because here too it is not easy?<sup>12</sup> — No. Rabbah can account for the difference in his way and

Raba in his way. Rabbah can account for it thus: All the authorities are agreed that the reason for requiring the declaration is because of the unfamiliarity [of the Jews outside Eretz Israel] with the rule of ‘special intention’, and the point of divergence between them is that the first Tanna is of opinion that in these places on account of their proximity to Eretz Israel the Jews are familiar with the rule, whereas Rabban Gamaliel held that this was so only in the case of places which lay within the ambit of Eretz Israel but not in those which merely adjoined it, and R. Eleazar would not allow it to be so even in the case of places which lay within the ambit, no distinction being made among places which belong to ‘foreign parts’. Raba accounts for the difference thus: All the authorities are agreed that the reason for requiring the declaration is because it is not easy to find witnesses to confirm the signatures, and the point of divergence between them is that the first Tanna is of opinion that in these places, on account of their proximity to the Land of Israel, it is easy to find witnesses, whereas Rabban Gamaliel held that this was so only in places which lie within the ambit of Eretz Israel, but not in those which only adjoin it, and R. Eleazar would not allow it to be so even in places lying within the ambit, as no distinction is to be made among places which belong to ‘foreign parts’.

Our Mishnah says: [THE SAGES SAY] THE DECLARATION, ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED IS REQUIRED ONLY FROM ONE WHO BRINGS A GET FROM FOREIGN PARTS AND FROM ONE WHO TAKES IT THERE. We infer from this that in the opinion of the first Tanna the bearer [of a bill of divorce] to foreign parts is not required to make the declaration. May we assume that the point of divergence between the two authorities is that one holds that the reason why the declaration is required is because [Jews in foreign parts] are not familiar with the rule of ‘Special intention’,

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- (1) E.g., a wrong date, a wrong signature, etc.
  - (2) Infra 21b.
  - (3) V. Sanh. 86a.
  - (4) I.e., Rekem and Hegar.
  - (5) Lit., ‘swallowed in’.
  - (6) I.e., Kefar Ludim. This place, though outside the boundary, would lie within a straight line drawn between two other places on the boundary, and so is said to be ‘swallowed’ in the Land of Israel.
  - (7) From Kefar Ludim to Lud.
  - (8) The authority for the first clause in the Mishnah.
  - (9) The first Tanna and R. Gamaliel.
  - (10) Being in the neighbourhood of Palestine.
  - (11) R. Eleazar.
  - (12) Because there is no commercial intercourse between the two places. (Rashi).

### **Talmud - Mas. Gittin 4b**

and he excepts the bearer of a Get from Eretz Israel because there they are familiar, whereas the other authority held the reason to be because it is not easy to find witnesses to confirm the signatures, and this applies to ‘foreign parts’ also? — No. Rabbah<sup>1</sup> can account for the difference in his way and Raba in his way. Rabbah explains thus: Both authorities are agreed that the reason for requiring the declaration is because of the unfamiliarity [of the Jews outside Eretz Israel] with the rule of ‘special intention’, and where they diverge is on the question whether we extend the obligation properly meant for the bearer from foreign parts to the bearer to foreign parts, one holding that we do make this extension, the other that we do not. Raba explains thus: Both authorities agree that the reason for requiring the declaration is because it is not easy to find witnesses to confirm the signatures, and the Rabbis mentioned in the second clause merely made explicit what was in the mind of the first Tanna.

Our Mishnah says: THE BEARER OF A GET FROM ONE PROVINCE TO ANOTHER IN

FOREIGN PARTS IS REQUIRED TO DECLARE, 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED'; from which we infer that if he takes it from one place to another in the same province 'in foreign parts'. he need not make the declaration. This conforms with the view of Raba but conflicts with that of Rabbah, [does it not]? — No. You must not infer [that if the Get is taken] from one place to another in the same province 'in foreign parts', the declaration is not required. What you have to infer is that if it is taken from one province to another in the Land of Israel the declaration is not required. But this is stated distinctly in the following clause of the Mishnah: THE BEARER OF A GET [FROM ONE PLACE TO ANOTHER] IN THE LAND OF ISRAEL IS NOT REQUIRED TO DECLARE, 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED'! — If I had only that to go by I should say that while this omission does not invalidate the Get retroactively. It is not permissible in the first instance; now I know that this is also the case.<sup>2</sup>

The objection here raised is also stated in the following form: I infer that the bearer of a Get from one province to another in the Land of Israel is not required to make the declaration. This is in conformity [is it not] with the view of Rabbah but conflicts with that of Raba? — You must not infer that [if it is taken] from one province to another in the Land of Israel the declaration is not required. The proper inference to draw is that it is not required from the bearer from one part to another of the same country in foreign parts. What then? From the bearer from one province to another in the Land of Israel it is required? Then it would be sufficient for the Mishnah to say, 'The bearer of a Get from one province to another' [without mentioning 'foreign parts']? — The fact is that it is not necessary for the bearer from one province to another in the Land of Israel either,<sup>3</sup> since on account of the festival pilgrimages [to Jerusalem] it is always possible to find witnesses. This may have been a good reason so long as the Temple was standing, but what of the time when there is no Temple? — Since there are [Jewish law] courts regularly established, witnesses can always be found.

We have learnt: Our Mishnah says: RABBAN SIMEON BEN GAMALIEL SAYS, EVEN THE BEARER FROM ONE GOVERNORSHIP TO ANOTHER, and commenting on this R. Isaac said that there was a certain city in Eretz Israel, 'Assasioth by name,<sup>4</sup> in which were two Governors at variance with each other,<sup>5</sup> and that is why the Mishnah had to put in the clause 'from governorship to governorship'. Now this ruling conforms with the view of Raba, [does it not,] but conflicts with that of Rabbah? — Rabbah accepts Raba's reason also.<sup>6</sup> Where then does a difference arise between them in practice? — If the Get was brought by two bearers, or if it was brought from one place to another in the Same province in a 'foreign country'.<sup>7</sup>

We have learnt: Where the bearer of a Get from foreign parts is not able to declare, 'in my presence it was written and in my presence it was signed', if the Get has been signed by witnesses, its validity can be established through the signatures.<sup>8</sup> We were perplexed by the expression, 'is unable to say'.

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(1) .

(2) .

(3) And yet this does not conflict with the view of Raba.

(4) [Horowitz, I. Palestine p. 63 identifies it with Essa, east of the Lake Kinnereth, which was in his view divided into two governorships, Essa and Gerasa.]

(5) So that there was no intercourse between them.

(6) So that Rabbah requires the declaration to be made in all cases in which Raba requires it, but not vice versa.

(7) In both of which cases Rabbah requires the declaration to be made but Raba does not.

(8) Infra 9a.

Shall we say it refers to a deaf-mute? But can a deaf-mute be the bearer of a Get, seeing that we learn, 'All persons are qualified to be bearers of a Get except a deaf-mute, a lunatic, and a minor'? And this difficulty was solved by R. Joseph, who said that we are dealing here with a case in which he gave the woman the Get while he was still in possession of his faculties, but before he could say the formula was struck deaf and dumb. Now this conforms with the view of Raba, [does it not,] but conflicts with that of Rabbah?<sup>1</sup> — [This Mishnah was formulated] after the rule [of 'special intention'] had become generally known. If that is the case, even if the bearer is able to repeat the formula, [what need is there for him to do so]? — This was a precaution in case there is a return of the abuse. If that is the case, even if the bearer is not able to repeat the formula [it should still be required]? — For a man to be suddenly struck dumb is an exceptional occurrence, and the Rabbis did not take precautions against such exceptional cases. [Is that so?] For a woman to be the bearer of her own Get is very exceptional, and yet we learn:<sup>2</sup> The wife can act as bearer of her own Get [to a specified Beth din], and she is equally required to declare, 'In my presence it was written and in my presence it was signed'? — The reason for this is to avoid making any distinction between bearer and bearer. If that is so, the same rule [should apply to the] husband; why then has it been taught: If the husband brings the Get personally, he is not required to declare, 'In my presence it was written and in my presence it was signed'? — The reason why the Rabbis insisted on this declaration in the first instance was to provide against the danger of the husband coming to challenge and invalidate the Get. In this case, seeing that he brings it himself, is it conceivable that he should raise objections against it?

Come and hear: Samuel put the following question to R. Huna: If a Get is brought from foreign parts by two bearers, are they required to declare, 'In our presence it was written and in our presence it was signed', or are they not? And [R. Huna] answered that they are not required, because should they declare, 'In our presence he divorced her,' would their word not be accepted? This conforms, [does it not,] with the view of Raba and conflicts with that of Rabbah? — This Mishnah was formulated after the rule [of 'special intention'] had become generally known. If that is so, even if there is only one bearer, [the declaration should not be required]? — This was a precaution in case there is a recurrence of the abuse. If that is so, the same precaution should be taken when there are two bearers? — For a Get to be brought by two persons is exceptional, and the Rabbis did not take precautions against exceptional cases. [Is this so?] For a woman to be the bearer of her own Get is very exceptional, and yet we learn: The wife can act as bearer of her own Get, but she is equally required to declare, 'In my presence, etc.'? — The reason for this is to avoid making any distinction between bearer and bearer. If that is so, the same rule should apply to the husband; why then is it taught, If the husband brings the Get personally, he is not required to declare, 'In my presence, etc.'? — The reason why the Rabbis insisted on this declaration in the first instance was to provide against the danger of the husband coming to challenge and invalidate the Get. In this case, seeing that he brings it himself, is it conceivable that he should raise objections against it?

Come and hear: If the bearer of a Get from foreign parts gave it to the wife but did not declare, 'In my presence etc.', if the genuineness of the signatures [attached to the Get] can be established, it is valid, and if not it is invalid. From this we deduce that the purpose of requiring this declaration is to make the process of divorce easier and not more difficult.<sup>3</sup> This conforms, [does it not,] with the opinion of Raba and conflicts with that of Rabbah? — This Mishnah was formulated after the rule [of 'special intention'] became generally known. But you yourself have maintained that it is necessary to take precautions in case there is a recurrence of the abuse? — We are dealing here with the case where the woman has remarried.<sup>4</sup> If so, how can you say, 'From this we deduce that this requirement is intended to make the process of divorce easier and not more difficult'? The reason why we allow the validity of the Get to be established through its signatures is because she has remarried? — We must read the passage thus: '[The Get is valid if the signatures can be confirmed.] And should you think that if she has remarried we should be more strict and force [her husband] to put her away, we must bear in mind that the purpose of requiring this declaration is to make the

process of divorce easier and not more difficult. The whole reason

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- (1) [For according to Rabbah even if the signatures are authenticated it does not follow that the Get was written with 'special intention'.]
  - (2) Infra 23b.
  - (3) It saves the trouble of securing a witness to attest the signatures.
  - (4) And her disregard of the precaution does not warrant the enforcement of a separation.

## **Talmud - Mas. Gittin 5b**

why it is required is as a precaution against the risk of the husband coming to challenge and invalidate [the Get]. Seeing that here the [first] husband is raising no objection, shall we go out of our way to do so?’

[An identical] difference of opinion [had already been recorded] between R. Johanan and R. Joshua b. Levi,<sup>1</sup> one of whom held that the reason [for requiring the declaration] was because the Jews outside the Land of Israel were not familiar with the rule of ‘special intention’, and the other that it was because witnesses could not easily be found to confirm the signatures. We may conclude that it was R. Joshua b. Levi who gave the reason, ‘because they are not familiar with the rule of "special intention",’ from the following incident. R. Simeon b. Abba once brought a Get before R. Joshua b. Levi, and said to him: Am I required to declare, ‘I was present when it was written and present when it was signed’? and he replied: You need not make the declaration. It was only required in former generations, when the rule of ‘special intention’ was not generally known, but not in these times when the rule is known. We may therefore conclude [that it was R. Joshua b. Levi who gave this reason]. [Was this a good ruling,] seeing that Rabbah accepts Raba's reason also, and further that, as we have said, precaution should be taken in case there is a recurrence of the abuse? — There was another man with him,<sup>2</sup> although he is not mentioned [in the passage quoted] out of respect for R. Simeon.

It has been stated: [On the question] how many persons must be present when the bearer of the Get gives it to the wife there was a difference of opinion between R. Johanan and R. Haninah, one holding that a minimum of two were required and the other a minimum of three. It may be concluded that it was R. Johanan who held that two were sufficient, [from the following incident]. Rabin son of R. Hisda brought a Get before R. Johanan, and the latter said to him: Go and give it to her in the presence of two persons, and say to them, ‘In my presence it was written and in my presence it was signed.’ We may therefore conclude [that R. Johanan held two to be sufficient]. May we assume that the point on which R. Johanan and R. Haninah diverge is that the one who held two persons to be sufficient considered the reason for requiring the declaration to be the general ignorance of the rule of ‘special intention’,<sup>3</sup> while the one who insisted on three considered the reason to be the difficulty of finding witnesses?<sup>4</sup> — [Can this be so?] We have found that it is R. Joshua who assigns as the reason ignorance of the rule of ‘special intention’, and so it must be R. Johanan who assigns as the reason the difficulty of finding witnesses. How then can it be R. Johanan who here says that two persons are sufficient? Moreover [is it not a fact] that Rabbah also accepts Raba's reason? No. [The reason of the declaration is because] we need witnesses who should be available to validate the Get, and the point at issue here is whether it is permitted to an agent to act as a witness and a witness as a judge. The authority who says that two persons are sufficient holds that an agent may act as witness and a witness may act as judge,<sup>5</sup> whereas the one who insists on three holds that while an agent may act as witness, a witness may not act as judge. But has it not been laid down that in the case of evidence required only by the Rabbis<sup>6</sup> [but not by the Torah] a witness may act as judge? No. The real point at issue is this, that one authority held that since a woman is qualified to bring the Get there is a danger [if only two persons are required] that we may rely upon her,<sup>7</sup> while the other held that everyone knows that a woman is not qualified [to complete a Beth din], and therefore there is no



danger.

It has been taught in agreement with R. Johanan: If the bearer of a Get from foreign parts gave it to the wife without declaring, 'In my presence it was written and in my presence it was signed,' if she marries again the second husband must put her away and a child born from the union is a mamzer.<sup>8</sup> This is the opinion of R. Meir. But the Rabbis say that the child is not a mamzer. What should be done [to rectify matters?] The bearer should take the Get back from the woman, and then present it to her in the presence of two persons, declaring at the same time, In my presence it was written, and in my presence it was signed. [Are we to suppose then that] according to R. Meir, because the bearer failed [in the first instance] to make this declaration, the second husband has to put away the woman, and the child is a mamzer? — Yes: R. Meir in this is quite consistent; for so R. Hammuna has told us in the name of 'Ulla, that R. Meir used to affirm: If any variation whatever is made in the procedure laid down by the Sages for writs of divorce, the second husband has to put the woman away and the child is a mamzer.

Bar Hadaya once desired to act as bearer of a Get.<sup>9</sup> Before doing so he consulted R. Ahi, who was a supervisor of writs of divorce.<sup>10</sup> Said R. Ahi to him: You must watch the writing of every letter of the document. He then consulted R. Ammi and R. Assi, who said to him: This is not necessary, and if you think to be on the safe side, you must consider that by doing so you will be discrediting previous writs of divorce.<sup>11</sup> Rabba b. Bar Hanah once acted as bearer of a Get<sup>12</sup> of which half had been written in his presence and half not. He consulted R. Eleazar, who told him that even if only one line of it had been written with 'special intention' that was sufficient. R. Ashi said:

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- (1) Two Amoraim of an earlier generation than Rabbah and Raba.
  - (2) And therefore Raba's reason did not apply.
  - (3) And therefore it is sufficient if two can testify to the delivery of the Get, after having heard the bearer make, in their presence, the proper declaration.
  - (4) And therefore we require three persons to be available (in case the husband comes and challenges the Get), since the confirmation of signatures must take place in the presence of three, constituting a kind of Beth din; (v. Keth. 21b).
  - (5) And therefore the bearer of the Get may join with the two witnesses of the delivery to form a Beth din.
  - (6) Under which category comes the confirmation of signatures. V. Keth. 1.c.
  - (7) To form a third or to enable us to dispense with a third.
  - (8) The product of an incestuous union. V. Glos.
  - (9) From Babylon to Palestine.
  - (10) An expert officer was appointed to see that the procedure was in conformity with all the regulations. (Rashi).
  - (11) The bearers of which were not so particular.
  - (12) See p. 15 n. 4.

## Talmud - Mas. Gittin 6a

Even if he only heard the scratching of the pen and the rustling of the sheet,<sup>1</sup> it is sufficient. It has been taught in agreement with R. Ashi: 'If a Get is brought from foreign parts, even if the bearer was downstairs while the scribe was upstairs, or upstairs while the scribe was downstairs, the Get is valid, or even if he was going in and out all day, the Get is valid.' [Now in the case where] he is downstairs and the scribe is upstairs [you may ask, how can this be,] seeing that the bearer cannot have seen him [while writing]?<sup>2</sup> Obviously [what is meant is] that he, for instance, heard the scratching of the pen and the rustling of the sheet.<sup>3</sup>

The Master said: 'Even if he was going in and out all day the Get is valid'. Who is referred to by 'he'? Shall I say it is the bearer? Hardly; for if the Get is valid even when he was in a different room and so did not see it at all, is there any question that it is valid when he simply was going in and out [of the same room]? [Shall I say] then it is the scribe? Surely this is self-evident. Because he leaves

the room sometimes [in the middle of writing]. is that any ground for declaring the Get invalid? — It is not [so self-evident]. It is necessary to state the case where he went out into the street and returned. You might say that another man [of the same name] has come across him and commissioned him to write a Get.<sup>4</sup> Now we know [that this objection is not maintained].

It has been stated: Babylonia has been declared by Rab to be in the same category with the Land of Israel in respect of writs of divorce, and by Samuel to be in the same category with foreign parts.<sup>5</sup> May we assume their point of divergence to be this, that one of them held the reason for requiring the declaration to be that [Jews outside the Land of Israel] are not familiar with the rule of 'special intention', so that [the Babylonians,] being familiar, [are in the same category with the Palestinians], whereas the other held the reason to be the difficulty of finding witnesses to confirm [the signatures], and the same difficulty is found [in Babylonia]? — Can you really presume this, seeing that Rabbah also accepts Raba's reason? No. Both [Rab and Samuel] agree that the Get requires confirmation. Rab, however, is of opinion that since there are Talmudical Colleges in Babylonia witnesses can always be found,<sup>6</sup> while Samuel is of opinion that the Colleges are taken up with their studies.<sup>7</sup> It has also been stated that R. Abba said in the name of R. Huna: 'In Babylonia we have put ourselves on the same level as Eretz Israel in respect of bills of divorce from the time when Rab came to Babylon.'<sup>8</sup> R. Jeremiah raised an objection: R. JUDAH SAYS, FOREIGN PARTS EXTEND FROM REKEM EASTWARDS, REKEM BEING INCLUDED; FROM ASKELON SOUTHWARD, ASKELON BEING INCLUDED: AND FROM ACCO NORTHWARDS, ACCO BEING INCLUDED. Now Babylon is north of Eretz Israel, as we learn from the verse of the Scripture, And the Lord said to me, Out of the north the evil shall break forth.<sup>9</sup> It is true, the Mishnah continues: R. MEIR SAYS, ACCO COUNTS AS PART OF THE LAND OF ISRAEL IN THE MATTER OF BILLS OF DIVORCE; but even R. Meir only excepted Acco, which is close to Eretz Israel, but not Babylon, which is remote!<sup>10</sup> — R. Jeremiah asked the question and he himself answered [by saying that] 'Babylon is an exception.

How far does Babylon extend? — R. Papa says: On this question there is the same difference of opinion in respect of bills of divorce as there is in respect of family descent.<sup>11</sup> R. Joseph, however, says that the difference of opinion exists only in respect of family descent, but in respect of bills of divorce all parties are agreed that Babylonia extends to the second boat of the [floating] bridge.<sup>12</sup> R. Hisda required [the declaration to be made by the bearer of a Get] from Ktesifon to Be-Ardashir, but not [by one who brought it] from Be-Ardashir to Ktesifon.<sup>13</sup> May we presume that he considered the reason [for requiring the declaration to be that Jews in foreign parts] are not familiar with the rule of 'special intention', and that the people of Be-Ardashir are familiar? — How can you presume this, seeing that Rabbah accepts Raba's reason also? But in point of fact all authorities are agreed that confirmation [of the Get] is required, and the reason of R. Hisda is that as the people of Be-Ardashir go to Ktesifon to market, the inhabitants of the latter are familiar with their signatures,<sup>14</sup> but not vice versa, because the Be-Ardashir [buyers] are busy with their marketing. Rabba b. Abbuha required [the declaration to be made if the Get was brought] from one side of the street to the other; R. Shesheth if it was brought from one block [of buildings] to another; and Raba even [from one house to another] within the same block. But was it not Raba who said that the reason was because it was not easy to find witnesses to confirm the signatures? — The people of Mahuzah<sup>15</sup> are different, because they are always on the move.<sup>16</sup>

R. Hanin related the following: R. Kahana brought a Get either from Sura to Nehardea or from Nehardea to Sura, I do not know which, and consulted Rab as to whether he was required to declare, 'In my presence it was written and in my presence it was signed.' Rab said to him: You are not required,

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(1) Aliter 'the sound of the pen and the paper as they were being prepared'.

(2) [It is assumed that where the bearer is upstairs he can see the scribe who is working downstairs. V. Trani, who

preserves a reading to this effect.]

(3) And this is deemed to be sufficient.

(4) And therefore the Get was not written expressly for the woman to whom the bearer is intended to take it.

(5) **חוּצָה לְאֶרֶץ** lit., 'outside the Land'.

(6) As students and other people are always going from various places to the colleges.

(7) And therefore the students there do not recognise the signatures.

(8) In the year 219 C.E. [He founded, after his return the second time from Palestine, the school of Sura to which there flocked students from all parts. This gave an impetus to the study of the Law and made Babylonia a centre of learning for centuries (Rashi). Tosaf.: Since Rab came and insisted that Babylonia never ceased to be a centre of Torah study, since the days of the exile of Jehoiachin with the flower of Judea. V. II Kings XXIV, 14. Obermeyer. Die Landschaft Babylonien. p. 306, points out that the name 'Babylon' stands here, as in other places in the Talmud, for Sura which was in the neighbourhood of the old great city, Babylon, and in contradistinction to Nehardea, where he had his former seat.]

(9) Jer. I, 14.

(10) [Tosaf. appeals to this question in support of its interpretation cited n. 3.]

(11) The Jews of Babylonia being reputed to have preserved their racial purity more strictly than the Jews of any other part. v. Kid. 72a.

(12) [Over the Euphrates north of Samosata, v. Berliner, A., Beitrage p. 21; v. also Kid. 72a.]

(13) [Two neighbouring places, the former on the eastern, the latter on the western bank of the Tigris. Ktesifon was the larger place of the two, and a marketing centre for the neighbouring towns. V. Obermeyer op. cit. pp. 164ff.]

(14) Because the Be-Ardashir people often buy their goods on credit against promissory notes which they leave with the Ktesifon merchants.

(15) Where Raba had his seminary.

(16) [To sell their merchandise which was brought along the Tigris and Euphrates and caravan routes to Mahuzah which was a great trading centre. V. Obermeyer op. cit. p. 173.]

## Talmud - Mas. Gittin 6b

but if you have done so, so much the better. What [did Rab] mean by these last words? — [He meant] that if the husband came and raised objections against the Get, they would pay no attention to him;<sup>1</sup> as it has been taught: A man once brought a Get before R. Ishmael, and asked him whether he was required to declare, 'In my presence etc. Said R. Ishmael to him: My son, from where are you? He replied: Rabbi, I am from Kefar Sisai. Whereupon R. Ishmael said to him: It is necessary for you to declare that It was written and signed in your presence, so that the woman should not require witnesses [in case the husband raises objections]. After the man left, R. Ila'i came in to R. Ishmael and said to him: Is not Kefar Sisai<sup>2</sup> within the ambit of the border-line of Eretz Israel, and is it not nearer to Sepphoris than Acco is, and does not the Mishnah tell us that R. MEIR HELD THAT ACCO COUNTS AS ERETZ ISRAEL IN MATTERS OF BILLS OF DIVORCE,<sup>3</sup> [and even the Rabbis differ from R. Meir only in regard to Acco, which is some distance away, but not in regard to Kefar Sisai which is near?]<sup>4</sup> R. Ishmael said to him: Say nothing, my son, say nothing; now that the thing has been declared permissible, let it remain so. [Why should R. Ila'i have thought otherwise], seeing that [R. Ishmael] also gave as a reason 'that the woman should not require witnesses'? — [R. Ila'i] had not been told of these concluding words.

R. Abiathar sent to R. Hisda [the following instruction:] [The bearers of] writs of divorce from there [Babylon] to here [Eretz Israel] are not required to declare, 'In my presence it was written and in my presence it was signed.' May we presume that he was of opinion that the reason for requiring the declaration is because the [Jews outside Palestine] are not familiar with the rule of 'special intention', while these [the Babylonians] are familiar? — Can you really presume this, seeing that Rabbah accepts Raba's reason? No. All agree that [the reason is] because we require someone who can confirm the signatures if necessary, and in this case, as there are always people going to and fro between Babylon and Eretz Israel, witnesses can easily be found.

Said R. Joseph: Can it be maintained that R. Abiathar is an authority who can be relied upon? [Have we not] moreover evidence to the contrary? For it was he who sent a statement to Rab Judah, [running,] ‘Jews who come from there [Babylon] to here [Eretz Israel] fulfil in their own persons the words of the Scripture: They have given a boy for a harlot and sold a girl for wine and have drunk,<sup>5</sup> and he wrote the words from Scripture without ruling lines under them, although R. Isaac has said that a quotation of two words [from Scripture] may be written without lines but not of three (in a Baraitha it was taught that three may be written without lines but not four)? — Said Abaye to him: Because a man does not know this rule of R. Isaac, is he therefore not to be counted a great scholar? If it were a rule established by logical deduction, we might think so.<sup>6</sup> But it is purely a tradition,<sup>7</sup> and it is a tradition which R. Abiathar had not heard. Nay more, R. Abiathar is the authority whose view was confirmed by his Master,<sup>8</sup> [in the following way]. Commenting on the text, And his concubine played the harlot against him,<sup>9</sup> R. Abiathar said that the Levite found a fly with her, and R. Jonathan said that he found a hair on her. R. Abiathar soon afterwards came across Elijah and said to him: ‘What is the Holy One, blessed be He, doing?’ and he answered, ‘He is discussing the question of the concubine in Gibe’a.’ ‘What does He say?’ said Elijah: ‘[He says], My son Abiathar says So-and-so, and my son Jonathan says So-and-so,’ Said R. Abiathar: ‘Can there possibly be uncertainty in the mind of the Heavenly One?’ He replied: Both [answers] are the word of the living God. He [the Levite] found a fly and excused it, he found a hair and did not excuse it. Rab Judah explained: He found a fly in his food and a hair in loco concubitus; the fly was merely disgusting, but the hair was dangerous. Some say, he found both in his food; the fly was not her fault, the hair was.

R. Hisda said: A man should never terrorise his household. The concubine of Gibe’a was terrorised by her husband and she was the cause of many thousands being slaughtered in Israel. Rab Judah said in the name of Rab: If a man terrorises his household, he will eventually commit the three sins of unchastity,<sup>10</sup> blood-shedding,<sup>11</sup> and desecration of the Sabbath.<sup>12</sup> Rabba b. Bar Hanah said: ‘The three things which a man has to say to his household just before Sabbath commences, ‘Have you set aside the tithe? Have you placed the ‘Erub? Light the lamp,’<sup>13</sup>

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(1) Once the declaration was made.

(2) Or Simai, identified with Kefar Sumeija, N.W. of Kefar Hananiah (‘Anan); v. Kaftor wa-Ferah, p. 270, and Klein, S., Beitrage, p. 29, n. 4.

(3) Hence the declaration should not be required.

(4) [The bracketed sentence is not in the Tosef. Git. I. whence this passage is quoted.]

(5) Joel IV, 3. [He disapproved of the practice of Babylonian students marrying before graduation and then betaking themselves to the Palestinian schools for the completion of their studies, leaving their wives and children in utter destitution. (V. Nashi and Tosaf.)]

(6) As this would show R. Abiathar to be deficient in logical acumen.

(7) [The whole regulation requiring Biblical passages to be underlined is based on an ancient oral tradition going back to Moses at Sinai; v. Soferim I.]

(8) God Himself.

(9) Judg. XIX, 2.

(10) By having intercourse with his wife when she is unclean, because she is afraid to tell him.

(11) Because the members of his household run away from him and meet with fatal accidents.

(12) Because his wife through fear of him lights the lamp after dark.

(13) V. Shah. 34a.

## Talmud - Mas. Gittin 7a

should be said by him gently, so that they should obey him readily. R. Ashi said: I was never taught that rule of Rabba b. Bar Hanah, but I observed it because my own sense told me to.

R. Abbahu said: A man should never terrorise his household. For there was a certain great man who terrorised his household, and in consequence they fed him with a thing to eat which is a great sin. This was R. Hanina b. Gamaliel. Do you mean to say they actually fed him with it? Why, even the beasts of the righteous are not allowed by the Holy One, blessed be He, to offend;<sup>1</sup> how then shall the righteous themselves be allowed so to sin? — Say, they wanted to feed him. And what was it they set before him? A piece of flesh cut from an animal still living.<sup>2</sup>

Mar ‘Ukba<sup>3</sup> sent for advice to R. Eleazar, saying: Certain men are annoying me, and I am able to get them into trouble with the government; shall I do so? He traced lines on which he wrote [quoting], I said, I will take heed to my ways, that I sin not with my tongue, I will keep a curb upon my mouth while the wicked is before me;<sup>4</sup> [that is,] he added, although the wicked is before me, I will keep a curb on my mouth. Mar ‘Ukba again sent to him saying: They are worrying me very much, and I cannot stand them. He replied [with the quotation], Resign thyself unto the Lord, and wait patiently [hitholel] for him;<sup>5</sup> [that is to say,] he added, wait for the Lord, and He will cast them down prostrate [halalim] before thee; go to the Beth-Hamidrash early morning and evening and there will soon be an end of them. R. Eleazar had hardly spoken the words when Geniba<sup>6</sup> was placed in chains [for execution].<sup>7</sup>

An inquiry was once addressed to Mar ‘Ukba: Where does Scripture tell us that it is forbidden [in these times] to sing [at carousals]? He sent back [the following quotation] written on lines: Rejoice not, O Israel, unto exultation like the peoples, for thou hast gone astray from thy God.<sup>8</sup> Should he not rather have sent the following: They shall not drink wine with music, strong drink shall be bitter to them that drink it?<sup>9</sup> — From this verse I should conclude that only musical instruments are forbidden, but not song; this I learn [from the other verse].

R. Huna b. Nathan asked R. Ashi: What is the point of the verse, Kinah and Dimonah and Adadah?<sup>10</sup> — He replied: [The text] is enumerating towns in the Land of Israel. Said the other: Do I not know that the text is enumerating towns in the Land of Israel? But I want to tell you that R. Gebihah from [Be]Argiza<sup>11</sup> learnt a lesson from these names: ‘Whoever has cause for indignation [kinah] against his neighbour and yet holds his peace [domem], He that abides for all eternity [‘ade ‘ad] shall espouse his cause; said the other: If that is so, the verse Ziklag and Madmanah and Sansanah<sup>12</sup> should also convey a lesson? — He replied: If R. Gebihah from [Be] Argiza were here, he would derive a lesson from it. R. Aha from Be Hozae<sup>13</sup> expounded [it as follows]: ‘If a man has just cause of complaint against his neighbour for taking away his livelihood [za’akath legima] and yet holds his peace [domem], He that abides in the bush [shokni sneh] will espouse his cause.

The Exilarch<sup>14</sup> said to R. Huna: On what ground is based the prohibition of garlands? — He replied: This was imposed by the Rabbis on their own authority. For so we have learnt: At the time of the invasion of Vespasian they prohibited the wearing of garlands by bridegrooms and the [beating of] drums [at weddings].<sup>15</sup> R. Huna then got up to leave the room. R. Hisda<sup>16</sup> thereupon said to him [the Exilarch]: There is scriptural warrant for it: Thus saith the Lord God, The mitre shall be removed and the crown taken off this shall be no more the same; that which is low shall be exalted and that which is high abased,<sup>17</sup> [It may be asked, he continued] what the mitre has to do with the crown. It is to teach that when the mitre is worn by the High priest,<sup>18</sup> ordinary persons can wear the crown,<sup>19</sup> but when the mitre has been removed from the head of the High priest, the crown must be removed from the head of ordinary persons. At this point R. Huna returned, and found them still discussing the matter. He said: I swear to you that the prohibition was made by the Rabbis on their own authority, but as your name is Hisda [favour], so do your words find favour. Rabina found Mar son of R. Ashi weaving a garland for his daughter. He said to him: Sir, do you not hold with the interpretation given above of ‘Remove the mitre and take off the crown’? — He replied: The men [have to follow] the example of the High Priest, but not the women.

What is the meaning of the words in this passage, 'This not this'?<sup>20</sup> R. 'Awira gave the following exposition, sometimes in the name of R. Ammi and sometimes in the name of R. Assi: When God said to Israel, 'Remove the mitre and take off the crown', the ministering angels said, Sovereign of the Universe, is 'this' for Israel who at Mount Sinai said 'we will do' before 'we will hear'?<sup>21</sup> Should not 'this' be for Israel, replied the Holy One, blessed be He, who have made low that which should be exalted and exalted that which should be low, and placed an image in the sanctuary? R. 'Awira also gave the following exposition, sometimes in the name of R. Ammi and sometimes in the name of R. Assi; What is the meaning of the verse, Thus saith the Lord, though they be in full strength and likewise many, even so shall they be sheared off<sup>22</sup> and he shall cross etc.<sup>23</sup> If a man sees that his livelihood is barely sufficient for him, he should give charity from it, and all the more so if it is plentiful.<sup>24</sup> What is the meaning of the words, 'Even so they shall be sheared and he shall cross'? — In the school of R. Ishmael it was taught: Whoever shears off part of his possessions and dispenses it in charity is delivered from the punishment of Gehenna. Picture two sheep crossing a river, one shorn and the other not shorn; the shorn one gets across, the unshorn one does not.

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- (1) V. Hul. 7a. The story is told there of the ass of Phineas b. Yair which refused to touch untithed corn.
- (2) A piece of meat had been mislaid and the servant attempted to substitute for it flesh cut from a living animal.
- (3) [Mar 'Ukba II the Exilarch. On the great influence he wielded in government circles v. Funk, *Die Juden in Babylonien* I pp. 106ff. and n. 4; and Halevy. *Doroth*, II, p. 248.]
- (4) Ps. XXXIX, 2.
- (5) *Ibid.* XXXVII, 7.
- (6) Who was one of his antagonists.
- (7) [V. J. Git. VI, 5.]
- (8) Hos. IX, 1.
- (9) Isa. XXIV, 9.
- (10) Josh. XV, 22.
- (11) [Obermeyer, *op. cit.* p. 144, locates it near Be Kathil, on the Tigris, N. of Bagdad; v. B.K. (*Sonc. ed.*) p. 465, n. 10.]
- (12) *Ibid.* 31.
- (13) [The modern Khuzistan, province of S.W. Persia, Obermeyer, *op. cit.* p. 204ff.]
- (14) [Mar 'Ukba II.]
- (15) V. Sot. 49a.
- (16) He was R. Huna's disciple, and therefore did not like to answer in his presence.
- (17) Ezek. XXI, 31.
- (18) I.e., while the Temple is still standing.
- (19) I.e., garland.
- (20) E.V. 'This shall be no more the same', quoted above.
- (21) Thus showing their devotion to God. Ex. XXIV, 7.
- (22) E.V. 'cut down'.
- (23) E.V. 'pass away Nah. I, 12.
- (24) Translating, 'If they be . . . and all the more.'

## Talmud - Mas. Gittin 7b

And though I have afflicted thee:<sup>1</sup> Mar Zutra said: Even a poor man who himself subsists on charity should give charity. I will afflict thee no more:<sup>2</sup> R. Joseph learnt: If he does that, [Heaven] will not again inflict poverty upon him.

R. JUDAH SAYS, FROM REKEM EASTWARDS etc. This would seem to imply that Acco is at the [extreme] north of Eretz Israel. Does not this conflict with the following: '[Suppose a traveller] follows the road from Acco to Chezib.<sup>3</sup> Then all the country on his right, east of the road, partakes of the uncleanness of the "land of the Gentiles",<sup>4</sup> and the obligations of tithe and sabbatical year do not apply to it, save where it is definitely known to be liable.<sup>5</sup> The country on his left hand, west of the

road, does not partake of the uncleanness of the "land of the Gentiles", and is subject to the rules of tithe and sabbatical year, save where [the reverse] that it is exempt, is definitely known.<sup>6</sup> Up to what point [does this hold good]? As far as Chezib. R. Ishmael the son of R. Jose says in the name of his father, As far as Lablabu.<sup>7</sup> — Said Abaye: A narrow strip does in fact jut out [beyond Acco].<sup>8</sup> And is this important enough for the Tanna to define it so precisely?<sup>9</sup> — It is, for the Scripture also gives indications in the same way, in the following passage: And they said, Behold there is the feast of the Lord from year to year in Shiloh. which is on the north of Bethel, on the east side the highway that goeth up from Bethel to Shechem, and on the south of Lebonah;<sup>10</sup> And R. Papa pointed out, that it means 'the east side of the highway.'<sup>11</sup>

One [Baraitha] teaches: 'If a man brings a Get by boat<sup>12</sup> he is in the same category as if he brought it [from place to place] in Eretz Israel;<sup>13</sup> and another [Baraitha] teaches that he is in the same category with one who brings it [from place to place] in foreign parts.<sup>14</sup> Said R. Jeremiah: The contradiction can easily be explained: the latter view is based on the ruling of R. Judah, the former on that of the Rabbis, as we have learnt: [Plants grown in] earth from foreign parts which is carried in a boat in Eretz Israel are subject to the obligations of tithe and Sabbatical year. R. Judah says: This is the case only if the boat touches bottom, but if not, the obligations do not apply.<sup>15</sup> Abaye says that both [authorities] follow R. Judah, and there is no contradiction between them, the one<sup>16</sup> referring to a boat which does not touch bottom and the other to one which does.

Said R. Ze'ira: The case of a plant pot with a hole in the bottom resting on a stand<sup>17</sup> may be variously decided according as we follow R. Judah or the Rabbis [in this case]. Said Rabba: This is open to question. Possibly R. Judah would say [that actual contact with the soil was necessary to make the plant liable to tithe] only in the case of a boat,

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(1) Ibid.

(2) Ibid.

(3) [The Biblical Achzib, between Acre and Tyre. Josh. XIX, 29.]

(4) Those parts of Palestine of which the population was preponderantly Samaritan or non-Jewish, and on which a Jew could not set foot without becoming ritually unclean. V. Nazir, (Sonc. ed.) p. 204, n. 1.

(5) Because the territory is known to belong to Eretz Israel.

(6) (V. Tosef. Oh. XVIII and J. Sheh. where the reading is reversed: ' . . . East of the road does not partake of the uncleanness; west of the road does partake etc.' This reading, as the Wilna Gaon points out, is to be given preference, since Acco is situated on the West of Palestine, whereas our reading assumes that it is on the Eastern border; v. also Schwarz, J. Tebuoth ha-'Arez (ed. Luncz) p.8, n. 1.]

(7) [Tosef. loc. cit. Kalabu; neither names are definitely identified; v. Neubauer p. 233, who locates the former on the outskirts of Acco, the latter east of Tyre.] This shows that the extreme northern point is Chezih or Lablabu and not Acco.

(8) [Though Acco is on the extreme North, the narrow strip of territory jutting out beyond Acco leading to Chezib belongs to Eretz Israel (Rashi); Kaftor wa-Ferach p. 276, in name of Maimonides, reverses: Eretz Israel stretches to Chezib which is in the extreme north, but a strip of territory belonging to the land of the Gentiles juts out from Chezib to Acco; v. also Tosaf. Yom Tob, Sheb. VI, 1.]

(9) So Nashi. Tosaf., however, renders: 'Is a road so important that the Tanna in speaking of "east" and "west" had to refer to it?' which seems to suit the context better.

(10) Jud. XXI, 19.

(11) [The text might be taken to mean that Shiloh is on the N.E. of Bethel; v. Strashun a.l.]

(12) It is assumed that it was written on the boat in Eretz Israel waters.

(13) The river being reckoned an integral part of Eretz Israel.

(14) The river not being reckoned an integral part of Eretz Israel.

(15) Hal. II, 2. The laws of tithing and Sabbatical year apply only to Palestinian grown products.

(16) Who says that the Get is in the same category as one brought from place to place in foreign parts.

(17) I.e., the question whether the plant in it is subject to tithe, seeing that it does not touch the ground.

## Talmud - Mas. Gittin 8a

which is usually on the move, but in the case of a pot which is motionless it is not necessary. And again, perhaps the Rabbis would say that only in the boat [is there this obligation even if it is not touching bottom], since there is no air in between [the boat and the bottom], the water being reckoned as earth for purposes of contact, but not in the case of the pot where the air underneath breaks its contact with the earth. R. Nahman b. Isaac said: In regard to a boat on a river in Eretz Israel there is no difference of opinion between the authorities.<sup>1</sup> Where the difference arises is in the case of a boat in the open sea, as may be seen from the following: What do we reckon as Eretz Israel and what do we reckon as foreign parts? From the top<sup>2</sup> of the Mountains of Ammanon<sup>3</sup> inwards is 'Eretz Israel', and from the top of the Mountains of Ammanon outwards is 'foreign parts'. [For determining the status of] the islands in the sea, we imagine a line drawn from the Mountains of Ammanon to the Brook of Egypt.<sup>4</sup> All within the line belongs to Eretz Israel and all outside the line to foreign parts. R. Judah, however, holds that all islands fronting the coast of Eretz Israel are reckoned as Eretz Israel, according to the verse of Scripture, And for the western border, ye shall have the Great Sea for a border; this shall be your west border.<sup>5</sup> [To determine the status of] the islands on the border line,<sup>6</sup> we imagine a line drawn [due west] from Kapluria<sup>7</sup> to the Ocean<sup>8</sup> and another from the Brook of Egypt to the Ocean. All within these lines belong to Eretz Israel and all outside to foreign parts. How do the Rabbis expound the superfluous words, 'and for the border'? They say it is required to [bring in] the islands.<sup>9</sup> And R. Judah? — He will rejoin that for the inclusion of the islands no special indication is required.<sup>10</sup>

R. MEIR SAYS: ACCO IS IN THE SAME CATEGORY AS ERETZ ISRAEL etc. The following inquiry was propounded to R. Hiyya b. Abba: If a man sells his slave into Syria,<sup>11</sup> is he reckoned as selling him into foreign parts or not? — He replied: You have learnt it: R. MEIR SAYS: ACCO IS IN THE SAME CATEGORY AS ERETZ ISRAEL IN RESPECT OF BILLS OF DIVORCE; in respect of bills of divorce, that is, but not in respect of slaves. And if this is the case with Acco, how much more so with Syria, which is much further from Eretz Israel.

Our Rabbis have taught: 'In three respects Syria is in the same category as Eretz Israel and in three others in the same category as foreign parts.' (Mnemonic: 'AB Bor Rek').<sup>12</sup> Its earth is unclean like that of foreign parts, and to sell a slave to Syria is like selling him to foreign parts, and a Get brought from Syria is reckoned as one brought from foreign parts. [On the other hand,] it is in three respects like Eretz Israel: It is subject to the obligations of tithe and Sabbatical year like the Land of Israel, it is permissible for an Israelite to enter it in a state of ritual purity, and a field bought in Syria

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(1) All agreeing that a river in Eretz Israel is an integral part of the land.

(2) Lit., 'Whatever slopes down.'

(3) The Targum, Pseudo-Jonathan, of 'Hor the mountain', the northern boundary of Eretz Israel, Num. XXXIV, 7. [This is not to be confused with Mount Hor by the border of the land of Edom which is in the South East. Mount Ammanon is in the N.W. of Syria and is generally identified with Mount Amanus, the modern Giaour Dagh.]

(4) [Identified by Saadia with the Wady-el-Arish, twenty miles South of Gaza; v. Schwarz, op. cit. p. 27, and Rosenbaum-Silbermann's Rashi. Deut. p. 211.]

(5) Num. XXXIV, 6.

(6) I.e., due west of the coast beyond the southern and northern extremities of the border of Palestine.

(7) At the northern extremity of Mount Hor. [The place is not identified. V. Neubauer, pp. 8ff. and 433.]

(8) The Atlantic Ocean.

(9) Immediately fronting the coast.

(10) And the words 'and for the border' include the more distant islands.

(11) The Biblical Aram Zoba which was conquered by David and added by him to Eretz Israel (II Sam. VIII).

(12) Lit., 'Cloud, Pit, Empty'. Key-words to aid the memory made up of Hebrew initials of the rulings that follow.

## Talmud - Mas. Gittin 8b



## Talmud - Mas. Gittin 8b

is like one bought on the outskirts of Jerusalem.’<sup>1</sup>

[Our authority says that Syria] ‘is subject to the obligations of tithe and Sabbatical year’: [obviously] he is of opinion that the conquest of an individual<sup>2</sup> is a valid conquest.<sup>3</sup> [He further says that] ‘it is permissible to enter Syria in a state of ritual purity.’ How can this be, seeing that you say that its earth is unclean? — What is meant is that he may enter it in a box, chest, or portable turret, as has been taught: If one enters the land of the Gentiles in a box, chest, or portable turret, Rabbi declares him to be unclean, but R. Jose son of R. Judah does not. And even Rabbi makes this rule only for the land of the Gentiles, the soil and the air of which were proclaimed unclean by the Rabbis, but in regard to Syria they proclaimed only the soil unclean but not the air.<sup>4</sup>

[Our authority further says that] ‘a field bought in Syria is like one bought on the outskirts of Jerusalem’. What rule of conduct can be based on this? — R. Shesheth Says: It means that a contract for selling it [to a Jew] can be drawn up even on Sabbath. What? On Sabbath? — You know the dictum of Raba, ‘He tells a non-Jew to do it.’ So here, he tells a non-Jew to draw up the contract. And although there is a Rabbinical prohibition<sup>5</sup> against telling a non-Jew to do things on Sabbath [which we may not do ourselves], where it was a question of furthering the [Jewish] settlement of Eretz Israel the Rabbis did not apply the prohibition.

Our Rabbis have taught: If a slave brings before the Beth din his deed of manumission<sup>6</sup> in which is written, ‘Your own person and my property are made over to you’, he becomes [ipso facto] his own master<sup>7</sup> but not owner of the property.<sup>8</sup>

The question was propounded: [Suppose the document ran:] ‘All my property is made over to you’,<sup>9</sup> what is the ruling? — Abaye said: Since the document makes him his own master, it makes him owner of the property also.<sup>10</sup> Said Raba to him: I agree that he becomes his own master, because [in respect of himself his document] is on a par with the Get of a wife. But he must not become owner of the property, because [in respect of the property his Get] requires confirmation like any other document. Abaye then corrected himself and said: Since he does not become by means of his document the owner of the property, he does not become his own master either. Said Raba to him: I agree that he should not become owner of the property, because in respect of the property [his document] requires confirmation like any other document; but he should become his own master, because [in respect of himself, his document] is on a par with the Get of a wife. The fact of the matter is, continued Raba, that both with the one [wording] and the other, he becomes his own master but not owner of the property.

Said R. Abba b. Mattena to Raba: This ruling accords with the principle laid down by R. Simeon, that a single statement may receive two diverse applications, for we have learnt: If a man assigns all his property to his slave, the latter becomes ipso facto free, but if he excepted a piece of land, however small, he does not become free.<sup>11</sup> R. Simeon, however, holds

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(1) Tosef Kelim B. K. I.

(2) King David, as opposed to the national conquest in the time of Joshua.

(3) I.e., the land acquired becomes an integral part of Eretz Israel.

(4) V. Nazir 55a.

(5) שבות, Lit., ‘rest’, an occupation prohibited by the Rabbis on Sabbath and Festivals as being inconsistent with the spirit of the celebration of the day.

(6) Lit., ‘his Get’.

(7) Because if he says, ‘It was written in my presence’, his word is taken and no witnesses are required to confirm the validity of the Get.

(8) Because for this purpose witnesses are required to confirm the validity of the Get.

(9) This is taken to include his own person since he is part of the property.

(10) And we do not give the statement two diverse applications, one in respect of himself and one in respect of the property.

(11) Because we say that since he excepts the land he excepts the slave also.

## Talmud - Mas. Gittin 9a

that in any case the slave becomes free<sup>1</sup> unless he declares [in writing] ‘All my property is left to So-and-so my slave except one ten-thousandth part thereof.’<sup>2</sup> [But can Raba then rule thus, Seeing that] R. Joseph b. Manyumi said in the name of R. Nahman: Although R. Jose commended R. Simeon, the halachah follows R. Meir.<sup>3</sup> For it has been taught: When the discussion was reported to R. Jose, he applied to him [R. Meir] the Scriptural words, He shall be kissed upon the lips that giveth a right answer.<sup>4</sup>

But was this R. Nahman's opinion?<sup>5</sup> Has not R. Joseph b. Manyumi said in the name of R. Nahman: If a man lying dangerously ill assigned all his possessions to his slave and then recovered, he may retract the grant of the property but not the grant of freedom. He may retract the grant of the property because it is a gift made on a death bed.<sup>6</sup> He may not retract the grant of the freedom because the slave has already become known as a free man!<sup>7</sup> — In fact, said R. Ashi, [R. Nahman's reason] in the former case [where he said that in practice R. Meir was to be followed] was because the document did not expressly sever the connection between the slave and his master,<sup>8</sup> [and not because the same statement cannot receive two applications].<sup>9</sup> IF ITS VALIDITY IS CHALLENGED, IT MUST BE ESTABLISHED THROUGH THE SIGNATURES. Challenged by how many? Shall I say by one person? Has not R. Johanan laid down that a challenge must come from two at least? Shall I say then two? In that case there are two on each side, and why should you give credence to one set rather than to the other? — The challenge meant is that of the husband.

MISHNAH. WHERE THE BEARER OF A GET FROM FOREIGN PARTS IS NOT ABLE TO DECLARE ‘IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED, IF THE GET HAS BEEN SIGNED BY WITNESSES, ITS VALIDITY CAN BE ESTABLISHED THROUGH ITS SIGNATORIES. WRITS OF DIVORCE AND WRITS OF EMANCIPATION ARE SUBJECT TO THE SAME RULES WHEN TAKEN [FROM THE LAND OF ISRAEL TO FOREIGN PARTS] OR VICE VERSA,<sup>10</sup> THIS BEING ONE OF THE POINTS IN WHICH WRITS OF DIVORCE ARE ON A PAR WITH WRITS OF EMANCIPATION.

GEMARA. What is the meaning of the expression, ‘IS NOT ABLE TO DECLARE’? Shall I say it means that the bearer is a deaf-mute? Can a deaf-mute then be the bearer of a Get, seeing that we have learnt:<sup>11</sup> ‘All persons are qualified to be bearers of a Get except a deaf-mute, a lunatic, and a minor?’ — R. Joseph said: Here we are dealing with a case in which he gave the woman the Get while he was still in possession of his faculties, but before he could utter the formula was struck deaf and dumb.

WRITS OF DIVORCE AND WRITS OF EMANCIPATION etc. Our Rabbis taught: ‘In three points writs of divorce are on a par with writs of emancipation. One is in the matter of being taken [from Eretz Israel to foreign parts] or vice versa.<sup>12</sup> [Secondly,] any document witnessed by a Cuthean<sup>13</sup> is invalid, except writs of divorce and emancipation. [Thirdly,] all documents

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(1) Since this seems to be the plain intention of the document.

(2) Because this part may include the slave, v. B.B. 149b.

(3) R. Simeon's disputant and the anonymous first Tanna of the Mishnah, that the slave should not go free.

(4) Prov. XXIV, 26.

- (5) That we do not give two diverse applications to a single statement.
- (6) Which can be nullified by the dying man on recovery. v. B.B. 146b.
- (7) Thus R. Nahman applies the instruction diversely to the slave and to the property.
- (8) Since the grant of the slave's freedom was not specifically mentioned in the document, and we require such severance, because a Get of emancipation is on the same footing as a Get of divorce, which is termed in the Scripture 'a document of severance' or 'cutting off' (Deut. XXIV, 1).
- (9) [Seeing that R. Meir denies the slave his freedom even if the property specifically excepted was land, his view being that since the master limited the scope of this document by excluding 'some thing', whatever it may be, the Get is no longer effective as an instrument of complete severance (Rashi).]
- (10) Lit., or 'he who brings it'.
- (11) Infra 23a.
- (12) The bearer in both cases being required to declare, 'In my presence etc.'
- (13) A Samaritan.

## Talmud - Mas. Gittin 9b

entered in heathen courts, even if the signatures in them are those of heathens, are valid, except writs of divorce and of emancipation. According to R. Meir there are four points [the fourth being this]: If a man says, Give this Get to my wife and this writ of emancipation to my slave, he is at liberty, if he wishes, to retract from both. So says R. Meir'.<sup>1</sup> We can understand the Rabbis [specifying the number] three, [because they desired] to except the point stated by R. Meir. But what did R. Meir desire to except by specifying the number [four]? — [He desired] to except the following case which has been taught: If the witnesses are not able to sign their names, we make dents on the sheet and they fill them in with ink. Rabban Simeon b. Gamaliel says: This applies only to writs of divorce. With writs of emancipation and all other documents, if the witnesses are able to read and to sign their names, they sign, and if not, they do not sign. How does 'reading' come in here? — There is something omitted, and the passage should run thus: 'If the witnesses cannot read, the document is read to them and they then sign, and if they are unable to sign, dents are made for them.'

Are there no more points [of resemblance]? Is there not [for example this one]: 'If a man says, Give this Get to my wife and this writ of emancipation to my slave and he dies [before they were given], they should not be given after his death. If, however, he said, Give a maneh to So-and-so, it should be given after his death'?<sup>2</sup> — [The passage above was] dealing only with points which do not apply to documents in general,<sup>3</sup> not with such as apply to all documents. [And this is such a point:] for Rabin sent [the following message] in the name of R. Abbahu: 'Be it known to you that R. Eleazar sent to the Diaspora<sup>4</sup> in the name of Our Master<sup>5</sup> the following instruction: If a dying man said, Write down and give a maneh to So-and-so, and then died, his words are not committed to writing nor is the gift made, since perhaps he intended only to make the gift through the instrumentality of the document, and a document does not confer possession after the death [of the author].'<sup>6</sup>

But is there not the point of 'special intention' [in which writs of divorce and of emancipation are on a par]? For Rabbah, indeed, this raises no difficulty, since it is identical with the point of bringing to and from [Eretz Israel],<sup>7</sup> but for Raba it does raise a difficulty. And again, whether we accept Rabbah's view or Raba's, there is the law of mehubar?<sup>8</sup> — [The passage above] reckoned only the flaws laid down by the Rabbis<sup>9</sup> [on their own authority], not those deriving from the Torah. But [the fact of originating in] a Gentile court is a flaw [in the Get] according to the Torah, and yet this point is also reckoned above? — [We are dealing there with the case where there are] witnesses to the delivery [of the document], and the passage follows the opinion of R. Eleazar, who said that it is the witnesses to the delivery [of the Get] who really make it effective.<sup>10</sup> [Is that so?] It says later in the passage:<sup>11</sup> R. Simeon says that these also [writs of divorce signed by non-Jews] are valid; and [commenting on this] R. Zera said that R. Simeon was here following the view of R. Eleazar, who

said that the witnesses to the delivery [of the Get] make it effective; from which we gather that the first Tanna<sup>12</sup> was not [of this opinion]?<sup>13</sup>

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(1) V. infra 11b.

(2) V. infra 13a.

(3) I.e., where the points of resemblance are limited to writs of divorce or emancipation.

(4) [Heb. Golah denoting, at that time, Nehardea; v. B.B. (Sonc. ed.) p. 571, n. 7.]

(5) Rab.

(6) V. B.B. 152a. Just as in the case of writs of divorce and emancipation.

(7) Since according to Rabbah the declaration was required only because of the general ignorance of the rule regarding 'special intention'.

(8) Lit., 'attached (to the soil)', viz., that both the writ of emancipation and the writ of divorce must be written on something not attached to the soil.

(9) [The requirement of the declaration 'in my presence it was written etc.' is Rabbinical and so is the disqualification of a Samaritan for evidence purposes in case of other documents likewise only Rabbinical.]

(10) Lit., 'who cut asunder'. And therefore the fact of its originating in a heathen court is a flaw only according to the Rabbis and, not the Torah.

(11) In the Mishnah dealing with documents drawn up in heathen courts, infra 10b.

(12) In that Mishnah who says that these are not valid.

(13) That the witnesses to delivery make the Get effective, and therefore a non-Jewish signature is a flaw according to the Torah.

## Talmud - Mas. Gittin 10a

Where he and the first Tanna differed was in the case where the names are obviously heathen.<sup>1</sup> But what of the point about retracting, which [invalidates the Get even] according to the Torah, and yet is reckoned in this passage? — The proper answer [to the original question] is that only those points are reckoned which did not apply to betrothals, but not such as are found in connection with betrothals also.<sup>2</sup> But this very point of retracting applies to betrothals also?<sup>3</sup> — We are dealing here with a case where the whole commission is to be carried out without the consent of the recipient; this is possible in the case of divorces but not of betrothals.

MISHNAH. NO DOCUMENT ATTESTED BY THE SIGNATURE OF A CUTHEAN<sup>4</sup> IS VALID,<sup>5</sup> UNLESS IT IS A WRIT OF DIVORCE OR A WRIT OF EMANCIPATION. IT IS RELATED THAT A WRIT OF DIVORCE WAS ONCE BROUGHT BEFORE RABBAN GAMALIEL AT KEFAR 'UTHNAI<sup>6</sup> AND ITS WITNESSES WERE CUTHEANS, AND HE DECLARED IT VALID.

GEMARA. Who is [the Tanna] of our Mishnah? For it cannot be either the first Tanna, or R. Eleazar or Rabban Simeon ben Gamaliel [in the following Baraita]: For it has been taught: 'It is permissible to eat [on Passover] unleavened bread made by a Cuthean, and the eating of such bread satisfies the requirement of the Passover.'<sup>7</sup> R. Eleazar forbids [the eating of such bread], because [the Samaritans] are not familiar with the minutiae of the precepts. Rabban Simeon b. Gamaliel says that in all the precepts which the Cutheans do observe they are much more particular than the Jews themselves.' Whom now does our Mishnah follow? Shall I say the first Tanna? In that case other documents also should be valid [if attested by a Cuthean]. Shall I say R. Eleazar? In that case a writ of divorce should also be invalid. Shall I say Rabban Simeon b. Gamaliel? In that case, if they observe [the regulations of documents], then other documents attested by them should also be valid, and if they do not observe [these regulations], then even a writ of divorce attested by them should not be valid. And should you reply that in fact Rabban Simeon b. Gamaliel is the authority and that our Mishnah holds that the Cutheans observe the regulations concerning writs of divorce and emancipation but not concerning other documents — in that case why [does the Mishnah] speak of

one [Cuthean witness only]? [The Get should be equally valid] even if there were two;<sup>8</sup> and if that were so, why has R. Eleazar said [that a Get of this kind] has been declared valid only if there is not more than one Cuthean signature to it? — The authority followed by our Mishnah is in fact R. Eleazar, and it speaks of the case where an Israelite signs last,<sup>9</sup>

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(1) R. Simeon holding that no danger can arise from this of heathens also being asked to witness the delivery of the Get, while the Rabbis held that there was such a danger.

(2) [The law of 'special intention' and in regard to mehubar applies to writs of betrothals equally with writs of divorce, whereas the declaration, 'In my presence it was written, etc.' is limited to Get as explained supra 2b-3a. Similarly the validity of the signature of a Samaritan witness is limited to Get (v. infra 10b); nor would the Rabbis invalidate a writ of betrothal originating in a heathen court, provided Jewish witnesses were present at the delivery.]

(3) I.e., if a man gives a written agreement of betrothal to a bearer, he can withdraw it so long as it has not been delivered.

(4) Samaritan.

(5) Because they were looked upon as untruthful.

(6) [Identified with Kefr Kud (Capar Cotani) on the border of Galilee and Samaria. V. Klein, Beitrage p. 29, n. 2.]

(7) That the unleavened bread eaten on the first night should be expressly prepared for it in accordance with the words, And ye shall watch the unleavened bread (Ex. XII, 17).

(8) I.e., if both witnesses were Samaritan and neither an Israelite.

(9) After the Samaritan.

## **Talmud - Mas. Gittin 10b**

for we assume in that case that if the Cuthean were not a Haber<sup>1</sup>, the Israelite would not let him sign before him. In that case, why are not other documents also valid? Consequently the truth is that we say, 'he left room for someone senior to himself.'<sup>2</sup> But if that be so cannot we say here too that he left room for someone senior to himself? — Said R. Papa: This proves that the witnesses to a Get do not sign save in one another's presence.<sup>3</sup> What is the reason for this? — R. Ashi says that it is to prevent any infringement of the rule concerning 'all of you'.<sup>4</sup>

The text above [states]: 'R. Eleazar said [that a Get of this kind] has been declared valid only if there is not more than one Cuthean signature to it.' What does he teach us by this statement? Has not the Mishnah already told us that NO DOCUMENT ATTESTED BY THE SIGNATURE OF A SAMARITAN etc.? — If I had only the Mishnah to go by, I should say that even with two [Cuthean signatures the Get is valid], and that the reason why one [only is mentioned] is to show that other documents are rendered invalid even by one Samaritan signature; hence [R. Eleazar's statement] is necessary. But [is a Get] with two [Cuthean signatures] invalid? Does not the Mishnah say: IT IS RELATED THAT A WRIT OF DIVORCE WAS BROUGHT BEFORE RABBAN GAMALIEL [AT KEFAR 'UTHNAI] AND ITS WITNESSES WERE CUTHEANS, AND HE DECLARED IT VALID? — Abaye says: Read 'its witness Raba says: It is quite correct that there were two, and the fact is that Rabban Gamaliel differs [from the first authority], and there is an omission [in the Mishnah, which should] read as follows: 'Rabban Gamaliel declares [a Get] valid with two [Cuthean signatures], and it is actually related that a Get was brought before Rabban Gamaliel at Kefar 'Uthnai and its witnesses were Cutheans and he declared it valid.'

MISHNAH. ALL DOCUMENTS WHICH ARE ACCEPTED IN HEATHEN COURTS,<sup>5</sup> EVEN IF THEY THAT SIGNED THEM WERE GENTILES, ARE VALID [FOR JEWISH COURTS] EXCEPT WRITS OF DIVORCE AND OF EMANCIPATION. R. SIMEON SAYS: THESE ALSO ARE VALID; THEY WERE ONLY PRONOUNCED [TO BE INVALID] WHEN DRAWN UP BY UNAUTHORISED PERSONS.

GEMARA. [Our Mishnah] lays down a comprehensive rule in which no distinction is made

between a sale and a gift. We can understand that the rule should apply to a sale, because the purchaser acquires the object of sale from the moment when he hands over the money in their<sup>6</sup> presence, and the document is a mere corroboration; for if he did not hand over the money in their presence, they would not take the risk<sup>7</sup> of drawing up a document of sale for him. But with a gift [it is different]. Through what [does the recipient] obtain possession? Through this document, [is it not]? And this document is a mere piece of clay?<sup>8</sup> — Said Samuel: The law of the Government is law.<sup>9</sup> Or if you prefer, I can reply: Instead of ‘except writs of divorce’ in the Mishnah, read, ‘except [documents] like writs of divorce.’<sup>10</sup>

R. SIMEON SAYS: THESE ALSO ARE VALID etc. How can this be, seeing that to heathens the act of ‘severance’<sup>11</sup> is not applicable? — Said R. Zera: R. Simeon here accepts the view of R. Eleazar, who said that the separation is actually effected by the witnesses to the delivery [of the document]. But has not R. Abba said that R. Eleazar used to admit [that a Get] which in itself contained a flaw was invalid?<sup>12</sup> — We are dealing here

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- (1) V. Glos. In which case R. Eleazar's objection does not apply.
- (2) The Jew signed first below thinking that another Jew would sign above, but the lender got the signature of a Samaritan instead.
- (3) So that it is impossible for us to say that the husband brought a Samaritan to sign without the knowledge of the Jewish witness.
- (4) That if he said to ten persons, ‘All of you write’, one writes and all the rest sign in one another's presence, otherwise the Get is not valid; infra, 66b.
- (5) עֲרֵכָאוֹת, GR. \*\*, ‘office’ ‘registry’.
- (6) The non-Jewish judges’.
- (7) Lit., ‘do injury to themselves (to their reputation)’.
- (8) Assuming a deed originating in a non-Jewish court does not constitute an instrument of acquisition, why should the deed be deemed valid?
- (9) V. B.B. (Sonc. ed.) p. 222, n. 6.
- (10) I.e., all which in themselves make the transaction effective, such as the record of a gift.
- (11) Lit., ‘cutting’, Deut. XXIV, 1.
- (12) And the signature of witnesses who are not competent to sign would be counted by R. Eleazar as a flaw because it might give the impression that these were competent as witnesses to the delivery.

## Talmud - Mas. Gittin 11a

with signatures which are obviously those of heathens.<sup>1</sup> Can you give some examples of names which are obviously those of heathens? — Said R. Papa: For instance, Hannez and Abudina, Bar Shibthai, Bar Kidri, Batti and Nakim and Una. What then if the signatures are not obviously those of heathens? [The document, you will say,] is invalid? If so, instead of going on to say, ‘THEY WERE ONLY PRONOUNCED TO BE INVALID WHEN DRAWN UP BY UNAUTHORISED PERSONS, R. Simeon should draw a distinction between [the signatures] themselves, and should continue thus: ‘when I say [they are valid, I mean] when the names are obviously [heathen], but otherwise they are invalid!’ — This in fact is what he does mean, viz.: ‘When I say [they are valid I mean] when the names are obviously [heathen], but where they are not so, the document is on a par with one drawn up by unauthorised persons and is invalid.’ Or if you like I can reply that the last clause [of the Mishnah] refers to monetary documents, and the meaning is as follows: ‘Monetary documents were not pronounced to be invalid save when they were drawn up by unauthorised persons.’ It has been taught: R. Eleazar said in the name of R. Jose: Thus did R. Simeon say to the Rabbis in Sidon: R. Akiba and the Sages were agreed in reference to all documents entered in heathen courts that even if those that signed them were heathens they are valid, including also writs of divorce and of emancipation. They differed only in the case where they were drawn up by unauthorised persons, R. Akiba declaring all such documents to be valid and the Sages declaring

them all invalid, save only writs of divorce and of emancipation. Rabban Simeon b. Gamaliel says that these too are valid only in places where Jews are not allowed to sign documents,<sup>2</sup> but where Jews are allowed to sign documents they are not valid. Why does not Rabban Simeon b. Gamaliel declare them invalid even in places where Jews are allowed to sign, for fear lest they should come to be deemed valid even in places where they are not? — Names may be confused but not places. Rabina had a mind to declare valid a document which had been drawn up in a gathering<sup>3</sup> of Arameans. Said Rafram to him: 'We learnt [distinctly] "COURTS".'

Raba said:<sup>4</sup> A document drawn up in Persian which has been handed over in the presence of Jewish witnesses is sufficient warrant for recovering from property on which there is no previous lien. But the witnesses to the transfer cannot read it? — We speak of the case where they can. But we require writing which cannot be erased? — We speak of a case where the sheet has been dressed with gall-nut juice.<sup>5</sup> But we require the rule [to be observed] that the gist of the document must be summarised in the last line?<sup>6</sup> — We speak of a case where this has been done. If so, why not recover from mortgaged property also? — [The contents of a document of this kind] do not become generally known.<sup>7</sup>

Resh Lakish put the following question to R. Johanan:

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- (1) In which case there is no danger that their witnessing to the Get would create a wrong impression as to their competence.
  - (2) Where there is no danger that the witnesses who signed the Get will be deemed competent to attest delivery.
  - (3) I.e., not an official body.
  - (4) V. infra 19b.
  - (5) So that the ink cannot be erased.
  - (6) E.g., 'I have received from So-and-so all the sums mentioned above'. This was not the custom with Persian documents.
  - (7) Lit., 'it has no voice'. Since there are no Jewish witnesses to the deed to give publicity to the transaction, thus keeping off prospective buyers from the property; v. infra 19b. And therefore the creditor from the first never expected to recover from such property.

## **Talmud - Mas. Gittin 11b**

'If a Get<sup>1</sup> is attested by witnesses with heathen names, how do we proceed?' — He replied: 'The only [heathen names] that have come before us in this way were Lucus and Lus, and in both cases we declared [the Get] valid.'<sup>2</sup> This ruling applies strictly to names like Lucus and Lus<sup>3</sup> which are never borne by Israelites, but not to heathen names which are also borne by Israelites.<sup>4</sup> He [thereupon] raised an objection [from the following]: 'Writs of divorce brought from foreign parts and attested by signatures, even if the names are like those of heathens, are valid, because most Jews in foreign parts bear heathen names!'<sup>5</sup> — There the reason is as given, because most Jews in foreign parts bear heathen names.<sup>6</sup> According to another version, Resh Lakish put the question to R. Johanan on the lines of the Baraitha [just quoted],<sup>7</sup> and he answered him by quoting [the second] clause of the Baraitha.<sup>8</sup>

MISHNAH. IF A MAN SAYS: GIVE THIS WRIT OF DIVORCE TO MY WIFE AND THIS BILL OF EMANCIPATION TO MY SLAVE, HE IS AT LIBERTY IF HE PLEASES TO COUNTERMAND BOTH INSTRUCTIONS.<sup>9</sup> THIS IS THE RULING OF R. MEIR. THE SAGES, HOWEVER, SAY THAT HE MAY COUNTERMAND IN THE CASE OF THE GET BUT NOT IN THAT OF THE WRIT OF EMANCIPATION, ON THE PRINCIPLE THAT A BENEFIT MAY BE CONFERRED ON A MAN IN HIS ABSENCE BUT A DISABILITY MAY BE IMPOSED ON HIM ONLY IN HIS PRESENCE; FOR IF HE DOES NOT WANT TO MAINTAIN HIS SLAVE HE IS NOT BOUND TO DO SO,<sup>10</sup> BUT IF HE DOES NOT WANT TO GIVE MAINTENANCE

TO HIS WIFE HE IS STILL ROUND TO DO SO. SAID R. MEIR TO THEM: DOES HE NOT DISQUALIFY HIS SLAVE FROM EATING THE PRIESTLY HEAVE-OFFERING [BY EMANCIPAT<sup>10</sup> NG HIM] IN THE SAME WAY AS HE DISQUALIFIES HIS WIFE [BY DIVORCING HER]?<sup>11</sup> — THEY REPLIED: [THE SLAVE IS DISQUALIFIED] BECAUSE HE IS THE PRIEST'S PROPERTY.

GEMARA. R. Huna<sup>12</sup> and R. Isaac b. Joseph were sitting [studying] before R. Jeremiah whilst R. Jeremiah was sitting and dozing, when R. Huna remarked that we learn from the ruling of the Rabbis [in our Mishnah] that if a man seizes the goods [of a third party] on behalf of a creditor, he acquires [them].<sup>13</sup> Said R. Isaac b. Joseph to him: Even if by doing so he causes loss to others?<sup>14</sup> — He replied: Yes. At this point R. Jeremiah woke up [and overheard them]. He said: Youngsters, this is what R. Johanan said: If a man seizes goods on behalf of a creditor when by so doing he causes loss to others, he does not acquire. If you ask [how this can be reconciled with] our Mishnah,<sup>15</sup> [the answer is that] for a man to say 'give' is equivalent to saying 'acquire on behalf of'.

R. Hisda says: [The case of the man] who seizes goods on behalf of a creditor and by so doing causes loss to others admits of the same difference of opinion as we find between R. Eliezer and the Rabbis. For we learnt:<sup>16</sup> If a man garners the corner [of his field], and said: This is for such-and-such a poor man, he acquires it on his behalf. The Sages, however, say that he must give it to the first poor man that comes along. Said Amemar (others say it was R. Papa:)

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(1) Coming from Palestine.

(2) I.e., I relied upon the witnesses to delivery.

(3) Lucius and Gaius (Jast.).

(4) Because in that case the witnesses, even if Gentiles, might be presumed to be competent.

(5) This apparently contradicts R. Johanan.

(6) Hence it is safe to presume that the witness with a Gentile name is a Jew, but this is not the case in Palestine.

(7) Viz., 'What is the rule about writs of divorce brought from foreign parts with heathen signatures.'

(8) Viz., 'they are valid etc.'

(9) Because this is a disability for both of them, and the agent does not become possessed of the bills, on the principle that 'a disability may not be inflicted on a man save in his presence.'

(10) Hence emancipation involves no disability for the slave.

(11) Vid. Lev. XXII, 11; Num. XVIII, 11. So that emancipation does involve a disability for the slave even as divorce for the wife.

(12) Tosaf. points out that this is not the R. Huna usually mentioned in the Talmud, who was much senior to R. Jeremiah.

(13) For the creditor and the owner cannot recover from him any more than he can withdraw the bill of emancipation from the agent.

(14) I.e., if the man had other creditors also.

(15) Which seems to say that he does become legal possessor.

(16) For notes v. B.M. (Sonc. ed.) p. 49 ff.

## Talmud - Mas. Gittin 12a

Perhaps the two cases are not on all fours. R. Eliezer's reason there [for allowing the owner of the field to acquire on behalf of the poor man] may be only because if he desires he can declare his field public property and so become himself a poor man and entitled to [the gleanings], and since he can acquire it for himself [we concede that] he can acquire it for his fellow; whereas [this reasoning] does not apply to our present case. And the Rabbis' reason in the case of the poor man may be only that in the text it is written thou shalt not glean, for the poor man,<sup>1</sup> 'thou shalt not glean for the poor man', but here they would not [apply the same principle]. What lesson then does R. Eliezer derive from these words, 'thou shalt not glean, for the poor'? — He sees in them an admonition to a poor



man [who himself owns a field] in regard to his own gleanings.<sup>2</sup>

FOR IF HE CHOOSES NOT TO MAINTAIN HIS SLAVE, etc. We understand from this, [do we not,] that a master can say to his slave: Work for me but I will not support you! — [No!] Here we deal with the case in which the master says: Keep what you can earn as the equivalent of your maintenance. Similarly in the case of the woman<sup>3</sup> we likewise must suppose that the husband says to her: Keep what you can earn as the equivalent of your maintenance. [But if this is so] why, in the case of the wife should he not [be permitted to refuse to maintain her]? — Because she cannot earn enough [for her keep]. But a slave too may not be able to earn enough for his keep? — If a slave's [work] is not worth the food he eats, what do his master and mistress want him for!

Come and hear: If a slave has fled to one of the cities of refuge,<sup>4</sup> his master is under no obligation to support him; and moreover whatever he earns belongs to his master. We understand from this, do we not, that a master can say to a slave, 'Work for me, but I will not support you'? — We are dealing here with the case in which the master said to him, 'You may keep what you earn as the equivalent of your maintenance'. In that case why does it say that what he earns belongs to the master? — This applies to what he earns over and above his keep. There is surely no need to tell us that? — [There is, because otherwise] you might think that, since the master does not give him anything when he does not earn, he should not take anything from him when he does earn; but now you know [that this is not so]. But why should this rule apply specially to cities of refuge? — I might think [that cities of refuge are an exception],<sup>5</sup> because the words 'that he might live' [used in connection with them<sup>6</sup> are interpreted to mean that] special provision must be made [for one who is exiled there]; but now I know [that they are no exception].<sup>7</sup> But now look at the continuation [of the passage quoted]: But if a woman is exiled to a city of refuge, her husband is under obligation to maintain her. Obviously this speaks of a case where the husband did not say to her, ['You may keep your earnings etc.'], because if he did, why should he have to support her? And since that is the case here, then we presume that the first part of the passage also deals with the case in which the master did not say to the slave, ['Keep your earnings' etc.]?<sup>8</sup> — No. [The cases considered are those in which the master or husband] did say so, and the reason In the case of the wife<sup>9</sup> is because she cannot keep herself. But look at the further continuation [of the passage]: If he says to her, I allow you to keep your earnings in place of your maintenance, he is within his rights. This shows, does it not, that the preceding clause deals with the case where he did not say so? — We interpret [the last clause] thus: If she can earn sufficient [for a living] and he said to her: Keep your earnings in place of your maintenance, he is within his rights. What is the point of bringing in the case where she can earn sufficient [for a living]? — You might think that even so she should not go about to earn a living because, as Scripture says, the honour of the king's daughter [i.e. the Jewish woman] lies in her privacy;<sup>10</sup> but now you know [that this is not so].

May we say that the same difference of opinion is found between the Tannaim [mentioned in the following passage]? [For it was taught:] Rabban Simeon b. Gamaliel says: A slave can say to his master in a year of scarcity, 'Either maintain me or let me go free'; whereas the Sages say that the master can do as he pleases. Shall we say that the point at issue between them is this, that the one authority holds that a master can say to his slave, 'Work for me but I will not support you', and the other holds that he cannot? — Do you really think so? In that case why does it say, 'either maintain me or let me go free'? It should say, 'either maintain me or let me keep my earnings in place of my maintenance'. And besides, why should the rule apply specially to years of scarcity? The fact is that the case put is one in which the master has said to the slave, 'Keep your earnings as the equivalent of your maintenance',<sup>11</sup> and in a year of scarcity he cannot earn enough. [In that case] Rabban Simeon b. Gamaliel holds that the slave can say to the master, 'Either maintain me or let me go free, so that people may see me and have pity on me', whereas the Rabbis hold the view that those who pity free men pity also slaves.<sup>12</sup>

Come and hear: Rab said: If a man dedicates to the Sanctuary<sup>13</sup> the hands of his slave, that slave may borrow money, eat, work and repay [his loan with his earnings].<sup>14</sup> We may conclude from this, [may we not,] that the master can say to the slave, 'Work for me, but I will not maintain you'? — [No.] The case contemplated here is one in which the master provides the slave with his keep. If so, why

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- (1) Lev. XXIII, 22. [They join 'for the poor man' with 'Thou shalt not glean on the principle of Siddur she-nehelak, mentioned in the Mishnah of H. Eliezer b. Jose the Galilean, that a context which has been disrupted by a disjunctive accent is reconnected for exegetical purposes.]
  - (2) He must leave gleanings in his own field.
  - (3) Mentioned in our Mishnah.
  - (4) Having killed someone by accident.
  - (5) To the rule that the master may take the slave's earnings.
  - (6) Deut. IV. 42.
  - (7) In respect of allowing the slave the excess of his earnings over and above his keep.
  - (8) Which proves that a master can say to a slave 'work for me but I will not support you'.
  - (9) That the husband has still to keep her.
  - (10) Ps. XLV, 14.
  - (11) And both authorities hold that the master may not say, 'Work for me etc.'
  - (12) And therefore there is no need to let him go free.
  - (13) Lit., 'sanctifies'; cf. Lev. XXVII.
  - (14) Cf. p. 44, nn. 1-2.

### **Talmud - Mas. Gittin 12b**

does he borrow for his food? — He borrows for extras. But the Sanctuary can say to him, 'Just as you could do without extras hitherto, so you can do without extras now'? — The Sanctuary itself prefers this, so that its slave should be in good condition. You say that he works and pays from his earnings. How can he do this, seeing that every penny as he earns it becomes sanctified?<sup>1</sup> — [He keeps on paying his earnings] before they amount to a perutah.<sup>2</sup> This view [that Rab's dictum refers to the case where the master provides the slave's keep] is borne out by this other dictum of Rab: If a man sanctifies the hands of his slave, that same slave can go on working for his keep, for if he does not work, who will look after him? If you say that the first dictum refers to the case where the master provides [the slave's keep], and that in consequence a master is not at liberty [to say to his slave, 'Work for me, but I shall not maintain you'], and that the latter dictum refers to a case where he does not provide for him, all is plain; but if you say that the first dictum refers to the case where the master does not provide the slave's keep, and [so we rule that] he can say [to the slave, 'You must work for me etc.'], what is the sense of saying [in the second dictum], 'if he does not work who will look after him?' Let anyone who will look after him!<sup>3</sup> We conclude therefore that the ruling is that a master cannot say [to his slave, 'Work for me, but I shall not support you.']

Come and hear: R. Johanan says that if a man cuts off the hand of another man's slave, he must make good to his master his 'loss of time'<sup>4</sup> and the cost of his medical attendance, and the slave must live on charity. We understand from this,<sup>5</sup> [do we not,] that the master can say to the slave, 'Work for me, but I shall not maintain you'? — No. Here we are dealing with a case in which the master does provide the slave's keep. If that is so, why [does it say that] he must live on charity? — This refers to extras. If that is so, it should say not 'live on' but 'be supported by'? We therefore conclude that the master can say [to the slave, 'You must work for me etc.']. This proves it.

The Master said: 'He must make good to his master "loss of time" and the cost of his medical attendance'. [What need is there to tell me this in] the case of the 'loss of time', which is obvious? — The 'loss of time' is mentioned because the medical costs [had to be mentioned]. Surely the

medical costs go to the slave, for he needs them for his cure? — This must be stated in view of a case where it was calculated that he requires five days [treatment] and by the application of a painful remedy he was cured in three. You might think that in this case [the whole of the estimated medical cost goes to the slave since] the extra pain is his; but now know [that it does not].

It has been taught R. Eliezer said: We said to R. Meir, Is it not a benefit for the slave to obtain his liberty? — He replied, It is a disability for him, since if he was the slave of a priest he can no longer eat of the terumah. We said to him: If the priest chooses not to give him his keep, is he not at liberty to do so?<sup>6</sup> — He replied: If the slave of a priest runs away, or if the wife of a priest flouts her husband,<sup>7</sup> they can still eat of the terumah, but this one cannot. For a woman, however, certainly it is a disadvantage [to be divorced] since she becomes disqualified to eat the terumah [if she was married to a priest] and forfeits her maintenance [in any case].<sup>8</sup> What did they mean by their question and what was the point of [R. Meir's] remark, [If a priest's slave runs away etc.]? — What he said in effect was this: 'You have refuted me in the matter of maintenance,<sup>9</sup> but what answer can you give in the matter of the terumah? For if you should say that, if the master likes, he can throw the writ of emancipation to the slave and so disqualify him [and therefore giving the writ to a bearer is not a disadvantage to the slave], [I answer that] the slave can [prevent this by] leaving him and running away.<sup>10</sup>

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(1) I.e., as the property of the Sanctuary, it must not be touched by outsiders.

(2) Because a sum less than a perutah cannot become sanctified.

(3) As much as to say: Let him starve!

(4) V. Ex. XXI, 19 and B.K. 83b.

(5) From the fact that the master takes the money he is capable of earning even in his maimed condition, while he is living on charity.

(6) And what does he lose therefore by being emancipated?

(7) I.e., refuses him his conjugal rights.

(8) Tosef. Git. I.

(9) I.e., I admit that the slave does not necessarily lose maintenance by being emancipated.

(10) And as he is still a priest's slave, he can still eat the priestly dues.

## **Talmud - Mas. Gittin 13a**

Seeing then that a priest's slave who runs away and a priest's wife who flouts her husband can still eat of the terumah while this one [who is emancipated] cannot, [is it not a disadvantage to him to be emancipated]?' This was a good rejoinder, [was it not]? — Said Raba: That is the point of the answer of the Rabbis [recorded] in the Mishnah, 'BECAUSE HE IS HIS PROPERTY,' [by which they meant to say] that if the master wants he can take four zuz from a non-priestly Israelite [as the price of the slave], and so disqualify him wherever he is. Let us grant that R. Meir has made out his case with regard to the slave of a priest; how does he make it out with regard to the slave of an ordinary Israelite? — Said R. Samuel son of R. Isaac: [Emancipation is a disadvantage to the slave] because it disqualifies him from marrying a Gentile bondwoman. [On the contrary it is a benefit] because it qualifies him to marry a free woman? — A slave prefers a common woman; she allows him to take liberties, she is at his beck and call, she is not coy with him.

MISHNAH. IF A MAN SAYS, GIVE THIS GET TO MY WIFE, THIS DEED OF EMANCIPATION TO MY SLAVE, AND DIES [BEFORE THEY ARE GIVEN], THEY ARE NOT TO BE GIVEN AFTER HIS DEATH. [IF HE SAID], GIVE A MANEH TO SO-AND-SO AND DIED, THE MONEY SHOULD BE GIVEN AFTER HIS DEATH.

GEMARA. R. Isaac b. Samuel b. Martha said in the name of Rab: [This money is] only [to be given] if it has actually been put aside in a special place.<sup>1</sup> With what case are we dealing here? Shall

I say the man was in health [when he gave the instruction]? What difference does it make that the money is available, seeing that the recipient has not yet performed the act of ‘pulling’?<sup>2</sup> And if he was on his death bed, why must the money have been put on one side? Even if it has not been put on one side, it is to be given, because the instruction of a man on his death bed has the same force as a written document formally handed over!<sup>3</sup> R. Zebid said: We are in fact [dealing here] with the case of a man in health, and [our Mishnah is] in agreement with [the following dictum enunciated by] R. Huna in the name of Rab: [If a man says], You owe me a maneh, give it to So-and-so, [if he said this] in the presence of the third party,<sup>4</sup> [the last named] becomes legally entitled to it.<sup>5</sup> R. Papa said that we are indeed dealing here with the case of a man on his death bed, and [the Mishnah is] in agreement with another dictum of Rab, Viz.: ‘If a man on his death bed says, Give a maneh to So-and-so out of my belongings, if he said, give this maneh, it is to be given, but if he said simply a maneh it is not to be given, because perhaps he was thinking of a buried maneh. The law is, however, that we do not suspect that anything is buried. Why did not R. Papa take the same view as R. Zebid?’

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(1) Lit., ‘heaped up in a corner’.

(2) Meshikah, v. Glos. Until this has been performed, the donor can retract, as also his heir.

(3) V. B.B. 151a.

(4) Lit., ‘in the presence of these three’.

(5) [V. B.B. (Sonc. ed.) p. 616, nn. 15-16. This principle known as Ma'amad shlashtan which provides for the transfer of claims to a third party is assumed by R. Zebid to apply only to deposits because they are considered to be in the legal possession of the owner wherever they may be at the time. Similarly in the Mishnah it is necessary for the money to be specially set aside.]

## **Talmud - Mas. Gittin 13b**

— R. Papa was of opinion that Rab's dictum was meant to apply equally whether [the sum in question was] a loan<sup>1</sup> or a deposit. Why did not R. Zebid adopt the view of R. Papa? — Because [the language of] the Mishnah is not consistent with [the theory that it speaks of a man on his death bed]. How do we make this out? — Because it says: IF A MAN SAYS, GIVE THIS GET TO MY WIFE AND THIS DEED OF EMANCIPATION TO MY SLAVE, AND DIES BEFORE THEY WERE GIVEN, THEY ARE NOT TO BE GIVEN AFTER HIS DEATH. The reason is that he died; had he continued alive, they would have been given. And the reason why we say this<sup>2</sup> is that he said ‘Give’ [and not merely ‘write’]; had he not said ‘give’, they would not have to be given,<sup>3</sup> whereas in the case of a man on his death bed, although he did not use the word ‘give’, [the Get] is still to be given, as we learn [from the following Mishnah]: ‘At first it was laid down that if a man was being led out in fetters [to execution] and said, "Write a Get for my wife", [the Get] was to be written and delivered. Later they laid down that the same rule applied to one who was leaving for a sea journey or joining a caravan [across the desert]. R. Simeon Shezuri said: It also applies to a man lying dangerously ill.’<sup>4</sup> To this R. Ashi demurred: How do we know, he said, that our Mishnah adopts the View of R. Simeon Shezuri? Perhaps it adopts the view of the Rabbis.<sup>5</sup>

The text above stated: ‘R. Huna said in the name of Rab: If a man says, You owe me a maneh, give it to So-and-so, [if he said this] in the presence of the third party, [the last-named] becomes legally entitled to it.’ [Commenting on this,] Raba said, This dictum of Rab appears to be sound where [the money in question] is a deposit but not where it is a loan.<sup>6</sup> But, by God! Rab said that it applies even where it is a loan. It has also been stated that Samuel said in the name of Levi: If a man says. You owe me some money, give it to So-and-so, [if he said so] in the presence of the third party. [the last-named] becomes the legal owner. What is the reason? — Amemar said: [The borrower in such case] is regarded as having pledged himself at the time of borrowing the money to repay it either to the lender or to anyone coming on his behalf. Said R. Ashi to Amemar: But on your showing, if the lender transferred the debt to children who had not yet been born when the loan was

made, they would not acquire possession?<sup>7</sup> For even according to R. Meir, who said that it is possible to transfer possession of things that do not yet exist,<sup>8</sup> [the transference must be] to something that is existing, not to something that does not yet exist: The truth is, said R. Ashi,

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(1) [Though it cannot be regarded as being in the possession of the creditor, since the debtor is entitled to spend it. Consequently where a transfer is made by means of ma'amad shlashtan there would be no need for the money in question to be specially set aside.]

(2) That they would have to be given if he continued alive.

(3) Even had he lived.

(4) V. infra 65b.

(5) And therefore in the case of the dying man also the rule applies only in the case where he said 'give'.

(6) V. supra p. 47. nn. 2 and 3.

(7) Because the borrower could not be considered to have pledged himself to repay them.

(8) E.g., fruit that will grow on a tree hereafter, v. B.M. 33b.

### **Talmud - Mas. Gittin 14a**

that for the sake of the benefit which the borrower derives from the difference [in time of payment] between the old debt and the new one, he willingly pledges himself to the new creditor.<sup>1</sup> Said Huna Mar the son of R. Nehemiah to R. Ashi: If that is so, what of people like those from the house of Bar Eliashib, who force their debtors to pay at once? Do they not acquire possession in such a case as this?<sup>2</sup> And if you say they do, then you apply different standards to different people? — The truth is, said Mar Zutra, that there are three laws which the Rabbis have laid down arbitrarily without [giving] a reason. One is this one. A second is the one laid down by Rab Judah in the name of Samuel: If a [dying] man assigns in writing all his property to his wife, he only makes her a trustee for it.<sup>3</sup> The third is the one laid down by R. Hananiah: If a man celebrates the marriage of his son who is over age in a special house, the son becomes the owner of the house.<sup>4</sup>

Rab once said to R. Aha Bardala: You have a kab of saffron of mine, give it to So-and-so, and I am telling you in his presence that I do not mean to change my mind. Are we to understand from this that if he had desired to change his mind he could have done so? — What Rab meant was that instructions such as these<sup>5</sup> cannot be retracted. But this has already been laid down by Rab, since R. Huna said in the name of Rab: If a man says to another, You have a maneh of mine in your possession, give it to So-and-so, if he says this in the presence of the third party, [the latter] becomes legal owner? — If I had only that dictum to go by, I should suppose that this rule applies only to a big gift, but that for a small one it is not necessary for the third party to be present: now I know [that this is not so].

Some market gardeners [who were in partnership] once squared accounts with one another, and found that one had five staters<sup>6</sup> too much. Said the others to him in the presence of the owner of the land, 'Give it to the owner of the land',<sup>7</sup> and they duly acquired' from him.<sup>8</sup> Afterwards he reckoned up by himself, and found that he had nothing over. He went to consult R. Nahman. Said [the latter] to him: What can I do for you? For one thing, there is the rule laid down by R. Huna in the name of Rab,<sup>9</sup> and for another thing, they<sup>10</sup> duly 'acquired' from you. Said Raba to him: Does this man say. I am unwilling to pay? What he pleads is, I do not owe the money. Whereupon R. Nahman said: If so, possession has been transferred in error, and in such a case the money must always be returned.

It has been stated: If a man says to another, 'Take to So-and-so the maneh which I owe him', Rab says. he continues to be responsible for it, and he is not at liberty to retract the commission, whereas Samuel says that since he is still responsible he is at liberty to retract. May we presume that the point at issue between them is this, that one authority<sup>11</sup> was of opinion that 'take' is equivalent to 'accept on behalf of',<sup>12</sup> and the other<sup>13</sup> was of opinion that 'take' is not equivalent to 'accept on behalf of'?

— No. Both are agreed that ‘take’ is equivalent to ‘accept on behalf of’, and the point at issue is this, that one was of opinion that we make one ruing<sup>14</sup> because of another,<sup>15</sup> and the other was of opinion that we do not. It has been taught in agreement with Rab:<sup>16</sup> If a man says to another, Take to So-and-so the maneh which I owe him, give So-and-so the maneh which I owe him, take to So-and-so the maneh which he has given me in trust, give So-and-so the maneh which he has given me in trust, he remains responsible for the money, yet if he wishes to retract the commission he is not at liberty to do so. Why should he not be able to retract in the case of trust money, on the plea that [the depositor] does not desire his money to be in the hand of another [party]? — R. Zera answered: We assume that [the sender in this case] is known as a man who denies [his obligations].<sup>17</sup> R. Shesheth had some money owing to him in Mahuza for some cloaks [which he had sold there]. He said to R. Joseph b. Hama [who was going there]: When you come back from there, bring the money with you. [R. Joseph] went [to them] and they gave him the money. They said to him: ‘Give us a quittance’.<sup>18</sup> At first he said, ‘yes’, but afterwards he excused himself. When he returned, R. Shesheth said to him: You acted quite rightly,<sup>19</sup> not to make yourself a borrower [who] is the slave of the lender.<sup>20</sup> According to another version he said to him: You acted quite rightly: ‘a borrower is the slave of the lender.’<sup>21</sup>

R. Ahi the son of R. Josiah had a silver cup<sup>22</sup> in Nehardea.

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- (1) Even if the latter had not yet been born at the time of the loan.
  - (2) If the debt is transferred to them.
  - (3) And not absolute owner.
  - (4) For fuller notes v. B.B. (Sonc. ed.) pp. 616 ff.
  - (5) Made in the presence of the third party.
  - (6) A silver stater = half a zuz.
  - (7) [Trani adds: for ground-tax.]
  - (8) [So Trani. That is, they made him obligate himself by means of a Kinyan (v. Glos.) to carry out his undertaking: cur. edd. ‘he’ is evidently an error.]
  - (9) [That a transfer of claims made in the presence of the third party takes immediate effect.]
  - (10) [So cur. edd.]
  - (11) Nab.
  - (12) For this reason he may not retract, though he still continues to be responsible, as the creditor did not give him the permission to entrust the money to the bearer.
  - (13) Samuel.
  - (14) That he is at liberty to retract: lit., ‘that we say since’.
  - (15) That he is still responsible.
  - (16) Tosef. Git. I.
  - (17) And therefore the recipient is satisfied that the money should be in the hands of the hearer.
  - (18) Lit., ‘let us obtain a kinyan from you’, relieving us of all further responsibility.
  - (19) In refusing to assume responsibility.
  - (20) Prov. XXII, 7.
  - (21) I.e., my debtors are still under obligation to me.
  - (22) [GR. \*\*, v. Krauss. TA. II, 415.]

## Talmud - Mas. Gittin 14b

He said to R. Dosethai the son of R. Jannai and to R. Jose b. Kifar [who were going there]: When you come back from there, bring it with you. They went and got it [from the people who had it]. They said to them: ‘Give us a quittance’. They said, ‘No’. ‘Then give it back’, they said. R. Dosethai the son of R. Jannai was willing, but R. Jose b. Kifar refused. They gave him a thrashing,<sup>1</sup> and said to R. Dosethai: ‘See what your friend<sup>2</sup> is doing’. He replied: ‘Thrash him well’.<sup>3</sup> When they returned to R. Ahi, R. Jose said: ‘Look, sir, not only did he not assist me, but he said to them, “Thrash him

well". 'He said to R. Dosethai: 'Why did you do so?' He replied: 'Those people are like posts, and their hats as long as themselves.'<sup>4</sup> Their voice comes from their boots,<sup>5</sup> and their names are outlandish — Arda and Arta and Pili Baris.<sup>6</sup> If they give the order to arrest, you are arrested; to kill, you are killed. If they had killed [poor] Dosethai, who would have given Jannai my father a son like me?' 'Have these men', he asked, 'influence with the Government?' 'Yes', he replied. 'Have they a retinue [mounted on] horses and mules?'<sup>7</sup> 'Yes'. 'If that is so', he said, 'you acted rightly'.

If a man said to another, Take a maneh to So-and-so, and he went and looked for him, but did not find him [alive], one [Baraitha] teaches he must return the money to the sender, and another [Baraitha] teaches he must give it to the heirs of the man to whom it was sent. Shall we say that the point at issue [between the two authorities] is that one is of opinion that 'take' is equivalent to accept on behalf of', and the other that it is not? — Said R. Abba b. Memel: No. Both are agreed that 'take' is not equivalent to accept on behalf of', and there is no difference of opinion between them, as the one speaks of a sender who is in health and the other of one who is on a death bed.<sup>8</sup> R. Zebid said: Both speak of a sender who is on a death bed, but the one [has in mind the case] where the recipient is alive at the time when the money was given [to the bearer], and the other [the case] where he was not alive at the time. R. Papa says: Both speak of a case where the sender was in health,<sup>9</sup> but the one [had in mind the case] where the recipient died while the sender was still alive,<sup>10</sup> and the other [the case] where the sender died<sup>11</sup> while the recipient was still alive.<sup>12</sup>

May we assert that the question whether 'take' is equivalent to accept on behalf of' is one on which there was a difference of opinion among the Tannaim, as it has been taught: [If a man said to another,] Take a maneh to So-and-so, and he went and looked for him and did not find him [alive], he must return the money to the sender. If the sender has also died meanwhile, R. Nathan and R. Jacob say that he should return it to the heirs of the sender; or as some say, to the heirs of the person to whom the money was sent; R. Judah the Prince said in the name of R. Jacob, who said it in the name of R. Meir, that it is a religious duty to carry out the wishes of the deceased: The Sages say that the money should be divided: while here [in Babylon]<sup>13</sup> they say that the bearer should use his own discretion. R. Simeon the Prince said: I had to deal with a case of this kind, and it was decided that the money should be returned to the heirs of the sender. May we regard the point at issue here as being this, that the first Tanna was of opinion that 'take' is not equivalent to 'accept on behalf of', and that R. Nathan and R. Jacob were of the same opinion and also held that even where the sender has died in the meanwhile we do not in this case say that it is a religious duty to carry out the wishes of the deceased; that the 'some' [authorities] held that 'take' is equivalent to 'accept on behalf of'; that R. Judah the Prince speaking in the name of R. Jacob who again spoke in the name of R. Meir held that 'take' is not equivalent to 'accept on behalf of', only where the sender has died [in the meanwhile] we do say that it is a religious duty to carry out his wishes; that the Sages who say they should divide are in doubt [as to which principle to adopt], while here [in Babylon, other authorities] think that the bearer can best estimate for himself; and as for R. Simeon the Prince, he simply desired to give an illustration? — No. If the sender is in health, all authorities are agreed [that 'take' is not equivalent to 'accept on behalf of']. Here, however, we are dealing [with the case] where [the sender is] on a death bed, and the dispute here is analogous to the dispute between R. Eleazar and the Rabbis. For we learnt: If a man divides his property among his heirs by word of mouth, R. Eleazar says that whether he is in health or dangerously ill, immovable property can be transferred to the new owners only by money payment, by document, or by act of possession, and movable property only by 'pulling', whereas the Sages say that transference of ownership is effected in both cases by his mere word of mouth. Said [the Sages] to him: There is the case of the mother of the sons of Rokel who was ill and said, Let my brooch be given

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(1) Lit., 'they vexed him'.

(2) Lit., 'the master'.

(3) Al. 'He deserves his thrashing'.

- (4) Lit., 'they are a cubit and their hats are a cubit'.
- (5) Lit., 'they speak from their middles'.
- (6) [On this passage. and for an attempt to explain the names mentioned, v. Rappaport, Kerem Chemed VII p. 199.]
- (7) Lit., 'have they horses and mules running before them'.
- (8) Whose verbal instructions have the character of a written deposition. v. supra 15a.
- (9) And his verbal instructions have not the force of a written deposition.
- (10) And it goes back to the sender.
- (11) (At which point the gift takes immediate effect because the carrying out of the wishes of the dead is deemed a religious obligation.)
- (12) And the money now goes to the heirs of the recipient.
- (13) [This is quoted by Chajes in support of Sherira's view in his Epistle that Babylon was a centre of Torah studies from the earliest days, ever since the first deportation of Jews in 596 B.C.E. V. supra p. 17, n. 3 and Halevy, Doroth II, pp. 82ff.]

## **Talmud - Mas. Gittin 15a**

to my daughter, it is worth twelve maneh; and then she died and the Sages carried out her instruction? He replied: The sons of Rokeh — may their mother bury them!<sup>1</sup> The first Tanna [in our passage] holds with R. Eleazar,<sup>2</sup> and R. Nathan and R. Jacob also hold with R. Eleazar, [so much so] that although the owner dies, we do not say that it is a religious duty to carry out his wishes. 'Some' [authorities] hold with the Rabbis. R. Judah speaking in the name of R. Jacob who himself spoke in the name of R. Meir held with R. Eleazar, only where the sender had died in the meanwhile he applied the principle of carrying out the wishes of the deceased. The Sages said the money should be divided, because they were in doubt. 'Here' [in Babylon] they said that the bearer could best estimate for himself, while R. Simeon the Prince merely desired to give an illustration.

A question was asked in the Beth Hamidrash: Was R. Simeon the Prince really a prince,<sup>3</sup> or did he speak in the name of the Prince? — Come and hear: R. Joseph said that the halachah follows the ruling of R. Simeon the Prince. But the question still remains whether he was a Prince or only spoke in the name of a Prince? — Let it stand over.

The text above says: R. Jose said that the halachah follows the ruling of R. Simeon the Prince. But is it not an established rule that the words of a man on his death bed have the same force as if they were written and delivered? [R. Joseph] understands [the Baraita] to be speaking of the case [where the sender was] in good health. But R. Simeon said it should be returned 'to the heirs of the sender'. though all are agreed it is a fixed rule that it is a religious duty to carry out the instructions of the deceased? — Read<sup>4</sup>: 'returned to the sender'.

## **C H A P T E R I I**

**MISHNAH.** IF THE BEARER OF A GET FROM 'FOREIGN PARTS' DECLARES: 'IT WAS WRITTEN IN MY PRESENCE BUT NOT SIGNED IN MY PRESENCE', [OR]. 'IT WAS SIGNED IN MY PRESENCE BUT NOT WRITTEN IN MY PRESENCE', [OR] 'THE WHOLE OF IT WAS WRITTEN IN MY PRESENCE BUT ONLY ONE OF THE WITNESSES SIGNED IN MY PRESENCE',<sup>5</sup> [OR] 'ONLY HALF WAS WRITTEN IN MY PRESENCE THOUGH BOTH WITNESSES<sup>6</sup> SIGNED IN MY PRESENCE' — IN ALL THESE CASES THE GET IS INVALID.<sup>7</sup> IF ONE [PERSON] DECLARES 'IT WAS WRITTEN IN MY PRESENCE AND ANOTHER SAYS, 'IT WAS SIGNED IN MY PRESENCE . THE GET IS INVALID. IF TWO [PERSONS] DECLARE, 'IT WAS WRITTEN IN OUR PRESENCE AND ANOTHER SAYS, 'IT WAS SIGNED IN MY PRESENCE', IT IS INVALID: R. JUDAH, HOWEVER, DECLARES IT VALID. IF ONE DECLARES, 'IT WAS WRITTEN IN MY PRESENCE' AND TWO SAY, 'IT WAS SIGNED IN OUR PRESENCE', IT IS VALID.



GEMARA. Why this repetition? Is it not all included in what we have already learnt: The bearer of a Get from 'foreign parts' is required to declare, 'In my presence it was written and in my presence it was signed'?<sup>8</sup> — If I had only that to go by, I might think that [though] he is required [to make this declaration], yet if he omitted [to do so the Get is still] valid. Now I know that [this is not the case].

ONLY HALF OF IT WAS WRITTEN IN MY PRESENCE THOUGH BOTH WITNESSES SIGNED IN MY PRESENCE. Which half is referred to? If you say the first half, what of the dictum of R. Eleazar, that if only one line<sup>9</sup> is written with special reference to the woman for whom it is intended, the rest requires no such ['special intention']? — R. Ashi therefore said that the second half is meant.

THE WHOLE WAS WRITTEN IN MY PRESENCE BUT ONLY ONE WITNESS SIGNED IN MY PRESENCE. R. Hisda said: Even if two other persons attest the signature of the second witness, the Get is still invalid. What is the reason for this? — In regard to both signatures alike<sup>10</sup> we must either insist on confirmation<sup>11</sup> or follow the regulation of the Rabbis.<sup>12</sup> Raba demurred strongly to this [reasoning]. Is there anything, he said, which is declared valid on the word of one witness<sup>13</sup> and invalid on the word of two? No, said Raba; what we must say is that even

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(1) As much as to say, they are men of such bad character that their name is not fit to be mentioned in the Beth Hamidrash, and they do not form a precedent. For fuller notes v. B.B. (Sonc. ed.) p. 679.

(2) Who makes no distinction between a man in health or dying, while 'take' is not treated as 'accept on behalf'.

(3) Nasi, the title of the officially recognised head of the Jewish community in Palestine under the Roman Empire, corresponding to the Resh Galutha in Babylonia. [The name of Simeon the 'Prince' does not occur elsewhere, hence the question whether his designation was 'the Prince' or whether the words 'in the name of the Prince' are omitted from the text. For a similar omission cf. B.K. 39b, 1, v. Tosaf.]

(4) .

(5) Lit., 'half of it was signed in my presence'.

(6) Lit., 'the whole of it was signed'.

(7) The rule being that it must all be written and signed by two witnesses in his presence.

(8) Which implies that it was completely written and completely signed in his presence. (Rashi).

(9) Viz., the line containing the name of the man and of his wife and the date.

(10) Lit., 'the whole of it'.

(11) By the attestation of two witnesses. V. supra 2b.

(12) Which requires a declaration from the bearer.

(13) Viz, the bearer, whose word is taken if he says that he recognises the signature of the witness; supra 3a.

## Talmud - Mas. Gittin 15b

if the bearer and another person confirm the signature of the second witness,<sup>1</sup> [the Get] is invalid,<sup>2</sup> because this might be taken as a precedent for the attestation of other documents, and in this way three-quarters<sup>3</sup> of a sum in dispute might be assigned on the word of one witness.<sup>4</sup> R. Ashi strongly demurred to this [reasoning]. Is there anything, he said, which if stated by one persons is valid, but becomes invalid if another joins with him? No, said R. Ashi, what we have to say is that even if the bearer Says. 'I myself am the second witness', [the Get] is invalid, because in regard to both signatures alike we must either insist on confirmation or follow the regulation of the Rabbis.

We learnt: [IF HE DECLARES.] 'THE WHOLE WAS WRITTEN IN MY PRESENCE BUT ONLY ONE WITNESS SIGNED IN MY PRESENCE', THE GET IS INVALID. What now about the other witness? Do we presume that there is no-one who attests his signature? That cannot be; for even where one [person declares] IT WAS WRITTEN IN MY PRESENCE' AND ANOTHER

SAYS 'IT WAS SIGNED IN MY PRESENCE', in which case one testifies to the whole of the writing and the other to the whole of the signing [ — even in that case the Get] is invalid; how much more so then if only half [of the signing is attested]? No; this shows that the proper explanation is either that of Raba or of R. Ashi, and that R. Hisda's is to be excluded.<sup>5</sup> And R. Hisda? — He can rejoin: On your theory,<sup>6</sup> what need is there to specify the case of 'in my presence it was written but not signed' [etc.]? Obviously the Mishnah was giving first a weaker and then a stronger instance;<sup>7</sup> so here, the Mishnah gives first a weaker and then a stronger instance.<sup>8</sup>

R. Hisda said: An embankment five handbreadths deep and a fence [on it] five handbreadths high are not reckoned together [to form a single partition of ten handbreadths];<sup>9</sup> the whole of the ten must be contained either in the embankment or in the fence. Meremar, however, in an exposition, [taught] that an embankment of five handbreadths and a fence on it of five handbreadths are reckoned together; and the law is that they are reckoned together.

Ilfa inquired: Can the hands be half clean and half unclean, or can they not be? How is this question to be understood? Does it mean that two persons wash their hands from a *revi'ith*?<sup>10</sup> Regarding this we have already learnt that a *revi'ith* is sufficient for washing the hands of one [person] and even of two.<sup>11</sup> Is the case then that he washes one hand at a time? In regard to this too we have learnt<sup>12</sup> that if a man washes one hand by pouring water over it and the other by dipping [it in a river] the hands are clean. Is it then that he washes a half of his hand at a time? Regarding this it has been laid down in the school of R. Jannai that the hands cannot be made clean by halves. — The question may still be asked in regard to the case where the water is still dripping [from one hand<sup>13</sup> when he washes the second]. And suppose the water is dripping, what does it matter? Have we not learnt:

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(1) I.e., declare that they know this to be his signature.

(2) In spite of the fact that if the bearer testifies alone, it is valid.

(3) Lit., 'deducting a fourth'.

(4) If a document is brought into court signed by two witnesses, A and B, of whom B is dead, and if A together with a third party attests the signature of B, then if money were to be awarded on the strength of that document, three-quarters of it would be awarded on the evidence of the one witness A, which is against the rule, as each witness must be responsible for a half, v. Keth. 21b.

(5) The Mishnah quoted above ('if he says the whole was written in my presence but only one witness signed in my presence') has just been shown to be superfluous, and we are therefore entitled to infer some lesson from it. That inference, however, should be restricted to a minimum, and therefore the opinions of Raba and R. Ashi are preferable to that of R. Hisda.

(6) That an apparent superfluity must be made the basis of some lesson.

(7) Lit., 'not only this (but) also this'. I.e., first 'in my presence it was not signed (at all)', and then 'in my presence only one witness signed', the first case being contained in the second.

(8) First where one attests the writing and the other the signatures, and then where one signature is left unattested.

(9) So as to enclose a space which can be considered as 'private domain' for the purposes of transportation on Sabbath.

(10) A quarter of a log, about 1 1/2 eggs; the minimum required for the ritual washing of the hands before meals.

(11) Naz. 382. Yad. I, 2.

(12) Yad. II, 1.

(13) So that it is possible still to regard the hands as being washed together.

## Talmud - Mas. Gittin 16a

'A jet of water [from a jug] or water flowing down a slope, or dripping water, does not form a connection so as to make [the water] unclean<sup>1</sup> or clean?<sup>2</sup> — The question is still required for the case where the dripping is considerable.<sup>3</sup> But regarding this also we have been taught that where the dripping is considerable, it does form a connection. — Perhaps this dictum refers only to a *mikweh*,<sup>4</sup>

and follows the opinion of R. Judah: For we learnt: 'If a mikweh contains exactly forty se'ahs of water and two persons bathe in it, if they both are in the water together they are both clean, but if one enters after the other has left, the first is clean but the second not'.<sup>5</sup> R. Judah said that if the feet of the first were still touching the water [when the second entered], the second is also clean.<sup>6</sup>

R. Jeremiah said: It has been laid down that if a person plunges the greater part of his body in water drawn [through a pipe],<sup>7</sup> or if three logs of such water are poured over the greater part of the body of a clean person, he is unclean.<sup>8</sup> R. Jeremiah then propounded: Suppose he plunges half of his [body into such water] and three logs of it fall on the other half, is he unclean? This question was left unanswered. R. Papa said: It has been laid down that if a sick person had a seminal emission and nine kabs of water are thrown over him, he is clean. R. papa then asked: If he dips half his [body in water] and [water is] thrown over the other half, is he clean? This question was also left unanswered.

IF ONE DECLARES, 'IT WAS WRITTEN IN MY PRESENCE AND THE OTHER, etc.' R. Samuel b. Judah said in the name of R. Johanan: This rule applies only to the case where the Get was not brought by both as joint bearers, but if it is brought by both of them

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(1) I.e., if water is falling or dripping from a receptacle containing 'clean' water into one containing 'unclean' it does not thereby communicate the uncleanness of the lower to the upper.

(2) [I.e., if a mikweh has less than 40 se'ahs, water dripping from another mikweh it cannot make up the deficiency; but v. Tosaf. s.v. **הניצוק** ]

(3) Lit., 'enough to make wet'.

(4) V. Glos. And not to the washing of the hands.

(5) [Because the first had taken away some water on the body and thus rendered the mikweh deficient from the minimum of 40 se'ahs.]

(6) [On the principle **גוד אהית** (lit., 'stretch and bring down') whereby a partition is supposed to be prolonged so as to reach down to the ground. Similarly here the first man is treated as forming part of the partition of the mikweh reaching down to the mikweh proper. This principle may be adopted even if that of **חיבור** 'connection' is not.]

(7) Or any vessels. And not flowing in directly without any artificial intermediary.

(8) For eating terumah. V. Shab. 14a.

## Talmud - Mas. Gittin 16b

it is valid. We conclude that he was of opinion that if a Get was brought by two bearers from 'foreign parts', they are not required to declare 'In our presence it was written and in our presence it was signed.'<sup>1</sup> Said Abaye to him: Taking this view [as correct], let us look at the clause which follows: IF TWO SAY, 'IT WAS WRITTEN IN OUR PRESENCE', AND ONE SAYS, 'IT WAS SIGNED IN MY PRESENCE', IT IS INVALID; R. JUDAH, HOWEVER, DECLARES IT TO BE VALID. The reason, you say, why the Rabbis declare it invalid is because it was not brought by both of them as bearers. Are we to suppose then that if both of them did act as bearers, the Rabbis hold the Get to be valid? — He replied: That is so. In the case then where both do not act as bearers of the Get, what is the ground of the difference [between R. Judah and the Rabbis]? — One authority [the Rabbis] held that there is a risk of the procedure [in the case of a Get] being taken as an example for allowing one witness to confirm [signatures] of documents in general, and the other held that there is no such danger.

Another version [of the above passage is as follows]. R. Samuel b. Judah said in the name of R. Johanan: Even if both witnesses have acted as bearers of the Get, it is invalid. We conclude that he was of opinion that if two persons act as joint bearers of a Get from 'foreign parts', they are required to declare, 'In our presence it was written and in our presence it was signed'. Said Abaye to him: Accepting this view [as correct], let us look at the next clause: IF TWO SAY, 'IT WAS WRITTEN IN OUR PRESENCE, AND ONE SAYS, 'IT WAS SIGNED IN MY PRESENCE', IT IS INVALID.

R. JUDAH, HOWEVER, DECLARES IT VALID. Then the Rabbis declare it invalid even if both have acted as bearers? — He replied: That is so. What is the point at issue between R. Judah and the Rabbis? — One authority [the Rabbis] was of opinion that the reason why the declaration is required is because [the Jews outside Palestine] are not familiar with the rule of ‘special intention’,<sup>2</sup> and the other [R. Judah], because witnesses cannot easily be found to attest the signatures.<sup>3</sup> May we infer from this that the dispute between Rabbah and Raba goes back to the Tannaim? — No. Raba adopts the first version of the passage just quoted.<sup>4</sup> Rabbah, [adopting the second], can maintain that both authorities require the declaration on account of the rule of ‘special intention’, and here we are dealing with the period when this had become generally known, and the point at issue between R. Judah and the Rabbis is whether there is a danger of a reversion to the former ignorance, one [the Rabbis] holding that there was such a danger and it was necessary to take precautions against it, and the other that it was not. But according to this, R. Judah should join issue in the first clause<sup>5</sup> also? — This is in fact the case, as has been stated: ‘Ulla said that R. Judah differed from the Rabbis in the first case also. R. Oshiah raised an objection to ‘Ulla. [It has been taught:] R. Judah declares [the Get] valid in this case, and not in the other. Does he not mean by this, [he said,] to except the case where one says ‘It was written in my presence’ and one says ‘it was signed in my presence’? — No. He means to except the case where one says, ‘It was signed in my presence but not written in my presence’. I might think that since R. Judah does not think it necessary to guard against the danger of a recurrence of the ignorance,<sup>6</sup> so also he does not think it necessary to guard against the danger of confusing writs of divorce with other documents through allowing confirmation by one witness.<sup>7</sup> Now I know [that this is not the case]. It has also been stated:<sup>8</sup> Rab Judah said: In the matter of a Get which is brought by two bearers from ‘foreign parts’, we find a difference of opinion between R. Judah and the Rabbis.

Rabbah b. Bar Hanah was once ill, and Rab Judah and Rabbah went to inquire how he was. While with him, they put to him the question: If two bearers’ bring a Get from ‘foreign parts’, are they required to declare, ‘In our presence it was written and in our presence it was signed’, or are they not required? — He replied: They are not required. For if they were to say, ‘In our presence he divorced her’, would we not take their word? At this point a Gueber<sup>9</sup> came in

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(1) Since the reason for this declaration (which is because there may not be witnesses available to attest the signatures, v. supra 2b) does not apply where there are two bearers.

(2) And therefore where there are two bearers, they must make the whole declaration.

(3) And therefore two bearers are not required.

(4) According to which two bearers are not required.

(5) If one says that it was written in his presence and one that it was signed in his presence. Since the bearers are two and he does not fear the reversion to their former ignorance.

(6) By declaring the Get invalid if one declares that he has seen it written and one that he has seen it signed.

(7) If one witness is allowed to confirm the signature to the Get.

(8) In support of the second version of R. Johanan.

(9) A member of the fanatical sect of fire-worshippers who became powerful in the Persian Empire in the fourth century.

## Talmud - Mas. Gittin 17a

and took away their lamp;<sup>1</sup> whereupon Rabbah b. Bar Hanah ejaculated: 'O All Merciful One! either in Thy shadow or in the shadow of the son of Esau!'<sup>2</sup> This is as much as to say, [is it not,] that the Romans are better than the Persians? How does this square with what R. Hiyyah taught: 'What is the point of the verse, God understood her way and he knew her place?'<sup>3</sup> It means that the Holy One, blessed be He, knew that Israel would not be able to endure the persecution of the Romans, so he drove them to Babylon'<sup>4</sup> — There is no contradiction. One dictum refers to the period before the Guebers came to Babylon, the other to the period subsequent to their coming.<sup>5</sup>

IF ONE SAYS, 'IT WAS WRITTEN IN MY PRESENCE' AND TWO SAY IT WAS SIGNED IN OUR PRESENCE, IT IS VALID. R. Ammi said in the name of Johanan: This applies only to the case in which the Get is produced by the witness to the writing [as bearer]. since in that case there is the equivalent of two witnesses<sup>6</sup> to the writing and two to the signing. If, however, it is produced by the witnesses to the signing [as bearers], [the Get] is invalid. This would show, [would it not,] that he is of opinion that if two [bearers] bring a Get from 'foreign parts', they are required to declare, 'It was written in our presence and signed in our presence'? Said R. Assi to him: Accepting this view, look at the preceding clause: IF TWO SAY, 'IT WAS WRITTEN IN OUR PRESENCE' AND ONE SAYS, 'IT WAS SIGNED IN MY PRESENCE', IT IS INVALID: R. JUDAH, HOWEVER, DECLARES IT VALID. Do the Rabbis declare it invalid even if the Get is produced by both [as bearers]? — He replied: That is so. At another time R. Assi found R. Ammi poring [over the Mishnah] and saying that even if the Get [is produced] by the witnesses to the signing [as bearers],<sup>7</sup> it is valid. This seemed to show that he was of opinion that if two [bearers jointly] brought a Get from foreign parts, they are not required to declare, 'It was written in our presence and signed in our presence'. Said R. Assi to him: If that is so, what of the preceding clause: IF TWO SAY, 'IT WAS WRITTEN IN OUR PRESENCE' AND ONE SAYS, 'IT WAS SIGNED IN MY PRESENCE', THE GET IS INVALID; R. JUDAH, HOWEVER, DECLARES IT VALID. The reason why the Rabbis declare it invalid is because the Get is not produced by both [as bearers]. If then it is produced by both [as bearers], do the Rabbis declare it valid? — He replied: That is so. But, said R. Assi, at another time you told me differently? — He said: This is a peg which cannot be dislodged.<sup>8</sup>

MISHNAH. IF [A GET WAS] WRITTEN BY DAY AND SIGNED ON THE [SAME] DAY, WRITTEN BY NIGHT AND SIGNED ON THE [SAME] NIGHT, WRITTEN BY NIGHT AND SIGNED ON THE DAY [FOLLOWING],<sup>9</sup> IT IS VALID. IF IT WAS WRITTEN BY DAY AND SIGNED ON THE NIGHT [FOLLOWING],<sup>10</sup> IT IS INVALID. R. SIMEON, HOWEVER, DECLARES IT VALID, SINCE R. SIMEON USED TO SAY THAT ALL DOCUMENTS WRITTEN BY DAY AND SIGNED ON THE [FOLLOWING] NIGHT ARE INVALID EXCEPT BILLS OF DIVORCE.

GEMARA. It has been stated: Why did [the Rabbis] ordain that bills of divorce should be dated? — R. Johanan says: Lest [the husband] might shield his sister's daughter:<sup>11</sup> Resh Lakish said: So that he should not sell the increment of his wife's property.<sup>12</sup> Why did Resh Lakish not give the reason that R. Johanan gave? — He might argue

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(1) Because it was some Gueber festival on which the lighting of fire was forbidden.

(2) I.e., the Roman Empire.

(3) Job XXVIII, 23.

(4) Apparently this refers to the larger number of Jews inhabiting Babylon as compared with Palestine in the day of R. Hiyya.

(5) [After 226 when Ardashir I, having defeated the last of the Parthian kings. Artaban V, established the Sassanid dynasty that held sway over Babylon for several centuries. The Sassanides, whose original home was Haber near Shiraz, S. Persia, (hence the name **הַבְּר**, Gueber) were ardent and zealous supporters of the Zoroastrian faith and very

intolerant of the other faiths their antipathy to which found expression in persecution; v. Keth. 63b and Kid. 73a, Obermeyer op. cit. p. 262, and B.K. (Sonc. ed.) p. 699. n. 2 (where the date should be 226) and n. 3.]

(6) Because the bearer who makes the declaration is regarded as equivalent to two witnesses.

(7) And not the witness to the writing.

(8) I.e., you may take this as fixed and certain.

(9) Which is still the same date, the Jewish day being from evening to evening.

(10) Which is a different date.

(11) Who is his wife. If she misconducted herself, he might, out of affection for his sister, say that it was after he had given her the divorce.

(12) Lit., 'on account of the usufruct'. The so-called 'property of sucking' (mulug) which was settled on the wife at the time of marriage but of which the husband was to have the usufruct so long as they were married. (V. Glos. and B.B., Sonc. ed., p. 206, n. 7). If the Get was undated, he might wrongfully assert that he had sold the increment before the divorce.

## Talmud - Mas. Gittin 17b

that adultery is exceptional.<sup>1</sup> And why did R. Johanan not give the reason that Resh Lakish gave? — He was of opinion that the increment of the wife's property belongs to the husband until the Get is actually delivered.<sup>2</sup> On the theory of Resh Lakish we can understand why R. Simeon should declare valid [a Get signed on the following night].<sup>3</sup> But on the theory of R. Johanan, what is R. Simeon's reason for declaring such a Get valid?<sup>4</sup> — R. Johanan might answer that his theory is not meant to square with the view of R. Simeon but with the view of the Rabbis. On the theory of R. Johanan<sup>5</sup> we understand why R. Simeon and the Rabbis differ;<sup>6</sup> but on the theory of Resh Lakish, why should there be any difference between them? — They differ with regard to the increment that accrues between the time of writing [the Get] and the time of signing it.<sup>7</sup> But have we not been told just the opposite [with regard to R. Johanan and Resh Lakish]? For it has been stated: 'From what point of time can the divorced woman begin to draw the increment? R. Johanan says: From the time [when the Get] is written; Resh Lakish says: From the time when it is delivered'? — Reverse the names.

Said Abaye to R. Joseph: [We have learnt that] three kinds of Get are invalid,<sup>8</sup> but if a woman marries again on the strength of them [and bears a child], the child is legitimate. This being so, what good have the Rabbis done with their regulation [that the Get should be dated]? — They at least raise an initial bar against her marrying again.<sup>9</sup> Suppose the husband cut off the date and gave it to her? — He replied: We do not take precautions against a fraud [of this kind]. Suppose it is dated only by the septennate,<sup>10</sup> by the year, by the month, by the week? — He replied: It is valid. What good then have the Rabbis done with their regulation? — It is of value [where a question arises] about the septennate before or the septennate after.<sup>11</sup> For if you say this is of no value, [I might retort,] even when the day is specified, do we know whether the morning or the evening is meant? What [it does is] to distinguish it from the day before and the day after. So here, [by specifying the septennate] we are enabled to distinguish it from the septennate before and the septennate after [should a question arise about them].

Rabina said to Raba: If a man writes a Get

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(1) And therefore it was unnecessary to make a special regulation dealing with it.

(2) Hence dating the Get would not help the wife to recover the increment from the purchasers as long as the woman could not produce evidence when she received the Get.

(3) Because according to R. Simeon he loses his title to the increment when he decides to divorce her; v. infra 18b.

(4) Seeing that it gives him an improper opportunity of shielding his sister's daughter.

(5) That the Rabbis required the Get to be dated so that the husband should not shield the wife and R. Simeon so that he should not draw the increment.

(6) On the question of a Get signed on the following night.

(7) The Rabbis holding that the husband is entitled to it till the time of signing. Hence if it is dated the previous day he loses a day, and therefore the Get is invalid. For R. Simeon, however, who holds that the husband loses his title from the time he decided to divorce her, this objection does not apply.

(8) One of them being an undated Get; infra 86a.

(9) Because the scribes will be unwilling to write and the witnesses to sign a Get without a date.

(10) The seven-year period between one Sabbatical year and the next.

(11) E.g., if the alleged unchastity took place in the septennate before, or if the husband continued to draw the increment in the septennate after.

## **Talmud - Mas. Gittin 18a**

and puts it in his pocket, thinking that he may yet make friends with his wife<sup>1</sup> [and eventually gives it to her], what is the ruling? — He replied: A man does not meet trouble half way.<sup>2</sup> Said Rabina to R. Ashi: In the case of writs of divorce from 'foreign parts' which are written in Nisan and do not reach their destination till Tishri, what good have the Rabbis done with their regulation?<sup>3</sup> — He replied: People hear of such documents.<sup>4</sup>

It has been stated: From what point do we commence to count [the three months] from a divorce?<sup>5</sup> Rab says: From the time [the Get] is delivered; Samuel says: From the time it is written. R. Nathan b. Hoshia strongly demurred to this opinion. According to Samuel, are people to say, [he asked,] here are two women in the same house,<sup>6</sup> one of whom may marry and the other may not? — Said Abaye to him: [That is so]: the one like the other must go by the date of her Get.<sup>7</sup> It has been taught in accordance with Rab and it has been taught in accordance with Samuel. It has been taught in accordance with Rab: If a man sends a Get to his wife and the bearer lingers on the road three months, she has to wait three months from the time the Get is delivered to her, nor do we concern ourselves lest it should have become an 'old Get',<sup>8</sup> because the husband has not been alone with her in the interval. It has been taught in accordance with Samuel: If a man entrusts to a third party a Get for his wife, and says to him, 'Do not give it to her till three months have passed', she is at liberty to marry from the moment he has given it to her, nor do we concern ourselves lest it should have become an 'old Get', since he has not been alone with her in the interval.

R. Kahana, R. Papi and R. Ashi acted on the principle that the Get is valid from the time of writing; R. Papi and R. Huna the son of R. Joshua that it is valid from the time of delivery. The law is that it is valid from the time of writing.

It has been stated: From what point does a Kethubah [marriage settlement]<sup>9</sup> fall under the law of the Sabbatical year?<sup>10</sup> Rab says: From the moment when the woman takes part payment and converts [the rest into a loan];<sup>11</sup> Samuel says: [From the moment when] she takes part payment even though she does not convert [the rest into a loan], or converts [the whole into a loan] without taking part payment. It has been taught in accordance with Rab and it has been taught in accordance with Samuel. It has been taught in accordance with Rab: From what point does a Kethubah fall under the law of the Sabbatical year? From the moment when the woman takes part payment and converts [the rest into a loan]; if she takes part payment and does not convert [the rest into a loan], or converts [it all into a loan] and does not take part payment, it does not fall under the law of the Sabbatical year; she must both take part payment and convert the rest into a loan. It has been taught in accordance with Samuel: ['The fines] for violation,<sup>12</sup> for wife-slander,<sup>13</sup> and for seduction,<sup>14</sup> and a wife's Kethubah, if converted into loans, are subject to the law of the Sabbatical year, but otherwise are not subject. From what point are they regarded as converted into loans? From the time [the case is] brought into court.' Samuel said: A Kethubah is on a par with a deed drawn up by the Beth din. Just as a deed drawn up by a Beth din may be written by day and signed on the following night,<sup>15</sup> so a Kethubah may be written by day and signed on the following night. The Kethubah<sup>16</sup> of R. Hiyya b. Rab was written by day and signed the following night. Rab himself was present and made no

objection. Are we to infer from this that he is of the same opinion as Samuel? — They were engaged on that matter during the whole of the interval; [and in such a case it is permissible], as it has been taught: R. Eleazar son of R. Zadok said: This rule [not to sign documents on the following night] applies only where [the parties concerned] were not engaged on that matter during the whole of the interval; but if they were so engaged, the document so signed is valid.

R. SIMEON DECLARES IT VALID. Raba said: What is R. Simeon's reason? — He was of opinion that so soon as the husband makes up his mind to divorce the wife, he is not entitled any more to the increment from her property. Resh Lakish said: R. Simeon declared [the Get] valid only if it was signed on [the night] immediately [following], but if it was not signed till ten days afterwards it is not valid.

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(1) Lit., 'if he should pacify her, she would be appeased.'

(2) I.e., such a case is hardly likely to occur. Unless a man is intent on divorcing his wife he does not as a rule write a writ of divorce.

(3) Because even with the date the husband will now find it easy to shelter the wife in case of misconduct, and, further, the date places at a disadvantage persons who in the interval between the writing and the giving of the Get have inadvertently bought the increment of the wife's property from the husband, as she can now recover this from them. V. Tosaf. s.v.

(4) And know that the Get was given long after it was written, and in those cases, evidence as to the date of delivery is decisive.

(5) A divorced woman was required to wait three months before remarrying to make sure she was not with child. V. Yeb. 42a.

(6) Two wives of one man who gave them both writs of divorce on the same day before going abroad, but one Get bore an earlier date than the other.

(7) Lit., 'For this one, her Get affords proofs, and for this one her Get etc.'

(8) If after writing a Get and before delivering it the husband has intercourse with his wife, such a Get is called an 'old Get' and is not valid; v. infra 76b.

(9) V. Glos.

(10) V. Deut. XV. The Sabbatical year brought release from the obligation to repay loans, but not the kethubah.

(11) By drawing up a bond in which the balance is recorded as a loan.

(12) V. Deut. XXIII, 28, 29.

(13) Lit., 'fine'. V. Deut. XXIII, 13-19.

(14) V. Ex. XXII, 15,16.

(15) As it is only a record of a decision arrived at by the court.

(16) V. Glos. s.v. (b).

## Talmud - Mas. Gittin 18b

since there is a possibility that he made it up with her [in the interval].<sup>1</sup> R. Johanan, however, says that even if it was signed ten days later [it is valid, because] if he had made it up with her, people would have got to know.

It has been stated: If a man said to ten persons, 'Write a Get for my wife', according to R. Johanan, two of them sign as witnesses and the rest [simply] because he made it a condition,<sup>2</sup> while according to Resh Lakish, all of them sign as witnesses. How are we to understand this? Are we to suppose that he did not say to them 'all of you [write]'? [This cannot be] because we have learnt: If he says to ten persons, 'Write a Get for my wife' [without saying 'all of you'], one writes and [only] two sign!<sup>3</sup> — We suppose then that he used the words 'all of you'. What is the practical difference between R. Johanan and Resh Lakish?<sup>4</sup> — The practical difference arises where two of them signed on the same day and the rest ten days later. According to the authority [R. Johanan] who said [that the rest only sign] because he made it a condition, [the Get is] valid, but according to the authority



who says [that they all sign] as witnesses, [the Get is] invalid. Or again [there is a difference] where, for example, one of the persons [who signed it] was found to be a relative or in some way disqualified [from acting as witness]. According to the authority who said [that the rest sign] because he made it a condition, [the Get is] valid, but according to the authority who says [that they all sign] as witnesses [it is] invalid.<sup>5</sup> If [the relative or disqualified person] signs first, some say [that the Get is] valid and some that [it is] invalid. Some say [it is] valid because [the person thus signing may be regarded as fulfilling] the condition. Some say [it is] invalid because [otherwise] a precedent may be set for the signing of documents in general.

A certain man said to ten persons, [All of you]<sup>6</sup> write a Get for my wife, and two signed on the same day and the rest ten days later. [The question of its validity] came before R. Joshua ben Levi. He said:

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(1) Cf. p. 66, n. 3.

(2) The fulfilment of which he insisted upon, because it was his intention to shame her in the presence of all these people.

(3) V. infra 66b.

(4) Since all have in any case to sign.

(5) According to Sanhedrin 9a, if there are a hundred witnesses and one of them is a relative or otherwise disqualified, the evidence is not accepted.

(6) These words are not in the text, but, as Rashi points out, they are necessary for the sense, because if they were not used, according to all authorities it is necessary for only two to sign.

## **Talmud - Mas. Gittin 19a**

R. Simeon's authority<sup>1</sup> is good enough to follow in an emergency.<sup>2</sup> But did not Resh Lakish say that R. Simeon declared [the Get] valid only if it was signed [the night] immediately [following] but not if it was signed ten days later? — On that point he [R. Joshua ben Levi] agreed with R. Johanan. But did not R. Johanan say that only two [of them sign] as witnesses and the rest [simply because he made it] a condition?<sup>3</sup> — On that point he agreed with Resh Lakish.

**MISHNAH.** THE GET MAY BE WRITTEN WITH ANY MATERIAL, WITH DEYO,<sup>4</sup> WITH SAM,<sup>5</sup> WITH SIKRA,<sup>6</sup> WITH KUMUS<sup>7</sup> AND WITH KANKANTUM<sup>8</sup> OR WITH ANYTHING WHICH IS LASTING. IT MAY NOT BE WRITTEN WITH LIQUIDS OR WITH FRUIT-JUICE OR WITH ANYTHING THAT IS NOT LASTING. [THE GET] MAY BE WRITTEN ON ANYTHING — ON AN OLIVE LEAF [ETC.] [HE MAY WRITE IT] ON THE HORN OF AN OX AND GIVE HER THE OX, OR ON THE HAND OF A SLAVE AND GIVE HER THE SLAVE. R. JOSE THE GALILEAN SAYS: [A GET IS] NOT [TO BE WRITTEN] ON ANYTHING LIVING OR ON FOODSTUFF.

**GEMARA.** DEYO: this is ink.<sup>9</sup> SAM: this is paint.<sup>10</sup> SIKRA: Rabbah b. Bar Hanah says: Its name is dekarta [red paint]. KUMUS: this is gum. KANKANTUM: Rabbah b. Samuel says: This is blacking used by bootmakers. ANYTHING THAT IS LASTING. What do these words add [to the list]? — They add the content of the following [teaching] which R. Hanina learnt: If [the Get is] written with the juice of wine-lees<sup>11</sup> or gall-nut [juice], it is valid.

R. Hiyya taught: If the Get is written with lead, with black pigment or with coal,<sup>12</sup> it is valid.

It has been stated: If a man goes over red paint writing with ink on Sabbath, R. Johanan and Resh Lakish both agree that he is punishable on two counts, one for writing and one for effacing.<sup>13</sup> If he goes over ink with ink or red paint with red paint, he is not punishable.<sup>14</sup> If he goes over ink with red paint, some say he is punishable and some say he is not punishable. Some say he is punishable

because he effaces [the previous writing], some say he is not punishable because he only spoils [the previous writing]. Resh Lakish inquired of R. Johanan: If witnesses are unable to sign their names, is it permissible to write the names for them in red paint and let them go over in ink? Does the upper writing count as writing or not? — He replied: It does not count as writing. But, said he, has not your honour<sup>15</sup> taught us that in respect of Sabbath observance the upper writing is counted as writing?<sup>16</sup> — He replied: Because we have a certain idea, shall we base our practice upon it?<sup>17</sup>

It has been stated: If the witnesses are unable to sign their names, Rab says that incisions are made for them on the sheet<sup>18</sup> which they fill in with ink, and Samuel says that a copy is made with lead. ‘With lead’? How can this be, seeing that R. Hiyya has taught that if the Get is written with lead, with black pigment or with coal it is valid?<sup>19</sup> — There is no contradiction; the one case speaks of lead, the other of water in which lead has been soaked. R. Abbahu said that the copy is made with water in which ground gall-nuts<sup>20</sup> have been soaked. But has not R. Hanina taught that if the Get is written with juice of wine-lees or of gall-nuts it is valid? — There is no contradiction: in the one case the sheet has been prepared with gall-nut juice, in the other not; gall-nut water does not show on gall-nut water.<sup>21</sup> R. Papa says [that the copy may be made] with spittle, and so R. Papa actually showed Papa the cattle dealer. All this applies only to writs of divorce, but not to other documents;<sup>22</sup> for a man who actually did this with another document was ordered by R. Kahana to be flogged.

(1) That it may be written by day and signed by night.

(2) Supposing the husband has gone away or she has married again.

(3) And therefore it should be valid even according to the Rabbis.

(4) ‘Ink’.

(5) ‘Paint’.

(6) Lit., ‘red’.

(7) GR. \*\*, ‘gum’.

(8) Calcanthum, vitriol. These terms are explained infra.

(9) [Chiefly made in Talmudic days of soot hardened into a tough pitchy substance by means of olive oil or balsam-gum, and finally dissolved in liquid before use; v. Blau, Buchwesen, pp. 153ff.]

(10) [Orpiment; v. Krauss, op. cit. III, pp. 150 and 511.]

(11) [ **מִי תְּרִיא** meaning uncertain: either rain water or juice of some fruit.]

(12) [So Jast. Rashi ‘with coal or blacking used by bootmakers’. Here too the Hebrew terms **שִׁחֹר** and **שִׁחֹר** are of uncertain meaning, but the Syriac ‘Shekiro’ for vitriol is in favour of Rashi; Krauss, op. cit. p. 311.]

(13) The effacement of writing on Sabbath is an offence if it is done with the purpose of writing afresh, otherwise not.

(14) Because he neither writes nor effaces.

(15) Lit., ‘our master’.

(16) When ink is written over red paint.

(17) I.e., shall we go so far as to permit a doubtful action on Sabbath, or similarly count such a signature as valid in the case of a Get?

(18) [ **נִיר** , a leaf of white papyrus. v. however Krauss, op. cit. III, pp. 146ff.]

(19) And therefore lead counts as writing, and so if it is gone over in ink, we have writing on top of writing, which is not permissible.

(20) [ **מִי מִלֵּיץ** , juice made from the rind of the ash-tree ( GR. \*\* ), a popular writing material prepared by the Romans, v. Kraus, op. cit. III, 148.]

(21) And therefore where the sheet has been prepared with gall-nut juice, it is permissible to make a copy with gall-nut water.

(22) For which it is necessary to find witnesses who can sign their names.

## Talmud - Mas. Gittin 19b

It has been taught in accordance with Rab: If witnesses are unable to sign their names, incisions are made for them on the sheet which they fill in with ink. Said Rabban Simeon b. Gamaliel: This

applies only to writs of divorce; but in the case of writs of emancipation and other documents, if the witnesses are able to read and to sign, they sign, and if not they do not sign. How does 'reading' come in here? — There is an omission which is to be supplied as follows: 'If the witnesses are unable to read, the document is read to them and they sign, and if they are unable to sign etc.' Said Rabban Simeon b. Gamaliel: 'This refers only to writs of divorce; but in the case of writs of emancipation and other documents, if they are able to read and sign, they sign, and if not, they do not sign.' Said R. Eleazar: What is the reason of R. Simeon [for ruling so]? In order that the daughters of Israel may not become 'deserted'<sup>1</sup> wives. Raba said: The halachah is according to the ruling of R. Simeon b. Gamaliel. R. Gamda, however, said in the name of Raba that the halachah is not according to his ruling. According to whose ruling then is it? According to that of the Rabbis?<sup>2</sup> Was not a man who actually followed this course with regard to another document ordered to be flogged by R. Kahana? — Explain [that as referring to the rule] about reading,<sup>3</sup> Rab Judah used to exert himself<sup>4</sup> so as to read [a document submitted to him] and [only then] sign. Said 'Ulla to him: This is not necessary, for R. Eleazar, the Master of the Land of Israel,<sup>5</sup> used to have the document read to him and then sign. R. Nahman also had [the document] read to him by the scribes of the court judges and then signed. This procedure was correct for R. Nahman and the scribes of the court judges, because they were afraid [of him]<sup>6</sup> but it would not be with R. Nahman and any other scribes, or with the scribes of the court judges and any other person.

When R. Papa was called upon to deal with a Persian document drawn up in a heathen registry, he used to give it to two heathens to read, one without the other, without telling them what it was for,<sup>7</sup> and [if they agreed] he would recover on [the strength of] it even from mortgaged property. R. Ashi said: R. Huna b. Nathan has told me that Amemar has laid down that a Persian document signed by Israelite witnesses is sufficient warrant for recovering even from mortgaged property. But they are not able to read it? — [We speak of the case] where they are able. But the writing has to be such that it cannot be altered [without leaving a mark], and here it is not so?<sup>8</sup> — [We speak of a sheet which has been treated] with gall-nuts. But the rule is that the gist of the document has to be repeated in the last line, and that is not the case here?<sup>9</sup> — [We speak of the case where] it is repeated. But when all is said and done, what does this statement teach us? That [a document] may be written in any language? This we have already learned:<sup>10</sup> If a Get is written in Hebrew and signed in Greek,<sup>11</sup> or written in Greek and signed in Hebrew, it is valid. — If I had only that to go by, I should say that this is the case only with writs of divorce, but not with other documents. Now I know [that this applies to other documents also].

Samuel said: If a man gives his wife a blank sheet and says to her, 'This is thy Get', she is divorced, because we consider it possible that he may have written it with gall-nut water.<sup>12</sup> An objection was raised [from the following]: [If a man said to his wife], 'Here is your Get', and she took it and threw it into the sea or the fire or destroyed it in any other way, and if he then in turn said that it was a sham promissory note<sup>13</sup> or an amanah<sup>14</sup> ' she is none the less divorced, and he has no power to prevent her from remarrying.<sup>15</sup> [Is not] the reason for this that there was some writing on the sheet, so that if there was no writing [she was] not [divorced]?<sup>16</sup> — When Samuel said she is divorced, he meant, only after we have tested [the sheet] with violet water.<sup>17</sup> If the letters come to light, then obviously there was writing, and if not, then there is nothing in it. And if the letters do come to light, what of it? It is only now that they come to light?<sup>18</sup> Samuel also only said, 'we consider it possible.'<sup>19</sup>

Rabina said: Amemar has told me that Meremar has laid down in the name of R. Dimi that the two persons in whose presence the Get is delivered<sup>20</sup> must read it. An objection was raised [from the following passage]: [If a man said to his wife] 'Here is your Get', and she took it and threw it into the sea or the fire or destroyed it in some other way, and if he then in turn said that it was a sham promissory note or an amanah, she is [none the less] divorced and he has no power to prevent her from remarrying. Now if you say that they [the witnesses to the delivery] are required to read it, can

he possibly say this after they have read it? — The ruling is still necessary for the case in which after the witnesses have read it he takes it from them and puts it under his coat and takes it out again. It might be argued in that case that he has changed it [for some other document], but now I know [that this argument is of no avail].

A certain man threw a document to his wife and it fell between the jars. Afterwards a mezuzah<sup>21</sup> was found there. Said R. Nahman: A mezuzah is not usually found among the jars.<sup>22</sup> This reasoning holds good if only one was found, but if there were two or three we say that just as mezuzahs got there so a Get may have got there, and that the Get itself was removed by mice.

A certain man went to the synagogue and took a scroll of the Law and gave it to his wife saying, 'Here is thy Get'. Said R. Joseph: Why should we take any notice of it? Shall we say that the Get was written in gall-nut water [on the outside of the scroll]? Gall-nut water does not make any mark on [a sheet treated with] gall-nut

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(1) Agunah, v. Glos.

(2) Who allow all documents to be signed by witnesses who cannot write.

(3) That provided they can sign their names, though they cannot read, they may still act as witnesses if the document is read to them.

(4) Being nearly blind, owing to old age.

(5) V. Nid. 20a.

(6) And therefore could be relied upon to read correctly. R. Nahman was himself the chief judge in Nehardea, having been appointed by the Exilarch, who was his father-in-law, v. infra 67b.

(7) Lit., 'talking, in his simplicity'.

(8) As this was not insisted on in the Persian courts.

(9) V. supra 11a.

(10) Infra 87b.

(11) I.e., in Greek script.

(12) And the writing has faded.

(13) Lit., 'persuasion', פּוֹסֵם, (Cf. Grk. \*\*). A bond which A gives B merely that the latter may make a show with it.

(14) A bond given for money which has not yet been borrowed but may be borrowed later, v. Keth. 19b.

(15) Tosef. Git. VI.

(16) As otherwise it would have been stated above, 'If he said that there was no writing on it'. This refutes Samuel.

(17) מֵיִם דְּנֶרְאָה, decoction of the bark of the pomegranate tree. V. fast. s.v דְּנֶרְאָה .

(18) And when she was divorced there was no writing.

(19) I.e., the divorce is only a doubtful one, sufficient to prohibit her to a priest, but not to allow her to remarry.

(20) V. supra 5b.

(21) V. Glos.

(22) And therefore we presume that what he threw was a mezuzah and not a Get.

## Talmud - Mas. Gittin 20a

water.<sup>1</sup> Shall we say that the scroll is itself a Get because of the portion it contains relating to 'cutting off'?<sup>2</sup> We require that it should be written for that woman specifically,<sup>3</sup> which is not here the case. If you should plead that possibly he gave, beforehand, a fee<sup>4</sup> to the scribe [to write the passage in the scroll specifically for her], this also is unavailing, since we require [the insertion<sup>5</sup> of] his name and her name, the name of his town and the name of her town, which we do not [find here]. What does [then] R. Joseph teach us here?<sup>6</sup> — That gall-nut water makes no writing on [a sheet treated with] gall-nut water.

R. Hisda said: If a Get was written not expressly for a certain woman, and the writing was then gone over with a pen with specific reference to that woman, the same difference of opinion may arise

as we find between R. Judah and the Rabbis. For it has been taught: If a scribe [copying a scroll of the Law] had to write in a certain place the Tetragrammaton<sup>7</sup> and intended to write instead the name Judah<sup>8</sup> and by mistake left out the letter dalet [thus actually writing the Tetragrammaton], he may go over the letters with his pen and so sanctify the Name. This is the opinion of R. Judah, but the Sages say that such a Name is not of the choicest. Said R. Aha b. Jacob: The analogy is not altogether sound; for perhaps the Rabbis ruled thus in regard to the Tetragrammaton on account of the maxim indicated in the words, This is my God and I will beautify him,<sup>9</sup> but here they would not [object]. R. Hisda said: I am able to invalidate all the bills of divorce ever written. Said Raba to him: How so? Is it because the Scripture says, And he shall write,<sup>10</sup> and in this case it is she who writes for him?<sup>11</sup> Perhaps the Rabbis declare him to be the owner [of the money which she gives to the scribe].<sup>12</sup> Is it because it is written, And he shall give,<sup>13</sup> and here he does not give her anything [of any value]? Perhaps the delivery of the Get is referred to. That this is so is proved by the instruction sent from Eretz Israel: 'If the Get was written on something from which it is forbidden to derive any benefit,<sup>14</sup> it is still valid.'

The text above [stated:] 'The instruction was sent from Eretz Israel: If the Get is written on something from which it is forbidden to derive a benefit, it is still valid'. R. Ashi said: We have also learned [to the same effect]: [A Get may be written] ON AN OLIVE LEAF.<sup>15</sup> But perhaps an olive leaf is different because [although worth nothing in itself] it may yet be combined [with other things to enhance the value of the whole]?<sup>16</sup>

It has been taught: Rabbi said that if the Get is written on something from which it is forbidden to derive a benefit, it is still valid. Levi went about stating this ruling in the name of Rabbi, and it was not approved.<sup>17</sup> He then stated it in the name of the main body of the Rabbis<sup>18</sup> and it was approved. From this we may conclude that the law follows his ruling.<sup>19</sup>

Our Rabbis have taught: '[The Scripture says] And he shall write ["the writ of divorce"], which implies that he is not to grave it.' From this we would conclude that graving is not counted as writing. This, however, seems to be in contradiction with the following: A slave who produces a deed engraved on a tablet or a board is legally emancipated, but not if the writing is woven into a woman's headband or a piece of embroidery?<sup>20</sup> — Said 'Ulla in the name of R. Eleazar: There is no contradiction. Graving is invalid if the letters are in relief,<sup>21</sup> but valid if they are hollowed out.<sup>22</sup> [You say that if the letters are] in relief it is not [valid]. Does not this contradict the following? 'The writing [on the High priest's plate]<sup>23</sup> was not sunk in but projected like that on gold coins.' And is not [the inscription on] gold denarii in relief? — [It was] like [the inscription on] gold denarii and yet not like it. [It was] like it in the fact that it projected, but it was unlike it because there [in gold denarii the metal is hollowed] round the letters,<sup>24</sup> but here [in the High Priest's plate] the letters themselves<sup>25</sup> were hollowed out.

Rabina inquired of R. Ashi: Does a stamp scrape out or does it force together?<sup>26</sup> — He replied: It makes a depression. [Rabina] thereupon raised the following objection: [It has been taught] 'The writing [on the High Priest's plate] was not sunk in but was in relief, like the [inscription on] gold denarii'. Now if a stamp makes a depression round the letters,

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(1) At that time all parchment scrolls of the Law were treated in this way. Hence there was no proper writing from the outset, and consequently no Get.

(2) Deut. XXIV, 1.

(3) Lit., 'he shall write for her' (which means) 'in her name'.

(4) Lit., 'a zuz'.

(5) [his rendering omits the word **שינה** which is inserted in the text only inadvertently as a quotation from infra 80a; v. Rashi.

(6) Seeing that all this is obvious.

- (7) The four letters Yod, He, Waw, He.
- (8) The five letters Yod, He, Daleth, Waw, He.
- (9) Ex. XV, 2. The words are expounded to signify. 'Beautify thyself before Him in the performance of religious duties'.
- (10) Deut. XXIV, 1.
- (11) By paying the scribe's fee, which she was required to do according to the Rabbinical rule, v. B.B. 168a.
- (12) According to the principle. 'The Beth din has power to expropriate'. V. infra 36b.
- (13) Deut. *ibid*.
- (14) E.g., a leaf of a tree of 'orlah (v. Glos.). Such things had naturally no monetary value.
- (15) Which is also worthless.
- (16) E.g., a pile of olive leaves may be bought for lying on or for feeding cattle. The Mishnah affords then no support to the message from Eretz Israel.
- (17) Lit., 'it was not praised'.
- (18) Lit., 'of many'.
- (19) Because when it was not approved at first, Levi took the trouble to obtain additional authority.
- (20) So Rashi. Jastrow, however, (s.v. **אֲנֻדְכָתֵרִי**) translates, 'a slave does not go free in virtue of wearing a freedman's cap or of a vindicto (manumission by declaration before a court).'
- (21) Lit., 'if he carved out the interior (of the plate)'.
- (22) Lit., 'if he carved out the thighs (of the letters)'.
- (23) V. Ex. XXVIII, 36.
- (24) Lit., 'the interior'.
- (25) Lit., 'the thighs'. They were pressed forward from the back and so projected in front.
- (26) If it scrapes out the metal round the letters, the use of it is not writing; but it is if the letters are formed by compression.

## Talmud - Mas. Gittin 20b

it does not write, and [for the plate] 'writing' was required?<sup>1</sup> — It was like [the inscription on] gold denarii and yet not like it. It was like it in the fact that it stood out, but not like it in the fact that there [in a coin] the pressure is applied on the same side [as the inscription], but here [in the plate] it was from the other side.

Raba inquired of R. Nahman: If a man writes a Get on a plate of gold and says to his wife, 'Receive herewith your Get and receive herewith your kethubah', what is the ruling? — He replied: Both her Get and her kethubah have been legally received by her. [Raba] thereupon raised an objection. [We have been taught,] If a man says, 'Receive herewith your Get and the rest can go to your kethubah', the Get has been legally received by her and the rest goes to the kethubah. Now the reason is that there is something over, but otherwise not? — No. The same rule applies even if there is nothing over, and what this [statement] teaches us is that even if there is something over, if he tells her [to take that in payment of her kethubah] she takes it, but if not, not. For what reason? — Because [in that case the rest] is [reckoned merely as] the margin of the Get.

Our Rabbis taught: [If a man says to his wife.] 'Here is your Get, but the sheet belongs to me', she is not divorced,<sup>2</sup> [but if he said.] On condition that you return the sheet to me, she is divorced.<sup>3</sup> R. Papa inquired: Suppose he says, [On condition that] the space between the lines, or between the words [is to belong to me], what is the ruling? — This question was left over. But cannot the question be decided from the fact that the Divine Law said 'a writ', that is to say one writ, and not two or three?<sup>4</sup> — The difficulty still remains in the case where it is all linked together.<sup>5</sup>

Rami b. Hama propounded: Suppose a slave [is brought into court] who is known to have belonged to the husband, and a Get is written on his hand and he comes before us as the slave of the wife, how are we to decide? Do we presume that the husband transferred the slave to the wife [along with the Get],<sup>6</sup> or do we argue that perhaps he went to her of his own accord? — Said Raba: Cannot

the question be decided on the ground that the writing is such as to admit of falsification?<sup>7</sup> But does not Raba's difficulty apply also to our Mishnah which says that a Get may be written ON THE HAND OF A SLAVE? — We understand that the Mishnah presents no difficulty to Raba. [The Mishnah was speaking of a case] where [the Get was] delivered before witnesses,<sup>8</sup> in accordance with the ruling of R. Eleazar.<sup>9</sup> The difficulty,<sup>10</sup> however, arises on [the question of] Rami b. Hama!<sup>11</sup> — According to Rami b. Hama there is no difficulty, as he is speaking of the case [where the Get was] tattooed [on the slave's hand].<sup>12</sup> If you take that line, you can say that the Mishnah also presents<sup>13</sup> no difficulty, as it was speaking of tattooing. What then is the answer [to Rami b. Hama's question]? — Come and hear: Resh Lakish has laid down that there is no presumptive title to living creatures.<sup>14</sup>

Rami b. Hama inquired: If a tablet was known to have belonged to the wife, and a Get is written on it, and it is produced by the husband, what do we decide? Do we say that she made it over to him, or do we argue that a woman does not know how to make over things [temporarily]?<sup>15</sup> — Said Abaye: Come and hear: He<sup>16</sup> also testified regarding a small village adjoining Jerusalem in which lived an old man who used to lend money to all the people of the village, and he used to write the bond and others signed it, and the case was brought before the Sages and they declared the bonds valid. Now how could they do this, seeing that there must be a 'writ of transfer'.<sup>17</sup> Obviously the reason is that we say that he made over the bonds to them.<sup>18</sup> Said Raba: What is the difficulty? Perhaps

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(1) Ex. XXVIII, 30.

(2) Because he has to 'give' her the writ, and here there is no giving.

(3) Because a gift which is made conditionally on its being returned is still counted a gift.

(4) And in this case he makes it into several.

(5) I.e., by long letters like the final nun, which obliterate the spaces between the lines.

(6) V. Mishnah 19a.

(7) And therefore it is no Get.

(8) Who read it, and who could testify in case of falsification.

(9) Who says that the witnesses to delivery make the Get effective.

(10) Which Raba put to him.

(11) Because he was speaking of the case where there were no witnesses to delivery.

(12) And so could not be effaced.

(13) [So Var. lec., cur. edd., read 'to Raba'.]

(14) Lit., 'those kept in folds', because they are liable to stray; hence their being found in a certain man's possession is not presumptive evidence that he is the owner, and the same applies to a slave, v. B.B. 36a.

(15) Of such a nature where the transfer is a mere legal fiction designed to place the tablet in the temporary ownership of the husband to enable him to write the Get on it. Consequently the Get is not valid since it must be written on material belonging to the husband.

(16) R. Judah b. Baba. V. 'Ed. II, 3.

(17) ספר מקנה (Jer. XXXII, 10). which is taken to mean 'a document written by the transferor'. V. Kid. 26a.

(18) And they returned them to him. So here we may say that even if the wife does not intend to leave the tablet in the husband's hands permanently, yet for the time being she has given it to him, and he can therefore 'give' it to her as a Get.

## Talmud - Mas. Gittin 21a

an old man is different, because he knows how to make over things. But no, said Raba; [we decide] from the following: 'If the signature of the security [for another] appears below the signatures to the bond, the lender may recover from his [the security's] unmortgaged property.<sup>1</sup> Said R. Ashi: What is the difficulty? Perhaps a man is different, because he knows how to make over things. No, said R. Ashi; we decide from the following: A woman may write her own Get<sup>2</sup> and a man may write his own receipt,<sup>3</sup> because a document is only rendered valid by its signatures.<sup>4</sup>

Raba said: If a man writes a Get for his wife and entrusts it to his slave, and also writes a deed assigning the slave to her, she becomes the legal owner of the slave and she is divorced by the Get. Why should this be? The slave is a moving courtyard,<sup>5</sup> and a moving courtyard cannot transfer ownership. And should you reply that we speak of a slave who stands still, has not Raba laid down that things which do not transfer ownership when moving do not transfer it when standing or sitting? The law, however, is [that the Get is valid if the slave] is bound.<sup>6</sup>

Raba also said: If a man wrote a Get for his wife and put it in his courtyard and then wrote a deed assigning her the courtyard, she becomes owner of the courtyard and is divorced by the Get. Both of these statements of Raba are necessary. For if he had confined himself to the first statement, about the slave, I should have said that this applies strictly to a slave, but in the case of a courtyard [I should declare the Get invalid], so as not to set a precedent for a courtyard which comes into her possession subsequently.<sup>7</sup> And again, if he had stated only the rule about a courtyard, I should have said that this applies strictly to a courtyard, but in the case of a slave I should debar one who is bound so as not to set a precedent for one who is not bound. Now I know [that this is not so].

Said Abaye: Let us see. From what expression in the Scripture do we infer the rule about a courtyard? From the words 'her hand'.<sup>8</sup> Therefore, just as, if he gives the Get into her hand, the husband can divorce her with her consent or without her consent, so if he places it in the courtyard he should be able to divorce her with her consent or without her consent. But the gift [of the courtyard] can be made only with her consent and not against her will.<sup>9</sup> R. Shimi b. Ashi demurred to this objection. There is, [he said,] the case of her appointing an agent to receive the Get from the husband,<sup>10</sup> which appointment can be made only with her will but not against her will, and yet the agent is duly authorised?<sup>11</sup> And Abaye? — He rejoins: The rule of agency is not derived from the term 'her hand'; the rule regarding agency is derived from the superfluous letter in the word *we-shilhah*<sup>12</sup> ['and he send her'].<sup>13</sup> Or if you prefer, I can reply that we find cases where an agent for receiving [the Get is also appointed] without the consent [of the wife], since a father can accept a Get for his daughter who is still a child<sup>14</sup> without her consent.

ON AN OLIVE LEAF etc. We understand the ruling (in the case of a Get written] on the hand of a slave<sup>15</sup>

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(1) V. B. B. (Sonc. ed.) p. 773, n. 12. In this case the lender gives the bond to the security who is the transferor to sign, and then takes it back from him.

(2) And then give it to the husband, who gives it back to her.

(3) For the kethubah, and give it to the wife, who then signs it and returns it to him.

(4) V. infra 22b.

(5) Giving it to the slave is like putting it in a courtyard and telling her to take it from there, only the slave is moving from place to place; on the transfer of ownership by means of a court, v. B.M. 9b.

(6) For then he is indeed on a par with the courtyard.

(7) If the husband places the Get in the courtyard of a third party which subsequently comes into possession of the wife, the Get is not effective, v. infra 24a and 63b.

(8) The term 'her hand' in Deut. XXIV. 1, is taken to include courtyard, v. B.M. 9b.

(9) And therefore the dictum of Raba falls to the ground, does it not?

(10) *שליח לקבלה*. In which case the woman is divorced from the very moment the agent receives the Get.

(11) Lit., 'he becomes an agent for receiving'.

(12) Lit., '(instead of) and he send (it is written) and he send her'. V. Kid. 410.

(13) Deut. XXIV, 1, (v. infra, 62b), and consequently there is no warrant for insisting on drawing an analogy between 'hand' and 'agency'.

(14) I.e., under twelve years of age, v. Keth. 47a.

(15) That the slave is then given to her.



## Talmud - Mas. Gittin 21b

, because it is not possible to cut off the hand [and give it to her]. But where [it is written] on the horn of an ox [why need the ox be given to her]? Let the husband cut it off and give it to her? — Scripture says, He shall write and give to her.<sup>1</sup> [This means that the Get must be on something] which requires only to be written on and to be given [to make it effective]: it excludes [something like] this which requires to be written on, to be cut off, and to be given [before it can become effective].

R. JOSE THE GALILEAN SAYS etc. What is the reason of R. Jose the Galilean? — As it has been taught: [From the word] *sefer*<sup>2</sup> I understand [that the husband must give the wife] a ‘book’.<sup>3</sup> How do I know that any thing will serve the purpose? Because it says, ‘and he write her’, that is to say, any form of written document — If so why does it specify ‘book’? To show that, just as a ‘book’ is not animate and does not eat, so the document used for the Get must be inanimate and not a thing which eats. What do the Rabbis [who allow this say to this]? — [They can reply:] If the text had written *be sefer* [‘in a book’], your deduction would be correct, but as it writes *sefer* it refers only to the record [*sefirath*,]<sup>4</sup> of the circumstances. What do the Rabbis make of the word *we-kathab* [‘and he shall write’]?<sup>5</sup> — They require it to [deduce therefrom the rule that a woman] is divorced by a written document and not by a money gift. For you might think that her separation from her husband is to be effected in the same way as her union with him:<sup>6</sup> just as the union was effected by a money payment,<sup>7</sup> so also the separation. Now I know [that this is not so]. From whence then does R. Jose derive this lesson?<sup>8</sup> — From the words ‘a writ of cutting off’: a written [document] effects the ‘cutting’ [separation] and not anything else. What then do the Rabbis make of these words?<sup>8</sup> — They deduce from them that [for a Get] we require something which genuinely cuts off the husband from the wife, as it has been taught: ‘[If a man says to his wife], Here is your Get on condition that you never drink wine, that you never go to your father's house, this is no "cutting off".<sup>9</sup> But if he says, on condition that you do not do so for thirty days, this is "cutting off".’ Whence does R. Jose derive this lesson?<sup>8</sup> — From [the fact that the text uses the word] *kerithuth* when it might use the simpler form *kareth*.<sup>10</sup> What do the Rabbis make of this?<sup>8</sup> — They do not stress the difference between *kerithuth* and *kareth*.

MISHNAH. [A GET] MUST NOT BE WRITTEN ON SOMETHING STILL ATTACHED TO THE SOIL. IF, HOWEVER, IT WAS WRITTEN ON SOMETHING STILL ATTACHED TO THE SOIL AND THEN DETACHED AND SIGNED AND GIVEN TO THE WIFE, IT IS VALID. R. JUDAH DECLARES IT INVALID UNLESS IT IS BOTH WRITTEN AND SIGNED ON SOMETHING NOT ATTACHED TO THE SOIL. R. JUDAH B. BATHYRA SAYS THAT [A GET] MUST NOT BE WRITTEN ON A SHEET FROM WHICH WRITING HAS BEEN ERASED<sup>11</sup> NOR ON DIFTERA,<sup>12</sup> BECAUSE WRITING ON IT CAN BE ALTERED [WITHOUT BEING NOTICEABLE]. THE SAGES, HOWEVER, DECLARE SUCH A GET VALID.

GEMARA. IF IT IS WRITTEN ON SOMETHING ATTACHED TO THE SOIL. Does not the Mishnah say just before this that it must not be so written? — Rab Judah said in the name of Samuel: It may be so written if a place is left blank for the substantive part.<sup>13</sup> The same statement was made by R. Eleazar in the name of R. Oshiah: It may [be so written] if a place is left blank for the substantive part. The same statement was also made by Rabbah b. Bar Hanah in the name of R. Johanan: It may [be so written] if a place is left blank for the substantive part. And [our Mishnah] follows R. Eleazar, who says that it is the witnesses to delivery who [make the Get] effective, and it is to be interpreted as follows: ‘The formal<sup>14</sup> part [of the Get] must not be written [on something attached to the soil] lest one should come to write thereon the substantive part also. If, however, the formal part was written [on something still attached to the soil] and then detached and the substantive part was then filled in and [the Get] given to her, it is valid.’ Resh Lakish, however, said:

Our Mishnah says distinctly, AND SIGNED'. [This shows that] it follows the view of R. Meir who said that the signatures of the witnesses make [the Get] effective, and it is to be interpreted as follows: 'The substantive part must not be written [on something still attached to the soil] for fear lest the signatures should also be affixed to it [while in that state]. If, however, the substantive part was so written, and the Get was then detached and signed and given to her, it is valid.'

If it is written on the surface of an earthenware flowerpot with a hole at the bottom<sup>15</sup> it is valid, because he can take the pot and give it to her.<sup>16</sup> If it is written on a leaf inside a flowerpot with a hole at the bottom, Abaye says it is valid and Raba says it is not valid. Abaye says it is valid

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(1) Deut. XXIV, 1.

(2) E.V. 'writ'. Deut. XXIV. 1.

(3) I.e., of Parchment.

(4) Lit., 'telling'.

(5) Which includes any form of written document.

(6) In Deut. XXIV,2 the two words denoting separation and union, **יִצֵא וְהִיָּתָה** lit., 'she shall deport' and 'she shall be (another man's wife) occur in close juxtaposition, hence the suggested comparison.

(7) A money gift is one of the forms of betrothal. V. Kid. ad init.

(8) Lit., 'and the other'.

(9) Because there is always some link between him and her. V. infra 83b.

(10) Both words mean 'cutting off', the former however being the reduplicated and intensive form.

(11) Because if the text is altered it will not be noticeable.

(12) A kind of skin. V. infra 22a.

(13) **תּוֹרָף** viz., the names and the date, v. B.M. (Sonc. ed.) p. 35, n. 4.

(14) **תּוֹפֵם**, GR. \*\*, v. B.M. (Sonc. ed.), p. 35, n. 3.

(15) Which might therefore be regarded as still attached to the soil.

(16) And there is in fact no detaching from the soil.

## Talmud - Mas. Gittin 22a

because he can take the whole pot and give it to her. Raba says it is not valid, because [if we declare it so], there is a danger lest he should pluck the leaf [and give it to her].

If a flowerpot belongs to one person and the seeds in it to another, then if the owner of the pot sells the pot to the owner of the seeds, as soon as the latter pulls it into his possession<sup>1</sup> he becomes the legal owner. If, however, the owner of the seeds sells [the seeds] to the owner of the pot, [the latter] does not acquire possession [of them] till he performs some act of hazakah.<sup>2</sup> If the pot and the seeds both belong to the same man and he sells them to another, [the latter,] as soon as he has performed hazakah on the seeds, [ipso facto] acquires possession of the pot. This accords with the rule which we have learned:<sup>3</sup> Movable property is transferred along with immovable property through money payment, through deed of assignment, and through hazakah. If he performs hazakah on the pot, he does not acquire possession even of the pot:<sup>4</sup> hazakah must be performed if at all on the seeds. If the inside of the pot is in Eretz Yisrael but the leaves of the plant extend outside of Eretz Yisrael,<sup>5</sup> Abaye says that we go by the inside,<sup>6</sup> and Raba says that we go by the leaves. If the plant has taken root, all authorities agree [that it is subject to tithe]. Where they differ is when the plant has not taken root. But is there no difference in the case where it has taken root? Have we not learnt: 'If two gardens adjoin, one being higher than the other, and vegetables grow on the slope between,<sup>7</sup> R. Meir says they belong to the upper garden and R. Judah to the lower'? — The reason for the difference in that case is stated [in the Mishnah itself]: 'Said R. Meir: If the owner of the upper garden wants to take away his earth, there will be no vegetables. To which R. Judah rejoined: If the owner of the lower one wants to fill in his garden [to the level of the higher], there would be no vegetables there.'<sup>8</sup> But we may still [question whether] there is not a difference in the case where

[the plant] has taken root, seeing that it has been taught: 'If part of a tree is in Eretz Yisrael and part of it outside, then titheable and non-titheable produce are mixed up in it. This is the view of Rabbi. Rabban Simeon b. Gamaliel, however, holds that that part of its fruit which grows in the place liable to tithe<sup>9</sup> is titheable, and that part which grows in the place not liable to tithe<sup>10</sup> is non-titheable.'<sup>11</sup> Now here we speak, [do we not], of a tree of which part of the branches are in Eretz Yisrael and part outside?<sup>12</sup> — No: [we speak of one of which] some of the roots are in Eretz Yisrael and some outside. What then is the reason of Rabban Simeon b. Gamaliel? — [He speaks of a case] where a piece of hard stone separates [the roots inside and outside]. What is the reason of Rabbi? — He holds that in spite of this the saps mix again [higher up]. What is their difference in principle? — One holds that the air mingles the saps, and the other holds that each side remains separate.<sup>13</sup>

R. JUDAH B. BATHYRA SAYS etc. R. Hiyya b. Assi said in the name of 'Ulla: There are three kinds of skins, mazzah, hifa, and diftera. Mazzah, as its name implies,<sup>14</sup> [is a skin] that has been neither salted nor treated with flour nor with gall-nut. What bearing has this distinction upon the halachah? — In respect of carrying on Sabbath — How much of it may be carried? As learnt by R. Samuel b. Judah: Enough to wrap a small weight [of lead] in.<sup>15</sup> How much is that? — Abaye answered: About a 'fourth of a fourth' of Pumbeditha. Hifa [is skin] that is salted but not treated with flour or gall-nut. What bearing has this upon the halachah? — In respect of carrying on Sabbath. How much of it may be carried? — Even as we have learnt: '[The permitted quantity of skin] is enough to make an amulet<sup>16</sup> out of.' Diftera [is skin] which is salted and treated with flour but not with gall-nut.<sup>17</sup> What bearing has this upon the halachah? — In respect of carrying on Sabbath. How much of it may be carried? — Enough for writing a Get upon.

BUT THE SAGES DECLARE IT VALID. Who are 'THE SAGES'? — Rab Eleazar [the Amora] said:

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- (1) The recognised form of transfer of movable articles, y. Glos. s.v. meshikah.
  - (2) As for immovable property. V. glos.
  - (3) Kid. 26a.
  - (4) Because hazakah does not effect transfer of movable articles.
  - (5) The pot being exactly on the border.
  - (6) In determining whether it is subject to tithe.
  - (7) Being thus rooted in the soil of the upper garden while the leaves spread out into the air space of the lower.
  - (8) But they agree that in ordinary cases we go by the root, v. B.M. 118b.
  - (9) I.e., in Eretz Yisrael.
  - (10) I.e., outside Eretz Yisrael.
  - (11) B.B. 27b.
  - (12) But the whole of the roots are either on one side or the other, and yet they differ,
  - (13) Where however, the entire roots are in Eretz Yisrael all agree that the position of the branches is of no consequences.
  - (14) Lit., 'unleavened bread'.
  - (15) To save it from wearing away.
  - (16) A small ornament used as a charm.
  - (17) [Cf. Gk. \*\*. The list includes only hides that are partly prepared for writing, and therefore omits פקדון which has gone through the whole process and hence is no longer regarded as hide, but as parchment. (Rashi)].

## Talmud - Mas. Gittin 22b

R. Eleazar [the Tanna] is meant, for he said that it is the witnesses to the delivery who make [the Get] effective. R. Eleazar further said: R. Eleazar declared [such a Get] valid only if brought [by the woman] before the Beth din immediately,<sup>1</sup> but not if it is brought ten days later, because in that case we have to consider the possibility that there was some condition in it and she altered it.<sup>2</sup> R. Johanan,

however, said [that it is valid] even if produced ten days later, because if there was any condition in it the witnesses [to the delivery] will still remember it. R. Eleazar further said: R. Eleazar declared valid a document [of this kind] only if it was a Get,<sup>3</sup> but no other documents,<sup>4</sup> in virtue of the Scriptural verse, And thou shalt put them in an earthenware vessel, in order that they may stand many days.<sup>5</sup> R. Johanan, however, held that even other documents of this nature are valid.<sup>6</sup> But does not Scripture say, 'In order that they may stand'? — That is merely a piece of good advice.

**MISHNAH.** ALL [PERSONS] ARE QUALIFIED TO WRITE A GET, EVEN A DEAF-MUTE, A LUNATIC AND A MINOR. A WOMAN MAY WRITE HER OWN GET AND A MAN HIS OWN RECEIPT [FOR THE KETHUBAH], SINCE THE DOCUMENT IS MADE EFFECTIVE ONLY BY THE SIGNATURES ATTACHED TO IT.<sup>7</sup>

**GEMARA.** [How can a deaf-mute etc. be qualified to write] seeing that they do not understand<sup>8</sup> [what they are doing and therefore will not write with special reference to the woman in question]? — Said R. Huna:

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(1) I.e., on the same day, in order to notify them that she obtained her divorce.

(2) And meanwhile the witnesses to the delivery have forgotten it.

(3) Because once it has been produced in the Beth din the matter is known, and therefore the Get need not be kept.

(4) E.g., bonds and promissory notes. These are necessary for substantiating the claim at a later date and there is a possibility of altering any condition contained in them without necessarily arousing the suspicion of the witnesses. (Rashi).

(5) Jer. XXXII, 14.

(6) [Consistent with his view that witnesses will recall any condition that might have been inserted. (Tosaf.)].

(7) Lit., 'by them that sign it'.

(8) Lit., 'not men of knowledge'.

### **Talmud - Mas. Gittin 23a**

(They are permitted) only if an adult is standing by them [and telling them to write for such-and-such a purpose]. Said R. Nahman to him: If that is so, then if a heathen [writes] while a Jew stands by him, [the Get] ought still to be valid? And should you say that this actually is so, has it not been taught that a heathen is not qualified [for this purpose]? — A heathen will follow his own idea.<sup>1</sup> Later R. Nahman corrected himself, saying: What I said was all wrong. For since [the Mishnah] expressly disqualifies a heathen from being the bearer [of a Get],<sup>2</sup> we may infer that he is qualified to write one. But is it not taught that he is disqualified? — That is in accordance with the view of R. Eleazar, who said that the witnesses to delivery make [the Get] effective and [consequently] that it must be written with 'special intention'<sup>3</sup> and certainly the heathen will follow his own idea.

R. Nahman said: R. Meir used to say that even if [the Get] was found on a rubbish heap and was then signed and given to the wife, it is valid.<sup>4</sup> Raba raised an objection to this: [The Scripture says], 'he shall write for her', [which we interpret to mean] 'expressly for her name' — Does not this refer to the actual writing of the Get? — No: it refers to the signing by the witnesses, Raba raised another objection: [We have learnt that] 'any Get that is not written expressly for the woman [to be divorced] is invalid'? — Read 'that is not signed expressly.' He again raised an objection: [It has been taught] When he writes, it is as if he writes it expressly 'for her name.' Does not this mean that if he writes the substantive part 'for her name' it is reckoned as if he had written the formal part also 'for her name'? — No: what it means is that if he has it signed expressly 'for her name', it is as if he had written it also expressly 'for her name'. Or if you prefer I can answer that these teachings follow R. Eleazar who says that the witnesses to delivery make [the Get] effective.

Rab Judah said in the name of Samuel that [a deaf-mute etc. is qualified to write] only if he leaves

the formal part a blank. So too said R. Haga in the name of 'Ulla: [A deaf-mute etc. is qualified to write] only if he leaves the formal part a blank. [The Mishnah thus] follows R. Eleazar. R. Zerika, however, said in the name of R. Johanan: This is not Torah.<sup>5</sup> What does he mean by saying, 'This is not Torah'? — Said R. Abba: Here [the Mishnah] makes known to us that there is no force in [the ruling that the Get should be written with] 'special intention', and it follows the view of R. Meir who said that it is the signatures of the witnesses which make [the Get] effective. But did not Rabba b. Bar Hana say in the name of R. Johanan that [the Mishnah] follows Rabbi Eleazar? — Two Amoraim<sup>6</sup> report R. Johanan differently.

**MISHNAH. ALL [PERSONS] ARE QUALIFIED TO ACT AS BEARERS OF A GET EXCEPT A DEAF-MUTE, A LUNATIC, AND A MINOR, A BLIND MAN AND A HEATHEN. IF AFTER BEING ENTRUSTED [WITH THE GET BUT BEFORE DELIVERING IT] THE MINOR BECAME OF AGE OR THE DEAF-MUTE RECOVERED HIS SPEECH OR THE BLIND PERSON HIS SIGHT OR THE LUNATIC HIS REASON OR THE HEATHEN BECAME A PROSELYTE, [THE GET] IS [STILL] INVALID. BUT IF THE BEARER [BEING ORIGINALLY] OF SOUND SENSES BECAME A DEAF-MUTE AND THEN RECOVERED HIS SPEECH, OR [BEING] WITH SIGHT BECAME BLIND AND RECOVERED HIS SIGHT, OR [BEING] SANE BECAME INSANE AND RECOVERED HIS REASON, [THE GET] IS VALID. THE GENERAL PRINCIPLE IS THAT ANY BEARER WHO COMMENCES AND FINISHES [HIS MISSION] IN FULL POSSESSION OF HIS MENTAL FACULTIES<sup>7</sup> IS QUALIFIED.**

**GEMARA.** We understand a deaf-mute, a lunatic, and a minor being disqualified, because they do not know what they are doing; also a heathen, because in any case he himself cannot release.<sup>8</sup> But why should a blind person be disqualified? — R. Shesheth says: Because he does not know from whom he takes [the Get] and to whom he delivers it. R. Joseph strongly demurred to this. In that case, [he said,] how is it permitted to a blind man to associate with his wife, or to any men to associate with their wives at night time? Is it not by recognising the voice? So here, [a blind person] can recognise the voice! No, said R. Joseph; the fact is that here we are speaking of [a Get brought from] foreign parts, [the bearer of which] has to declare, 'In my presence it was written and in my presence it was signed', and a blind man cannot say this. Said Abaye to him: If that is so, then a person who becomes blind [after receiving the Get] ought to be qualified, and yet [the Mishnah] states expressly that IF [BEING] WITH SIGHT HE BECAME BLIND AND RECOVERED HIS SIGHT [THE GET] IS VALID, which shows [it is valid] only if he recovered his sight, but if he did not recover his sight that he is not qualified? — He is qualified even if he does not recover his sight. Since, however, the Mishnah employed the formula, 'OR [BEING] SANE HE BECAME INSANE AND RECOVERED HIS REASON' — which was necessary in that case because the reason [why it is valid] is because he recovers his reason, but if he does not recover it, [the Get] is not valid — it uses a similar wording in the next clause: 'BEING WITH SIGHT HE BECAME BLIND AND RECOVERED HIS SIGHT. Said R. Ashi: There is an indication of this in [the language of] the Mishnah itself, since it says: THIS IS THE GENERAL PRINCIPLE; ANY BEARER WHO IS IN FULL POSSESSION OF HIS MENTAL FACULTIES AT THE BEGINNING AND END [OF HIS MISSION] IS QUALIFIED, and it does not say, 'anyone who is qualified at the beginning and end [of his mission].' This shows [that what was said above about the bearer who becomes blind, is correct].<sup>9</sup>

A question was put to R. Ammi: May a slave be made an agent on behalf of a woman to receive her writ of divorce from her husband? — He replied: Since the [Mishnah] declares a heathen disqualified,<sup>10</sup>

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(1) And not write with special reference to the woman concerned, even if he is told.

(2) *Infra*.

(3) Since he considers signatures not essential for the Get, the words and he write for her are to be interpreted as

requiring writing with 'special intention', v. infra.

(4) According to another interpretation we translate above, instead of 'and certainly the heathen etc.' 'But will not the heathen etc.' the words being an objection raised by R. Nahman's interlocutor, and the next statement is R. Nahman's reply.

(5) By allowing a deaf-mute etc. to write.

(6) K. Zerika and Rabbah b. Bar Hanah.

(7) Lit., 'of knowledge'.

(8) Since the Jewish law of marriage and divorce does not apply to him, and he cannot do on behalf of another what he cannot do on behalf of himself.

(9) [The stress is laid on the possession of mental faculties at the beginning and the end but not of sight provided it was there at the beginning enabling him to make the necessary declaration.]

(10) To become the bearer of the Get, which includes his acting as the wife's agent to receive the Get.

## **Talmud - Mas. Gittin 23b**

we may infer that a slave is qualified. R. Assi said in the name of R. Johanan: A slave cannot be appointed an agent by a woman to receive a Get on her behalf from her husband, because he does not come within the [provisions of the Jewish] law in regard to divorce and marriage. R. Eleazar strongly demurred to this. Your reason, [he said,] is [that the slave cannot be an agent to do for another] a thing which he cannot do for himself. This would imply that he can be an agent for a thing which he can do for himself. How does this square with the fact that a heathen or a Samaritan can give terumah for himself, as we have learnt: 'If a heathen or a Samaritan gives terumah from his own produce, what is so given is genuine terumah,<sup>1</sup> and yet we also learn [in another place]: 'If a heathen gives terumah from the produce of an Israelite even with the latter's permission, what is so given is not regarded as terumah'<sup>2</sup> The reason is, is it not, that Scripture says, you also shall give your heave-offering,<sup>3</sup> and we take the superfluous word 'also' to indicate that just as you are Israelites, — so your agents must be Israelites?<sup>4</sup> — In the school of R. Jannai they replied: No! [The proper inference from the word 'also' is]: Just as you are sons of the Covenant, so must your agents be sons of the Covenant.<sup>5</sup>

R. Hiyya b. Abba said in the name of R. Johanan: A slave cannot be made an agent by a woman to receive a Get on her behalf from her husband because he does not come within [the provisions of the Jewish] law in regard to divorce and marriage, and [this] in spite of the fact that we have a teaching: [If a man says to his female slave], 'You are a slave, but your child is free', if she was pregnant at the time she acquires freedom for it [the child].<sup>6</sup> What is the point of [quoting]: 'if she was pregnant, she acquires freedom for it'<sup>7</sup> — When R. Samuel b. Judah came [from Palestine], he said: R. Johanan said two things. [One was the dictum regarding a Get quoted above]. The other was this: It seems a reasonable view that a slave can receive a writ of emancipation on behalf of another slave from the master of that slave but not from his own master.<sup>8</sup> And if someone should whisper in your ear<sup>9</sup> that there is a halachah laid down which contradicts this, [viz.] 'If she was pregnant, she acquires freedom for it,'<sup>10</sup> reply to him that two great authorities in their generation, R. Zera and R. Samuel b. Isaac, explained the matter. One said that this [teaching] follows the opinion of Rabbi who said that if a man emancipates the half of his slave, the slave acquires [freedom in regard to the one half], and the other said [in further explanation] that the reason of Rabbi [for applying this to the present case] is that he looks upon the embryo as part of the mother, and therefore the master [in freeing the child] as it were made her owner of one of her own limbs. MISHNAH. EVEN THE WOMEN WHOSE WORD IS NOT ACCEPTED AS EVIDENCE<sup>11</sup> IF THEY SAY THE HUSBAND [OF A CERTAIN WOMAN] IS DEAD ARE ACCEPTED AS BEARERS OF HER GET. NAMELY, HER MOTHER-IN-LAW, HER MOTHER-IN-LAW'S DAUGHTER, HER HUSBAND'S OTHER WIFE,<sup>12</sup> HER HUSBAND'S BROTHER'S WIFE, AND HER HUSBAND'S DAUGHTER.<sup>13</sup> WHY IS A GET DIFFERENT FROM [A REPORT OF] DEATH? BECAUSE THE WRITING AFFORDS PROOF. A WOMAN MAY BE THE BEARER OF HER OWN GET,<sup>14</sup>

ONLY SHE IS REQUIRED TO DECLARE,<sup>15</sup> 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.'

GEMARA. [How can you say this] seeing that it has been taught: Just as these women's word is not accepted as evidence that her husband is dead, so they are not accepted as bearers of her Get? — R. Joseph replied: There is no contradiction. The one rule is for Eretz Yisrael, the other for outside Eretz [Yisrael]. In Eretz Yisrael, where we do not rely upon her [word],<sup>16</sup> such a woman is permitted to bring the Get: outside Eretz [Yisrael], where we should have to rely upon her [word],<sup>17</sup> she is not permitted to bring it. Said Abaye to him: On the contrary, the opposite is more reasonable: in Eretz Yisrael, where if the husband comes and challenges [the Get] we take note of his objection,<sup>18</sup> it could be argued that the woman has been deliberately trying to make mischief, and therefore she should not be trusted, but outside, where if the husband comes and challenges [the Get] we do not pay any attention to him,<sup>19</sup> she should be trusted.<sup>20</sup> It has been taught in accordance with the view of Abaye: R. Simeon b. Eleazar says in the name of R. Akiba: That a woman may be trusted to bring her own Get may be established a fortiori. For since those women whose word [the Rabbis] declared to be unacceptable as evidence that her husband is dead can be trusted as bearers of her Get, does it not follow that she herself whose word is accepted as evidence that her husband is dead should be trusted to bring her own Get?

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(1) Ter. III, 9.

(2) Ibid. I, 1.

(3) Num. XVIII, 28.

(4) Which shows that the implication is wrong, and so the original idea must also be wrong.

(5) And a slave was regarded as a 'son of the Covenant', on the strength of Deut. XXIX, 9ff., Ye are standing all this day before the Lord your God . . . from the hewer of thy wood to the drawer of thy water . . . to enter into the covenant of the Lord. Thus a slave can be an agent.

(6) Tem. 25a.

(7) As this refers to a writ of emancipation, how can we derive a ruling from it for a writ of divorce?

(8) I.e., if the slave to be emancipated belongs to the same master as he himself. The reason is that he is regarded as merely the hand of his master, and therefore does not become owner of the writ on behalf of his fellow-slave.

(9) Seeking to mislead you.

(10) Which shows that a slave can accept a writ of emancipation on behalf of another slave even from his own master.

(11) Lit., 'who are not believed'.

(12) Lit., 'her rival'.

(13) These women are suspect of bearing a grudge against the wife and of harbouring a desire to spite her.

(14) To a place which the husband specifies.

(15) Before a Beth din in the place specified.

(16) Because witnesses to the signatures are always available.

(17) I.e. on the declaration, 'In my presence' etc.

(18) The declaration 'in my presence' etc., not having been made.

(19) Because the Get has been certified by virtue of the declaration in my presence etc.

(20) Because she cannot be trying to make mischief.

## Talmud - Mas. Gittin 24a

And on the same basis it may be concluded that just as they are required to declare, 'In our presence it was written, and in our presence it was signed', so she is required to declare, 'In my presence etc.' [which shows that the rule refers to outside of Eretz Yisrael]. R. Ashi said: Our Mishnah also bears out [this view], since it says, THE WIFE HERSELF MAY BRING HER GET, ONLY SHE IS REQUIRED TO SAY etc., which shows that it refers to outside Eretz Yisrael. Does then R. Joseph take the earlier clause [in the Mishnah]<sup>1</sup> and the later one<sup>2</sup> to refer to Eretz Yisrael, and the middle one<sup>3</sup> to outside Eretz [Yisrael]? — Yes; he refers the earlier and later clauses to Eretz Yisrael and the

middle clause to outside. On what does he base this view [about the middle one]? — Because the Mishnah says, WHY IS A GET DIFFERENT FROM [THE REPORT OF] DEATH? BECAUSE THE WRITING AFFORDS PROOF, and it does not say, ‘the writing and the declaration<sup>4</sup> afford proof.’<sup>5</sup>

THE WIFE HERSELF MAY ACT AS BEARER etc. Is not the wife divorced as soon as the Get comes into her hand?<sup>6</sup> — R. Huna said: This rule is for the case where he says to her, ‘You will not be divorced by this [Get] except in the presence of such-and-such a Beth din.’ But all the same, when she comes there she is divorced?<sup>7</sup> — In fact, said R. Huna b. Manoah in the name of R. Aha the son of R. Ika: [the rule is for the case] where he says to her: When you come there, put it on the ground and take it up again.<sup>8</sup> If so, he as much as says to her: Take your Get from the floor, and has not Raba laid down that if he says, Take your Get from the floor, it is no divorce?<sup>9</sup> No. [The rule applies to the case] where he said to her, ‘Be my agent for taking [the Get] till you come there, and when you come there be your own agent for receiving [it, and take it].’ But in this case the agent cannot return to [report to] the sender?<sup>10</sup> — He says to her: Be my agent for taking [the Get] till you come there, and when you come there appoint an agent for receiving [it].<sup>11</sup> — This is all very well on the view that a woman may appoint an agent to receive her Get from the agent of her husband, but on the view that a woman may not appoint an agent to receive her Get from the agent of her husband<sup>12</sup> what is to be said?<sup>13</sup> — What is the reason for the latter view? That it shows a contempt for the husband;<sup>14</sup> and in this case the husband is [evidently] not particular.<sup>15</sup> This is a valid answer according to the view that such a proceeding is forbidden because it shows a contempt for the husband, but on the view that the reason is because of [the resemblance of this agent to] a courtyard which comes [into her possession] subsequently,<sup>16</sup> what are we to say? — He says to her: Be my agent for taking [the Get] till you come there, and when you come there appoint another agent for taking it<sup>17</sup> and [later] receive your Get from him. Or if you prefer I can say that he says to her: Be my agent for taking [it] till you come there, and when you come there declare in presence of the Beth din, ‘In my presence it was written and in my presence it was signed,’ and [then] make the Beth din an agent [for receiving] and they will give it to you.

### CHAPTER III

MISHNAH. ANY BILL OF DIVORCE WHICH IS NOT WRITTEN [EXPRESSLY] FOR THE WOMAN [FOR WHOM IT IS INTENDED] IS INVALID. FOR INSTANCE, IF A MAN PASSING THROUGH THE STREET HEARS THE VOICE OF A SCRIBE DICTATING<sup>18</sup> ‘SO-AND-SO DIVORCES SO-AND-SO FROM SUCH AND SUCH A PLACE’ AND HE SAYS ‘THAT IS MY NAME AND THAT IS THE NAME OF MY WIFE, IT IS NOT A VALID [DOCUMENT] TO DIVORCE HIS WIFE WITH. MOREOVER: IF HE WROTE [A GET] TO DIVORCE HIS WIFE AND CHANGED HIS MIND AND A FELLOW-TOWNSMAN MET HIM AND SAID TO HIM, MY NAME IS THE SAME AS YOURS AND MY WIFE'S NAME THE SAME AS YOUR WIFE'S’, IT IS NOT VALID [FOR THE SECOND] ONE TO DIVORCE HIS WIFE WITH.

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(1) Where it states a blind man is qualified to bring a Get.

(2) Where a wife is declared competent to bring her own Get.

(3) ‘Even the women whose word etc.’

(4) Lit., ‘mouth’.

(5) [Because the clause refers to Eretz Yisrael no declaration is required. Abaye, on the other hand, may argue that there is no need to mention ‘declaration’ which is common to both Get and the report of death, since the latter too is accompanied by a ‘declaration’ made by the woman. (Rashi)].

(6) What need has she then to bring it before the Beth din?

(7) And she is still not the same as a bearer who has to make the declaration.

(8) Thus she is a bearer till she comes there and is divorced by the act of lifting the Get from the ground.

(9) Because he must ‘give’ it to her.



(10) Lit., 'the message has not returned to the owner'. Because meanwhile she has become a principal in the transaction and has ceased to be an agent, whereas the law of agency requires that the agent should report to the principal that he has carried out his charge. V. infra 63b.

(11) Here she never ceased being an agent and can well report to the husband, the sender.

(12) V. 63b.

(13) The wife should not be able to appoint an agent to receive the Get on her behalf from herself who is the agent of her husband.

(14) As much as to say she considers it beneath her dignity to accept it in person from the agent appointed by her husband.

(15) Since this procedure was at his express instructions.

(16) [V. supra 21a. The courtyard might be treated as the husband's agent to take the Get to the wife and on coming into her possession it becomes her agent for receiving it; and should it be ruled that a woman may appoint an agent to receive her Get from the agent of her husband, we might be led to rule that a courtyard which comes into her possession subsequently confers possession. The fact, however, is that it does not, because a courtyard comes under the category of 'hand' (v. loc. cit.) and at the time when the husband placed the Get in the courtyard, not being hers, it could not be considered her 'hand'].

(17) Her task as the husband's agent ceases at that moment and she can report back to her husband that she has discharged her mission.

(18) Lit., 'causing (the pupils) to read;' to train them in drafting the formula of a Get.

## **Talmud - Mas. Gittin 24b**

**MOREOVER: IF HE HAD TWO WIVES WITH THE SAME NAME AND WROTE A GET WITH WHICH TO DIVORCE THE ELDER, HE MUST NOT USE IT TO DIVORCE THE YOUNGER. MOREOVER: IF HE SAID TO THE SCRIBE,<sup>1</sup> WRITE AND I WILL DIVORCE WHICHEVER I CHOOSE, IT IS NOT VALID TO DIVORCE THEREWITH EITHER.**

GEMARA. [The second clause of the Mishnah puts the case where] HE WROTE [A GET] TO DIVORCE HIS WIFE AND CHANGED HIS MIND. What then is the case put in the first clause? — R. Papa said: We are dealing there with scribes practising [to write bills of divorce]. R. Ashi said: The language of the Mishnah bears this out, since it says 'DICTATING' and not 'reading', which shows that R. Papa is right.

What is the point of the word MOREOVER? — The school of R. Ishmael taught: 'Not only is a Get invalid that has not been written for purposes of divorce [but for practice]. but also one that has been written for purposes of divorce [but not of this man's wife]; and not only is this [one invalid] that has not been written for the purposes of his divorce, but even the other one that has been written for the purposes of his divorce is invalid; and not only is this [one invalid] which has not been written for divorcing this [wife], but even the other one which has been written for divorcing this [wife] is invalid'. What is the reason? — If [the Scripture] had written, 'he shall give a writ of divorce into her hand,' I should say that this excludes the first case [mentioned above] where [the Get is not written] for the purpose of effecting a divorce, but that if a husband writes [a Get] to divorce his wife and then changes his mind, seeing that the document is meant to effect a divorce I should say it is valid; therefore the Divine Law says, 'and he write'<sup>2</sup>. And if it had merely said and he write, I should have said that this excludes the case where he does not write [the Get] for her,<sup>3</sup> but if he has two wives [and writes for one or other of them] in which case he does [in a way] write for her, I should say that it is valid: therefore the text says, for her, that is to say. for her name. Why then is the last case specified?<sup>4</sup> — To show that there is no [such thing as] a retrospective decision.<sup>5</sup>

**IF HE WROTE A GET WITH WHICH TO DIVORCE THE ELDER, HE MUST NOT USE IT TO DIVORCE THE YOUNGER.** It is the younger only whom he must not divorce with it, but he may divorce with it the elder.<sup>6</sup> Raba said: This means to say that if there are two men named Joseph

b. Simeon living in a town, either can claim from a third party on the strength of a bond [written in his name].<sup>7</sup> Said Abaye to him: On your reasoning, from the first clause of the Mishnah which says that if a man says to another MY NAME IS THE SAME AS YOURS [and takes a Get from him]. HE MAY NOT USE IT TO DIVORCE HIS WIFE, I understand that it is the second only who may not use it but the first may; but how can this be seeing that it is laid down<sup>8</sup> [in reference to the case of two men named Joseph b. Simeon] that a third party cannot claim against either of them on the strength of the bond?<sup>9</sup> The truth is that [in regard to the latter kind of Get written by one man and used by another] we say it is valid [if used by the first] only if there are witnesses to the delivery,<sup>10</sup> [the Mishnah] following R. Eleazar. So too [in regard to the former kind of Get where the two wives have the same name the Get is valid if given to the one for whom it was written] only if there are witnesses to the delivery, [the Mishnah following] R. Eleazar.<sup>11</sup>

Raba said: All the kinds [of Get mentioned in our Mishnah] disqualify [the woman named in them from living with her husband] if he is a priest,<sup>12</sup> except the first,<sup>13</sup> Samuel said that the first also disqualifies. Samuel applies here the principle which he had elsewhere laid down, that wherever the Rabbis have declared a Get invalid, it does not effect divorce but it does disqualify [the wife of a priest from living with him], and wherever they have declared a halizah<sup>14</sup> invalid it does not release<sup>15</sup> [the sister-in-law] but it does disqualify her from [marrying] any of the brothers-in-law. In the West<sup>16</sup> they said in the name of R. Eleazar: [If the halizah was performed with] the left hand or by night, it does not release [the woman] but it does disqualify her;<sup>17</sup>

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(1) לַבַּיִת, Librarius.

(2) I.e., with intent to divorce.

(3) For this particular wife.

(4) Since this would seem to be included in the previous two.

(5) Bererah, (v. Glos.).

(6) In spite of the danger of her being confused with the younger.

(7) I.e., either can claim that he is the Joseph b. Simeon mentioned in the bond.

(8) B.B., 172a.

(9) Because he can plead that the other is meant. So here the husband can plead that another man of the same name wrote the Get.

(10) And not merely to the signing.

(11) [Where, however, there are witnesses to the signing only, the Get cannot be used to divorce therewith even the elder, and similarly in the case of two men named Joseph b. Simeon living in the same town neither can claim from a third party on the strength of a bond.]

(12) The law being that a priest must not marry a divorced woman. Lev. XXI, 7.

(13) Because it was never intended to be a Get.

(14) V. Glos.

(15) I.e., enable her to marry someone else.

(16) Eretz Yisrael.

(17) From marrying her brother. in-law.

## Talmud - Mas. Gittin 25a

[if it was performed to] a minor or with a sock,<sup>1</sup> it does not release [the woman] but neither does it disqualify her. Ze'iri said: None of the kinds [of Get] mentioned disqualify the woman [from living with her husband if a priest] save the last.<sup>2</sup> So did Rab also lay down: None of these disqualify save the last. R. Johanan, however, said that even the last does not disqualify.<sup>3</sup> R. Johanan follows the principle he has enunciated elsewhere, since R. Assi said in the name of R. Johanan: If two brothers divide an inheritance, they are reckoned as having purchased each his share from the other,<sup>4</sup> and each restores his share to the other at the Jubilee.<sup>5</sup> And both statements [of R. Johanan] are necessary. For if I had only the statement about the Get to go by. I should say that in that case there

can be no retrospective decision [as to which (wife) he meant] because we require the [Get to be written] for 'her', [namely] for the name [of the woman concerned], but there [in the case of an estate], the All Merciful said that it is a sale which has to be returned at the Jubilee but not an inheritance or a gift.<sup>6</sup> If again I had only the Statement regarding the field to go by, I might say that he takes the stricter line,<sup>7</sup> or again that he thinks the property should revert to its original state,<sup>8</sup> but here [in the case of a Get] this does not apply.<sup>9</sup> [Hence both statements were] necessary.

R. Hoshaiah put a question to Rab Judah: If a man said to a scribe, Write [a Get] for whichever [of my wives] shall go out of doors first, what is the ruling? — He replied: We have learnt: **MOREOVER: IF HE SAID TO THE SCRIBE, WRITE AND I WILL DIVORCE WHICHEVER I CHOOSE, IT IS NOT VALID TO DIVORCE THEREWITH [EITHER].** We infer from this that there is no such thing as a retrospective decision. [R. Hoshaiah] raised an objection [against this from the following passage]: If a man says to his sons, 'I am going to kill the paschal lamb for whichever of you will first enter Jerusalem',<sup>10</sup> as soon as the first of them enters with his head and the greater part of his body, he becomes entitled to his portion<sup>11</sup> and makes his brothers entitled to their portions along with him.<sup>12</sup> — He replied: Hoshaiah, my son, what has the Paschal lamb to do with bills of divorce? In this connection it has been recorded that R. Johanan said that the reason is to make them eager to perform the mizwoth.<sup>13</sup> This is also indicated [by the language of the passage itself], which states, as soon as the first has entered with his head and the greater part of his body, he becomes entitled to his portion and makes his brothers entitled to theirs along with him.' If now you say that the father mentally reckoned them all as of his company<sup>14</sup> from the first, this is intelligible. But if you say that he did not so reckon them, can they be counted in after the lamb is killed? Have we not learnt: 'Persons can be counted in to a company and withdraw until the lamb is killed [but not after].'<sup>15</sup> It has also been taught to the same effect: It happened once that the daughters came before the sons, the former showing themselves diligent and the latter slack.<sup>16</sup>

Abaye said: [R. Hoshaiah] questioned him [Rab Judah] with reference to the case where he leaves the choice to another,<sup>17</sup> and Rab Judah answers him by citing the case where he retains the choice in his own hands, and then R. Hoshaiah raises an objection from the case where he leaves the choice to others again! — Said Raba: What is the difficulty? Perhaps according to the authority who says there is [such a thing as] retrospective decision, it makes no difference whether he leaves the choice to another or retains it in his own hand; in either case he holds there is retrospective decision; whereas according to the authority who says there is no [such thing as] retrospective decision it makes no difference whether he keeps the choice in his own hand or leaves it to others: in either case he holds there is no retrospective decision. Said R. Mesharsheya to Raba: But is there not R. Judah, who holds that when the man keeps the choice in his own hands we do not decide retrospectively but when he leaves the choice to others he holds that we do decide retrospectively? That [R. Judah] holds that he is permitted to decide retrospectively when he keeps the choice in his own hands [is shown by the following Baraita]. For it was taught: If a man buys wine from the Cutheans, he can say, 'Two logs which I intend to set aside [from each hundred] are to be the priest's due;<sup>18</sup> ten [logs] the first tithe;<sup>19</sup> and nine [logs]<sup>20</sup> the second tithe,'<sup>21</sup>

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(1) Or 'a shoe made of felt'.

(2) Because we say that possibly there is such a thing as a retrospective decision, and therefore this Get has a certain validity.

(3) Since there certainly is no such thing as retrospective decision.

(4) [For the portion chosen by each brother for himself could not be considered as having retrospectively become the very inheritance designated for him, because he does not uphold bererah, v. B.K.. (Sonc. ed.) P. 399 and notes.]

(5) In accordance with Lev. XXV, 13.

(6) And therefore we may say retrospectively that each son took the part which the father intended.

(7) I.e., his reason for deciding as he did was because he was not absolutely certain that there is retrospective decision, and so he wished to be on the safe side.

- (8) Where the estate belonged to the person in spite of the fact that normally there is retrospective decision.
- (9) And we have to say that his reason is because there is no such thing as retrospective decision.
- (10) I.e., as assumed at present he alone shall have a real right to a portion in it.
- (11) From which we should infer that the father selects him retrospectively.
- (12) Pes. 89a.
- (13) Precepts. The father never had any intention of making the first entry into Jerusalem determine the title to the Paschal lamb.
- (14) The company which was to eat that particular lamb. V. Ex. XII, 4: According to every man's eating ye shall make your count for the lamb.
- (15) Pes. ibid.
- (16) But it does not say that the sons were not reckoned in, which proves that the father originally counted all his sons in.
- (17) I.e., the husband leaves the choice to the woman who will first go out of doors.
- (18) The amount of the terumah is not specified in the Scripture, but the Rabbis considered two parts in a hundred a fair proportion.
- (19) For the Levites, v. Num. XVIII, 21.
- (20) From the remaining ninety.
- (21) To be consumed in Jerusalem. V. Deut. XIV, 22ff.

### **Talmud - Mas. Gittin 25b**

and he then begins<sup>1</sup> to drink from it at once. This is the ruling of R. Meir. R. Judah and R. Jose and R. Simeon, however, prohibit [him from doing so].<sup>2</sup> That [according to R. Judah] we do decide retrospectively where he leaves the choice to others [is shown by the following Mishnah].<sup>3</sup> For we learnt: 'What is the status of the woman [who has received a conditional Get<sup>4</sup> from a sick husband] during those days [between the giving of the Get and his death]? R. Judah says that she is a married woman in every respect,'<sup>5</sup> and yet when the husband dies the Get takes effect.<sup>6</sup> R. Mesharsheya said further to Raba: There is also R. Simeon who holds that when the man keeps the choice in his own hands we do not decide retrospectively, but when he leaves the choice to others he holds that we do. That according to R. Simeon we do not decide retrospectively when he keeps the choice in his own hands [is shown] by [the teaching] just quoted. That [according to him] where he leaves the choice to others we do so decide is shown by the following [teaching]: [If a man says to a woman], I betroth thee by means of this intercourse<sup>7</sup> on condition that thy father consents, even if the father does not consent she is betrothed. R. Simeon b. Judah said in the name of R. Simeon that if the father consents she is betrothed,

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(1) v. Tosaf. s.v.

(2) Which shows that he cannot decide retrospectively. (For fuller notes v. B.K. (Sonc. ed.) p. 399.)

(3) Infra 83b.

(4) I.e., if he says to her, 'This shall be thy Get from now if I die.' V. infra 72a.

(5) And therefore if the husband is a priest she may eat terumah.

(6) Hence when God, to whom he has left the choice, decides that he should die, it is decided retrospectively that she was divorced from the moment he gave her the Get.

(7) This being one of the methods of affiancing; v. Kid. ad. init.

### **Talmud - Mas. Gittin 26a**

and if not she is not betrothed.<sup>1</sup> — Raba answered him: Both according to R. Judah and according to R. Simeon, it makes no difference whether he keeps the choice in his own hands or leaves it to another: in either case we do decide retrospectively. There [in the case of the Cuthean wine], however, the reason [for their prohibiting] is as given [in the Mishnah quoted]: 'They said to R. Meir, Do you not admit that if the wine-skin should burst [and the wine be spilt]<sup>2</sup> the man would be found to have drunk wine which had not been freed for ordinary use? He answered them: Wait till it

does burst.’<sup>3</sup>

MISHNAH. IF [A SCRIBE] WRITES OUT FORMULAS OF BILLS OF DIVORCE<sup>4</sup> HE MUST LEAVE BLANK SPACES FOR THE NAME OF THE MAN AND THE NAME OF THE WOMAN AND THE DATE. [IF HE WRITES FORMULAS OF] BONDS OF INDEBTEDNESS HE MUST LEAVE BLANK SPACES FOR THE NAME OF THE LENDER, THE NAME OF THE BORROWER, THE AMOUNT LENT AND THE DATE. [IF HE WRITES] FORMS OF CONTRACTS OF SALE HE MUST LEAVE BLANK SPACES FOR THE NAME OF THE VENDOR, THE NAME OF THE PURCHASER, THE PURCHASE MONEY, THE PROPERTY AND THE DATE, TO PREVENT HARD SHIP.<sup>5</sup> R. JUDAH DECLARES ALL SUCH [FORMULAS] INVALID [EVEN IF THE BLANKS HAVE BEEN LEFT]. R. ELEAZAR DECLARES ALL OF THEM VALID [IF THE BLANKS HAVE BEEN LEFT] EXCEPT WRITS OF DIVORCE, BECAUSE SCRIPTURE SAYS, HE SHALL WRITE FOR HER, WHICH MEANS, EXPRESSLY FOR HER.

GEMARA. Rab Judah said in the name of Samuel: [The scribe] must also leave space for the words. ‘You are permitted to [marry] any man.’<sup>6</sup> And [the Mishnah] follows R. Eleazar who said that the witnesses to delivery make [the Get] effective and the [Get] must [consequently]<sup>7</sup> be written expressly for the woman concerned. And it was necessary [for Samuel to tell us here that the Mishnah follows R. Eleazar although he has already twice told us so]. For if he had only told us so on the first occasion,<sup>8</sup> [I might think that the reason why we interpret] that [Mishnah] so as to make it agree with R. Eleazar is to reconcile the contradiction between the first statement of the Mishnah, ‘[A Get] must not be written’ etc. and the second, ‘If it was written [on something attached to the soil it is valid],’ but [all the same] in connection with the next [Mishnah]<sup>9</sup> where it also says that a Get is made effective only by the signatures attached to it, I might think that [the Mishnah is there] following R. Meir who said that the witnesses to the signatures make [the Get] effective<sup>10</sup> [unless Samuel told us the contrary]. If again Samuel had only told us there [that the Mishnah] follows R. Eleazar, [I might think that that is because] there also it is possible to interpret [the Mishnah] in this way, but here [in speaking of the scribe who writes out formulas] since the last [ruling] given is that of R. Eleazar, I should say that the first [ruling, ‘If a scribe writes our formulas of bills of divorce etc.’] is not that of R. Eleazar.<sup>11</sup> Therefore [Samuel] had to tell us this also.<sup>12</sup>

TO PREVENT HARDSHIP. Hardship to whom? — R. Jonathan said: Hardship to the scribe, [the Mishnah] following R. Eleazar who said that the witnesses to delivery make [the Get] effective. By rights therefore it should not be permitted to write [beforehand] even the formula of the Get, but to make matters easier for the scribes the Rabbis allowed it. R. JUDAH DECLARED THEM ALL INVALID: he forbade the formulas for fear that the substantive part might also be written in and [he forbade the scribes to write] the formulas of bonds of indebtedness for fear [that they might also write] the formulas of bills of divorce. R. ELEAZAR DECLARED ALL OF THEM VALID EXCEPT BILLS OF DIVORCE: he forbade the formulas for fear that the substantive part might also be written, but he did not forbid the writing of bonds out of fear [that it might lead to the writing] of bills of divorce.

BECAUSE SCRIPTURE SAYS, ‘HE SHALL WRITE FOR HER.’ Rut do not the words ‘for her’ in the text refer to the substantive part of the Get? — Explain [R. Eleazar's reason thus]: Because it is written ‘he shall write for her’, which means ‘expressly for her’, [therefore we forbid the writing of the form for fear it may lead to the writing of the substantive part].

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(1) Keth. 73b. Which shows that we do decide retrospectively where he leaves the choice to others.

(2) So that it will no longer be possible to set aside the various dues.

(3) Lit., ‘when it does burst’. I.e., the danger is remote and there is no need to provide against it.

(4) In order to have them ready at hand whenever the

(5) Lit., 'on account of the takkanah (adjustment)': an expression used in connection with regulations laid down by the Rabbis without Scriptural warrant to prevent abuses or for the smoother working of social relations. The question what hardship is meant is discussed in the Gemara.

(6) Because this is also an essential part of the Get.

(7) V. supra 23a.

(8) Supra 21b, in connection with the Mishnah 'A Get must not be written on something attached to the soil'.

(9) 'All persons are qualified to write a Get,' supra 22b.

(10) And there is no need to leave a blank space for the substantive part.

(11) And there is no need to leave a blank space for 'You are permitted etc.', except for the names, for the reason given infra.

(12) That the first ruling too follows R. Eleazar, he being represented by two varying opinions.

## **Talmud - Mas. Gittin 26b**

Does not R. Eleazar here contradict himself?<sup>1</sup> — Two Tannaim report R. Eleazar differently.

R. Shabbathai said in the name of R. Hezekiah: [The words TO PREVENT HARDSHIP] mean 'to prevent quarrelling', [the Mishnah] following R. Meir who said that the signatures of the witnesses make [the Get] effective. and by rights it should be permitted to the scribe to write [beforehand] even the substantive part, but in that case it might happen that a woman might hear a scribe [reading over] what he had written and she might think that her husband had told him to write and so fall out with him. R. Hisda said in the name of Abimi: It is for the relief of deserted wives. Some say [that this interpretation] follows R. Meir, and some say that it follows R. Eleazar. Some say it follows R. Meir who held that the witnesses to the signatures make [the Get] effective, and therefore by rights it is permissible to put in beforehand even the substantive part of the Get, only it may happen sometimes that a husband falls out with his wife and in a passion throws her [the Get] and then makes her remain a deserted wife.<sup>2</sup> Some again say it follows R. Eleazar who held that the witnesses to delivery make [the Get] effective, and therefore by rights even the formula [of the Get] should not be written beforehand,<sup>3</sup> only it may happen sometimes that the man wants to go abroad and does not find a scribe ready and so he leaves her [without giving her the Get] and thus makes her a deserted wife [if he is lost].<sup>4</sup>

AND FOR THE DATE. The Mishnah makes no distinction between [a Get which dissolves] a marriage and [a Get which dissolves] a betrothal. In the case of [a Get which dissolves] a marriage this is a proper [regulation], whether on the view [that the date is required] to prevent a man shielding his sister's daughter or on the view that [it is required] on account of the usufruct.<sup>5</sup> In [a Get which dissolves] a betrothal, however, the regulation certainly is reasonable on the view that the date is required to prevent a man shielding his sister's daughter, but on the view that it is required on account of the usufruct — does the law of usufruct apply to a betrothed woman?<sup>6</sup> — R. Amram said: I heard a certain remark from 'Ulla, who said 'it is to safeguard the interest of the child', and I did not know what he meant. [I discovered it, however], when I came across the following statement:<sup>7</sup> If a man says, 'Write a Get for my fiancee, I will divorce her with it after I marry her,' it is no Get. And commenting on this 'Ulla said: What is the reason? Because people may say that her Get came [before] her child.<sup>8</sup> So here, [the date has to be put in] lest people should say that her Get [came] before her child.

R. Zera said in the name of R. Abba b. Shila who said it in the name of R. Hamnuna the Elder who had it from R. Adda b. Ahaba who had it from Rab: The halachah follows the ruling of R. Eleazar.<sup>9</sup> Rab designated R. Eleazar 'the happiest of the wise men.' Does then the [halachah] follow him in regard to other documents also?<sup>10</sup> Has not R. Papi said in the name of Raba: If an authentication of the Beth din<sup>11</sup> is written before the witnesses have testified to their signatures, it is invalid? The reason is that it seems to contain a falsehood.<sup>12</sup> So here, the documents seem to contain a falsehood?

— This is no objection, as shown by the statement of R. Nahman, who said: R. Meir used to say that even if a man found [a Get] on a rubbish heap and had it signed and delivered to the wife, it is valid. And even the Rabbis do not differ from R. Meir save in regard to writs of divorce, which have to be written with ‘special intention’, but not in regard to other documents, since R. Assi said in the name of R. Johanan: If a man gives a bond for a loan and repays the loan [on the same day], he may not use the same bond for another loan because the obligation contained in it is already cancelled. The reason is that the obligation contained in it is cancelled, but the fact that it may appear to contain a falsehood<sup>13</sup> is of no concern.

- (1) By laying down in the first clause of this Mishnah that the formulas may be written and in the second that they may not.
- (2) Because since the Get is written but not signed she is neither divorced nor married.
- (3) For fear that it may lead to the writing of the substantive part.
- (4) Because according to Jewish law death cannot be presumed.
- (5) V. supra 17a.
- (6) There are no provisions entitling the bridegroom to the usufruct of his bride's property.
- (7) Yeb. 52a.
- (8) I.e., that she was divorced while still only affianced, and that therefore her child was born out of wedlock.
- (9) That even the formula of the Get may not be written beforehand.
- (10) The formulas of which he allows to be written out beforehand.
- (11) Certifying that the signatures to such-and-such a document are genuine.
- (12) Since it runs: ‘While we sat as a court of three there came before us So-and-so who testified to their signatures etc.’
- (13) In not being written originally for the loan which is now being contracted.

## **Talmud - Mas. Gittin 27a**

MISHNAH. IF THE BEARER OF A GET LOSES IT. ON THE WAY, IF HE FINDS IT AGAIN IMMEDIATELY IT IS VALID, AND IF NOT IT IS NOT VALID.<sup>1</sup> IF HE FINDS IT IN A HAFISAH OR IN A DELUSKAMA<sup>2</sup> OR<sup>3</sup> IF HE RECOGNISES IT, IT IS VALID.

GEMARA. Is there not a contradiction [between this Mishnah and the following]:<sup>4</sup> ‘If a man finds bills of divorcement of wives or of emancipation of slaves or wills or deeds of gift or receipts, he should not deliver them,<sup>5</sup> for I say that after they were written [the writer] changed his mind and decided not to give them’. I infer from this, do I not, that if he had said ‘Give them,’<sup>6</sup> they are to be given, even if a long interval had elapsed? — Rabbah replied: There is no difficulty. Here [in our Mishnah the reference] is to a place where caravans pass frequently, there [the other] to a place where caravans do not frequently pass.<sup>7</sup> And even in a place where caravans frequently pass, [the Get is invalid] only if there are presumed to be two men named Simon ben Joseph in the same town. For if you do not [understand Rabbah thus], then there is a contradiction between this statement of Rabbah and another of his. For a Get was once found in the Beth din of R. Huna in which was written, ‘In Shawire, a place by the canal Rakis’, and R. Huna said: The fear that there may be two Shawires is to be taken into account;<sup>8</sup> and R. Hisda said to Rabbah: Go and look it up carefully, because to-night R. Huna will ask you about it, and he went and looked up and found that we had learnt [in a Mishnah]: ‘Any document which has passed through a Beth din is to be returned’.<sup>9</sup> Now the Beth din of R. Huna was on a par with a place where caravans pass frequently, and Rabbah decided that the document should be delivered. From this we conclude that if there are known to be two men named Simon ben Joseph in the town it is [not to be returned], but otherwise it is.<sup>10</sup> In the case of a Get which was found ‘among the flax’ in Pumbeditha, Rabbah acted according to the rule just laid down.<sup>11</sup> Some say it was found in the place where flax was soaked, and although there were two persons of the same name known to be in the place, he ordered it to be returned because it was not a place where caravans passed frequently. Some again say that it was the place where flax was sold, and there were not two persons of the same name known to be there though caravans did pass

frequently.

R. Zera pointed to a contradiction between the Mishnah and the following Baraita, and also resolved it. We learn here: IF THE BEARER OF A GET LOSES IT ON THE WAY AND FINDS IT AGAIN IMMEDIATELY, IT IS VALID, AND IF NOT IT IS NOT VALID. This seems to contradict the following: If a man finds a bill of divorce in the street, if the husband acknowledges it he should deliver it to the woman, but if the husband does not acknowledge it he should give it neither to one nor to the other.<sup>12</sup> It says here at any rate

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(1) Because perhaps it is not the same one but another with the same names.

(2) Names of receptacles, explained infra 28a.

(3) V. Rashi.

(4) B.M. 18a. For fuller notes on this whole section, v. B.M. (Sonc. ed.) pp. 110-115.

(5) Either to the writer or the recipient.

(6) As in the case of a Get sent by a bearer.

(7) And therefore other documents containing the same names may also have been dropped.

(8) And therefore the claimant may not be the person who dropped the Get and it is not to be delivered.

(9) Because if the writer had not meant it to be delivered, he would not have brought it to the Beth din to be confirmed.

(10) Because two men of the same name were not known to be in that town.

(11) That the Get is to be delivered unless there are two reasons — of the place and of the name — to the contrary.

(12) B.M. 18b.

## Talmud - Mas. Gittin 27b

that when the husband acknowledges it he should give it to the woman, even if a long time has elapsed? — R. Zera answered himself by saying that [in the Mishnah] here we speak of a place where caravans pass frequently and there [the other passage] of a place where caravans do not pass frequently. Some add [in quoting the answer of R. Zera]: And even [the Mishnah says] it should not be delivered only if there are presumed to be two men of the same name, which is the view of Rabbah. Some again report R. Zera as having said ‘even though there are not presumed etc., he should not deliver,’ and so as differing from Rabbah. We can understand why Rabbah did not raise the difficulty in the form in which it was raised by R. Zera: he thought there was more force in opposing one Mishnah to another.<sup>1</sup> But why did not R. Zera raise it in the form in which it was raised by Rabbah? — R. Zera might answer: Does the [other Mishnah] state, ‘If the husband has said, Give, it is to be given even after the lapse of some time’?<sup>2</sup> possibly what it means is that if he has said ‘give’ it is given only in the recognised way, i.e. immediately.<sup>3</sup> R. Jeremiah said: [The Get is delivered after a lapse of time only] if, for instance, the witnesses say, ‘We have never signed more than one Get in the name of Joseph ben Simeon.’ If that is so, what does [the Mishnah] tell us? — You might think that we [still do not declare the Get valid] for fear that the name may happen to be the same and the witnesses may happen to be the same. Now we know [that we disregard this possibility]. R. Ashi said: [The Get is delivered after a lapse of time only] if the bearer can say, ‘there is a hole at the side of such-and-such a letter,’ which is a precise distinguishing mark. And that is, provided he says, ‘at the side of such-and-such a letter,’ which is a precise distinguishing mark, and not simply ‘a hole’. [R. Ashi ruled thus] because he was not certain if the rule about distinguishing marks<sup>4</sup> is derived from the Torah or was laid down by the Rabbis [on their own authority].<sup>5</sup>

Rabbah b. Bar Hanah lost a Get in the Beth Hamidrash. He said [to the Beth din]: If you want a distinguishing mark, I can give one, and if you want me to recognise it by sight, I can do so. They gave it back to him. He said: I do not know if they gave it back because I was able to give a distinguishing mark,<sup>6</sup> and they thought that the rule about such marks<sup>7</sup> was derived from the Torah, or because I was able to recognise it by sight. And for this only a Talmudical student would be



trusted, but not any ordinary person.

AND IF NOT IT IS NOT VALID. Our Rabbis have taught: What is it that we call 'not immediately'? R. Nathan says: If he has allowed an interval to elapse long enough for a caravan to pass by and encamp. R. Simeon b. Eleazar says: [It is called 'immediately'] so long as someone stands there and sees that no-one passes there; some say, that no-one has stopped there. Rabbi says: [If he waits long enough] for the Get to be written. R. Isaac says: Long enough to read it. According to others, to write and to read it. Even if a considerable time did elapse, if there are [precise] distinguishing marks they are taken as evidence, e.g., if the bearer says that there is a hole at the side of such-and-such a letter. The general characteristics [of the Get], however, are no evidence, e.g., if he said that it was long or short. If the bearer found it tied up in a purse, a bag, or a ring,

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(1) Viz., our Mishnah and the Mishnah from Baba Mezi'a.

(2) This being the assumption made above.

(3) Hence there is no contradiction in the Mishnah from Baba Mezi'a, and therefore R. Zera raised the difficulty from a Baraitha.

(4) That a claimant to a lost article could make good his claim by mentioning a sign, and had not necessarily to bring witnesses.

(5) I.e., if the Torah required witnesses and the Rabbis dispensed with this on their own authority, in the case of a Get, in view of the grave implications involved, a very clear mark would be required.

(6) Though it was not a precise mark.

(7) That it was sufficient for a claimant to give a sign, and therefore even a Get should be restored.

## **Talmud - Mas. Gittin 28a**

or among his clothes, even after a considerable time, it is valid.

It has been stated: Rab Judah said in the name of Samuel: The halachah is that [the found Get is valid] if no-one has stopped there, whereas Rabbah b. Bar Hanah said the halachah is [that it is valid] if no-one has passed by there. Why does not Rab Judah say that the halachah follows [this] Master,<sup>1</sup> and Rabbah b. Bar Hanah say that it follows [the other] Master?<sup>2</sup> — Because there is another reading which reverses the names.<sup>3</sup>

IN A HAFISAH OR A DELUSKAMA. What is a hafisah? — Rabbah b. Bar Hanah says: A small pouch. What is a deluskama? — The kind of box used by old men.<sup>4</sup>

MISHNAH. IF, WHEN THE BEARER OF A GET LEFT, THE HUSBAND WAS AN OLD MAN OR SICK, HE SHOULD YET DELIVER IT TO THE WIFE ON THE PRESUMPTION THAT HE IS STILL ALIVE. IF THE DAUGHTER OF AN ORDINARY ISRAELITE<sup>5</sup> IS MARRIED TO A PRIEST AND HER HUSBAND GOES ABROAD, SHE GOES ON EATING OF THE TERUMAH ON THE PRESUMPTION THAT HE IS STILL ALIVE.<sup>6</sup> IF A MAN SENDS A SIN-OFFERING FROM ABROAD IT IS SACRIFICED ON THE ALTAR ON THE PRESUMPTION THAT HE IS STILL ALIVE.<sup>7</sup>

GEMARA. Raba said: [This Mishnah] speaks only of an old man who has not reached the years of 'strength'<sup>8</sup> and of a man who is just ill, because most invalids recover, but not if he has attained 'years of strength' or was in a dying condition, because most persons in a dying condition die. Against this [opinion] Abaye raised the following objection: 'If when the bearer left the husband was old, even a hundred years old, he yet gives it to the wife on the presumption that he is alive.' This is a refutation. I might, however, still answer that if a man reaches such an age he is altogether exceptional.<sup>9</sup> Abaye pointed out to Rabbah a contradiction. We learn: IF, WHEN THE BEARER LEFT, THE HUSBAND WAS OLD OR SICK, HE SHOULD YET DELIVER IT TO THE WIFE

ON THE PRESUMPTION THAT HE IS STILL ALIVE. This seems to contradict the following [Baraita]: 'If a priest said to his wife, "Here is thy Get [to come into force] an hour before my death",<sup>10</sup> she is forbidden to eat the priestly dues immediately'?<sup>11</sup> — He replied: Do you compare terumah with bills of divorce? To terumah there is an alternative,<sup>12</sup> but to the Get there is no alternative.<sup>13</sup> Why not oppose two statements regarding terumah itself? For we learn here: IF THE DAUGHTER OF AN ORDINARY ISRAELITE IS MARRIED TO A PRIEST AND HER HUSBAND GOES ABROAD, SHE GOES ON EATING THE TERUMAH DUES ON THE PRESUMPTION THAT HE IS STILL ALIVE. Does not this contradict the following [Baraita]: 'If a Priest says to his [non-priestly] wife, "Here is thy Get [to come into force] an hour before my death", she is forbidden to eat the terumah immediately'? — R. Adda the son of R. Isaac answered: There the case is different, because he prohibited her to himself one hour before his death.<sup>14</sup> R. Papa strongly demurred to this, saying: How do you know that he will die first? Perhaps she will die first?<sup>15</sup> In fact, said Abaye. the solution of the contradiction is that the one passage follows R. Meir who disregards the chance of dying, and the other follows R. Judah who takes this chance into account, as we have learnt:<sup>16</sup> If a man buys wine from the Cutheans, he can say, Two logs which I intend to set aside are to be reckoned as terumah [on a hundred], ten logs as first tithe, and nine logs as second tithe, and then begin to drink at once. This is the view of R. Meir. R. Judah, R. Jose and R. Simeon forbid him to do this.<sup>17</sup> Raba said:

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- (1) The opinion assigned to 'some say'; supra.
  - (2) The opinion assigned to R. Simeon, supra.
  - (3) The opinions assigned to R. Simeon and 'some say'.
  - (4) To keep documents in. [The word is also frequently spelt Geluskama, probably from Grk. \*\* receptacle.]
  - (5) One who is not a kohen.
  - (6) Although if a widow she would not be allowed to eat terumah (v. Glos.).
  - (7) Although if he is dead the animal should not be sacrificed.
  - (8) I.e., eighty years, in allusion to Ps. XC, 10.
  - (9) And may go on living.
  - (10) [Lit., 'his death', a euphemism. V. Tosef. Git. IV (Zuckemandel p. 330), where some texts read 'my death'.]
  - (11) As we fear at every moment that he will die within the next hour.
  - (12) I.e., she can eat other food.
  - (13) There is no alternative way of saving her from becoming a 'deserted wife'.
  - (14) But his chance of dying does not enter into consideration.
  - (15) I.e., we have to take the chance of his dying into consideration, as otherwise it would not be a Get.
  - (16) V. Supra 25a.
  - (17) Because they take into account the chance of the skin bursting, whereas R. Meir does not.

## Talmud - Mas. Gittin 28b

We disregard the chance of his having died,<sup>1</sup> but take into account the chance that he may die.<sup>2</sup> Said R. Adda b. Mattena to Raba: What of the wine-skin [in the case of the terumah, the chance of which breaking is] like the chance that the man may die<sup>3</sup> and yet the authorities differ in regard to it?<sup>4</sup> — Said R. Judah from Diskarta:<sup>5</sup> A wine-skin is different, because it can be handed over to someone to keep. R. Mesharshe ya strongly objected to this, saying: Your security himself requires a security.<sup>6</sup> — In fact, said Raba, the chance that he has died we do not take into account:<sup>7</sup> whether we take into account the chance that he may die is a question on which Tannaim differ.<sup>8</sup>

IF A PERSON SENDS A SIN-OFFERING FROM ABROAD etc. But is not laying-on of hands required?<sup>9</sup> R. Joseph replied that [the Mishnah refers] to an offering sent by a woman,<sup>10</sup> R. Papa said that it refers to the sin-offering of a bird.<sup>11</sup>

[All three clauses in the Mishnah] are necessary. For if the rule [that the person in question is

presumed to be alive] were stated merely in regard to a Get, I should say the reason is because there is no alternative,<sup>12</sup> but in the case of terumah where there is an alternative, it does not apply. And if the rule had been stated with regard to terumah, I should say that the reason is because sometimes there is no alternative,<sup>13</sup> but in the case of the sin-offering of the bird I should say that, as there is a doubt [whether the person who sent it is still alive], we should not [take the risk of] bringing profane things into the Temple court. Hence [all three clauses] are necessary.

MISHNAH. THREE STATEMENTS WERE MADE BY R. ELEAZAR B. PERATA BEFORE THE SAGES, WHO FORMALLY APPROVED OF THEM. [HE SAID] THAT [PEOPLE IN] A BESIEGED TOWN, [PEOPLE] IN A SHIP STORM-TOSSED AT SEA, AND A MAN WHO HAS BEEN BROUGHT TO COURT TO BE TRIED [FOR HIS LIFE] ARE PRESUMED TO BE ALIVE [SO LONG AS THEY ARE NOT KNOWN TO BE DEAD]. [PEOPLE, HOWEVER,] IN A BESIEGED TOWN WHICH HAS BEEN CAPTURED OR [IN] A SHIP WHICH HAS BEEN LOST AT SEA OR A MAN WHO HAS BEEN LED OUT TO EXECUTION ARE PRESUMED TO BE EITHER ALIVE OR DEAD ACCORDING TO WHICHEVER VIEW ENTAILS THE GREATER RIGOUR. [HENCE] THE DAUGHTER OF AN ORDINARY ISRAELITE WHO HAS MARRIED A PRIEST OR THE DAUGHTER OF A PRIEST WHO HAS MARRIED AN ORDINARY ISRAELITE MAY NOT EAT OF THE TERUMAH [IF THE HUSBAND HAS DISAPPEARED IN THIS WAY].<sup>14</sup>

GEMARA. R. Joseph said: This rule [with regard to a man led out to execution] applies only to Israelite courts,<sup>15</sup> but in the case of a heathen court once he is condemned to execution, [there is no question that] he is executed.<sup>16</sup> Said Abaye to him: Do not the heathen courts sometimes take a bribe? — He replied: If they do, it is only before the writ is signed with the words Pursi shanmag,<sup>17</sup> but after it has been signed pursi shanmag they will not take a bribe.

An objection was raised [from the following]: ‘Whenever two persons come forward and say, We testify against So-and-so that he was condemned to death in such-and-such a Beth din, So-and-so and So-and-so being the witnesses against him, such a man has to be put to death’?<sup>18</sup> — Perhaps [a condemned person] who escapes is different.<sup>19</sup> Come and hear: If he heard [a report] from an Israelite court that So-and-so died or was put to death, they allow his wife to marry again [If, however, the report came] from heathen<sup>20</sup> jailers that he died or was put to death, they do not allow his wife to marry again. Now what is meant here by ‘died’ and ‘put to death’? Shall I say these terms are to be taken literally? Then why in the case of heathens is the wife not allowed to marry again, seeing that it is a recognised principle that [the word of] a heathen speaking without ulterior motive<sup>21</sup> is to be accepted [in questions relating to marriage]?<sup>22</sup> I must therefore understand the words ‘died’ and ‘put to death’ in the sense of ‘Taken out to die’<sup>23</sup> or ‘to be put to death’; and yet it states [that if the report comes] from an Israelite court they do allow the wife to marry again?<sup>24</sup> — [The passage quoted means] really ‘died’ and really ‘put to death’, and as for your question why in such a case [if the report comes] from a heathen court is she not allowed to marry again, seeing that it is a recognised principle with us that [the word of] a heathen speaking without ulterior motive is to be accepted, [the answer is that] this applies only to a matter in which they themselves have not participated,<sup>25</sup> but where the matter is one in which they themselves have participated, they are prone to indulge in falsehood.<sup>26</sup>

[The following is] another version [of the above passage]. R. Joseph said: This rule applies only to heathen courts,

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(1) Before the bearer delivers the Get, as in the former case.

(2) At any moment, as in the latter case where he gives her the divorce to come into force an hour before his death.

(3) Referring as it does to a contingency of the future.

(4) R. Meir not taking this chance into account.

- (5) Deskarah, N.E. of Bagdad.
- (6) I.e. perhaps the other person will also neglect to look after the wine-skin.
- (7) So that our Mishnah agrees with all.
- (8) R. Meir and R. Simeon, and the Baraitha will represent the view of R. Simeon.
- (9) According to Lev. I, 4: And he (the bringer of the sacrifice) shall lay his hands on the head of the sin. offering.
- (10) Who was not required to lay on hands, v. Kid. 36a.
- (11) Which did not require laying-on of hands. V. Lev. I, 14.
- (12) V. supra. p. 112, n. 7.
- (13) E.g., if she is very poor.
- (14) In the former case we presume the husband to be dead, in the latter, to be alive.
- (15) Because new evidence may come to light and he may be tried again and acquitted. V. Sanh. 42b.
- (16) And therefore we do not presume him to be alive for any purposes.
- (17) According to Jastrow puris nameh, Persian for 'investigation paper', 'verdict'.
- (18) Which seems to show that after condemnation by an Israelite court we do not assume the possibility that he might have subsequently been acquitted as a result of new evidence; v. Mak. 7a.
- (19) The passage speaks of one who escaped justice. His flight is a proof of his guilt.
- (20) קוֹמְנַטְרִיסִין cf. Lat. commentariensis, registrars of prisoners, jailers (Jast.).
- (21) Lit., 'talking in his simplicity'.
- (22) And therefore we regard the first husband as dead.
- (23) [By some means other than the four prescribed deaths, v. Sanh. 81b; or in the case of a heathen court, by casting into a furnace, (Rashi)].
- (24) Which seems to contradict the Mishnah as interpreted by R. Joseph.
- (25) And which therefore they cannot boast about.
- (26) E.g., that their Court has executed a Jew, though they have not actually seen the execution. [This reading follows Rashi, cur. edd.: to hold firm to their falsehood.]

## Talmud - Mas. Gittin 29a

but in the case of an Israelite court once it condemns him to execution he is executed. Said Abaye to him: In an Israelite court also it is possible that some circumstance may be found in his favour [after his condemnation]? — Such a circumstance happens before the sentence is pronounced; after the sentence is pronounced it does not happen.<sup>1</sup> May we say that this view is supported by the following: Whenever two persons come forward and say. We testify against So-and-so that he was condemned to death in such-and-such a Beth din, So-and-so and So-and-so being witnesses against him, such a man has to be put to death'? — Perhaps a condemned man who has escaped is different. Come and hear: If he heard [a report] from an Israelite court that So-and-so died or was put to death, they allow his wife to marry again. [If, however, the report came], from a heathen court that he died or was put to death, they do not allow his wife to marry again. Now what is meant here by 'died' and 'put to death'? Shall I say these terms are to be taken literally? Then why in the case of a heathen court is the wife not allowed to marry again, seeing that it is a recognised principle that [the word of] a heathen speaking without ulterior motive is to be accepted [in questions relating to marriage]? I must therefore understand the words 'died' and 'put to death' in the sense of 'taken out to die' or 'to be put to death'; and yet it states [that if the report comes] from an Israelite court they do allow the wife to marry again!<sup>2</sup> [The passage means] really 'died' and really 'put to death',<sup>3</sup> and as for your question why in such a case [if the report comes] from a heathen court is she not allowed to marry again, seeing that it is a recognised principle with us that the word of a heathen speaking without ulterior motive is to be accepted, [the answer is that] this applies only to a matter in which the heathen has not participated, but where the matter is one in which they have themselves participated, he is prone to indulge in falsehood.

MISHNAH. IF THE BEARER OF A GET IN ERETZ YISRAEL FALLS ILL, HE CAN SEND IT ON BY ANOTHER. IF, HOWEVER, [THE HUSBAND] SAID TO HIM, TAKE FOR ME<sup>4</sup>

SUCH-AND-SUCH AN ARTICLE FROM HER, HE MAY NOT SEND IT [THE GET] ON BY ANOTHER, SINCE THE HUSBAND MAY NOT WANT HIS PLEDGE TO BE IN THE HAND OF ANOTHER.

GEMARA. R. Kahana said: We have learnt specifically. IF HE FALLS ILL, Cannot I see that for myself? — [Unless R. Kahana had pointed this out] you might think that the same rule applies even if he does not fall ill, and that [the Mishnah] merely mentioned a usual case. Hence he tells us [that this is not so], How [am I to] understand [the Mishnah]? If the husband said to the bearer simply 'take this [Get]', then surely even if he did not fall ill he can send it on by another? If, however, the husband said, 'You take this,' then even if he did fall ill he cannot send it on by another? And if [the Mishnah] follows R. Simeon b. Gamaliel, then even if he fell ill [although the husband merely said 'take'] he cannot [send it on by another], as it has been taught: 'If a man said, Take this Get to my wife, [the bearer] can send it on by another. If he said, You take this Get to my wife, [the bearer] cannot send it on by another. R. Simeon b. Gamaliel said: In either case one agent cannot appoint another'? — If you like I can answer that he said 'Take,' for [even this formula authorises the bearer to send it on by another] only if he falls ill; or if you like I can say that he said 'You take', for only where he falls ill it is different:<sup>5</sup> and if you like I can say that the Mishnah is in agreement with R. Simeon b. Gamaliel,<sup>6</sup> only where the bearer falls ill it is different.

We learnt: IF THE BEARER OF A GET IN ERETZ YISRAEL FALLS ILL, HE CAN SEND IT ON BY ANOTHER. Does not this contradict the following? [For we learnt:] 'If a man says to two persons, "Give a Get to my wife," or to three persons, "Write a Get and give it to my wife," they are to write and give it':<sup>7</sup> [which implies, does it not, that] they themselves are [to write it] but not an agent [of theirs]? — Abaye replied: There the reason is that they should not put the husband to shame,<sup>8</sup> but here the husband is not particular.<sup>9</sup> Raba said: [The reason there is that he only gave them] verbal instructions, and verbal instructions cannot be transmitted to an agent. Does any difference arise in practice between the two? — It does: in the case of a gift,<sup>10</sup> their difference being in principle the same as that between Rab and Samuel, Rab holding that a gift is not on all fours with a Get and Samuel holding that it is.

IF THE HUSBAND SAID TO HIM, TAKE FOR ME SUCH-AND-SUCH AN ARTICLE FROM HER. Resh Lakish said: Here Rabbi meant [merely] to teach us that the borrower may not lend the article he has borrowed further, nor may the hirer hire it out further.<sup>11</sup> Said R. Johanan to him: This even schoolchildren know. What we should say is that sometimes [if the bearer did send the Get on by another bearer] the Get itself is no Get, because he puts himself in the same position as the bearer who was told by the husband not to divorce the wife except in the lower room and he divorced her in the upper room, or who was told not to divorce her except with the right hand and he divorced her with the left. Now both authorities are agreed that where she goes out to meet him [the second bearer] and gives him the article and then takes from him the Get, it is a perfectly valid Get.<sup>12</sup> Where they differ is in the case where the husband said to the bearer,

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(1) [I.e., it may happen but rarely (Rashi)].

(2) Which supports R. Joseph.

(3) And so the passage does not support R. Joseph.

(4) When delivering the Get to her.

(5) This formula prohibits the agent from sending it on only when he is well, but not when he falls ill.

(6) That an agent may not appoint an agent.

(7) *Infra* 66a.

(8) Because if they tell a third party to write it. more people will know that the husband is unable to write it himself.

(9) As there is nothing to be particular about

(10) If a man said to two or three persons. 'Write me a deed of gift for So-and-so.' Here the question of saving the face of the donor does not arise, as the donor was not supposed to write out his own deed of gift. (V. B.B., 167b).

(11) The ruling in the Mishnah is merely intended to state a prohibition, without affecting the validity of the Get should the bearer send it on by someone else.

(12) [Although the husband may not approve of his pledge being in the possession of a third party, the Get is not invalidated since there has been no departure from the husband's instructions in regard to the delivery of the Get itself.]

## **Talmud - Mas. Gittin 29b**

Take the article from her and then give her the Get,<sup>1</sup> and he went and gave her the Get and then took from her the article. In such a case R. Johanan declares [the Get] invalid even if [delivered] by [the first bearer] himself, and all the more if by his agent, whereas Resh Lakish declares it valid even if [delivered] by the agent and all the more so if by [the first bearer] himself.<sup>2</sup>

MISHNAH. IF THE BEARER OF A GET FROM FOREIGN PARTS FALLS ILL, HE GOES BEFORE A BETH DIN AND APPOINTS AN AGENT AND SENDS HIM<sup>3</sup> [ON WITH THE GET,] DECLARING BEFORE THEM, 'IN MY PRESENCE IT WAS WRITTEN AND IN MY PRESENCE IT WAS SIGNED.' THE LAST AGENT IS NOT REQUIRED TO MAKE THIS DECLARATION: HE MERELY DECLARES, 'I AM THE MESSENGER OF THE BETH DIN.'<sup>4</sup>

GEMARA. The Rabbis said to Abimi the son of R. Abbahu: Enquire of R. Abbahu, Can the agent of the original bearer appoint a further agent or not? — He replied: You have no need to ask this. For since it says [in the Mishnah], 'THE LAST AGENT [and not 'the second'] you may conclude that he may appoint another agent. What you should ask, however, is whether, when he appoints an agent, he does so before a Beth din or even without a Beth din. They said to him: We have no need to ask this, since [the Mishnah] says, HE SAYS, I AM THE MESSENGER OF THE BETH DIN. R. Nahman b. Isaac reported the discussion thus: The Rabbis said to Abimi the son of R. Abbahu: Enquire of R. Abbahu, When the agent of the original bearer appoints a second agent, does he do so before the Beth din or even without the Beth din? — He replied: You ought to ask [first] whether he can appoint a second agent at all. They said: This we have no need to ask, since the Mishnah speaks of 'THE LAST AGENT, which shows that the second bearer can appoint a third. What, however, we want to know is whether he must do so before the Beth din or whether he does not need the Beth din. He said to them: This also you need not ask, since it says, HE SAYS, I AM THE MESSENGER OF THE BETH DIN. Rabbah said: A bearer in Eretz Yisrael can appoint any number of further bearers<sup>5</sup> [without needing any Beth din].<sup>6</sup> R. Ashi said: If the first one dies,<sup>7</sup> they all cease to function. Mar son of R. Ashi said: This statement of my father dates from his youth.<sup>8</sup> If the husband dies, is there any substance left in them? From whom do they all derive their status? From the husband. As long as the husband is alive, they are all agents; if the husband dies they all cease to be agents.

A certain man wanted to send a Get to his wife. The messenger said to him, I do not know her. So the husband said to him, Go and give it to Abba b. Manyumi who knows her, and he will go and give it to her. The man took the Get,<sup>9</sup> but did not find Abba b. Manyumi [in town]. He found R. Abbahu and R. Hanina b. Papa and R. Isaac Nappaha [sitting as a Beth din] with R. Safra also present. They said to him: Transmit your commission to us, so that when R. Abba b. Manyumi comes we can give him [the Get] and he can go and give it to the woman. Said R. Safra to them: But this man has not been made an agent for effecting the divorce?<sup>10</sup> They were nonplussed. Said Raba: R. Safra tripped up<sup>11</sup> three ordained Rabbis. R. Ashi, however, said: How did he trip them up? Did the husband say to the man, Abba b. Manyumi [shall deliver the Get] and not you?<sup>12</sup> According to another version, Raba said: R. Safra thinks he has tripped up, but he is mistaken, three ordained Rabbis. Said R. Ashi: Where is the mistake? What did the husband say to the bearer? 'Abba b. Manyumi [shall give it] and not you.'<sup>13</sup>

A certain man sent a Get to his wife, telling the bearer not to give it to her till thirty days had passed. Before the thirty days had passed, the man found he could not carry out the commission. He

therefore consulted Raba. Said Raba: Why is a bearer who falls ill [allowed to appoint another bearer]? Because he is prevented by circumstances [from carrying out his commission]. This man also is prevented by circumstances [from carrying out his commission]. So he said to the man: Transmit your commission to us, so that after thirty days we can appoint a bearer who will give the Get to the wife. Said the Rabbis to Raba: But he is not [at this moment] commissioned to effect the divorce? — He replied: Since he can divorce her after thirty days, he is practically [now] an agent commissioned to divorce her. They rejoined: Do we not take account of the chance that the husband may have made friends with her [within the thirty days]? Have we not learnt: ‘[If a man says, This is a Get] from now onward if I do not come within twelve months, if he dies within the twelve months, it is a Get,’<sup>14</sup> and in discussing this we raised the question. Do we not take account of the chance that he may [in the meantime] have made friends with her, and Rabba son of R. Huna said: Abba Mari has explained in the name of Rab that this applies to the case where the husband says [on handing the Get to the agent].<sup>15</sup> ‘Her word is to be accepted if [on being challenged] she says, I did not come [near him within the twelve months]’?<sup>16</sup> Raba was nonplussed. Later it turned out that the woman in this case was only betrothed. Raba thereupon said: If they said in regard to a married woman [that there is a chance of his making it up with her], it does not follow that they said so in regard to a betrothed woman.<sup>17</sup>

Said Raba: The real question is this.

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- (1) The validity of the Get was apparently made conditional upon the carrying out of the procedure.
  - (2) Resh Lakish is of the opinion that the husband did not intend his instructions to be treated as strict orders of procedure.
  - (3) Var. lec., ‘He appoints a court and sends it on (by another agent)’.
  - (4) And therefore presumably the Get is in order.
  - (5) I.e., the second may appoint a third, and so forth.
  - (6) Since the first need not declare, ‘In my presence it was written etc.,’ the last need not declare, ‘I am the messenger of the Beth din’. [Rabbah (Var. lec. Raba) extends the ruling of the Mishnah to Eretz Yisrael where it might be maintained the second could not appoint a third since his own appointment need not necessarily have been made in the presence of a Beth din (Trani)].
  - (7) Before the Get was delivered to the woman.
  - (8) And is open to criticism.
  - (9) Lit., ‘came’.
  - (10) But only for giving the Get to Abba b. Manyumi, and therefore he cannot hand it to another.
  - (11) Lit., ‘hamstrung’.
  - (12) ‘Was not therefore the bearer also an agent for delivering the Get?’
  - (13) And therefore he was no agent for delivering the Get.
  - (14) *Infra* 76a.
  - (15) Whom he commissioned to hand over the Get to the wife at the end of the twelve months.
  - (16) But otherwise we do take this chance into account, and the man is not an agent for divorcing her.
  - (17) And the man therefore is an agent and can commission us.

### **Talmud - Mas. Gittin 30a**

When the Beth din appoint an agent, do they do so in the presence of the original agent or not in his presence? He himself decided the matter [saying]: They can do so either in his presence or not. [A message] was sent from there [Eretz Yisrael]: [They may do so] either in his presence or not in his presence.

A certain man once said: This shall be a Get if I do not come within thirty days. He did come, but could not get across the river, so he cried out, ‘See, I have come, see, I have come.’ Samuel said: This is no ‘coming’.<sup>1</sup>

A certain man said to the Beth din, If I do not make it up with her in thirty days, it will be a Get. He went and tried to make up with her, but she would not be reconciled. Said R. Joseph: Has he offered her a bag<sup>2</sup> of gold coins and yet not been able to appease her?<sup>3</sup> According to another version, R. Joseph said: Must he offer her a bag of gold coins? He has done his best to make it up with her, but she would not be reconciled. [The latter version] fits in with the view that in the matter of a Get allowance is made for circumstances over which one has no control,<sup>4</sup> and the [former] with the view that no such allowance is made. MISHNAH. IF A MAN LENDS MONEY TO A PRIEST OR A LEVITE OR A POOR MAN ON CONDITION THAT HE CAN RECOUP HIMSELF FROM THEIR DUES,<sup>5</sup> HE MAY DO SO, IN THE PRESUMPTION THAT THEY ARE STILL ALIVE, AND HE DOES NOT TAKE INTO ACCOUNT THE CHANCE THAT THE PRIEST OR THE LEVITE MAY HAVE DIED OR THE POOR MAN MAY HAVE BECOME RICH. IF [HE KNOWS THAT] THEY HAVE DIED, HE MUST OBTAIN THE PERMISSION OF THE HEIRS. IF HE MADE THE LOAN IN THE PRESENCE OF THE BETH DIN, HE NEED NOT OBTAIN PERMISSION FROM THE HEIRS.

GEMARA. [Can he do this] even if the dues have not come into the hands [of those who are entitled to them]?<sup>6</sup> — Rab said: [The Mishnah speaks of] priests and Levites with whom he is familiar.<sup>7</sup> Samuel says: He conveys possession to them through a third party.<sup>8</sup> ‘Ulla said: This ruling is based on the view of R. Jose, who said that [in many places] possession is reckoned to have been acquired though strictly speaking it has not been acquired.<sup>9</sup> [The reason why] all [the authorities] do not concur with Rab is because the Mishnah does not mention [the man's] acquaintance. [The reason why] all do not concur with Samuel is because the Mishnah does not mention transferring possession. [The reason why] all do not concur with ‘Ulla is because we do not base a ruling on the opinion of an individual [Rabbi].<sup>10</sup>

Our Rabbis have taught: ‘If a man lends money to a priest or a Levite or a poor man, on condition that he may recoup himself from their dues, he may do so in the presumption that they are still alive. He may stipulate with them to get the benefit of a lower market price,<sup>11</sup> and this is not reckoned as taking interest. The seventh year does not release it. If he desires to retract, he is not permitted to do so. If he gave up all hope of recovering<sup>12</sup> [but afterwards found that he could recover],<sup>13</sup> he does not appropriate any dues [in payment of the debt]. because dues are not set aside from that which has been given up as lost.’

The Master says: ‘He may stipulate to get the benefit of a lower market price.’ Surely this is self-evident?<sup>14</sup> — He informs us that even though he did not stipulate this expressly, he is reckoned as having done so.

‘This is not reckoned as interest’: why so? — Since when he has nothing he does not give, when he has something [and gives less]<sup>15</sup> this is not counted as interest.

‘The seventh year does not release it’: because we do not apply here the verse, he shall not press.<sup>16</sup>

‘If he desires to retract, he is not permitted’: R. Papa said: This rule applies only to the owner vis-a-vis the priest, but if the priest wants to retract, he may, as we have learnt:<sup>17</sup> If he [the purchaser] has given him [the seller] money but has not yet pulled into his possession the produce, he can retract.<sup>18</sup>

‘If the owner has given up all hope of recovering he does not appropriate any dues, because dues are not set aside from that which has been given up as lost’: Is not this obvious? — It required to be stated for the case where the corn was in stalk [before it was blighted]. You might think that in that case the corn is counted as something [of value].<sup>19</sup> Now I know [that this is not so].



It has been taught: R. Eleazar b. Jacob says: If a man lends a priest or a Levite money in the presence of the Beth din and they die [before repaying], he sets aside dues for them as belonging to the whole tribe [and recovers therefrom].<sup>20</sup> [If he lent] to a poor man before the Beth din and he died, he sets aside dues for him as belonging to the poor of Israel [and recovers therefrom]. R. Ahi said: As belonging to all the poor.<sup>21</sup> What is the practical difference between them?

(1) Because allowance is not made in the case of a Get for unforeseen circumstances, or, if it is, this circumstance, not being unusual, should have been provided for.

(2) Lit., 'a tarkabful (two kabs)'.

(3) I.e., has he done his very best?

(4) I.e., he can plead that he has not a bag of gold coins.

(5) Lit., 'that he may set apart for them what would be their share', i.e., instead of paying them their dues, heave-offering, tithe, or poor-man's tithe, respectively, he would utilize them as part or whole payment of his debt. He would sell the heave-offering to another priest, since it is forbidden to a lay Israelite, whilst he would retain the tithe or poor-man's tithe for himself, after having set aside the 'heave-offering of the tithe' which too is forbidden to a lay Israelite.]

(6) Because in this case they do not yet belong to them, so how can they be given back in payment of the debt?

(7) Makkire Kehunah, lit., 'acquaintances of priesthood', to whom he is accustomed to give the dues year by year, so that they have a presumptive ownership without having handled the dues; v. B.B. (Sonc. ed.) p. 513, n. 11.

(8) I.e., he transfers the dues, after setting them aside, to a third party on their behalf, and the latter returns them to him in payment of the debt.

(9) V. infra 59b, and B.M. 12b.

(10) Such as R. Jose here, where the majority do not concur with him.

(11) I.e., if at the time when he sets aside the dues the price is lower than when he lent the money, he may give himself the benefit of the drop by appropriating a larger amount of produce.

(12) Because his corn appeared to be blighted. and the condition was that he should recoup himself from the crop of that year.

(13) Because he obtained a harvest after all.

(14) What objection can there be to such a proceeding? V. B.M. 72b.

(15) I.e., keeps more for himself

(16) Deut. XV, 2; since he cannot claim anything from the debtors.

(17) V. B.M. 44a.

(18) The owner is regarded as purchasing the dues from the priest or Levite. The latter has received the money, but the former has not yet handled the goods.

(19) Because if the corn was in the stalk it has a chance of recovering.

(20) The rest of the tribe being regarded as his heirs, and so liable for the debt.

(21) Lit., 'the Poor of the world'.

## Talmud - Mas. Gittin 30b

— Where there are Cuthean poor.<sup>1</sup> If the poor man became rich, he does not set aside dues for him, and that man becomes possessor of what he has.<sup>2</sup> Why did the Rabbis safeguard [the lender] in the case of the poor man dying<sup>3</sup> and not in the case of his becoming rich?<sup>4</sup> — It is a common thing for people to die, but not to become rich.<sup>5</sup> R. Papa said: This is borne out by the common saying: 'If [you hear that] your neighbour has died, believe it: if [you hear that] he has become rich, do not believe it.'

IF HE DIES, HE MUST OBTAIN PERMISSION FROM THE HEIRS. It has been taught: Rabbi says. Heirs that have inherited. Are there any heirs that do not inherit? — R. Johanan explained it to mean heirs that inherit land<sup>6</sup> but not money.<sup>7</sup> R. Jonathan said: If he left a mere needleful<sup>8</sup> [of land], the other can recoup himself only to the extent of a needleful,<sup>9</sup> and if he left an axeful,<sup>10</sup> the other

can recoup himself to the extent of an axeful. R. Johanan said: Even if he only left a needleful he can recoup himself to the extent of an axeful,<sup>11</sup> as in the incident of the small field of Abaye.<sup>12</sup>

Our Rabbis have taught: If an Israelite says to a Levite, 'I have set aside a tithe for you.' he need not be concerned about the priest's due in the tithe.<sup>13</sup> If, however, he said, 'I have set aside a kor as tithe for you,' he has to concern himself about the priest's due in the tithe. What does all this mean? — Abaye said: It means this. If an Israelite said to a Levite, 'I have set aside tithe for you, and here is money for it', he has no need to worry lest the Levite should have made<sup>14</sup> that produce the priestly due on produce received by him from elsewhere.<sup>15</sup> If, however, he said, 'I have set aside a kor of tithe for you and here is the money for it', he has to worry lest the Levite should have [already] made it the priestly due on tithe from elsewhere.<sup>16</sup> Are we then dealing with rogues who take money and make it [the produce] priestly due on tithe from elsewhere?<sup>17</sup> — In fact, said R. Mesharsheya the son of R. Idi, [the Baraitha] means this: If the Israelite said to the son of a [deceased] Levite, I have set aside tithe for your father and here is the money for it, he need not worry lest the father had made it priestly due on tithe from elsewhere. If, however, he said, I have set aside a kor of tithe for your father and here is the money, he has to worry lest the father had made it priestly due on tithe from elsewhere.<sup>18</sup> Can we then suspect Haberim<sup>19</sup> of setting aside the priestly due from produce in another place?<sup>20</sup> — In fact, said R. Ashi, it means this: If a son of a [deceased] Israelite says to a Levite, My father told me [before his death] that he had set aside tithe for you or for your father, he [the Levite] has to worry about the priest's due in it, since as [the quantity is] indefinite, the owner's father may not have made it available for ordinary use [by setting aside the priestly due in it]. If, however, he says, I have a kor of tithe set aside for you or for your father, there is no need to worry lest the priestly due is still contained in it, since as [the quantity] is definite, he may be sure that the owner made it right [before his death]. But has the owner the right to set aside the terumah from the Levite's tithe? — Yes. Such is the ruling of Abba Eleazar b. Gamala, as it has been taught: Abba Eleazar b. Gamala says. It is written, And your heave-offering shall be reckoned to you.<sup>21</sup>

(1) And in the opinion of the first Tanna, the Samaritans were not genuine proselytes and could not inherit the poor man who died.

(2) I.e., he need not repay the debt.

(3) By allowing him to set aside dues and recover.

(4) By not forcing the poor man to repay, although he is no longer entitled to any dues.

(5) And we do not legislate for exceptional cases.

(6) Who are thus liable to pay their father's debts.

(7) [For a creditor cannot recover his debt from immovable property of orphans. v. B.K. 8b.]

(8) I.e., a mere patch of land.

(9) This refers to the case where the loan was made before the Beth din. V. Tosaf. s.v. תניא .

(10) I.e., enough to be worth working.

(11) I.e., the amount of his debt.

(12) V. Keth. 91b. A man who owed a hundred zuz left a field worth fifty. The creditor seized it and the heirs induced him to quit it by paying fifty. He again seized it and they again paid. So here, he recovers again and again.

(13) V. Num. XVIII, 26, according to which the Levite had himself to set aside a tithe from his own tithe for the priest.

(14) [As soon as he had made it over to the owner, before he actually received the money.]

(15) Because it was not yet specified.

(16) Because it is specific.

(17) [Before they receive the money. and so prevent the Israelite from using it. V. Tosaf. s.v. הילך .]

(18) After learning that the kor had been set aside for him.

(19) V. Glos., s.v. Haber. All Levites were presumed to be Haberim.

(20) Lit., 'from that which is not brought near'. It was forbidden to a Haber to say. 'The produce which I have in such-and-such a place shall be terumah for this before me, for fear that produce is not extant at the time.

(21) Num. XVIII, 27.

## Talmud - Mas. Gittin 31a

Scripture speaks of two heave-offerings, one the 'great terumah'<sup>1</sup> and the other the terumah from the Levite's tithe. Just as the 'great terumah' is set aside by estimate<sup>2</sup> and by intention,<sup>3</sup> so the terumah of the tithe is set aside by estimate and by intention; and just as the owner has the right to set aside the 'great terumah', so he has the right to set aside the terumah of the tithe.<sup>4</sup>

MISHNAH. IF A MAN SETS ASIDE PRODUCE WITH THE IDEA OF RECKONING IT AS TERUMAH AND TITHE,<sup>5</sup> OR MONEY WITH THE IDEA OF RECKONING IT AS SECOND TITHE,<sup>6</sup> HE CAN GO ON SO RECKONING IN THE PRESUMPTION THAT THEY ARE STILL EXISTING. IF THEY ARE LOST, HE HAS TO PROVIDE AGAINST THE RISK<sup>7</sup> FOR TWENTY-FOUR HOURS.<sup>8</sup> THIS IS THE RULING OF R. ELEAZAR [B. SHAMMUA]. R. JUDAH SAYS: WINE [SO SET ASIDE] HAS TO BE EXAMINED AT THREE SEASONS OF THE YEAR:<sup>9</sup> WHEN THE EAST WIND BEGINS TO BLOW AT THE END OF THE FEAST [OF TABERNACLES], WHEN THE BERRIES FIRST APPEAR [ON THE VINE], AND WHEN THE JUICE BEGINS TO FORM IN THE GRAPES.

GEMARA. What is meant by FOR TWENTY-FOUR HOURS? — R. Johanan says: The twenty-four hours before his examining.<sup>10</sup> R. Eleazar b. Antigonus says in the name of R. Eleazar son of R. Jannai:

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(1) V. Glos.

(2) It was not necessary to measure out the fiftieth part usually given for the terumah.

(3) A man could mentally set aside one portion of a heap of produce as terumah and immediately eat of the rest.

(4) Even before giving it to the Levite.

(5) Lit., 'of setting aside on their account', i.e., with the idea of making it terumah or tithe for other produce.

(6) The tithe which had to be turned into money to be spent in Jerusalem. V. Deut. XIV, 22-27.

(7) That he may have been eating untithed produce in reliance on the produce which has been lost.

(8) The meaning of this is discussed in the Gemara.

(9) To see that it has not turned sour.

(10) I.e., he can assume that it has been lost not more than twenty-four hours, and he puts aside fresh tithe etc. only for what he has consumed in that period.

## Talmud - Mas. Gittin 31b

The twenty-four hours from his setting aside. We learnt: IF THEY ARE LOST, HE PROVIDES AGAINST THE RISK FOR TWENTY-FOUR HOURS. If this means twenty-four hours from his last examination, the expression is intelligible.<sup>1</sup> But if it means twenty-four hours from the setting-aside, it should say not for twenty-four hours but up to twenty-four hours,<sup>2</sup> should it not? — This is a difficulty.

THIS IS THE RULING OF R. ELEAZAR [B. SHAMMU'A]. R. Eleazar [b. Pedath] Says: R. Eleazar's colleagues did not concur with him, as we have learnt: 'If a ritual bath was measured and found to be too small, all the purifications that have been made in it, whether it is in a private or a public placed are retrospectively ineffective.'<sup>3</sup> Cannot I see for myself that they do not concur?<sup>4</sup> — But for R. Eleazar, I might think that 'retrospectively' means 'for twenty-four hours back'. Now I know [that this is not so].

R. JUDAH SAYS, AT THREE SEASONS OF THE YEAR etc. A Tanna taught: when the east wind [blows] at the conclusion of the festival in the cycle of Tishri.<sup>5</sup> It has been taught: R. Judah says: Produce is sold at three seasons of the year — before sowing time, at sowing time,<sup>6</sup> and shortly before<sup>7</sup> Passover. Wine is also sold at three seasons — shortly before Passover, shortly before

Pentecost, and shortly before Tabernacles. Oil is sold from Pentecost onwards. What is the legal bearing of this remark? — Raba, or, some say R. Papa says: As a guide to partners.<sup>8</sup> After that, what is the rule? — Raba said: Every day is the season [for selling it].

And it came to pass when the sun arose that the Lord prepared a sultry East wind [harishith].<sup>9</sup> What is the meaning of harishith? — Rab Judah said: When it blows it makes furrows in the sea.<sup>10</sup> Said Rabbah to him: If that is so, what do you make of the words, And the sun beat upon the head of Jonah that he fainted?<sup>11</sup> No, said Rabbah; [what it means is that] when it blows it stills all other winds.<sup>12</sup> Similarly it is written, How thy garments are warm when the earth is still by reason of the south wind,<sup>13</sup> [in explanation of which] R. Tahlifa son of R. Hisda said in the name of R. Hisda: When are thy garments warm? When He maketh the earth still from the south; for when the wind from this quarter blows, it stills all other winds before it.

R. Huna and R. Hisda were once sitting together when Geniba passed by them. Said one of them: Let us rise before him, for he is a learned man. Said the other: Shall we rise before a quarrelsome man?<sup>14</sup> When he came up to them he asked them what they were discussing. They replied: We were talking about the winds. He said to them: Thus said R. Hanan b. Raba in the name of Rab: Four winds blow every day and the north wind blows with all of them, for were it not so the world would not be able to exist for a moment. The south wind is the most violent of all, and were it not that the Son of the Hawk<sup>15</sup> keeps it back, it would devastate the whole world; for so it says, Doth the hawk soar by thy wisdom, and stretch her wings towards the south?<sup>16</sup>

Raba and R. Nahman b. Isaac were once sitting together, when R. Nahman b. Jacob passed by in a gilt carriage and wearing a purple cloak. Raba went to meet him, but R. Nahman b. Isaac did not stir, for he said: 'Perhaps it is one of the court of the Exilarch, and Raba needs them but I do not.'<sup>17</sup> When he saw R. Nahman b. Jacob approaching he bared his arm and said, 'The south wind<sup>18</sup> is blowing.' Raba said: Thus said Rab: A woman bears prematurely [when this wind blows]. Samuel said: Even pearls in the sea rot away. R. Johanan said: Even the seed in a woman's womb putrefies. Said R. Nahman b. Isaac: All these three Rabbis derived their statements from the same verse of Scripture, viz., Though he be fruitful among his brethren, an east wind shall come, the breath of the Lord coming up from the wilderness, and his spring shall become dry and his fountain shall be dried up, he shall spoil the treasure of all pleasant vessels.<sup>19</sup> 'The spring' is the source of a woman; 'the fountain shall be dried up' refers to the seed in the woman's womb; 'the treasure of all pleasant vessels' is the pearl in the sea.

Raba said: This one comes from Sura where they examine the Scripture minutely. What is the meaning of the words, 'Though he be fruitful [yafri] among his brethren'? — Raba said: Even

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(1) He assumes that it was lost twenty-four hours after he set it aside, and must put aside fresh tithe etc. for all he has consumed in the interval.

(2) Reckoning backwards.

(3) And not only for twenty-four hours back, Mik. II, 2.

(4) With R. Eleazar in our Mishnah.

(5) The year was divided into the four tekufoth or cycles — of Tishri. Tebeth. Nisan and Tammuz — each of which commenced on a fixed date of the solar year. Tabernacles fell sometimes in the cycle of Tishri and sometimes in that of Tammuz; v. Sanh. (Sonc. ed.) p. 49, n. 5.

(6) At the end of sowing time. V. Tosaf. s.v. **לפני**.

(7) Lit., 'in the dividing of,' i.e., in the middle of the period during which the laws of the festival were compounded.

(8) I.e., at these seasons a man may sell without consulting his partner, and if the price subsequently rises the latter has no ground of complaint against him.

(9) Jonah IV. 8.

(10) The word harishith being connected with harsh, 'to plough'.

- (11) Ibid. This shows that the wind cannot have been violent.
- (12) Harishith being connected with harash, 'to be still'.
- (13) Job XXXVII, 17.
- (14) Geniba was at variance with Mar 'Ukba, the Exilarch. V. supra p. 23, n. 4.
- (15) An angel so named. Cf. B.B. 25a.
- (16) Job XXXIX. 26.
- (17) Being the son-in-law of the Exilarch (Rashi). [Tosaf.: 'Being a wealthy man'; Tosaf. being of the opinion that it was R. Nahman b. Jacob who was the Exilarch's son-in-law. For an explanation of Rashi's view, v. Hyman. Toledoth II p. 930.]
- (18) Al. 'east wind'. Al. 'a she-devil'.
- (19) Hos. XIII, 15.

## Talmud - Mas. Gittin 32a

the pin in the handle of the plough<sup>1</sup> becomes loose [rafia]. R. Joseph said: Even a peg in a wall becomes loose. R. Aha b. Jacob said: Even a cane in a wicker basket becomes slack.<sup>2</sup>

### CHAPTER IV

MISHNAH. IF A MAN AFTER DISPATCHING A GET TO HIS WIFE MEETS THE BEARER, OR SENDS A MESSENGER AFTER HIM, AND SAYS TO HIM, THE GET WHICH I HAVE GIVEN TO YOU IS CANCELLED, THEN IT IS CANCELLED. IF THE HUSBAND MEETS THE WIFE BEFORE [THE BEARER] OR SENDS A MESSENGER TO HER AND SAYS, THE GET I HAVE SENT TO YOU IS CANCELLED, THEN IT IS CANCELLED. ONCE, HOWEVER, THE GET HAS REACHED HER HAND, HE CANNOT CANCEL IT. IN FORMER TIMES A MAN WAS ALLOWED TO BRING TOGETHER A BETH DIN<sup>3</sup> WHEREVER HE WAS AND CANCEL THE GET. RABBAN GAMALIEL THE ELDER, HOWEVER, LAID DOWN A RULE THAT THIS SHOULD NOT BE DONE, SO AS TO PREVENT ABUSES.<sup>4</sup>

GEMARA. [The Mishnah] does not say 'meets him,' but simply 'MEETS', that is to say, even accidentally; and we do not say in that case that he merely desires to annoy his wife.<sup>5</sup> OR SENDS A MESSENGER AFTER HIM etc. Why state this?<sup>6</sup> — You might think that the commission given to the second has no more force than that given to the first and therefore should not countermand it. Now I know [that this is not so]. IF HE MEETS HIS WIFE BEFORE THE BEARER etc. Why state this? — You might think that although we rejected [above the idea] that he desires to annoy [his wife], this is only when he says to the bearer [that the Get is cancelled], but [if he says so] to [the wife] herself he certainly does mean merely to annoy her. Now I know [that this is not so]. OR SENDS A MESSENGER TO HER. Why state this? — You might think that while he would not put himself out merely to annoy her, yet if he sends a messenger, to whose trouble he is indifferent, he certainly desires merely to annoy her. Now I know [that this is not so]. ONCE THE GET HAS REACHED HER HAND HE CANNOT CANCEL IT. Is not this self-evident? — It required to be stated in view of the case where he made efforts from the very first to cancel it. You might think that in this case, subsequent events prove him to have actually annulled [the Get]. Now I know [that this is not so]. Our Rabbis have taught: [If he says,] 'It is canceled [batel]', 'I don't want it,' his words take effect. [If he said,] 'It is invalid', 'it is no Get,' his words are of no effect.<sup>7</sup> This means to say, does it not, that the expression batel<sup>8</sup> is equivalent to 'let it be canceled.'<sup>9</sup> How can this be, seeing that Rabbah b. Aibu has said in the name of R. Shesheth (or, according to others, Rabbah b. Abbuah said), If the recipient of a gift says after it has come into his possession. 'This gift is to be cancelled,' 'let it be cancelled', 'I don't want it,' his words are of no effect,<sup>10</sup> but if he said, 'It is canceled [batel],' 'it is no gift', his words have effect. This shows, does it not, that batel means 'cancelled from the outset'?<sup>11</sup> — Abaye replied: The expression batel

(1) Which fastens the handle to the blade.

(2) The meaning is that this wind causes things which are usually closely united like brothers to fall apart, the word yafri (פּרִי) being interpreted as yarfi (רַפֵּה) 'loosens' or 'slackens'.

(3) I.e., three persons.

(4) Lit., 'for the better ordering of society'. Lest the bearer should give it to her in ignorance that it was annulled and she marry on the strength of it.

(5) By holding up the Get for a month or two; for had he been intent on annulling it he would have made a special effort to overtake the bearer.

(6) It seems self-evident.

(7) Because he is describing its character wrongly.

(8) Present tense.

(9) And not a description of its character.

(10) [As he cannot by a mere declaration annul a thing already in his possession].

(11) [And therefore the gift had never passed into possession. Applying this mutatis mutandis in the case of a Get, batel should have no effect, because it is a wrong description of the character of the Get].

## Talmud - Mas. Gittin 32b

has two meanings: it means 'canceled already' and it means 'will be canceled'. If used either of a Get or of a gift, it is used in the sense most effective for the purpose.

Abaye said: We have it on authority that the bearer of a gift is on the same footing as the bearer of a Get. The outcome of this [principle] is that the expression 'take' has not the same force as 'take on behalf of.'<sup>1</sup>

Rabina found R. Nahman b. Isaac leaning against the bolt of the door and revolving the question: What of the expression 'batel'?<sup>2</sup> This was left unanswered. R. Shesheth said or, according to others, it has been laid down in a Baraitha: [If a man said] 'This Get shall not avail', 'shall not release [the woman]', 'shall not part',<sup>3</sup> 'shall not dismiss', 'shall not divorce', 'let it be a potsherd', 'let it be like a potsherd,' his words take effect.<sup>4</sup> If he said, 'It does not avail', 'it does not free', 'it does not part', 'it does not dismiss', 'it does not divorce', 'it is a potsherd', 'it is like a potsherd', his words are of no effect.<sup>5</sup> The question was raised: What of the expression 'Behold it is a potsherd'? — Rabina said to R. Aha the son of Raba, or, according to others, R. Aha the son of Raba said to R. Ashi: How does this differ from the expression, 'Behold it is sanctified', 'behold it is common property'?<sup>6</sup>

Can the man afterwards [use the same Get to] divorce with or not? — R. Nahman says that he may use it again to divorce with, R. Shesheth says he may not. The law is according to the ruling of R. Nahman. Is that so? Has it not been laid down that the law [in the case of a betrothed woman] is according to the ruling of R. Johanan, who said that she may retract?<sup>7</sup> — Are [the two cases] parallel? There it is a case of words merely on each occasion: one set of words comes and cancels another.<sup>8</sup> Here, even granted that the husband cancels the commission of the bearer, he surely does not cancel the Get itself.

IN FORMER TIMES etc. It has been stated: How many must be present at the cancelling? — R. Nahman says two, R. Shesheth says three. R. Shesheth says three, because the Mishnah speaks of a 'BETH DIN'; R. Nahman says two, because two are also called a Beth din. Said R. Nahman: What is my ground for saying this? Because we have learnt: ' [He says:] I hand over in the presence of you

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(1) I.e., if a man says. Take this gift to So-and-so, the bearer does not become a recipient, and the giver may still retract, even as in the case of a Get.

(2) Without the words 'it is'.

(3) Lit., 'will not cause to leave'.

(4) Because he is correctly stating his intention.

(5) Because he is wrongly describing the Get.

(6) Which does take effect.

(7) If a man said to her, 'Be betrothed to me at the end of thirty days' time with this money,' and she consented, she may retract within the thirty days. Just as the betrothal is there cancelled, so the Get should be here.

(8) Her 'I will not' cancels her 'I will'.

## Talmud - Mas. Gittin 33a

So-and-so and So-and-so the judges in such-and-such a place.'<sup>1</sup> And R. Shesheth? — [He may rejoin:] Is the Tanna to reckon them out like a pedlar selling his wares?<sup>2</sup> Said R. Nahman [again]: What is my ground for saying so? Because we have learnt: 'And the judges sign below or the

witnesses.’<sup>3</sup> Are not the judges here placed on a par with the witnesses, so that just as two witnesses suffice, So two judges suffice? And R. Shesheth? — [He can reply:] Is this an argument? Judges and witnesses each follow their own rule. [And if you ask] why [the Mishnah] mentions both witnesses and judges, it is to teach us that it makes no difference if they word the document as judges<sup>4</sup> and then sign as witnesses or if they word the document as witnesses<sup>5</sup> and then sign as judges.

TO PREVENT ABUSES, What is referred to? — R. Johanan said: To prevent illegitimacy. Resh Lakish said: To prevent wife-desertion. ‘R. Johanan said to prevent illegitimacy,’ for he held with R. Nahman who said [that the Get could be cancelled] before [a Beth din of] two: [the proceedings] of two are not generally known, so she, not having heard and not knowing [that the Get is cancelled] might go and marry again, and bear illegitimate children.<sup>6</sup> ‘Resh Lakish said to prevent wife-desertion,’ for he again held with R. Shesheth who said [that he has to cancel it] before [a Beth din of] three. The proceedings of three are generally known, so she hearing and knowing [that the Get was cancelled] would remain unmarried, and we have therefore to save her from being a deserted wife.<sup>7</sup>

Our Rabbis have taught: If [the husband] did cancel [the Get before a Beth din] it is cancelled.<sup>8</sup> This is the ruling of Rabbi. Rabban Simeon b. Gamaliel, however, says that he can neither cancel it nor add any additional conditions, since if so, what becomes of the authority of the Beth din?<sup>9</sup> And is it possible then, that where a Get is according to the Written Law cancelled we should, to save the authority of the Beth din, [declare it valid and] so allow a married woman to marry another? — Yes. When a man betroths a woman, he does so under the conditions laid down by the Rabbis, and in this case the Rabbis annul his betrothal. Said Rabina to R. Ashi: This is quite right if the husband had originally betrothed his wife with money.<sup>10</sup> But if he had betrothed her by the act of marriage,<sup>11</sup> what can we say? — The Rabbis declared the act of marriage to be retrospectively nonmarital.

Our Rabbis have taught: ‘If a man said to ten persons, Write a Get for my wife,<sup>12</sup> he can countermand the order to each of them separately.<sup>13</sup> This is the ruling of Rabbi. Rabban Simeon b. Gamaliel, however, says that he can only countermand the order when they are together.’<sup>14</sup> What is the point at issue between them? — The point at issue is whether if part of an evidence has been nullified the whole of it is nullified. Rabbi was of opinion that if part of an evidence has been nullified

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(1) Sheb. X, 14, v. infra 36a in connection with the probul.

(2) I.e., the fact that he says twice ‘So-and-so’ is of no significance.

(3) Ibid.

(4) I.e., ‘We, So-and-so, acting as a Beth din.’

(5) I.e., ‘This is a record of the testimony given before us . . .’

(6) Heb. Mamzerim, v. Glos.

(7) Hence the enactment of R. Gamaliel the Elder.

(8) In spite of the regulation of Rabban Simeon b. Gamaliel.

(9) Lit., ‘how is the power of the Beth din (left) unimpaired.’ The Beth din of Rabban Gamaliel which made the regulation.

(10) Because the Beth din can declare the money he gave her as kiddushin, public property (hefker,) v. infra 36b.

(11) V. Kid. 2a.

(12) In which case one writes and two sign. Infra 66b.

(13) In spite of the regulation of Rabban Gamaliel.

(14) As to do otherwise would be to disregard the regulation.

## Talmud - Mas. Gittin 33b

the whole of it is not nullified. If therefore those [who have not heard the order countermanded] go



and write [the Get] and give it to her, their action is quite proper.<sup>1</sup> Rabban Simeon b. Gamaliel was of opinion that if part of an evidence is nullified the whole is nullified. [If therefore] those [who] do not know [that the order is countermanded] go and write [the Get] and give it to her, then they are enabling a married woman to marry again. Or if you like I can say that both Rabbi and Rabban Simeon b. Gamaliel are agreed that if part of an evidence is nullified the whole is not nullified, and the reason of Rabban Simeon b. Gamaliel here is that in his opinion a thing which is done in the presence of ten can only be undone in the presence of ten.<sup>2</sup>

The question was raised: Suppose he said ‘All of you write,’<sup>3</sup> what are we to say?<sup>4</sup> Do we say that the reason of Rabban Simeon b. Gamaliel [for forbidding in the case where he did not say ‘all of you’] is that in his opinion if part of an evidence is nullified the whole is nullified,<sup>5</sup> and since he said to these ‘all of you,’ they cannot write the Get and give it [without these two],<sup>6</sup> or is his reason that in his opinion a thing which has been done in the presence of ten can only be undone in the presence of ten, and therefore even if he said ‘all of you’ [he can only countermand the order when they are all together]?<sup>7</sup> — Come and hear: If a man said to two persons, Give a Get to my wife, he can countermand the order to one without the other. This is the ruling of Rabbi. Rabban Simeon b. Gamaliel, however, says that he can only countermand it to both of them together.<sup>8</sup> Now two here are equivalent to ‘all of you,’<sup>9</sup> and yet we see that Rabbi and Rabban Simeon differ?<sup>10</sup> — Said R. Ashi: If the two are witnesses to the Get, then Rabban Simeon would also admit [that he can countermand separately].<sup>11</sup> Here, however, we are dealing with witnesses to the taking of the Get.<sup>12</sup> This opinion is borne out by the conclusion of the passage quoted: ‘If he told each of them separately [in the first instance], he can countermand to them separately.’<sup>13</sup> For if you say that it speaks of witnesses to the taking of the Get, this is intelligible.<sup>14</sup> But if you say that it speaks of the witnesses to the writing of the Get, how can these be joined together [if they were at first separate]? Has not the Master said: ‘Their [separate] evidences are not combined [to form a whole]; they must both see [the event] together’?<sup>15</sup> — [This, however, is not conclusive], since perhaps [the teaching quoted] follows the view of R. Joshua b. Korhah.<sup>16</sup>

R. Samuel b. Judah said: I have heard R. Abba give rulings on both [these points],<sup>17</sup> one following Rabbi and the other following Rabban Simeon b. Gamaliel, but I do not know which one follows Rabbi and which Rabban Simeon b. Gamaliel. Said R. Joseph: We are able to throw light on this. For when R. Dimi came [from Palestine], he reported to us that Rabbi once in an actual case decided according to the ruling of the Sages,<sup>18</sup> and R. Parta the son of R. Eleazar b. Parta and the grandson of the great R. Parta said to him: If that is so, what authority do you leave to the Beth din,<sup>19</sup> and Rabbi thereupon reversed his decision and followed the ruling of R. Simeon b. Gamaliel.<sup>20</sup> And since the ruling in this case follows Rabban Simeon b. Gamaliel,<sup>21</sup> in the other it follows Rabbi. R. Josiah from Usha was also of opinion that the ruling in one case followed the opinion of Rabbi and in the other of Rabban Simeon b. Gamaliel. For Rabbah b. Bar Hanah said: We were sitting five elders before R. Josiah from Usha and a certain man came before him whom he compelled to give a Get against his will, and he said to them [the witnesses, after compelling him], Go and conceal yourselves [from him] and write her [the Get]. Now if you assume that he ruled according to the opinion of Rabbi, if they did conceal themselves what difference did it make?<sup>22</sup> This shows that [in this point] he followed Rabban Simeon b. Gamaliel. But should you assume further that in the other point also he held with Rabban Simeon b. Gamaliel, [we can ask,] why should they have hidden themselves? It would have been sufficient if they had separated.<sup>23</sup> This shows that he held with Rabbi in regard to one point and with Rabban Simeon b. Gamaliel in regard to the other. Raba, however, said in the name of R. Nahman that the halachah follows Rabbi in both points. But does not R. Nahman hold that the authority of the Beth din must be upheld? Did not R. Nahman say in the name of Samuel,

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(1) Because as the Get has not been annulled the regulation is not disregarded.

(2) Hence the practical difference between Rabbi and Rabban Simeon b. Gamaliel is that according to the former he can

at least prevent any two from signing, whereas according to the latter he cannot even do this, unless he forbids them all together.

(3) In which case one must write and all sign. *Infra*, 66b.

(4) Does Rabban Simeon still forbid him from preventing one or two separately?

(5) And therefore if we allowed this harm would ensue, as the rest might sign when they had no right to do so.

(6) And therefore no harm can ensue and he may do this.

(7) And the two whom he forbids can disregard his instruction.

(8) *Tosef. Git. III.*

(9) As one cannot sign the *Get* without the other.

(10) And Rabban Simeon requires that they must all be together.

(11) Because no harm can possibly ensue, as one signature by itself is worthless.

(12) I.e., he appointed the two as bearers to take the *Get* to the wife, in which case one might take it to her without the other, being unaware that the husband had countermanded the commission.

(13) As countermanding the order to one does not affect the order to the other.

(14) Since no question of evidence arises in connection with the act of taking the *Get*.

(15) *Keth. 26b; B.B. 32a.* Similarly here both witnesses must receive in each other's presence the mandate to write the *Get*.

(16) Who holds that they need not be together.

(17) *Viz.*, the annulling of the *Get* in another place and the countermanding of one witness not in the presence of the other.

(18) That if the judges estimated an article at a sixth more or less than its real value, the sale is invalid. *Keth. 99b.*

(19) *v. supra p. 135. n. 1.*

(20) Which shows that the authority of the *Beth din* is in all cases to be upheld.

(21) *Viz.*, that the annulment in another place is ineffective, since, if not, the authority of the *Beth din* is not upheld. (*V. Tosaf. s.v. \*\**).

(22) He can find two other persons and annul it in their presence.

(23) Because he cannot countermand it to each witness separately.

## **Talmud - Mas. Gittin 34a**

'If orphans [under age] desire to divide the property left to them by their father, the *Beth din* appoints for each of them a guardian who sees that he obtains a fair share. When they grow up, however, they are able to object,' and did not R. Nahman, speaking in his own name, hold that they are not at liberty to object, because if they are, what becomes of the authority of the *Beth din*? — The question there was one of money, here it is one of a forbidden act.<sup>1</sup>

Giddal b. Re'ilai sent a *Get* to his wife. The bearer went and found her weaving. He said to her, Here is your *Get*. She said to him: Go away now at any rate and come again tomorrow. He went back to him and told him, whereupon he exclaimed, Blessed be He who is good and does good!<sup>2</sup> Abaye said, 'Blessed is He who is good and does good,' and the *Get* itself is not cancelled,<sup>3</sup> and Raba said, 'Blessed is He who is good and does good,' and the *Get* is cancelled. What is the point at issue between them? — The point at issue is the revealing of intention in respect of a *Get*. Abaye holds that the revealing of intention in respect of a *Get* makes a difference, and Raba held that it makes no difference. Said Raba: What makes me take this view? Because R. Shesheth compelled a man to consent to give a *Get*, and the man said afterwards [to the witnesses], I heard R. Shesheth say to you, 'Let the *Get* be cancelled,' and R. Shesheth forced him to give another *Get*.<sup>4</sup> And did R. Shesheth then, asked Abaye, cancel other men's bills of divorce? In fact the man himself cancelled it, and the reason why he used these words<sup>5</sup> was on account of his [R. Shesheth's] beadles.<sup>6</sup>

Said Abaye: What makes me take my view? Because Rab Judah once forced the son-in-law of R. Jeremiah Bira'ah to give his wife a *Get*, and he cancelled it, whereupon he forced him again. He cancelled it again and he again forced him to give it, and he said to the witnesses, stuff grass<sup>7</sup> into

your ears and write it.<sup>8</sup> Now if you assume that the revealing of intention makes a difference in a Get, do they not see him running after them? And Raba? — [He will reply that they may think] the reason why he ran after them was to tell them to make sure to give it to her so that he could put an end to his troubles.

Said Abaye further: What makes me take this view? Because there was a man who said to the witnesses, If I do not come within thirty days, this shall be a Get. He came on the thirtieth day, but could not get across the river,<sup>9</sup> and he called to them, 'See that I have come, see that I have come,' and Samuel said that this was no coming.<sup>10</sup> And Raba? — [He can rejoin,] In that case did he want to annul the Get? What he wanted was but to fulfil his condition, and his condition was not fulfilled.<sup>11</sup>

A certain man said [on writing a Get for his betrothed], If I do not marry her within thirty days, this shall be a Get. When the thirtieth day came, he said, See, I am busy making the preparations. Now why should we have any doubts [about the validity of the Get]? If because the man was forcibly prevented [from marrying], force majeure is no plea in regard to a Get. If again because he revealed his intention [of annulling it], on this point there is a difference of opinion between Abaye and Raba.<sup>12</sup>

A certain man said [on writing a Get for his betrothed]. If I do not marry by the first day of Adar, this will be a Get. When the first of Adar came he said, I meant the first of Sivan. Now should we have any doubts about the validity of the Get? If because he was forcibly prevented, force majeure does not invalidate a Get. If because he revealed his intention, on this point there is a difference of opinion between Abaye and Raba.<sup>13</sup>

The law<sup>14</sup> follows Nahman, and the law follows Nahman,<sup>15</sup> and the law<sup>16</sup>

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- (1) Viz., of allowing a married woman to marry again, and where this was involved the Rabbis disregarded the authority of the Beth din.
  - (2) In giving him a chance to change his mind.
  - (3) But can still be used to divorce the woman.
  - (4) Because he had made it clear that he did not desire the Get to be given.
  - (5) I.e., why he mentioned R. Shesheth.
  - (6) Who beat him and asked him why he had cancelled it. Thus according to Abaye there was here not a mere revealing of intention but an actual annulment.
  - (7) Lit., 'pumpkins'.
  - (8) That you may not hear the annulment.
  - (9) Lit., 'the ferry prevented him', as there was no ferry available for him to cross.
  - (10) This proves that his revealing of his intention to annul the Get made no difference.
  - (11) By calling 'See, I have come' he 'did not mean to annul the Get, but simply to announce that he had endeavoured to fulfil the condition which should invalidate the Get.
  - (12) According to Abaye, the revealing of his intention makes no difference, according to Raba he reveals his intention not to annul the Get but to fulfil his condition. Both, however, agree that the Get is valid.
  - (13) V. preceding note.
  - (14) That the Get can be annulled in the presence of two.
  - (15) Who said that the halachah is according to Rabbi in both points in dispute.
  - (16) In regard to the revealing of intention.

## **Talmud - Mas. Gittin 34b**

follows Nahmani.<sup>1</sup>

MISHNAH. ORIGINALLY THE HUSBAND WAS ALLOWED TO GIVE [IN THE GET] AN ADOPTED NAME<sup>2</sup> OF HIMSELF OR OF HIS WIFE, OR AN ADOPTED TOWN OF HIMSELF OR OF HIS WIFE.<sup>3</sup> RABBAN GAMALIEL THE ELDER MADE A REGULATION THAT HE SHOULD WRITE, 'THE MAN SO-AND-SO OR BY WHAT EVER NAMES HE IS KNOWN,'<sup>4</sup> 'THE WOMAN SO-AND-SO OR BY WHATEVER NAMES SHE IS KNOWN,' TO PREVENT ABUSES.<sup>5</sup>

GEMARA. Rab Judah said in the name of Samuel: The Jews from overseas sent to Rabban Gamaliel the following inquiry: If a man comes here from Eretz Yisrael whose name is Joseph but who is known here as Johanan, or whose name is Johanan but who is known here as Joseph, how is he to divorce his wife? Rabban Gamaliel thereupon made a regulation that they should write in the Get, The man So-and-so or by whatever names he is known, the woman So-and-so or by whatever names she is known, to prevent abuses.<sup>6</sup> R. Ashi said: This is necessary only if the man is known to have two [or more] names. Said R. Abba to R. Ashi: R. Mari and R. Eleazar concur with you in this. It has been taught in agreement with R. Ashi: If a man has two wives, one in Judea and the other in Galilee, and he has two names by one of which he is known in Judea and by the other in Galilee, and if he divorces his wife in Judea under the name which he bears in Judea and his wife in Galilee under the name which he bears in Galilee, the divorce is not effective: it does not become so until he divorces his wife in Judea under the name he bears in Judea with the addition of the name he bears in Galilee, and his wife in Galilee under the name he bears in Galilee with the addition of the name he bears in Judea.<sup>7</sup> If, however, he goes away to another place<sup>8</sup> and gives a divorce under one of the names only, the divorce is effective. But did you not just say, 'with the addition of the name he bears in Galilee'?<sup>9</sup> This shows that the one rule<sup>10</sup> applies where he is known [to have more than one name], and the other rule<sup>11</sup> applies where he is not known [to have more than one name].

There was a woman who was known to most people as Miriam but to a few as Sarah, and the Nehardeans ruled that [in a Get she should be referred to as] 'Miriam or any other name by which she may be called' and not 'Sarah or any other name by which she may be called.'<sup>12</sup> MISHNAH. A WIDOW HAS [BY RIGHTS] NO POWER TO RECOVER [HER KETHUBAH]<sup>13</sup> FROM THE PROPERTY OF ORPHANS SAVE ON TAKING AN OATH.<sup>14</sup> BUT THEY [THE RABBIS] REFRAINED FROM IMPOSING AN OATH ON HER.<sup>15</sup> RABBAN GAMALIEL THE ELDER THEREUPON MADE A REGULATION THAT SHE SHOULD TAKE ANY VOW<sup>16</sup> WHICH THE ORPHANS CHOSE TO IMPOSE ON HER AND SO RECOVER HER KETHUBAH. AND [SIMILARLY] WITNESSES SIGN THEIR NAMES TO A GET TO PREVENT ABUSES.<sup>17</sup> HILLEL THE ELDER ALSO INSTITUTED THE PROSBUL<sup>18</sup> TO PREVENT ABUSES.

GEMARA. Why is this rule [about an oath] laid down with reference to a widow, seeing that it applies to everybody, since it is an established rule that 'one who seeks to recover payment from the property of orphans<sup>19</sup> cannot recover save on taking an oath'?<sup>20</sup> — There is a special reason for the mention of a widow. For it might occur to you to say that

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(1) Abaye, so called because he was brought up by Rabbah b. Nahmani, who called him by the name of his father (Rashi). [According to Aruch, Abaye's real name was Nahmani after his grandfather. but he was nicknamed Abaye ('Little father') by his uncle Rabbah b. Nahmani, who had adopted him at an early age, in order to avoid confusion with his grandfather.]

(2) Lit., 'he used to change'.

(3) Supposing he had changed his residence temporarily and assumed another name.

(4) According to Tosaf., this means that all his other names should be specifically mentioned. V. Infra

(5) Lit., 'for the better ordering of society.'

(6) I.e., to prevent people in case she remarries, from saying that the first husband never divorced her.

(7) This seems to confirm the opinion of Tosaf., that all the names must be written in the Get.

(8) Neither in Judea nor Galilee.

- (9) Which shows that his other names must be included.  
 (10) That his other name must be included.  
 (11) That one name is sufficient.  
 (12) This would seem to show that the Mishnah is to be taken in its literal sense and not as interpreted by Tosaf.  
 (13) V. Glos.  
 (14) That she had not received any part of the kethubah.  
 (15) V. infra.  
 (16) E.g., a vow to abstain from certain kinds of food if it should be found that she had already received any part of the kethubah.  
 (17) V. infra. Lit., 'for the better ordering of society.'  
 (18) V. Glos. and infra.  
 (19) For a debt incurred by their father.  
 (20) B.B. 5b; Keth. 872.

## Talmud - Mas. Gittin 35a

in order [to render marriage] more attractive<sup>1</sup> the Rabbis made a concession in her case. We are told [therefore that this is not so].

THEY [THE RABBIS] REFRAINED FROM IMPOSING AN OATH ON HER. What was the reason of this refusal? Shall we say it is to be found in the incident reported by R. Kahana, or, according to others by Rab Judah in the name of Rab, viz., that in a year of scarcity a certain man deposited a denar of gold with a widow, who put it in a jar of flour. Subsequently she baked the flour and gave [the loaf] to a poor man. In course of time the owner of the denar came and said to her, 'Give me back my denar, and she said to him: May death seize upon one of my sons<sup>2</sup> if I have derived any benefit for myself from your denar, and not many days passed — so it was stated — before one of her sons died. When the Sages heard of the incident they remarked: If such is the fate of one who swears truly, what must be the fate of one who swears falsely! Why was she punished? Because she had derived advantage from the place of the denar.<sup>3</sup> How then could the Sages speak of her as one who had sworn truly? — What they meant was, One who might be said to have sworn truly. If that is the reason [why the Rabbis refrained from imposing an oath], why only to a widow? Why not also to a divorced woman? Why has R. Zera said in the name of Samuel, 'This rule applies only to a widow, but to a divorced woman an oath is administered'? — There is a special reason in the case of a widow, because she finds a justification for herself [for swearing falsely] on account of the trouble she has taken on behalf of the orphans.<sup>4</sup>

Rab Judah stated in the name of R. Jeremiah b. Abba: Rab and Samuel were both agreed that this rule applied only to an oath imposed in the Beth din, but outside the Beth din an oath may be imposed on a widow.<sup>5</sup> Is this so? Is it not a fact that Rab would not enforce payment of a kethubah [by orphans] to a widow?<sup>6</sup> — This is a difficulty. This is the version given in Sura. In Nehardea the version is as follows, Rab Judah said in the name of Samuel: This rule applies only to an oath imposed in the Beth din, but outside the Beth din an oath may be imposed on a widow. Rab, however, held that even outside the Beth din an oath may not be imposed on her. [This dictum of] Rab [is] in conformity with his expressed view, for Rab would not enforce payment of a kethubah to a widow. Why did he not make her take a vow<sup>7</sup> and so let her recover? — In the time of Rab, vows were not treated lightly.

A certain woman appealed to R. Huna [to enforce payment of her kethubah]. He said to her, What can I do for you, seeing that Rab would not enforce payment of a kethubah to a widow? She said to him: Is not the only reason the fear that perhaps I have already received part of my kethubah? By the Lord of Hosts I swear that I have not received a penny from my kethubah. Said R. Huna: Rab would admit [that we enforce payment] where the widow takes the oath spontaneously.<sup>8</sup>

A certain woman appealed to Rabbah son of R. Huna [to enforce payment of her kethubah]. He said to her: What can I do for you seeing that Rab would not enforce payment of a kethubah and my father also would not enforce payment of a kethubah to a widow? She said to him: At least grant me maintenance. He replied: You are not entitled to maintenance either, since Rab Judah has said in the name of Samuel: If a woman claims her kethubah in the Beth din, she has no claim to maintenance.<sup>9</sup> She said to him: Turn his seat upside down!<sup>10</sup> He gives me [the worst of] both authorities.<sup>11</sup> They turned his seat over<sup>12</sup> and put it straight again, but even so he did not escape an illness. Rab Judah said to R. Jeremiah Bira'ah: impose a vow on her in the Beth din and administer an oath to her outside the Beth din, and see that the report reaches my ears, since I desire to make this a precedent.<sup>13</sup>

[The text above stated:] 'R. Zera said in the name of Samuel: This rule applies only to a widow, but to a divorced woman an oath is administered.' Cannot then a divorced woman recover her kethubah on [merely] taking a vow? Was not [a communication] sent from there<sup>14</sup> saying that 'So-and-so the daughter of So-and-so received a Get from the hand of Aha b. Hedia who is also known as Ayah Mari and took a vow binding herself to abstain from all produce whatsoever if she should be found to have received of her kethubah anything besides a blanket, a book of the Psalms, a copy of Job and a copy of Proverbs much worn,

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- (1) To women in general by making it easier for them to recover their kethubahs.
  - (2) Lit., 'May the poison of death have benefit from one of the sons of this woman.'
  - (3) Which saved her the corresponding quantity of flour.
  - (4) For which she considers she is entitled to some compensation.
  - (5) Within the Beth din she would be required to take a scroll of the Law or a pair of phylacteries in her hand and swear by one of the divine Names, but outside the Beth din these solemnities would be dispensed with.
  - (6) Surely he could have had an oath imposed on her outside the Beth din.
  - (7) In accordance with the regulation of Rabban Gamaliel. V. Mishnah.
  - (8) Lit., 'jumps forward'.
  - (9) V. Keth. 542.
  - (10) [May he be humiliated (Rashi) — a curse the allusion of which is not quite clear. Goldschmidt connects it with the action of overturning the seat of one who died.]
  - (11) I.e., you follow Rab in refusing to collect the kethubah and Samuel in refusing maintenance.
  - (12) [That the force of the curse should find itself spent in its literal fulfilment].
  - (13) Rab Judah was a disciple of Samuel, and desired to impose his ruling on R. Huna and the other disciples of Rab.
  - (14) From Eretz Yisrael to Babylon.

### **Talmud - Mas. Gittin 35b**

and we valued them at five maneh. When she presents herself to you, empower her to collect the rest.'<sup>1</sup> — R. Ashi said: The Get in that case was one given by a brother-in-law.<sup>2</sup>

RABBAN GAMALIEL THE ELDER MADE A REGULATION THAT SHE SHOULD TAKE A VOW, etc. R. Huna said: This rule applies only if she is not married again, but if she is married, she cannot take the vow. What is the reason why she cannot take it if she is married? Because her husband may annul it.<sup>3</sup> Even if she is not married, cannot the husband annul it when she marries again? — A husband cannot annul vows taken previously to his marriage with her.<sup>4</sup> But is there not a possibility that she may apply to a Sage<sup>5</sup> and obtain release from him? — R. Huna held that the particulars of the vow must be stated to the Sage.<sup>6</sup> R. Nahman held that even after the [second] marriage [she may take the vow]. But if she is married there is no question that the husband can annul the vow? — The vow must be taken by her in the presence of a company.<sup>7</sup>

An objection [against R. Huna's ruling] was raised [from the following]: If she has married again, she may recover her kethubah provided she has taken a vow. Does not this mean 'if she takes a vow now'? — No; it means, if she has taken a vow before [the second] marriage. But has it not been taught: 'If she marries again, she can take a vow and recover her kethubah'? — There is a difference on this point between Tannaim, since there is an authority who holds that a vow which has been taken in the presence of a company can be annulled, and there is an authority who holds that it cannot be annulled.<sup>8</sup>

The question was raised in the Academy: Is it necessary to state the particulars of the vow [on seeking annulment] or is it not necessary? — R. Nahman said that it is not necessary, R. Papa said that it is necessary. R. Nahman said that it is not necessary, because if you say that it is, it may happen that the applicant will not state the case fully<sup>9</sup> and the Sage will act on what he has been told.<sup>10</sup> R. Papa said it is necessary, to prevent forbidden things being done.<sup>11</sup>

We have learnt:<sup>12</sup> 'If [a priest] marries a woman whom he should not,<sup>13</sup> he is disqualified [from participating in the Temple service] until he vows to have no benefit [from his wife]:'<sup>14</sup> and in this connection it was taught, he can take the vow and participate in the service and give the divorce when he descends.<sup>15</sup> Now if you say that it is not necessary to state particulars of the vow, is there not a possibility that he may apply to a Sage and obtain release?<sup>16</sup>

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(1) Apparently the couple had gone from Babylon to Palestine and the husband had given the divorce there, but his property was in Babylon.

(2) Who divorced her after having married her as levir, and the kethubah to which she was entitled was that given by the first husband, and therefore she claimed it as a widow and not as a divorced woman.

(3) In accordance with the law laid down in Num. XXX, 8.

(4) This rule is based on the words, And if she vowed in her husband's house in Num. XXX, 11.

(5) If a vow was found to be impossible of fulfilment, a Sage was empowered to discover a loophole for remitting it, v. Ned. 21ff.

(6) And if the woman stated that her reason was to obtain money to which she was not entitled, he would certainly not release her.

(7) Lit., 'many', i.e., ten or more, R. Nahman holding that such a vow could not be remitted.

(8) And this authority therefore allows her to recover the kethubah on taking such a vow even after she is married.

(9) Lit., 'will cut short his account.'

(10) And he may grant release where it should be withheld or vice versa.

(11) E.g., to prevent the woman from obtaining money wrongfully or to prevent someone from doing a wrong act from which he has vowed to abstain.

(12) Bek. 45b.

(13) Lit., 'in transgression', e.g., a divorced woman.

(14) I.e., to divorce her (Rashi).

(15) From the altar after finishing the service.

(16) So that retrospectively he proves to have taken part in the service when disqualified.

## **Talmud - Mas. Gittin 36a**

— We assume that the vow is taken by him in the presence of a company. This is a valid reason for one who holds that a vow which has been taken in the presence of a company cannot be annulled. But what are we to say to one who holds that it can be annulled? — We must say that the vow is imposed on the authority<sup>1</sup> of the company. For Amemar has said: The law is that even according to those who hold that a vow made in the presence of a company cannot be annulled, one made on the authority of a company cannot be annulled. This, however, is the case only with a vow relating to some optional action, but if it interferes with a religious duty, it can be annulled. A case in point is that of the teacher of children whom R. Aha bound by a vow on the authority of a company [to give

up teaching], because he maltreated the children, but Rabina reinstated him because no other teacher could be found as thorough as he was.

WITNESSES SIGN A GET TO PREVENT ABUSES. [Is this rule only] to prevent abuses?<sup>2</sup> It derives from the Scripture, does it not, since it is written, And subscribe the deeds and seal them?<sup>3</sup> — Rabbah said: [All the same this reason] is necessary on the view of R. Eleazar, who said that the witnesses to delivery make [the Get] effective. The Rabbis nevertheless ordained that there should be witnesses to sign [as well], to prevent abuses, since sometimes the witnesses [to delivery] may die or go abroad. R. Joseph said: You may even say [that this reason is necessary] on the view of R. Meir,<sup>4</sup> [and what] they ordained was that the witnesses should subscribe their names in full,<sup>5</sup> to prevent abuses, as it has been taught: At first the witness used simply to write, ‘I, So-and-so,<sup>6</sup> subscribe as witness. ‘If then his writing could be found on other documents,<sup>7</sup> the Get was valid, but if not, it was invalid. Said Rabban Gamaliel: A most important regulation was laid down [by the Rabbis], that the witnesses should write their names in full in a Get, to prevent abuses.<sup>8</sup> But is not a mark enough? Did not Rab [sign by] drawing a fish and R. Hanina by drawing a palm-branch, R. Hisda with a Samek,<sup>9</sup> R. Hoshaiia with an Ayin, and Rabbah son of R. Huna by drawing a sail?<sup>10</sup> — The Rabbis are different, because their marks are well known. How did they make these signs known to begin with? — On letters.<sup>11</sup>

HILLEL INSTITUTED THE PROSBUL. We have learnt elsewhere: A prosbul prevents the remission of debts [in the Sabbatical year]. This is one of the regulations made by Hillel the Elder. For he saw that people were unwilling to lend money to one another and disregarded the precept laid down in the Torah, Beware that there be not a base thought in thine heart saying, etc.<sup>12</sup> He therefore decided to institute the prosbul. The text of the prosbul is as follows: ‘I hand over to you, So-and-so, the judges in such-and-such a place, [my bonds], so that I may be able to recover any money owing to me from So-and-so at any time I shall desire’;<sup>13</sup> and the prosbul was to be signed by the judges or witnesses.<sup>14</sup>

But is it possible that where according to the Torah the seventh year releases Hillel should ordain that it should not release? — Abaye said: He was dealing with the Sabbatical year in our time,<sup>15</sup> and he went on the principle laid down by Rabbi, as it has been taught: Rabbi says: [It is written], Now this is the matter of the release; [every creditor] shall release.<sup>16</sup> The text indicates here two kinds of release,<sup>17</sup> one the release of land<sup>18</sup> and the other the release of money. When the release of land is in operation the release of money is to be operative, and when the release of land is not operative the release of money is not to be operative.<sup>19</sup>

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(1) Lit., ‘by the knowledge’ or ‘will of’; i.e., they say to him, ‘We administer this vow to you on our responsibility.’

(2) And so of Rabbinical sanction only.

(3) Jer. XXXII, 44.

(4) That the witnesses who sign the Get make it effective.

(5) I.e., their name and that of their father, e.g., Reuben ben Jacob, and not merely their own name, which would be sufficient from the point of view of the Torah. [V. Strashun and cf. following note].

(6) [Without specifying his name (Rashi). The term ‘So-and-so’ however, hardly bears this interpretation. Tosef. Git, VII omits ‘So-and-so’ and reads simply ‘I am witness’; cf. previous note].

(7) Through which his identity could be established.

(8) Because now it would be possible to find witnesses who recognised their signatures.

(9) One letter of his Hebrew name.

(10) Al. ‘boat’; al. ‘mast’.

(11) \*\* ‘discs’, ‘tablets’, ‘official letters’.

(12) Deut. XV, 9. The verse proceeds, The seventh year is at hand, and thine eye be evil against thy poor brother and give him nought.

(13) Even after the Sabbatical year.



(14) Sheb. x, 3. [The principle underlying the prosbul is founded on the passage ‘that which is thine with thy brother thine hand shall release’ (Deut. XV, 2). From this there had been derived the law that the operation of the year of release did not affect debts of which the bonds had been delivered to the Court before the intervention of the year of release (v. Sifre. a.l. and infra p. 38), such debts being regarded as virtually exacted’ and hence not coming under the prohibition ‘he shall not exact’. By a slight extension of this precedents the prosbul was instituted, which in effect amounted to entrusting the Court with the collection of the debt. Without actually handing over the bond to the court, as required by the existing law, the creditor could secure his debt against forfeiture by appearing in person before the Beth din and making the prescribed declaration. For a fuller examination of the nature and legal effect of the prosbul as well as a survey of the proposed derivations of the term, v. Blau, L. Prosbul im Lichte der Griechischen Papyri und der Rechtsgeschichte.]

(15) After the destruction of the first Temple.

(16) Deut. XV, 2.

(17) By the juxtaposition of the two words, שְׁמִיטָה (‘release’) and שְׁמוֹט (‘shall release’).

(18) At the Jubilee. V. Lev. XXV, 13.

(19) The Jubilee was not operative in the time of the Second Temple because the land was not fully occupied by Israel. But v. Tosaf. s.v. בְּזִמְנָן .

### Talmud - Mas. Gittin 36b

The Rabbis, however, ordained that it should be operative, in order to keep alive the memory of the Sabbatical year, and when Hillel saw that people refrained from lending money to one another, he decided to institute the prosbul.<sup>1</sup>

But is it possible that where according to the Torah the seventh year does not release, the Rabbis should ordain that it does release?<sup>2</sup> — Abaye replied: It is a case of ‘sit still and do nothing’.<sup>3</sup> Raba, however, replied: The Rabbis have power to expropriate [for the benefit of the public]<sup>4</sup> For R. Isaac has said: How do we know that the Rabbis have power to expropriate? Because it says, And that whosoever came not within three days according to the counsel of the princes and the elders, all his substance should be forfeited, and himself separated from the congregation of the captivity.<sup>5</sup> R. Eleazar said: We derive it from here: These are the inheritances which Eleazar the priest and Joshua the son of Nun and the heads of the fathers’ houses etc.<sup>6</sup> Now why is the word ‘fathers’ [here] put next to ‘heads’?<sup>7</sup> To show that just as fathers transmit to their children whatever property they wish, so the heads transmit to the public whatever they wish.

The question was raised: When Hillel instituted the prosbul, did he institute it for his own generation only or for future generations also? What is the practical bearing of this question?<sup>8</sup> — [In case we should desire] to abolish it. If you say that Hillel instituted the prosbul only for his own generation, then we may abolish it, but if for future generations also, [this would not be easy] since one Beth din cannot annul the decisions of another unless it surpasses it in wisdom and in numbers.<sup>9</sup> What [then is the answer]? — Come and hear, [since] Samuel has said: We do not make out a prosbul save either in the Beth din of Sura<sup>10</sup> or in the Beth din of Nehardea.<sup>11</sup> Now if you assume that Hillel instituted the prosbul for all generations, then it should be made out in any Beth din? — perhaps when Hillel instituted it for all generations, he meant it to be issued by a Beth din like his [Samuel’s] or like that of R. Ammi and R. Assi, which are strong enough to enforce payment [where necessary], but not for the ordinary Beth din.

Come and hear: Samuel said: This prosbul is an assumption<sup>12</sup> on the part of the judges; if I am ever in a position, I will abolish it.<sup>13</sup> He abolish it? How so, seeing that one Beth din cannot annul the decision of another unless it is superior to it in wisdom and numbers? — What he meant was: If ever I am in a stronger position than Hillel, I will abolish it.<sup>14</sup> R. Nahman, however, said: I would confirm it. Confirm it? Is it not already firmly established? — What he meant was: I will add a rule that even if it [the prosbul] is not actually written it shall be regarded as written.

The question was raised [in the Academy]: Does this word 'ulbana mean 'assumption' or 'convenience'?<sup>15</sup> — Come and hear, for 'Ulla once exclaimed:<sup>16</sup> O shameless ['alubah]<sup>17</sup> bride, to be false under the very bridal canopy!<sup>18</sup> Said R. Mari the son of Samuel's daughter [in reference to this]: What scriptural verse indicates this? The verse, While the king sat at his table my spikenard sent forth its fragrance.<sup>19</sup> Rab said: The [sacred author] still shows his love for us by writing 'sent forth' and not 'made foul'.

Our Rabbis taught: 'They who suffer insults [ne'elabin]<sup>20</sup> but do not inflict them, who hear themselves reviled and do not answer back, who perform [religious precepts] from love and rejoice in chastisement, of such the Scripture says, And they that love him are like the sun when he goeth forth in his might.'<sup>21</sup>

What is the meaning of the word 'prosbul'? — R. Hisda says: Pruz buli u-buti.<sup>22</sup>

- (1) Which therefore meant rescinding only a regulation of the Rabbis, not a precept of the Torah.
- (2) For by so doing they rob creditors of their just due.
- (3) They do not tell the debtors to commit an actual trespass but merely to refrain from paying debts.
- (4) Lit., '(Anything declared) hefker (ownerless) by the Beth din is hefker'.
- (5) Ezra, X, 8.
- (6) Josh. XX, 51.
- (7) It would have been sufficient to say, 'heads of the tribes'.
- (8) In any case the regulation goes in till it is rescinded.
- (9) A.Z. 36a.
- (10) The Beth din of Rab.
- (11) His own Beth din.
- (12) Heb. 'ulbana. The meaning of this word is discussed later.
- (13) Which shows that Hillel ordained it only for his own generation.
- (14) Even without a superior Beth din.
- (15) I.e., did Samuel mean that it was an assumption on the part of the judges to seize money wrongfully, or that it was a convenience for the judges that creditors did not ask them to secure payment of their debts for them before the seventh year.
- (16) In reference to the making of the Golden Calf.
- (17) This proves that the root 'alab means 'to be shameless' or 'arrogant'.
- (18) I.e., shameless Israel, to be false to God while the Shechinah still hovered over them at Mount Sinai.
- (19) Cant. I, 12.
- (20) A further proof that the root 'alab means 'to insult'.
- (21) Judg. V, 31.
- (22) This seems to conceal the Greek \*\* (before the Council).

## Talmud - Mas. Gittin 37a

Buli means the rich, as it is written, And I will break the pride of your power,<sup>1</sup> and R. Joseph explained: These are the bula'oth<sup>2</sup> in Judah. Buti means the poor, as it is written, Thou shalt surely lend him sufficient.<sup>3</sup> Raba asked a certain foreigner,<sup>4</sup> What is the meaning of prosbul? He replied: The porsa<sup>5</sup> of the matter.

Rab Judah said in the name of Samuel: Orphans do not require a prosbul. So too Rami b. Hama learnt: Orphans do not require a prosbul, because Rabban Gamaliel<sup>6</sup> and his Beth din are the parents of orphans.

We have learnt elsewhere: A prosbul is not made out unless [the debtor has] some land. If he has

none, the creditor can present him with a spot from his own.<sup>7</sup> How much is a 'spot'? — R. Hiyya b. Ashi said in the name of Rab: Even a stalk of a carob [is enough]. Rab Judah said: Even if he only lends him a space sufficient for his stove and oven, a prosbul may be made out on the strength of it. Is this so? Has not Hillel<sup>8</sup> learnt: 'A prosbul may be made out only [if the debtor] has a flowerpot with a hole in it', that is, if it has a hole, a prosbul may be made out,<sup>9</sup> but otherwise not. Now why should this be, seeing that the place it occupies [belongs to the debtor]?<sup>10</sup> — This rule applies only where the pot rests on some sticks.<sup>11</sup> R. Ashi would transfer to the debtor the trunk<sup>12</sup> of a date tree and then write a prosbul for the creditor. The Rabbis of the Academy of R. Ashi used to transfer their debts<sup>13</sup> to one another.<sup>14</sup> R. Jonathan transferred his debt to R. Hiyya b. Abba. Do I require anything more? he asked him. You do not, he replied.

Our Rabbis taught; If the debtor has no land but one who is security for him has land, a prosbul may be made out for him. If neither he nor his security has land but a man who owes him money has land, a prosbul may be made out for him. [This is based] on the ruling of R. Nathan, as it has been taught: R. Nathan says: If a man lends another a maneh, and this one lends to a third, how do we know that the Beth din can take from the last [named] and give to the first [creditor]? Because it says, And he shall give it unto him in respect of whom he has been guilty.<sup>15</sup>

We have learnt elsewhere: The seventh year brings release from a debt, whether contracted with a bond or without a bond.<sup>16</sup> Both Rab and Samuel explain that 'with a bond' here means that the debtor has given a lien on his property [for the debt] and 'without a bond' means that he has given no lien. A fortiori then does the seventh year release from a debt contracted verbally. R. Johanan and R. Simeon b. Lakish, however, explain that 'with a bond' means a bond that does not contain a lien clause,<sup>17</sup> and 'without a bond' means a debt contracted verbally. A bond which secures a lien, however, is not cancelled.<sup>18</sup> It has been taught in agreement with R. Johanan and R. Simeon b. Lakish: A bond for a debt is cancelled [by the seventh year], but if it contains a lien clause it is not cancelled. It has further been taught: If the debtor has specified a certain field to the lender [as security] for his loans, it is not cancelled. Nay more: Even if he writes [only] 'All my property is security and guarantee for you,' it is not cancelled.

A relative of R. Assi had a bond containing a lien clause. He came before R. Assi and said to him: Is this cancelled [by the seventh year] or not? — He replied: It is not cancelled. He left him and went to R. Johanan [and asked the same question]. [R. Johanan] replied: It is cancelled. R. Assi went to R. Johanan and asked him: Is it cancelled or not cancelled? — He replied: It is cancelled. But you yourself [once] said<sup>19</sup> that such a bond is not cancelled? — He replied: Because we have an opinion of our own [different from what we have learnt], are we to act on it? Said R. Assi: But there is a Baraita in support of your opinion? — He replied: perhaps that follows Beth Shammai, who said<sup>20</sup> that a bond which is perfectly in order<sup>21</sup> is like one which has already been put into operation.

We have learnt elsewhere: If a man lends another money on a pledge or if he hands his bonds to the Beth din, the debts are not cancelled [by the seventh year].<sup>22</sup> That this should be so in the latter case we understand, because it is the Beth din which seizes the debtor's property.<sup>23</sup> But why should it be so in the case of a loan given on a pledge? — Raba replied: Because [the lender] is already in possession of it.<sup>24</sup> Said Abaye to him: If that is so, suppose a man lends another money<sup>25</sup> and lives in his courtyard, in which case he is also in possession, is the debt in this case too not cancelled?<sup>26</sup> — He replied: A pledge<sup>27</sup> is different, because the holder becomes also its owner, according to the dictum of R. Isaac, who said, How do we know that a creditor becomes the owner of a pledge [given for the debt]? Because it says, And it shall be righteousness unto thee.<sup>28</sup> If he is not the owner, what righteousness is there [in restoring the pledge]? Hence we learn that a creditor becomes owner of the pledge.

We have learnt elsewhere:<sup>29</sup>

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- (1) Lev. XXVI, 19.
- (2) City councils, Gr. \*\*.
- (3) Deut. XV, 8. The Hebrew root for lend is 'abat, which is somewhat fancifully connected with buti. The prosbul benefits the rich because it secures them their loans, and the poor because it enables them to borrow. [Goldschmidt suggests in this connection the derivation from \*\* and \*\* 'provision against loss'].
- (4) Heb. la'oz, a man speaking a foreign languages. Possibly we should translate 'linguist'.
- (5) Cf. Gr. \*\* 'manner', 'order'.
- (6) Who was the supreme authority at the time when the Baraita was first taught.
- (7) [In which case the debt is regarded as having been refunded to the court who virtually hold the land in payment of the debt on behalf of the creditor, v. p. 148, n. 4].
- (8) Not the author of the prosbul.
- (9) Because the earth-pot is then connected with the soil and so the debtor may be regarded as possessing land.
- (10) And it is therefore analogous to the stove, on which a prosbul may be made out.
- (11) It occupies no place on the ground, in which case unless it has a hole to connect it with the soil, it cannot serve as basis for a prosbul.
- (12) Al. 'branch'.
- (13) Lit., 'commit their words'; i.e., the verbal instructions relating to the recovery of their debts.
- (14) I.e., used to appoint one another a Beth din for the receiving of their debts without the formality of writing out a prosbul.
- (15) Num. V, 7. Hence the land of A's debtor can serve as the basis for a prosbul against A.
- (16) Sheb. X, 1.
- (17) I.e., a mortgage on his property.
- (18) Because it is looked upon as having been already enforced, so that there really is no debt.
- (19) supra.
- (20) Sot. 25a.
- (21) Lit., 'which is ready to be enforced.'
- (22) Sheb. X, 2.
- (23) And the Beth din have power to expropriate, and therefore the creditor is not guilty of 'exaction' in recovering after the seventh year.
- (24) And he does not 'exact' anything from the debtor.
- (25) On the security of his courtyard. V. Tosaf. [Evidently in the case where the debt was contracted verbally.]
- (26) [Whereas in B.M. 67b it is stated that the debt in such a case is cancelled, (Tosaf.).]
- (27) Of movable property (Rashi).
- (28) Deut. XXIV, 13. The 'righteousness' is in restoring the pledge to the poor man at sunset.
- (29) Sheb. X, 8.

## Talmud - Mas. Gittin 37b

If a man repays another money which he owes him in the seventh year, the other should say to him, I remit it.<sup>1</sup> If the debtor then says, 'All the same [take it]', he may take it from him. [This rule is based on] the text, Now this is the word<sup>2</sup> of the release.<sup>3</sup> Rabbah said: The creditor may tie him up<sup>4</sup> till he says so. Abaye raised an objection [from the following]: When [the debtor] offers him the money he should not say, This is in payment of my debt, but, 'It is my [money] and I make you a present of it'? — Rabbah replied: Yes; he ties him up until he says so.

Abba b. Martha, who was the same as Abba b. Manyumi,<sup>5</sup> was pressed by Rabbah for repayment of money he had lent him. He brought it to him in the seventh year.<sup>6</sup> Rabbah said, I remit it. So he took it and went away. Abaye afterwards found Rabbah looking sad. He said to him, Why are you sad? He told him what had happened. So Abaye went [to Abba] and said to him, Did you offer money to Rabbah? I did, he said. And what did he say to you? — I remit it. And did you say to him, Even so take it? — He replied, I did not. Abaye thereupon said to him: If you had said to him, All

the same take it, he would have taken it. Now at any rate go and offer it to him and say, All the same take it. He went and offered it to him, saying, All the same take it. He took it from him and said, This rabbinical student did have the sense to see this from the beginning!

Rab Judah said in the name of R. Nahman: We take a man's word if he says, I had a prosbul and lost it. What is the reason? Since the Rabbis have instituted a prosbul, a man would not [as we say] 'leave on one side permitted [food] and eat forbidden.'<sup>7</sup> When such a man came before Rab, he said to him, Have you had a prosbul and lost it? This is a case for opening thy mouth for the dumb.<sup>8</sup> We have learnt [in opposition to this]: 'Similarly if a creditor produces a bond for a debt without a prosbul, he cannot recover payment'<sup>9</sup> — There is a difference on this point between Tannaim, since it has been taught: If a man produces a bond for a debt [after the seventh year] he must show a prosbul with it. The Sages, however, say that this is not necessary.<sup>10</sup>

**MISHNAH. SHOULD A [NON-JEWISH] SLAVE [OF A JEW] BE CARRIED OFF BY ROBBERS AND RANSOMED [BY A THIRD PARTY],<sup>11</sup> IF [HE IS RANSOMED] AS A SLAVE HE GOES BACK TO SLAVERY, BUT IF [HE IS RANSOMED] AS A FREE MAN HE DOES NOT GO BACK TO SLAVERY. RABBAN SIMEON B. GAMALIEL SAYS THAT IN EITHER CASE HE GOES BACK TO SLAVERY.**

**GEMARA.** With what case are we here dealing? Shall we say that the ransom was effected before [the owner of the slave] had given up hopes [of recovering him]? If so, even if [he is ransomed] as a free man, why should he not go back to slavery?<sup>12</sup> Shall we say then it was after the owner had given up hopes of recovering him? Then even if [he is ransomed] as a slave, why should he go back to slavery?<sup>13</sup> — Abaye said: The case indeed is one in which [the master] has not yet given up hopes. If then [he is ransomed] as a slave he goes back to slavery to his first master. If [he is ransomed] as a free man, he is no longer enslaved either to the first master or to the second; to the second, because he ransomed him as a free man, to the first because [if people know that he is to go back to slavery] perhaps they will refrain from ransoming him.<sup>14</sup> **RABBAN SIMEON B. GAMALIEL SAYS, IN EITHER CASE HE GOES BACK TO SLAVERY,** [since] he holds that, as it is a religious duty to ransom free men, so it is a religious duty to ransom slaves.<sup>15</sup> Raba said that the case dealt with is indeed where [the owner] has given up hopes of recovery. If then [he is ransomed] as a slave, he becomes enslaved to the second master. If he [is ransomed] as a free man, he becomes enslaved neither to the first master nor to the second; not to the second, because he ransomed him as a free man, and not to the first either, because he has given up hopes of recovering him. **RABBAN SIMEON B. GAMALIEL SAYS, IN EITHER CASE HE GOES BACK TO SLAVERY,** adopting in this the view [also] held by Hezekiah, who said: Why was it laid down that in either case he should go back to slavery? So that slaves should not go and throw themselves into the hands of robber bands and so liberate themselves from their masters.

An objection was raised [against Raba from the following]: Rabban Simeon b. Gamaliel said to them, Just as it is a religious duty to redeem free men, so it is a religious duty to redeem slaves. Now if we adopt the view of Abaye that the case dealt with is where [the owner] has not yet given up hope of recovery — we understand why Rabban Simeon b. Gamaliel said, 'Just as etc.'<sup>16</sup> But on the view of Raba, that the case is one where [the owner] has given up hope, why, 'just as'? [Rabban Simeon's reason] is the dictum of Hezekiah! — To which Raba can reply; Rabban Simeon b. Gamaliel was not certain to what the Rabbis were referring, and he argued with them thus: If you are speaking of the case where [the owner] has not yet given up hope, then I say 'just as [etc.]': and if you speak of the case where he has given up hope, then I apply the dictum of Hezekiah.

Now on the view of Raba that the case referred to is where [the owner] has given up hope and that the slave [if ransomed as a slave becomes enslaved] to the second master, [we have to ask], from whom does the second master acquire him? [You must say], From the brigands. Is the brigand

himself his rightful owner? — Yes; he was his owner in respect of his labour. For Resh Lakish has said; How do we know that one heathen can own another in respect of his labour? — It says, Moreover of the strangers that shall sojourn among you, of them shall ye acquire.<sup>17</sup> [This indicates that] you may acquire from them,

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- (1) The release of the seventh year, according to the Rabbis, took place only at the end. Hence the word ‘seventh year’ here is explained to mean ‘in the period when the rule of the seventh year is in force,’ and the repayment is supposed to be offered after the seventh year (Rashi).
- (2) Heb. *dabar* (E.V. ‘manner’).
- (3) Deut. XV, 2.
- (4) Lit., ‘hang him’.
- (5) [Martha was the name of his mother by whose name he was designated, because she it was who once cured him from the bite of a mad dog, v. Yoma 84a].
- (6) V. *supra*, n. 4.
- (7) I.e., he would not have neglected in the first instance to obtain a *prosbul*, and then afterwards come and claimed the money wrongfully.
- (8) I.e., where the judges suggest a plea to one of the parties. The expression is taken from Prov, XXXI, 8.
- (9) Even if he pleads that he lost the *prosbul*.
- (10) But he can plead that he lost it.
- (11) Jews.
- (12) Because whatever the ransomer may stipulate with the captor, the slave is still the property of his master.
- (13) Viz., to his first master, seeing that he has ceased to be his property.
- (14) The implication is that there is some merit in restoring the slave to freedom.
- (15) I.e., from heathen masters, so that they may resume the performance of certain precepts in the service of their Jewish masters. Hence since it is a religious duty, there is no fear that people will refrain from ransoming him.
- (16) I.e., it was necessary for R. Simeon to adduce this reason.
- (17) Lev. XXV, 45.

## Talmud - Mas. Gittin 38a

but they cannot acquire from you nor can they acquire from one another. Shall I then say that they cannot acquire one another? [What do you mean by saying,] Shall I say that they cannot acquire one another? Have you not just said that they cannot acquire from one another?<sup>1</sup> — What it means is this: They cannot acquire [slaves] from one another as far as their person is concerned.<sup>2</sup> Shall I say also that they cannot acquire them for [their] labour? You may conclude [that this is not so] by an argument *a fortiori*. A heathen may acquire an Israelite [for his labour];<sup>3</sup> surely then all the more so another heathen. But may I not say that such acquisition can only be by purchase,<sup>4</sup> but not by *hazakah*?<sup>5</sup> — R. Papa said: The territory of Ammon and Moab became purified [for acquisition by the Israelites] through [the occupation of] Sihon.<sup>6</sup> We have satisfied ourselves that a heathen [can acquire] a heathen [by act of possession]. How do we know that a heathen [can acquire] an Israelite [in the same way]? — From the text, And he took some of them captive.<sup>7</sup>

R. Shaman b. Abba said in the name of R. Johanan: A slave who escapes from prison becomes a free man, and what is more, his master may be compelled to make out a deed of emancipation for him. We have learnt: RABBAN SIMEON B. GAMALIEL SAYS, IN EITHER CASE HE RETURNS TO SLAVERY, and Rabbah b. Bar Hanah has stated in the name of R. Johanan that wherever Rabban Simeon b. Gamaliel records a statement in our Mishnah, the halachah is in accordance with him, except in the matters of the surety,<sup>8</sup> of Sidon,<sup>9</sup> and the latter proof.<sup>10</sup> Now on the view of Abaye [that the Mishnah speaks of the case where the master has not yet given up hope of recovering], there is no conflict [between the two statements of R. Johanan], since he makes the latter<sup>11</sup> refer to [the period] before [the master has] given up hope and the former [to the period] after he has given up hope. But on the view of Raba that [the latter also] refers to [the period] after [the

master] has given up hope, there is a conflict, is there not, between the two statements of R. Johanan? — Raba can reply: What is R. Simeon's reason? The statement of Hezekiah [that the slave may give himself up to raiders]. But this does not apply to one who escapes; seeing that he risks his life [to do so], is it likely that he will throw himself into the hands of raiders?

A female slave of Mar Samuel was carried off [by raiders]. Some [Israelites] ransomed her as a slave and sent her to him, along with a message saying, We hold with Rabban Simeon b. Gamaliel,<sup>12</sup> but even if you hold with the Rabbis [you may accept her], because we have ransomed her as a slave. They thought that he had not yet given up hope [of recovering her], but this was not correct, as he had given up hope [of recovering her], and Samuel not only refrained from making her a slave again but he did not even require her to obtain a deed of emancipation. In this he followed his own maxim that 'if a man declares his slave common property,<sup>13</sup> he becomes a free man and does not require a deed of emancipation, since it says, Every man's servant that is bought for money.'<sup>14</sup> Does this mean the servant of a man and not of a woman? No; it means that a slave over whom his master still has control is called a slave, but a slave over whom his master has no control is not called a slave.

A female slave of R. Abba b. Zutra was carried off by raiders. A certain [heathen] from Tarmud<sup>15</sup> ransomed her in order to marry her. They<sup>16</sup> sent a message to him [R. Abba] saying, If you wish to act well, send her a deed of emancipation. What was the point of this message? If they were able to redeem her,<sup>17</sup> why did they want a deed of emancipation?<sup>18</sup> If they were not able to ransom her, of what good would a deed of emancipation be? — The fact was that it was possible to ransom her, and if he sent them a deed of emancipation, they would club together and [find the money] to ransom her. Or if you like I can say that they were not [at first] able to ransom her, but if the master would send her a deed of emancipation she would go down in the esteem of the heathen<sup>19</sup> and he would consent to her ransom. But has not a Master said that the heathen like the cattle<sup>20</sup> of Israel better than their [own] wives? — This is their real sentiment, but they think it beneath their dignity to show it.

There was a certain female slave in Pumbeditha who was used by men for immoral purposes — Abaye said: Were it not that Rab Judah has said in the name of Samuel that whoever emancipates his [heathen] slave breaks a positive precept, I would compel her master to make out a deed of emancipation for her. Rabina said; In such a case, Rab Judah would agree [that this is proper], in order to check immorality. And would not Abaye [act in the same way] to prevent immorality, seeing that R. Hanina b. Kattina has reported in the name of R. Isaac that the master of a certain woman who was half slave and half free<sup>21</sup>

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(1) And still less from an Israelite, so how can they acquire at all?

(2) So that if he escapes he becomes free without a deed of emancipation.

(3) This is based on the verse, And if a stranger or sojourner with thee be waxen rich etc. Lev. XXV, 47.

(4) [Lit., 'money.' Lev. XXV, 47. from which we learn that a heathen may acquire an Israelite as slave, speaks expressly of 'purchase money', v. verse 51.]

(5) This word seems here to have the double meaning of 'presumptive title' (supposing that the original owner has given up hopes of recovering him), and 'act of possession,' e.g., making the slave serve him. The question thus remains. — Was the brigand the rightful owner?

(6) Israel were forbidden to occupy the territory of Ammon and Moab (Deut. II, 9, 19). Sihon had taken some of the land of Moab (Num. XXI, 26), and this the Israelites were permitted to conquer from him and occupy. (Cf. Jud. XI, 15 ff.). This shows that a heathen can acquire ownership by act of possession.

(7) Num. XXI, 1. The lesson is derived from the fact that the Israelites taken by the king of Arad are called 'captives'.

(8) V. B.B. 173a.

(9) V. infra 74a and notes.

(10) V. Sanh. 31a.

(11) That in any case the slave returns to slavery.

(12) That even if we ransomed her for freedom, she must again become a slave.

- (13) Which is equivalent to giving up hope of recovery.
- (14) Ex. XII, 44.
- (15) Palmyra.
- (16) The Jewish authorities in the district.
- (17) I.e., if the heathen was willing to surrender her for a ransom.
- (18) They could redeem her back into slavery.
- (19) Because it would become generally known that she was the slave of a Jew.
- (20) And therefore the slaves also.
- (21) Cf. infra 42a.

## **Talmud - Mas. Gittin 38b**

was compelled by the Beth din to emancipate her, the reason being, as R. Nahman b. Isaac stated, that they used her for immoral purposes? — Can you compare the two cases? In this latter case, the woman [if not emancipated] is not qualified to marry either a slave or a free man;<sup>1</sup> in the other case, it is possible for the master to appoint her his slave, and he will look after her.

The text above stated: Rab Judah said in the name of Samuel: Whoever emancipates his heathen slave breaks a positive precept, since it is written, They shall be your bondmen for ever.<sup>2</sup> An objection was raised [against this from the following]: ‘On one occasion R. Eliezer came into the synagogue and did not find [the quorum of] ten there, and he immediately emancipated his slave to make up the ten’? — Where a religious duty [has to be performed], the rule does not apply.

Our Rabbis taught: ‘They shall be your bondmen for ever’: This is optional. Such is the opinion of R. Ishmael. R. Akiba, however, holds that it is an obligation. Now perhaps R. Eliezer held with the one who says that it is optional?<sup>3</sup> — Do not imagine such a thing, since it has been taught distinctly: R. Eliezer says that it is obligatory.

Rabbah said: For these three offences men become impoverished: for emancipating their [heathen] slaves, for inspecting their property on Sabbath, and for taking their main Sabbath meal at the hour when the discourse is given in the Beth Hamidrash. For so R. Hiyya b. Abba related in the name of R. Johanan, that there were two families in Jerusalem, one of which used to take its main meal on Sabbath [at the hour of the discourse] and the other on the eve of Sabbath,<sup>4</sup> and both of them became extinct.

Rabbah said in the name of Rab; If a man sanctifies his slave, he becomes a free man. What is the reason? Because he does not sanctify<sup>5</sup> his body,<sup>6</sup> nor does he say that he is sanctified in respect of his money value. What he must mean, therefore, is that he is to become a member of the ‘holy people’.<sup>7</sup> R. Joseph, however, reported Rab as saying; If a man declares his slave common property he becomes a free man. The one who applies this rule where the slave is sanctified would apply it all the more where he is declared common property; but he who applies it where the slave is declared common property, would not necessarily apply it where he is sanctified, because the master may have been referring to his money value.

The question was asked: [Does a slave who is thus liberated] require a deed of emancipation or not? — Come and hear: R. Hiyya b. Abin said in the name of Rab; Both the one and the other become free men, and they require deeds of emancipation. Rabbah said: I raise an objection against my own statement<sup>8</sup> from the following: ‘If a man sanctifies his property and some slaves are included in it, the treasurers [of the Sanctuary] are not allowed to emancipate them,<sup>9</sup> but they must sell them to others,<sup>10</sup> and these others are allowed to emancipate them. Rabbi says: My view is that the slave can pay his own purchase price<sup>11</sup> and liberate himself,<sup>12</sup> because the treasurer in that case as it were sells him to himself’? — Do you seek to confute Rab from the Mishnah? Rab is himself



[considered] a Tanna and is allowed to differ.

Come and hear [an objection to Rabbah]: ‘Notwithstanding no devoted thing . . . whether of man etc. [shall be redeemed];<sup>13</sup> these are his Canaanitish men-servants and maid-servants’?<sup>14</sup> — We are presuming in this case that he says, [I vow] their money value.<sup>15</sup> If that is so, cannot I say the same in the other case also? — If that were so, what of the words ‘the treasurers are not allowed to liberate them’? Why are the treasurers mentioned?<sup>16</sup> And further: ‘But they can sell them to others, and these others are allowed to liberate them.’ Why are ‘others’ mentioned? And again: ‘Rabbi says: My view is that he may pay his own purchase price and so liberate himself, because the treasurer in that case as it were sells him to himself.’ Now if only his money value is devoted, what is the point of the words, ‘because as it were he sells him to himself’?

Come and hear: If a man sanctifies his slave, he [the slave] may go on supporting himself from his own labour, because only his money value has been sanctified!<sup>17</sup>

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(1) Being forbidden to the one as a Jewess and to the other as a slave.

(2) Lev. XXV, 46.

(3) And if so, what need to explain his action on the ground that where a religious duty is to be performed the rule does not apply?

(4) Instead of in the daytime. So Rashi. According to others, however, ‘used to dine on Friday afternoon.’ This, as Rashi points out, was actually forbidden, because it prevented a man entering on the Sabbath with a good appetite.

(5) I.e., devote to the Sanctuary.

(6) Since it cannot be used either for a sacrifice or for repairing the Temple.

(7) Deut. XIV, 2.

(8) Made in the name of Rab, that a slave who is sanctified becomes free.

(9) Because their persons are not acquired by the Sanctuary.

(10) This shows that the slave's money value is sanctified.

(11) v. Kid. 23b.

(12) Hence Rabbi also holds that the money value is sanctified.

(13) Lev. XXVII, 28.

(14) As this objection is from the Scripture, it cannot be answered like the last.

(15) And he does not mention sanctification.

(16) Lit., ‘What have they to do’. If the slaves are not sanctified.

(17) And he remains the slave of his master. This is in opposition to Rab.

## Talmud - Mas. Gittin 39a

— Whose opinion is this? It is the opinion of R. Meir, who holds that when a man says a thing he must mean something by it<sup>1</sup> That this view is probably correct is shown by the succeeding clause: Similarly if a man sanctifies himself he maintains himself from his own labour, since he has sanctified only his money value. Now if you say that this follows R. Meir, there is no difficulty.<sup>2</sup> But if you say it follows the Rabbis,<sup>3</sup> we can indeed understand [the rule] in reference to the slave, because he has a purchase price, but has the man himself a purchase price?<sup>4</sup>

May we say that the same difference<sup>5</sup> is found between Tannaim [in the following passage]:<sup>6</sup> If a man sanctifies his slave, then making use of him does not constitute me'ilah [trespass].<sup>7</sup> Rabban Simeon b. Gamaliel says: Use of his hair constitutes trespass.<sup>8</sup> Now is not the point at issue between the two authorities this, that one holds that the slave is sanctified and the other that he is not? — Do you really think so? Why then the expressions, ‘constitutes trespass’ and ‘does not constitute trespass’? It should be, ‘he is sanctified’ and ‘he is not sanctified’? No. Both hold that he is sanctified,<sup>9</sup> and the point at issue here is that the one puts him in the same class with fixed property and the other with movable property.<sup>10</sup> If that is so, while they differ with regard to his hair should

they not differ with regard to his whole body? — The truth is, both hold that a slave is in the same category as fixed property, and they differ here in respect of his hair which is ready for cutting, the one holding that such hair is regarded as already cut, and the other that it is not.

Shall we say that the difference between these Tannaim<sup>11</sup> is the same as the difference between these other Tannaim, as we have learnt: R. Meir says, There are certain things which both are and are not in the same category as fixed property,<sup>12</sup> but the Sages do not agree with him. For instance, if a man says, I entrusted to you ten vines laden with fruit, and the other says, There were only five, R. Meir requires him to take an oath,<sup>13</sup> but the Sages say that anything attached to the soil is in the same category as the soil.<sup>14</sup> And [commenting on this] R. Jose son of R. Haninah said that the practical difference between them arose in the case of grapes which were ripe for gathering, R. Meir holding that they were regarded as already gathered and the Rabbis that they were not so regarded? — You may even say that R. Meir [does not differ in the case of the hair]. For R. Meir would apply this principle<sup>15</sup> only to the case of grapes which would spoil by being left, but not to hair which improves the longer it is left.

When R. Hiyya b. Joseph went up [to Palestine], he reported this dictum<sup>16</sup> of Rab to R. Johanan. Said the latter: Did Rab really say that? But did not R. Johanan himself say the same?<sup>17</sup> Has not 'Ulla said in the name of R. Johanan: If a man declares his slave common property, he becomes a free man, but he requires a deed of emancipation? — What R. Johanan meant was, Did Rab really take the same view as I [take]? Others report that [R. Hiyya] did not give him the whole of Rab's statement,<sup>18</sup> and he said to him, And did not Rab say that he requires a deed of emancipation? In this R. Johanan would be consistent, since 'Ulla said in the name of R. Johanan, If a man declares his slave common property, he becomes a free man, but he requires a deed of emancipation.

The text above [stated]: 'Ulla said in the name of R. Johanan: If a man declares his slave common property, he becomes a free man, but requires a deed of emancipation.' R. Abba raised the following objection against 'Ulla: 'If a proselyte dies [without heirs] and Israelites seize<sup>19</sup> his property,<sup>20</sup> if there are slaves included in it, whether grown up or not grown up, they become their own masters as free men. Abba Saul, however, says that the grown-ups become their own masters as free men<sup>21</sup> but the minors become the property of whoever first seizes them.'<sup>22</sup> Now who has written a deed of emancipation for these?<sup>23</sup> — 'Ulla replied: This Rabbi seems to imagine that people do not study the law. But what after all is the reason [why the slaves require no deed of emancipation]? — R. Nahman replied: 'Ulla was of opinion that the slave of a proselyte comes under the same rule as his wife. Just as his wife is liberated<sup>24</sup> [after his death] without a Get, so his slave is liberated without a deed of emancipation. But if that is so, the same rule<sup>25</sup> should apply to an Israelite? — Scripture says, And ye shall make them (Canaanitish slaves) an inheritance for your children after you to hold for a possession.<sup>26</sup> If that is the case, then if a man declares his slave common property and then dies, the slave should also [not require a deed of emancipation].<sup>27</sup> How is it then that Amemar has said that if a man declares his slave common property and then dies, nothing can be done for the slave?<sup>28</sup> — [This saying] of Amemar is indeed a difficulty.

R. Jacob b. Idi said in the name of R. Joshua b. Levi: The halachah follows Abba Saul.<sup>29</sup> R. Zera asked R. Jacob b. Idi:

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(1) Lit., 'a man does not utter his words idly'. Even though, taken in their literal sense, his words are meaningless. So here, if he declares his slave sanctified, since the person of the slave cannot be sanctified, we take it to mean that his money value is sanctified in the first instance, v, 'Ar. 5a.

(2) Because, since he cannot sanctify himself, we suppose the man to mean that he sanctifies his money value.

(3) Who say that the words 'I sanctify So-and-so' actually mean, 'I sanctify the purchase price of his person,' I.e. the price which he may fetch when sold as a slave.

(4) Surely the freeman cannot be sold as slave.

- (5) As to the rule where one sanctifies his slave.
- (6) Sanh. 15a
- (7) The technical word for applying holy things to secular purposes.
- (8) V. infra.
- (9) For his money value, contrary to the opinion of Rab.
- (10) Me'ilah could not be committed against fixed property; v. Me'i, 18b.
- (11) As to whether hair that is ripe for cutting is to be regarded as cut.
- (12) I.e., though still attached to the soil, they are subject to the rule of movable and not of fixed property.
- (13) That he was not responsible for the other five,
- (14) In the case of landed property, an oath was not required of the defendant who admitted part of the claim; v. Shebu. 42b.
- (15) That something ready to be done is regarded as already done.
- (16) That if a man declares his slave common property, he goes free.
- (17) And if so, why was he so surprised?
- (18) He merely reported Rab's ruling as reported by R. Joseph and not the whole of it as reported by R. Hiyya b. Abin, supra 38b.
- (19) Lit., 'plunder'.
- (20) If a proselyte dies without (Jewish) issue, any Israelite may seize his property and become his heir.
- (21) I.e., they are allowed to marry Jewesses.
- (22) Kid. 232.
- (23) Which is required according to R. Johanan.
- (24) I.e., becomes free to marry again.
- (25) That the slaves whom he leaves behind should become free.
- (26) Lev. XXV, 46.
- (27) Because the sons never have been his owners.
- (28) To enable him to marry either a slave woman or a Jewess; having been declared common property he is deemed partly free, yet he needs a deed of emancipation to complete his freedom, which deed however cannot be made out for him by the heirs, since they have never been his owners. V. infra 402.
- (29) That the grown-up slaves become free, but not the child-slaves.

### **Talmud - Mas. Gittin 39b**

Did you actually hear this [from R. Joshua], or do you infer it [from something he said]? — Infer it from what? [he replied]. — From the following statement of R. Joshua b. Levi: 'They put the following question to Rabbi: If a man says, I give up hope of recovering my slave So-and-so,<sup>1</sup> what [is the status of the latter]? Rabbi said to them, In my view he has no remedy<sup>2</sup> save through a deed [of emancipation].' Referring to this R. Johanan said: What was Rabbi's reason? He laid stress on the occurrence of the word 'to her' [in the Scripture] in connection both with a slave and a wife,<sup>3</sup> and drew the lesson that just as a woman requires a document [a Get] [to enable her to marry],<sup>4</sup> so does a slave [who has been declared public property]. Now, [continued R. Zera] I assume that you draw [from Rabbi's statement the inference that] just as the woman [is released (by the deed) from] a ritual prohibition<sup>5</sup> and not a monetary obligation, so the slave [is one who is released from] a ritual prohibition and not [from] a monetary obligation.<sup>6</sup> [R. Jacob replied:] Suppose I have only made an inference, what [difference does it make]? — He replied: On the contrary, you can draw just the opposite inference: Just as the woman can be either a grown-up or a child, so the slave<sup>7</sup> can be either a grown-up or a child. [R. Jacob then] said to him: I heard it distinctly [from R. Joshua b. Levi].

R. Hiyya b. Abba, however, said in the name of R. Johanan that the halachah does not follow Abba Saul. Said R. Zera to R. Hiyya b. Abba: Did you actually hear this [from R. Johanan], or do you infer it [from something you heard]? — Infer it from what? [he said.] — From the following statement of R. Joshua b. Levi: 'The following question was put to Rabbi: If a man says, I give up hope of recovering my slave So-and-so, what [is the status of the latter]? Rabbi said to them: In my

view he has no remedy save through a deed of emancipation. Referring to this R. Johanan said: What was Rabbi's reason? He laid stress on the occurrence in the Scripture of the words 'to her' in connection [both with a slave] and with a wife, drawing the lesson that just as a [divorced] wife requires a document [to enable her to marry], so does a slave [who has been declared public property].<sup>7</sup> Now [continued R. Zera], I assume that you draw from Rabbi's statement the inference that just as the wife may be either grown-up or not grown-up, so the slave may be either grown-up or not grown-up. [R. Hiyya replied:] Suppose I have only made an inference, what [difference does it make]? — He replied: On the contrary, you can draw just the opposite inference: just as the woman is [released from] a ritual prohibition and not a monetary obligation, so the slave is one who is [released from] a ritual prohibition and not a monetary obligation. R. Hiyya then said: I heard it distinctly [from R. Johanan].

The Master said: '[Rabbi] said to them, In my view he has no remedy save through a deed of emancipation.' But has it not been taught: 'Rabbi says, The slave can also offer his own purchase price and so liberate himself, because the treasurer [of the sanctuary] as it were sells him to himself'<sup>8</sup> — What he meant was this: [A liberated slave can become enabled to marry] either by ransoming himself or by obtaining a deed of emancipation; and in this case<sup>9</sup> the ownership has ceased.<sup>10</sup> Rabbi thus rejects the view of the following Tanna. It has been taught, namely: R. Simeon says in the name of R. Akiba, May we presume that money payment completes her emancipation in the same way as a deed completes her emancipation?<sup>11</sup> [This cannot be,] since it says, and she be not at all redeemed.<sup>12</sup> The keywords of the whole section<sup>13</sup> are because she was not free.<sup>14</sup> This shows that a document completes her emancipation, but not a money payment.<sup>15</sup>

Rami b. Hama said in the name of R. Nahman that the halachah [in this matter] follows R. Simeon, and R. Joseph b. Hama said in the name of R. Johanan that the halachah does not follow R. Simeon. R. Nahman b. Isaac once came across Raba b. She'ilta as he was standing at the entrance of the synagogue, and said to him, Does the halachah follow R. Simeon or does it not? — He replied, I say that it does not, but the Rabbis who have come from Mahuza report that R. Zera said in the name of R. Nahman that it does. When I was in Sura I came across R. Hiyya b. Abin and said to him, Tell me now what were the essential facts of the case.<sup>16</sup> He said to me: There was a certain female slave whose master was at the point of death. So she came crying to him and saying, How long am I to go on being a slave? He thereupon took his cap and threw it to her saying, Go and acquire this and acquire yourself with it.<sup>17</sup> The case was brought before R. Nahman and he said, His action was null and void. Those who were present thought that R. Nahman's reason for his decision was that the halachah follows R. Simeon,<sup>18</sup> but this is not correct; his reason was that the man used an article belonging to the transferor.<sup>19</sup>

R. Samuel b. Ahithai said in the name of R. Hamnuna the Elder, who said it in the name of R. Isaac b. Ashian who said it in the name of R. Huna who said it in the name of R. Hamnuna: The halachah follows R. Simeon. This, however, is not correct; the halachah does not follow R. Simeon.

R. Zera said in the name of R. Hanina who said it in the name of R. Ashi;<sup>20</sup> Rabbi said, If a slave marries a free woman in the presence of his master,

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(1) This is equivalent to saying, 'I declare him common property.

(2) To enable him to marry, cf. n. 5.

(3) V. *Infra* 41b.

(4) Even if the husband declared her common property.

(5) Viz., the prohibition of marrying.

(6) Hence Rabbi must have been speaking of grown-up slaves who can acquire their own persons (v. *supra*) and, as soon as they are declared common property by the owner, cease to be his possession. In their case, the deed affects only a prohibition in that it permits them to marry a Jewess. In the case of minors, however, upon whose persons the owner still

retains his claim even after having declared them common property, the deed affects money matters, and to such a deed Rabbi was not referring, it not being like that of the woman. Consequently the prohibition of marrying does not apply to children.

(7) Who is liberated by the death of his master.

(8) Supra 38b. This shows that money payment is also effective.

(9) Of the man who declares his slave common property.

(10) Hence there is no-one from whom the slave can purchase his freedom and his only remedy is through a document.

(11) The reference is to a female slave who is half emancipated and betrothed to a Hebrew slave. The question under discussion is, if some other person has intercourse with her after she has been redeemed by a money payment but before she has received a deed of emancipation, is he to suffer the death penalty for having violated a free woman who is betrothed, or is he merely to bring a guilt-offering in accordance with the rule laid down in Lev. XIX, 20.

(12) Lev. loc. cit.

(13) Lit., 'the whole section is closely linked with.'

(14) The verse runs: And whosoever lieth carnally with a woman that is a bondmaid betrothed to a husband, and not at all redeemed nor freedom given her, they shall be punished, they shall not be put to death, because she was not free. The words 'not at all redeemed' (lit., 'redeemed she was not redeemed') are interpreted to mean, 'she was redeemed and yet not redeemed,' i.e., redeemed with money but not with a document.

(15) As much as to say, she has not the status of a free woman until she receives her deed of emancipation.

(16) In which R. Nahman decided that the halachah follows R. Simeon.

(17) His intention was to transfer her to herself by means of a kinyan (v. Glos.) of which the cap was the symbol.

(18) That a deed is necessary in such a case to enable her to marry an Israelite.

(19) And the rule is that to make the kinyan valid, the article must belong to the transferee, v. B.M. 47b.

(20) The mention of R. Ashi in this connection is very strange.

## **Talmud - Mas. Gittin 40a**

he automatically becomes a free man.<sup>1</sup> Said R. Johanan to him: Are you really sure of that?<sup>2</sup> What I have learnt is, if a man writes a deed of betrothal<sup>3</sup> for his female slave, R. Meir says that she becomes betrothed and the Sages say that she is not betrothed.<sup>4</sup> The explanation is similar to that given by Rabbah son of R. Shilah, who said [in an analogous case], 'When his master puts the phylacteries on him.'<sup>5</sup> So here, the slave becomes free when the master actually gives him a wife.<sup>6</sup>

But is it possible that there can be an action involving a breach of the law which a man would not allow to be done on behalf of his slave but would perform on his own behalf?<sup>7</sup> — R. Nahman b. Isaac said; We are assuming here that in giving her the deed of betrothal] he says, Become free with this and be betrothed with this.<sup>8</sup> R. Meir held that this expression ['be betrothed'] includes emancipation, and the Rabbis held that it does not include emancipation.

R. Joshua b. Levi said: If a servant puts on phylacteries in the presence of his master, he becomes a free man. An objection was raised; 'If his master borrows [money] from his slave, or if his master appoints him administrator of his affairs, or if he puts on phylacteries in the presence of his master, or if he reads three verses in his presence in the synagogue, he does not [thereby] become a free man'? — Rabbah son of R. Shila explained that [R. Joshua b. Levi was speaking of the case] where his master [himself] put the phylacteries on him.<sup>9</sup>

When R. Dimi came [from Palestine] he reported [the following ruling] in the name of R. Johanan: If a man when on the point of death says, I do not want my female slave So-and-so to be used as a slave after my death, the heirs can be compelled to make out for her a deed of emancipation. R. Ammi and R. Assi [expostulated with him] saying, Do you not admit that her children will be slaves?<sup>10</sup> When R. Samuel b. Judah came, he said in the name of R. Johanan: If a man when on the point of death says, My female slave So-and-so has given me great satisfaction, let something be done to satisfy her, the heirs may be compelled to satisfy her.<sup>11</sup> The reason is that it is

a religious duty to carry out the wishes of the deceased.

Amemar said: If a man declares his slave common property, nothing can be done for the slave.<sup>12</sup> Why so? Because he no longer possesses his body, but he is still bound by the prohibition,<sup>13</sup> and this he cannot transfer to him. Said R. Ashi to Amemar: But has not ‘Ulla said in the name of R. Johanan and R. Hiyya b. Abin in the name of Rab, In either case<sup>14</sup> he becomes a free man and requires a deed of emancipation? — He replied: He requires one, but nothing can be done for him.

According to another version, Amemar said: If a man declares his slave common property and then dies, nothing can be done for the slave. Why so? Because he no longer owns his body, but he is still bound by the prohibition, and this he cannot bequeath to his son. Said R. Ashi to Amemar: But when R. Dimi came he reported a ruling of R. Johanan [which conflicts with this]?<sup>15</sup> — R. Dimi's statement was erroneous.<sup>16</sup> Where, he rejoined, was the error? That the man did not say distinctly that the slave should be emancipated? But if he had done so, then they would have had to write her a deed of emancipation, [would they not]? — Said Amemar: I hold with R. Samuel b. Judah.<sup>17</sup>

A certain settlement of slaves was sold [by their Jewish masters] to heathens. When the second masters died, they applied to Rabina,<sup>18</sup> and he said to them, Go and find the sons of your first masters, and they will write you out deeds of emancipation. The Rabbis expostulated with Rabina, saying, Has not Amemar laid down that if a man declares his slave common property and then dies, nothing can be done for the slave? — He replied: I adopt the view of R. Dimi. But, they said to him, R. Dimi's statement was erroneous! — He replied: What was the mistake? That the man did not say distinctly that the slave should be emancipated. But if he had said so, the heirs would have had to emancipate her, [would they not]?<sup>19</sup> The law is as stated by Rabina.

A certain slave was owned by two men [in partnership], and one of them emancipated his half. The other thereupon thought to himself: If the Rabbis hear of this, they will force me to give him up.<sup>20</sup> So he went and transferred him to his son who was still under age. R. Joseph the son of Raba submitted the case to R. Papa. He sent him back answer: As he has done so it shall be done to him; his dealing shall return upon his own head.<sup>21</sup> We all know that a child is fond of<sup>22</sup> money. We shall therefore appoint for him a guardian,

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(1) Because we assume that if the master had not emancipated him he would not allow him to do this.

(2) That Rabbi said this.

(3) ‘Behold thou art betrothed to me.’

(4) Because we do not assume that he has emancipated her. The Sages here would include Rabbi.

(5) *Infra*.

(6) As in this case there can be no doubt that he has emancipated him.

(7) *Viz.*, his marrying his female slave before making out for her a deed of emancipation.

(8) Where, however, he says merely ‘Be betrothed’ it is assumed that he had emancipated her already.

(9) The master would not have conferred upon him this dignity had he not already emancipated him.

(10) *I.e.*, the expression, ‘do not use her as a slave,’ only means that they should not make her work too hard, not that she should be freed.

(11) Even to the point of emancipating her.

(12) To enable him to marry either a free woman or a slave. [According to *Tosaf.*, however, he may still marry a slave. *V. Tosaf. s.v. וכתב* ].

(13) To marry a Jewess, which remains in force until the slave obtains a deed of emancipation.

(14) Whether sanctified or declared common property. *V. supra* 38b, 39a.

(15) *Viz.*, that the heirs can be compelled to write a deed of emancipation, though they could claim to no ownership of the body of the slave in view of the father's instructions. *V. supra*.

(16) As shown by R. Ammi and R. Assi *supra*.

(17) According to whose version of R. Johanan's ruling, the heirs can use their own judgment.

(18) To make them eligible for marrying Jewesses.

(19) And so here, though the first masters declared them free as far as they were concerned, the heirs can nevertheless write them a deed of emancipation.

(20) Lit., 'cause me to lose him', i.e., to allow him to purchase the other half of himself from me.

(21) Obad. I, 15.

(22) Lit., 'is attracted to'.

## **Talmud - Mas. Gittin 40b**

and [the slave] will rattle some coins before the child, and [the guardian] will write out a deed of emancipation for the slave in his name.<sup>1</sup>

Our Rabbis have taught: If a man says, 'I have made my slave So-and-so free', 'he is hereby declared free', 'I declare him free,' then he becomes a free man. [If he says,] 'I shall make him free,' Rabbi says that he acquires possession [of himself],<sup>2</sup> but the Sages say that he does not.<sup>3</sup> R. Johanan explained that in every case we suppose a deed to have been made out.<sup>4</sup>

Our Rabbis have taught: If a man says, 'I have given such-and-such a field to So-and-so'; 'It is presented to So-and-so'; 'I declare it to be his,' then it is his. If he says, 'I shall give it to So-and-so,' R. Meir<sup>5</sup> says that he acquires ownership of it, but the Sages say that he does not acquire ownership. R. Johanan explained that in every case we suppose a deed to have been given.

Our Rabbis have taught: If a man says, 'I have made my slave So-and-so free,' and the slave says, 'You have not freed me', we take into account the possibility that he has presented him a deed of emancipation through a third party.<sup>6</sup> If, however, the master says, 'I have written and given to him,' and he says, 'He has not written for me nor given to me,' this is a case where the admission of the litigant is worth the evidence of a hundred witnesses. If a man says, 'I have given such-and-such a field to So-and-so', and the latter says, 'He has not given it to me,' we take into account the possibility that he may have presented it to him through a third party. If he says, 'I have written [a deed] and presented it to him,' and the other says, 'He has not written nor presented to me,' then in that case the admission of the litigant is worth the evidence of a hundred witnesses. [In such a case] who is entitled to the produce? — R. Hisda says the donor is entitled to the produce, whereas Rabbah says that the produce is entrusted to a third party.<sup>7</sup> There is no conflict between the two rulings; the one applies to the father, the other to the son.<sup>8</sup>

**MISHNAH. IF A MAN MAKES HIS SLAVE SECURITY<sup>9</sup> [FOR A DEBT] TO ANOTHER MAN AND HE EMANCIPATES HIM, IN STRICT JUSTICE THE SLAVE IS NOT LIABLE FOR ANYTHING, BUT TO PREVENT ABUSES<sup>10</sup> HIS MASTER IS COMPELLED TO EMANCIPATE HIM. AND HE GIVES A BOND FOR HIS PURCHASE PRICE. RABBAN SIMEON B. GAMALIEL SAYS THAT HE DOES NOT GIVE A BOND BUT HE EMANCIPATES HIM.<sup>11</sup>**

**GEMARA. IF A MAN MAKES HIS SLAVE SECURITY FOR A DEBT AND HE EMANCIPATES HIM.** Who emancipates him? — Rab says, his first master. In strict justice the slave is then not liable for anything to his second master, according to the dictum of Raba, that 'sanctification,<sup>12</sup> leaven,<sup>13</sup> and emancipation release from a creditor's lien.'<sup>14</sup> To prevent abuses, however, [that is to say, for fear] lest he should find him in the street

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(1) A minor could not be compelled to emancipate his slaves, nor could his guardian do so for him. On the other hand, a minor was competent to sell movables. Hence if the slave could induce him to sell to him his half, well and good, and the function of the guardian was only to see that he obtained a fair price. According to Tosaf., the deed is made out in the name of the guardian. V. Tosaf. s.v. 2031.

- (2) Along with the deed of emancipation in which these words are written.
- (3) Because this is only a promise that he will liberate him subsequently by means of another deed.
- (4) But if it is merely a verbal declaration, the master can retract.
- (5) Var. lec.; Rabbi.
- (6) Without the slave's knowledge. In such a case the slave would be liberated on the principle that a benefit may be conferred on a man without his knowledge.
- (7) Who puts it on one side till the 'coming of Elijah', i.e., till the truth of matter is ascertained.
- (8) We accept the disclaimer of the man who is alleged to have received the gift, but not of his son, as witnesses may still be found to prove that the gift was actually made.
- (9) אפותיקי , Gr. \*\*.
- (10) Lit., 'for the better ordering of the world'.
- (11) The whole of this Mishnah is explained in the Gemara.
- (12) If a man pledges an animal as security and then devotes it for a sacrifice.
- (13) If a man borrows from a Gentile on the security of leaven and the Passover intervenes, rendering the leaven forbidden for use.
- (14) V. B.K. 90a.

## Talmud - Mas. Gittin 41a

and say to him 'you are my slave,'<sup>1</sup> his second master is compelled to emancipate him, the slave giving him a bond for his purchase price.<sup>2</sup> R. Simeon b. Gamaliel says that it is not the slave but the one who emancipates him who has to give a bond. In regard to what point do the two authorities join issue? — In regard to the person who injures an object pledged as security to another, one<sup>3</sup> holding that he is liable [to make it good] and the other that he is not liable.<sup>4</sup> It has also been stated [elsewhere]: On the question of the man who injures an object which has been pledged as security to another, we find a difference of opinion between R. Simeon b. Gamaliel and the Rabbis.

'Ulla explains [as follows]: Who emancipates him? His second master. In strict justice the slave is still not liable for the performance of religious precepts [incumbent on free men only]. To prevent abuses,<sup>5</sup> however — since he has been reported to be free — his first master is compelled to liberate him, and he [the servant] gives him a bond for his purchase price.<sup>6</sup> R. Simeon b. Gamaliel says that he does not give the bond, but the one who emancipates him gives the bond. On what point do the two authorities join issue? — On the question of damage which is not recognisable,<sup>7</sup> the one<sup>8</sup> holding [that in the eye of the law] this is genuine damage and the other that it is not.<sup>9</sup>

Why did not 'Ulla accept the explanation of Rab? — He will say to you, Can you call the second his master?<sup>10</sup> Why did not Rab adopt the explanation of 'Ulla? — He will say to you, Do you call the second the one who emancipates him?<sup>11</sup>

It has been stated: If a man makes a field of his security [for a debt] to another, and it is flooded by a river, Ammi Shapir Na'eh<sup>12</sup> says in the name of R. Johanan that he cannot recover his debt from the remaining property of the debtor. The father of Samuel, however, says that he can recover from the remainder of his property. Said R. Nahman b. Isaac: Because he is Ammi Shapir Na'eh he makes pronouncements which are not commendable.<sup>13</sup> But we must explain his reported ruling to refer to the case where the debtor has said to the creditor: 'You shall not be able to recover save from this'.<sup>14</sup> It has been taught to the same effect: If a man makes a field of his security for a debt to another and it is flooded by a river, [the creditor] may recover from the remainder of his property. If, however, he said to him, 'You shall not be able to recover save from this', he cannot recover from the remainder of his property. Another [Baraita] taught: If a man makes his field security for a debt to his creditor or for a woman's kethubah, they may recover from the remainder of his property.<sup>15</sup> R. Simeon b. Gamaliel, however, says that [while] a creditor may so recover a woman cannot recover from the remainder, because it is not seemly for a woman to keep on coming to court.<sup>16</sup>



MISHNAH. ONE WHO IS HALF A SLAVE AND HALF FREE<sup>17</sup> WORKS FOR HIS MASTER AND FOR HIMSELF ALTERNATE DAYS.<sup>18</sup> THIS WAS THE RULING OF BETH HILLEL. BETH SHAMMAI SAID: YOU HAVE MADE MATTERS RIGHT FOR THE MASTER BUT NOT FOR THE SLAVE. IT IS IMPOSSIBLE FOR HIM TO MARRY A FEMALE SLAVE BECAUSE HE IS ALREADY HALF FREE.<sup>19</sup>

(1) And so defame his children.

(2) To compensate him for the loss of his security.

(3) R. Simeon.

(4) V. B.K. 33b.

(5) I.e., lest he should marry a Jewess while in this state.

(6) In so far as this is in excess of the debt.

(7) Here, the emancipation of the slave, v. infra 53a.

(8) R. Simeon.

(9) Therefore the second has to give no bond, but the slave must do so in return for the benefit he has received in being emancipated.

(10) And the Mishnah says, 'His master is compelled'.

(11) Seeing that he was not his master, how could he be said to emancipate him?

(12) So called on account of his beauty (v. n. 7) Rash. Nid. 19b.

(13) A play on the word shapir, which means 'beautiful', 'commendable', as also does na'eh.

(14) For this reason he cannot recover from any other property.

(15) I.e., the debtor can sell this field and let the creditors recover from the rest of his property.

(16) And for this reason the husband specially made this field responsible, so that she should not have to go to law with the purchasers of his other fields, not knowing which had bought first and which last.

(17) Explained in the Gemara; v. n. 9 and p. 178, n. 9.

(18) Lit., 'serves his master one day and himself one day'.

(19) And so an Israelite.

## Talmud - Mas. Gittin 41b

IT IS IMPOSSIBLE FOR HIM TO MARRY A FREE WOMAN BECAUSE HE IS HALF A SLAVE.<sup>1</sup> SHALL HE THEN REMAIN UNMARRIED?<sup>2</sup> BUT WAS NOT THE WORLD ONLY MADE TO BE POPULATED, AS IT SAYS, HE CREATED IT NOT A WASTE, HE FORMED IT TO BE INHABITED?<sup>3</sup> TO PREVENT ABUSES,<sup>4</sup> THEREFORE, HIS MASTER IS COMPELLED TO LIBERATE HIM AND HE GIVES HIM A BOND FOR HALF HIS PURCHASE PRICE. BETH HILLEL THEREUPON RETRACTED [THEIR OPINION AND] RULED LIKE BETH SHAMMAI.

GEMARA. Our Rabbis taught: If a man emancipates half his slave,<sup>5</sup> Rabbi says that the latter becomes his own master to that extent, and the Rabbis say that he does not. Rabbah says: The dispute [between them relates only to the case] where [the master has made out] a deed of emancipation. Rabbi holds, [since it says] And she be not at all redeemed nor freedom given her,<sup>6</sup> we apply the same rule to a deed as to money.<sup>7</sup> Just as with money the slave can acquire either the half or the whole of himself,<sup>8</sup> so with a deed, he can acquire either the half or the whole of himself. The Rabbis, however, base their ruling on the occurrence of the word 'to her' [in connection both with a female slave] and with a [divorced] wife.<sup>9</sup> Just as a wife cannot be divorced by halves, so a slave cannot acquire himself by halves. With money, however, both agree that he can so acquire himself. May we say that the point at issue between them [Rabbi and the Rabbis] is this, that [where a ruling may be based either on an analogy or a gezerah shawah]<sup>10</sup> one holds that preference is to be given to the analogy and the latter to the gezerah shawah? — No; both agree that preference is to be given to the gezerah shawah,<sup>11</sup> but there is a special reason [for not doing so here, because the validity of the

gezerah shawah] may be questioned thus: [This rule<sup>12</sup> may well apply to] a woman since she cannot be liberated by money, but how infer from her to a slave who is liberated by money?

R. Joseph said that [the dispute between Rabbi and the Rabbis is where] the half-emancipation is made for money payment. Rabbi holds that the words 'redeeming she is not redeemed' indicate that she is [half] redeemed but not [wholly] redeemed, whereas the Rabbis hold that the Torah was here using an ordinary form of speech.<sup>13</sup> Where, however, [the half-emancipation is made by] a deed, both [according to R. Joseph] agree that the slave does not acquire [that half of himself].

An objection was raised [from the following]: if a man emancipates half his slave with a deed, Rabbi says that the slave acquires that half of himself, while the Rabbis say that he does not acquire it. Is not this a refutation of R. Joseph? — It is. [And I infer from this Baraitha] that Rabbi and the Rabbis differ only where the emancipation is effected by a deed, but where it is effected by money payment they do not differ; in which case there will be a double refutation of R. Joseph?<sup>14</sup> — R. Joseph may reply: [What the Baraitha shows is] that they differ in regard to a deed, and this applies also to money payment; and the reason why their difference is mentioned only in regard to a deed is to show to what lengths Rabbi is prepared to go.<sup>15</sup> But why should not their difference be mentioned with reference to money payment to show to what lengths the Rabbis are prepared to go?<sup>16</sup> — It prefers [to note] the strength [of this conviction] where it leads to a permission.<sup>17</sup> Come and hear: 'And redeemed': I might take this to mean 'entirely [redeemed]', therefore it says, 'she was not redeemed'. If 'she was not redeemed,' I might think it means 'not at all'? Therefore it says, 'And redeemed'. How then do we explain? She is redeemed and yet not redeemed, with money or with the equivalent of money. I only know so far that this is the case<sup>18</sup> with money [payment]; how do know that it is so with a deed? It says, 'And redeemed she was not redeemed, nor was her freedom given to her,' and in another place it says, And he shall write for her a bill of divorcement.<sup>19</sup> Just as there the woman is liberated by a deed, so here. I only know so far that a half-emancipation [can be effected] by money or a full one<sup>20</sup> by a deed. How do I know that a half-emancipation [can be effected] by a deed? It says, 'And redeemed she be not redeemed or her freedom be not given to her.' The deed is here put on the same footing as money payment, [whence I conclude that] just as with money either a half or a full emancipation [can be effected], so with a deed. Now there is no difficulty here if we accept the view of R. Joseph after he was refuted:<sup>21</sup> this [Baraitha] agrees with Rabbi.<sup>22</sup> But on the view of Rabbah<sup>23</sup> we must say that the first half<sup>24</sup> agrees with all and the second<sup>25</sup> only with Rabbi?<sup>26</sup> — To which Rabbah replies: That is so: the first half agrees with all and the second is according to Rabbi [only]. R. Ashi said: It follows Rabbi [throughout].<sup>27</sup> But then, what of the Mishnah, which says, ONE WHO IS HALF A SLAVE AND HALF FREE? This presents no difficulty on the view of Rabbah, because he can suppose it to refer to [one who has been emancipated] by money payment, and it represents the view of all, but on the view of R. Joseph<sup>28</sup> are we to say that it represents the view of Rabbi and not of the Rabbis? — Rabina replied:

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(1) And so not an Israelite.

(2) Lit., 'shall he abstain'.

(3) Isa. XLV, 18.

(4) Lit., 'for the better ordering of the world'.

(5) He says 'I emancipate half of you'.

(6) Lev. XIX, 20.

(7) Applying the word 'redeemed' to emancipation for money payment and freedom' to emancipation by deed and drawing an analogy (hekkesh) between the two.

(8) As derived infra from the same verse.

(9) Nor freedom given to her (lah) (Lev. XIX, 20), and And he write for her (lah) (Deut. XXIV, 1). The inference is drawn on the strength of the hermeneutical rule called gezerah shawah (v. Glos.).

(10) V. supra n. 2.

(11) Because the inference in this case is either based on a redundancy in the text or else on a very ancient tradition.

(12) That there is no half-liberation by means of a deed.

(13) Lit., 'speaking in the language of human beings.' i.e., using the words 'redeemed she was not redeemed,' to mean simply, 'she was not at all redeemed,' so that we cannot learn from these words that half-emancipation can be obtained by money payment.

(14) Who said that the Rabbis do not admit half-emancipation even with money payment.

(15) Lit., 'to show the strength of Rabbi'. Namely, even to the extent of ignoring the gezerah shawah which points in the other direction.

(16) Even to the extent of ignoring the analogy which points in the other direction.

(17) Here, the permission of the slave to emancipate half of himself, whereas the strength of the Rabbis' conviction leads them to prohibit him.

(18) That a slave can be half emancipated.

(19) Deut. XXIV, 1.

(20) Because there is no half-liberation by a deed for a wife.

(21) I.e., after the first half of his statement, that Rabbi does not admit half emancipation with a deed, had been refuted, but he had defended the other half, that the Rabbis did not admit it for money.

(22) Who also said, according to the revised opinion, that half-emancipation could be effected either with a deed or with money.

(23) Who said that according to the Rabbis there is no half-emancipation by deed.

(24) Which states that money effects half-emancipation.

(25) Which states that even a deed effects half-emancipation.

(26) And not the Rabbis who do not admit half-emancipation by deed.

(27) Rabbi holding that the slave obtains half-emancipation in both cases.

(28) According to whom the Rabbis hold that there is no half-emancipation whether by money or by deed.

## **Talmud - Mas. Gittin 42a**

The Mishnah [according to R. Joseph] is speaking of a slave belonging to two partners.<sup>1</sup>

Rabbah says: The dispute [between Rabbi and the Rabbis] concerns the case where [the master] liberates the half of the slave and keeps the other half, but if he liberates one half and sells the other half or makes a gift of it to someone<sup>2</sup> since, the slave emerges completely from his ownership, both Rabbi and the Rabbis would agree that he acquires [the half of himself]. Said Abaye to him: And do they not differ even [where the master parts] with the whole? Has not one [authority] taught: 'If a man assigns in writing his property to two of his slaves,<sup>3</sup> they acquire ownership and emancipate one another,'<sup>4</sup> while it has been taught by another, 'If a man says, 'All my property is made over to my slaves So-and-so and So-and-so', they do not acquire ownership even of themselves? Now are we not to say that the one [authority]<sup>5</sup> concurs with Rabbi and the other with the Rabbis? — No; both concur with the Rabbis, [only] the one [refers to the case] where [the man] assigned the whole [of his property to both slaves],<sup>6</sup> while the other [refers to the case] where he says half [to one and] half [to the other].<sup>7</sup> But the second clause goes on: 'If he says, half [to one] and half [to the other] they do not acquire ownership.' Does not this show that the first clause refers to the case where he says 'the whole'? — This second clause explains the first, [thus:] 'They do not acquire ownership even of themselves. When is this so? If, for instance, he says, half [to one] and half [to the other].' This supposition is reasonable, since if we assume the first clause [to refer to the case] where he says 'the whole', seeing that where he says 'the whole they do not acquire ownership, is it necessary [to tell us that they do not do so] where he says 'half and half'? — This is not a conclusive argument. [It may be that] the second clause was put in to make clear [the reference in] the first: lest you might think that the first clause [refers to] where he said half [to one] and half [to the other], leaving us to infer that where he said 'the whole' they acquire ownership, he adds in the second clause, 'where he says half and half,' which shows that the first clause [speaks of the case] where he says 'the whole,' and even so they do not acquire ownership. Or if you like I can say that there is no contradiction, as the one authority is speaking of one document<sup>8</sup> and the other of two documents. [If he is speaking of]

one document, what is the point of ‘half [to one] and half [to the other]’? Even if he said, ‘[Let each take] the whole,’ they do not acquire ownership?<sup>9</sup> — This in fact is what he does say, [as what he means is:] ‘They do not acquire even themselves. When do we say this? [When he makes out] only one deed. If, however, [he makes out] two deeds, they do acquire ownership. And if he says half [to one] and half [to the other], even with two deeds they do not acquire ownership.’<sup>10</sup> If you like again I can say that there is no contradiction; in the one case [the two deeds] are given at one and the same time, in the other case one after the other.<sup>11</sup> [If that is so], I can understand why the second does not acquire ownership, because the first has already become his owner; but why does not the first acquire both himself and the other? No; the best [solutions are] those which were given first. R. Ashi said:<sup>12</sup> The case is different there, because he calls them ‘my slaves’.<sup>13</sup> Said Rafram to R. Ashi: perhaps he means, ‘who were my slaves’? Have we not learnt: If a man assigns in writing all his property to his slave, the latter becomes free; if he excepts a piece of land however small, he does not become free.<sup>14</sup> R. Simeon says: He becomes free in all cases unless the master says, ‘The whole of my property is assigned to my slave So-and-so except one ten-thousandth part thereof’?<sup>15</sup> Now the reason for this is that he added these words, otherwise he would be free.<sup>16</sup> But [it may be asked], why, seeing that he calls him ‘my slave’? Obviously he means, ‘who was hitherto my slave’; so here he means, ‘who were hitherto my slaves’.

[If a slave who is half-emancipated] is gored by an ox, if it is on a day on which he belongs to the master, the [compensation<sup>17</sup> goes] to the master, if on the day when he belongs to himself, it goes to himself. If that is so, then on his master's day he should be allowed to marry a slave-woman and on his own day a free woman? — We do not apply this principle where a religious prohibition is involved.

Come and hear: If [an ox] kills one who is half a slave and half free, the owner gives half the fine<sup>18</sup> to his master

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- (1) And even the Rabbis would admit that one of them can liberate the half belonging to him, since, as far as he is concerned, this is a complete liberation, analogous to that if a wife.
  - (2) At the same time as or just before he liberates him.
  - (3) By means of two deeds which he gives to a messenger on their behalf at the same time, so that each is entitled to a half.
  - (4) I.e., each emancipates the half of the other which he has acquired.
  - (5) Who says that a slave is emancipated by halves.
  - (6) In which case even the Rabbis admit that they acquire ownership, because, as they are both liberated at once, they emerge completely from his ownership.
  - (7) In which case they do not emerge from his ownership, even if he presented both of the deeds at the same moment, because it is possible that he assigns the same half of his property to both, and so half of each of them is still left enslaved.
  - (8) In which case they are not liberated, just as two women cannot become divorced with one Get.
  - (9) Because two slaves cannot be emancipated with one deed.
  - (10) Because they do not emerge completely from the ownership of the master.
  - (11) In both cases the whole being assigned to both.
  - (12) R. Ashi seeks to reconcile the two authorities cited above.
  - (13) In the deed they are designated as slaves, hence it is to be assumed that it was not his intention to liberate them but merely to make them a present of his property, which, however, as slaves they are not competent to acquire.
  - (14) Since we do not know which fraction was excepted, the slave acquires no land, and since he acquires no land he does not acquire himself, since we cannot divide the assignment of himself from the assignment of the land, v. supra p. 30.
  - (15) R. Simeon holds that we can in this case divide the assignments, but we do not know whether the ten-thousandth part does not refer to the slave himself.
  - (16) Lit., ‘acquire’.

(17) The so-called 'damage' (nezek), the depreciation in his money value.

(18) Of thirty pieces of silver, according to Ex. XXI, 32.

## Talmud - Mas. Gittin 42b

and half the ransom<sup>1</sup> to his heirs.<sup>2</sup> Why [should this be so]? Let us say that on his master's day [the money goes] to his master and on his own day to himself? — The case is different here, because the principal<sup>3</sup> is consumed —<sup>4</sup> What sort of case is it then in which the principal is not consumed?<sup>5</sup> — If, for instance, [the ox] wounded him on his hand, causing it to shrivel, but so that it will eventually be healed. This answer is satisfactory if we accept the view of Abaye, who said that he is compensated [in such circumstances] both for the larger incapacitation and the smaller incapacitation.<sup>6</sup> But on the view of Raba who said that he is only compensated for his incapacitation from day to day,<sup>7</sup> [it may be objected that] we are dealing with an ox, and an ox [makes the master liable] only for payment of damage?<sup>8</sup> — If you like I can say [that this rule<sup>9</sup> applies only] when the blow is given by a man,<sup>10</sup> and if you like I can say that the passage above is only an expression of opinion,<sup>11</sup> and it is one with which Raba does not hold.

The question was raised: If an [emancipated] slav<sup>12</sup> has not yet received his deed of emancipation, is a fine to be paid for him or not [if he is killed by a goring ox]? Thirty shekels of silver he shall give to his master<sup>13</sup> said the All-Merciful, and this [man] is not his master; or do I say that since the slave is still short of a deed of emancipation, we do call him a master? — Come and hear: If an ox kills one who is half a slave and half free, the owner gives half the fine to the master and half the ransom to the slave's heirs. Now this is so, is it not, on the basis even of the later teaching?<sup>14</sup> — No; only on the basis of the earlier teaching.<sup>15</sup>

Come and hear: If a man knocks out a tooth of his slave and also blinds him of an eye, the slave is liberated on account of the tooth and receives compensation for the eye.<sup>16</sup> If now you say that a fine must be paid for him and the fine belongs to his master, seeing that when others injure him they pay the master, when the master himself injures him is he to pay to the slave?<sup>17</sup> — Perhaps this passage agrees with the authority who says that he does not need a deed of emancipation, since it has been taught: For all these [maimings]<sup>18</sup> a slave is liberated; he requires, however, a deed of emancipation from his master. R. Meir says he does not require one; R. Eliezer says he does require one; R. Tarfon says he does not require one; R. Akiba says he does require one. Those who determine [the issue] in the presence of the Sages<sup>19</sup> say: The opinion of R. Tarfon is to be preferred in the case of a tooth and an eye, because the Torah [itself] conferred on him [his freedom in this case];<sup>20</sup> but the opinion of R. Akiba in the case of the other members, because [the liberation] in that case is a fine imposed by the Sages [on the master]. A fine, you call it? They deduce it from the text of the Scripture!<sup>21</sup> — Let us say, therefore, because it is a deduction of the Sages.<sup>22</sup>

The question was raised: If a [liberated] slave [of a priest] is still short of a deed of emancipation, may he eat terumah or not? The All-Merciful has laid down that [terumah may be eaten] by [one who is] the purchase of his [the priest's] money,<sup>23</sup> and this one is no longer 'the purchase of his money'; or perhaps since he is short of a deed of emancipation do we still call him 'the purchase of his money'? — Come and hear: R. Mesharsheya has said:<sup>24</sup> If the child of a priestess has become interchanged with the child of her female slave, both may eat terumah<sup>25</sup> and must take their portion together from the threshing floor.<sup>26</sup> When the changelings grow up, they emancipate one another.<sup>27</sup> Are these two cases parallel? In the latter case, should Elijah<sup>28</sup> come and declare one of them to be a slave, we should call him 'the purchase of his money'; but in the other case he is not the 'purchase of his money' at all.

The question was raised: If a man sells his slave in respect of the fine only,<sup>29</sup> he sold or not sold? The question is pertinent whether we adopt the view of R. Meir or whether we adopt that of the

Rabbis.<sup>30</sup> It is a question for R. Meir, [since we may say that] when R. Meir laid down that a man can transfer something which does not yet exist,<sup>31</sup> [he was thinking] for instance of the fruit of a date tree which is expected to come into existence later, but in this case who can tell if the slave will actually be gored? And even if he is gored, how can we tell that the owner of the ox will pay?

- (1) Due to him as a free man, according to Ex. XXI, 30.
- (2) The Gemara discusses later what heirs a slave can have.
- (3) I.e., the slave himself.
- (4) And the division of days no longer applies here.
- (5) For which the owner of the ox, according to the first passage cited above, pays to the master or to the slave, as the case may be.
- (6) The larger incapacitation is his depreciation in money value were he to be sold immediately on his injury as slave, technically known as 'nezek' (damage). The smaller incapacitation is the money which, even with his injured hand, he could earn as a watcher in a cucumber field if he were not confined to his bed.
- (7) That is to say, for the money which he loses through not being able to follow his usual occupation, and not his depreciation in money value, v. B.K. 86a.
- (8) And not for the kind of compensation mentioned by Raba, which comes only under the head of 'incapacitation'.
- (9) That on his master's day the money goes to the master and on his own day to himself.
- (10) Who is liable also for incapacitation. The wording of the first passage will thus have to be amended.
- (11) And not a Mishnah or Baraitha.
- (12) Belonging to the classes mentioned above (sanctified, declared common properly, and half free) whose master can be forced to emancipate him but who still requires a deed of emancipation.
- (13) Ex. XXI, 32.
- (14) The reference is to the ruling given by Beth Hillel after they had been convinced by Beth Shammai that the master of a half-free slave could be forced to emancipate him, supra 43b.
- (15) When Beth Hillel said that he could not be forced, and was therefore still master in the full sense of the term. This, however, is not the halachah.
- (16) As being now a free man, v. Ex. XXI, 26. It is being, however, assumed at the present stage that the slave still needs a deed to complete his emancipation.
- (17) We must say therefore that as soon as the tooth is knocked out he is no longer a slave, though he has not yet received a deed of emancipation. Hence we infer that a fine need not be paid for him either if he is killed by a goring ox.
- (18) The Rabbis enumerated twenty-four maimings for the infliction of which by the master the slave obtained his freedom. V. Kid. 242, b.
- (19) Who precisely these were is not recorded.
- (20) Ex. XXI, 26, 27.
- (21) In Kid. loc. cit.
- (22) And not on a par with an express statement of the Torah.
- (23) Lev. XXII, 11.
- (24) [Or 'reported'. The passage quoted is actually a Mishnah. This is apparently another example of a ruling of a Tannaitic teaching reported by an Amora which found subsequently its way into the Mishnah, cf. Hoffmann, D. Die Erste Mishnah, pp. 156ff.]
- (25) One as a priest and the other as the slave of a priest.
- (26) The Rabbis ordained that a priest's slave should not collect the terumah from the threshing floor unless his master was with him, for fear that he might himself claim to be a priest.
- (27) And yet until the deed of emancipation is given the one of them who was a slave could eat the terumah.
- (28) Who can ascertain the truth of matter.
- (29) I.e., he sells only his right to receive the thirty shekels, should the slave be gored to death.
- (30) On the question whether it is possible to transfer ownership of something that does not yet exist.
- (31) Lit., 'that has not come into the world'.

perhaps he will confess and release himself.<sup>1</sup> It is also a question for the Rabbis, [since we may say that] when the Rabbis said that a man cannot transfer something which does not yet exist, they were thinking for instance of the fruit of a date tree which at this moment at any rate does not exist, but in this case the ox exists and the slave exists. What [is the answer]? — R. Abba said: Come and hear: Such as are born in his house.<sup>2</sup> What is the point of these words? If the ‘purchase of his money’ can eat [terumah] how much more so one born in the house? If that were so, I should say, Just as the ‘purchase of his money’ must be one who has a money value, so the one ‘born in his house’ must have a money value. How then should I know that even one who has no money value<sup>3</sup> [may eat the terumah]? Because it says, ‘such as are born in the house’: in all circumstances. I might still maintain that one who is born in the house may eat whether he has a money value or not, but the purchase of his money’ may eat only if he has a money value, but if he has no money value he may not eat. Therefore it says, ‘The purchase of his money and one born in his house’. Just as one born in the house may eat whether he has a money value or not, so the purchase of his money may eat whether he has a money value or not. Now if you say that a slave who is sold by his master in respect of the fine only is actually sold, [the question can be asked], Is there a slave who is not worth selling for his fine?<sup>4</sup> — Yes, there is the one who has not long to live.<sup>5</sup> But he is still capable of waiting on him?<sup>6</sup> — We suppose him also to be loathsome or covered with boils.<sup>7</sup>

The question was raised: If one who is half a slave and half free affiances a free woman, how do we decide? Should you point out that if a son of Israel says to a daughter of Israel, ‘Be affianced to half of me,’<sup>8</sup> she is affianced, [I may reply that this is so] because she is qualified for the whole of him, but this one is not qualified for the whole of him.<sup>9</sup> If again you point out that when an Israelite affiances half a woman she is not affianced,<sup>10</sup> [I may reply that this is so] because he left something over from his acquisition, but the slave leaves nothing over from his acquisition.<sup>11</sup> What [are we to say]? — Come and hear: If an [ox] kills one who is half a slave and half free, the owner gives half the fine to the master and half the ransom to the heirs of the slave. Now if you say that his betrothal is null and void, whence come heirs to him? — R. Adda b. Ahabah said: [We speak of the case] where [the ox] made him terefah,<sup>12</sup> and by ‘heirs’ is meant himself. Raba said: There are two objections to this answer. One is that it distinctly says ‘heirs’, and further [the sum paid] is a ‘ransom’, and Resh Lakish has laid down that a ‘ransom’ is only paid after death! — No, said Raba: [what we must say is that] he ought to receive the ransom, but he does not.<sup>13</sup> Raba said: Just as, if one affiances half a woman, she is not affianced, so if a woman who is half a slave and half free is affianced, her betrothal is no betrothal. Rabbah son of R. Huna stated in a discourse: Just as if a man affiances half a woman she is not affianced, so if a woman who is half a slave and half free is affianced, she is not really betrothed. Said R. Hisda to him: Are the two cases similar? In the one [the man] leaves something over from his acquisition, in the other he leaves nothing over from his acquisition. Rabbah son of R. Huna thereupon called upon a public orator,<sup>14</sup> who discoursed as follows: ‘This stumbling-block is under thy hand.<sup>15</sup> A man does not fully understand the words of the Torah until he has come to grief over them.<sup>16</sup> Although they have said that if a man affiances half a woman she is not affianced, yet if one who is half a slave and half free is affianced, her betrothal is a genuine one. What is the reason [for the difference]? In the one case he leaves something over from his acquisition, in the other case he leaves nothing over from his acquisition.’ R. Shesheth, however, said: Just as if a man affiances half a woman she is not affianced, so if a woman who is half a slave and half free is affianced, her betrothal is no genuine one. If someone should whisper to you [the teaching], ‘Who is the designated bondwoman?’<sup>17</sup> The one who being half bondwoman and half free is betrothed to a Hebrew slave,<sup>18</sup> which shows that she is capable of being betrothed, say to him, Go to R. Ishmael who says that [the Torah here speaks] of a Canaanitish bondwoman who is betrothed to a Hebrew slave.<sup>19</sup> Now is a Canaanitish bondwoman capable of being betrothed? We say therefore that by ‘betrothed’ R. Ishmael means ‘allocated’.<sup>20</sup> So here too ‘betrothed’ means ‘allocated’. R. Hisda said: If [a woman] half slave and half free is affianced to Reuben and then emancipated and then affianced to Simeon<sup>21</sup> and both of them [Reuben and Simeon] die, she may contract a levirate marriage with Levi

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- (1) The rule was that if a man admitted in the Beth din that he was liable to a fine before the evidence was brought against him, he was quit, v. B.K. 74b.
- (2) This passage is a midrashic exposition of the verse, But if a priest buy any soul, the purchase of his money, he shall eat of it (the terumah); and such as are born in his house, they shall eat of his bread. Lev. XXII, 11.
- (3) E.g., through being diseased or incapacitated.
- (4) And if so, how can we speak of 'he purchase of his money' who is worth nothing?
- (5) Lit., 'torn' (terefah): a name properly applied to animals which owing to certain disablements, e.g. the loss of certain limbs or the piercing of certain membranes, could not possibly live more than twelve months. A fine had not to be paid in respect of such a one.
- (6) And therefore still has a money value.
- (7) So that he is fit for nothing.
- (8) Meaning, If I desire, I shall take a second wife, v. Kid. 72.
- (9) Viz., for that part of him which is slave, and therefore she is not affianced.
- (10) Since he should have affianced the whole of her, as a woman cannot have two husbands, v. Kid. ibid.
- (11) And therefore she is affianced.
- (12) I.e., unable to live more than twelve months. V. supra, note 2.
- (13) Since he is as dead and has no heirs to whom to transmit it, as he cannot legally affiance a free woman.
- (14) Lit., 'caused an Amora to stand by him'; the so-called 'Amora' or 'Meturgeman' who received the heads of the discourse from the Rabbi and then expiated on them to the public.
- (15) Isa. III, 6 (E.V. 'Let this ruin be under thy hand'). The term 'stumbling-block' is here applied to the Torah.
- (16) Lit., 'been tripped up over them.' Rabbah b. R. Huna was referring to himself and acknowledging his mistake.
- (17) I.e., the woman referred to in Lev. XIX, 20, by the words נְהַרְפֵת לְאִישׁ (E.V. 'bondwoman betrothed to a man').
- (18) Ker. 11a.
- (19) Ibid.
- (20) The word being used loosely and not in its strict legal sense which does not apply to a bondwoman.
- (21) Reuben's brother.

## Talmud - Mas. Gittin 43b

, and we do not place her in the category of the widow of two husbands.<sup>1</sup> For whichever way you take it, if the affiancing of Reuben was effective then the affiancing of Simeon was not effective, and if the affiancing of Simeon was effective then the affiancing of Reuben was not effective.<sup>2</sup>

It has been stated: If [a woman] who is half slave and half free was affianced to Reuben and then emancipated and became affianced to Simeon, R. Joseph said in the name of R. Nahman that [by means of the emancipation] the affiancing of the first is nullified,<sup>3</sup> whereas R. Zera said in the name of R. Nahman that it was consummated.<sup>4</sup> Said R. Zera: My view is the more probable since it is written, They shall not be put to death for she us not freed;<sup>5</sup> which implies that if she has been freed they are to be put to death. Said Abaye to him: And on the view of the Tanna of the school of R. Ishmael who said that [the verse speaks] of a Canaanitish bondwoman who is affianced to a Hebrew slave, are we to say that in this case also if she has been freed they are to be put to death?<sup>6</sup> What of course you have to assume in that case is that after she was freed she became affianced again.<sup>7</sup> Here too then we speak of a case where she was freed and became affianced again.<sup>8</sup>

R. Huna b. Kattina said: There was an actual case of a woman who was half slave and half free whose master they compelled to liberate her. Whose authority did they follow? — That of R. Johanan b. Baroka, who said: In reference to both of them [man and woman] the verse says. And God blessed then and God said unto them, Be fruitful and multiply etc.<sup>9</sup> — Said R. Nahman b. Isaac: This is not so; [the reason was that] they used her for immoral purposes.<sup>10</sup>



**MISHNAH. IF A MAN SELLS HIS SLAVE TO A HEATHEN OR OUTSIDE THE LAND [OF ISRAEL] HE GAINS HIS FREEDOM.<sup>11</sup>**

**GEMARA.** Our Rabbis have taught: If a man sells his slave to a heathen he gains his freedom, but he [still] requires a deed of emancipation<sup>12</sup> from his first master. Said Rabban Simeon b. Gamaliel: This is the rule if he did not make out a deed of oni.<sup>13</sup> If, however, he made out a deed of oni for him, this constitutes his emancipation. What is meant by oni? — R. Shesheth said: If he writes in it to this effect, viz., ‘If you run away from him, I have no claim on you.’

Our Rabbis taught: ‘If a man borrows money from a heathen giving his slave as pledge, so soon as the heathen has fixed’ to him his nimus, he gains his freedom [if he escapes]. What is meant by ‘his nimus’?<sup>14</sup> — R. Huna b. Judah said: It means, his collar.<sup>15</sup> R. Shesheth raised an objection [against this explanation from the following]: Metayers,<sup>16</sup> tenants,<sup>17</sup> and hereditary metayers, and a heathen who has mortgaged his field to an Israelite, even though he did fix to him a nimus, are not liable to tithe.<sup>18</sup> If now you assume that nimus means a chain, can a chain be applied to a field? No, said R. Shesheth; what it means is a time limit.<sup>19</sup> Then the time limit has two opposite effects?<sup>20</sup> — There is no contradiction; in the one case [of the slave] we suppose the period to have terminated, in the other not. In the case of a slave whose period has expired do we need to be told [that he gains his freedom]? — No. Both refer to the case where the period has not expired, and still there is no contradiction, [since in] the one case the body [is transferred and in] the other only the increment.<sup>21</sup>

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(1) According to Yeb. 31b, if a woman's husband dies without issue and his brother makes formal declaration betrothing her but dies before marrying her, a second brother may not marry her but must give her halizah.

(2) If we suppose that a woman half slave and half free can be affianced, she was affianced to Reuben, and could not afterwards be affianced to Simeon. If again we suppose that such a woman cannot be affianced, she was not affianced to Reuben at all and therefore could be affianced to Simeon. In either case she was only affianced to one.

(3) Even if we regard it as effective, because the emancipation makes her as it were a new creature.

(4) So that if a man now has intercourse with her he is punishable with death and is not merely condemned to bring a guilt-offering, as laid down in Lev. XIX, 21.

(5) Ibid. 20.

(6) This cannot be, seeing that, as a bondwoman, she was never properly affianced.

(7) And then you can infer from the text that if she was freed they are to be put to death (if she thereafter commits adultery).

(8) And it is the betrothal of the second which is effective and not of the first.

(9) Gen. I, 28. This shows that marriage is as much incumbent on the woman as on the man.

(10) V. supra 382.

(11) If he escapes from his new master or if his first master is ordered by the Beth din to redeem him. V. infra.

(12) In order to marry an Israelitish woman.

(13) Prob. Gr. \*\* ‘sale’.

(14) Prob. Gr. \*\* lit., ‘law’, ‘custom’, i.e., what the law or custom requires. v. Jast. [Buchler REJ, XLVIII, p. 32ff., brilliantly connects the words with the Gr. \*\* = ‘enjoyment of possession’, an act conferring ‘ownership’.]

(15) Hung round the neck of a slave to show to whom he belongs. Al. ‘bracelet’, ‘seal’.

(16) I.e., Israelites who lease land in Eretz Israel from heathens for a fixed proportion of the produce.

(17) Who lease land for a fixed payment in kind.

(18) Because in each case the land still belongs to the heathen proprietor, and this action does not signify Jewish ownership.

(19) Viz., the time within which the heathen should have paid his debt.

(20) Lit., ‘there is a contradiction from "time" to "time"’. In the case of the field the expiry of the time does not remove it from the ownership of the first proprietor, in the case of the slave it does.

(21) In the case of the slave the body itself is sold at the expiry of the time (if the debt is not paid), and since the master transgressed a regulation of the Sages by selling his slave to a heathen they penalised him by cancelling his ownership even before the expiry of the time. But the field itself is not sold (to the Israelite) if the loan is not repaid at the expiry of

the time, only the increment, and therefore it does not become liable to tithe.

## Talmud - Mas. Gittin 44a

Or if you like I can say that it refers to the case where he borrowed on condition that he should pledge and he did not pledge.<sup>1</sup>

Our Rabbis taught: If [a heathen] seizes the slave [of a Jew] on account of money owing to him, or if he is taken by the sicaricon,<sup>2</sup> he does not become free [if he escapes]. Is this really the rule if he is seized on account of debt?<sup>3</sup> [If so,] it would seem to conflict with the following: 'If the king's officers seize the corn in a man's granary, if it is on account of a debt due from him he must give tithe for it,<sup>4</sup> but if it is on account of anparuth,<sup>5</sup> he is not under obligation to give tithe?' — There the case is different, because they confer some advantage on him.<sup>6</sup> Come and hear: 'Rab said: If a man sells his slave to a heathen parhang<sup>7</sup> he becomes free [if he escapes]!' — There the reason is that he ought to have persuaded him to take something else, and he did not do so.

The text above [stated]: 'Rab said that if a man sells his slave to a heathen parhang he becomes free. What was he to do? — He should have persuaded him to take something else and he did not do so.' R. Jeremiah raised the question: Suppose he sold him for thirty days,<sup>8</sup> how do we decide? — Come and hear: Rab said, 'If a man sells his slave to a heathen parhang he becomes free'. — That refers to a heathen' parhang who is not likely to return. If he sells him [for all purposes] except for work,<sup>9</sup> how [do we decide]? If he sells him [for all purposes] save where a breach of the Jewish law is involved,<sup>10</sup> how [do we decide]? If he sells him [for work at all times] save on Sabbaths and festivals, how [do we decide]? If he sells him to a resident alien<sup>11</sup> or non-observant Israelite,<sup>12</sup> how [do we decide]? [If] to a Cuthean, how [do we decide]? — One of these questions at any rate may be definitely answered — A resident alien is on the same footing as a heathen. As for a Cuthean and a nonobservant Israelite, some say he is [on the same footing] as a heathen, and some [that he is on the same footing] as an Israelite.<sup>13</sup>

A question was asked of R. Ammi: If a slave throws himself into the hands of bandits and his master is unable to procure his return through the agency either of an Israelite or Gentile court, is he at liberty to receive payment for him [if offered]? — Said R. Jeremiah to R. Zerika: Go outside and look through your notes.<sup>14</sup> He went out, looked, and found that it was taught: If a man sells his house [in the land of Israel] to a heathen, the money paid for it is forbidden. If, however, a heathen forcibly takes a house of an Israelite, and the latter is unable to recover it either in a heathen or a Jewish court, he may accept payment for it and he may make out a deed for it and present it in heathen courts,<sup>15</sup> since this is like rescuing [money] from their hands.<sup>16</sup> But perhaps this applies only to a house, because since [a man] cannot do without a house he will not be induced<sup>17</sup> to sell it, but since [a man] can do without a slave, shall we say that [if we make this rule] he may be induced to sell? — R. Ammi sent back answer; From me, Ammi son of Nathan, the rule is issued to all Israel that if a slave throws himself into the hands of bandits and his master is unable to recover him either in a Jewish or a heathen court, [his master] is permitted to accept payment for him, and he may make out a deed and present it in heathen courts, because this is like rescuing [money] from their hands.

R. Joshua b. Levi said: If a man sells his slave to a heathen he can be penalised [by having to ransom him for] as much as a hundred times his value. Is the expression 'a hundred' here used exactly or loosely? — Come and hear, since Resh Lakish has said: If a man sells an ox to a heathen, he can be penalised by having to ransom it for as much as ten times its value.<sup>18</sup> Perhaps the rule for a slave is different, because every day he is kept away from religious observances. According: to another version R. Joshua b. Levi said: If a man sells his slave to a heathen he may be penalised by having to ransom him for as much as ten times his value. Is the expression 'ten' here used exactly or loosely? Come and hear, since Resh Lakish has said: If a man sells an ox to a heathen, he can be

penalised by having to ransom it for as much as a hundred times its value.<sup>19</sup> — The rule for a slave is different, because he is not restored to him. The reason then why in the case of an animal [the penalty is so high] is because it is returned to him. If so, the excess penalty should be the bare value of the animal?<sup>20</sup> — In fact the real reason is [that for a man to sell] a slave is unusual, and the Rabbis did not prescribe for unusual cases.<sup>21</sup>

R. Jeremiah enquired of R. Assi: If a man sells his slave and then dies, is there ground for penalising his son after him? It is true you can point [to the rule that] if a priest mutilates the ear of a firstling<sup>22</sup> and then dies, his son is penalised after him; but this may be because he has broken a rule based on the Torah, whereas here we are dealing with a rule of the Rabbis.

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(1) At the expiry of the time. In the case of the field which the heathen offers to pledge to the Israelite, so long as the Israelite does not actually take it in pledge he may eat of the produce without giving tithe, because the field still belongs to the heathen. But if the Israelite offers to pledge the slave to the heathen and the latter has not yet taken him in pledge, should the slave escape the Sages forbade the Jew from claiming him as a punishment for offering to pledge him to a heathen (Rashi).

(2) Usually taken as = sicarius, brigands who infested Judea after the revolt of Bar Cochba. More probably a corruption of \*\* the Imperial fiscus in Judea. V. infra p. 252, n. 2.

(3) Lit., 'and for his debt, no'.

(4) Which shows that this is regarded as a kind of sale, and the seller is therefore penalised.

(5) [This apparently means a debt payable by instalments, with the condition of forfeiture on missing one payment, distraint on account is which was reckoned as misappropriation. V. infra p. 272.]

(6) [By making him after all quit of the debt, therefore he is liable to give tithe. But in the case of the slave where the cancellation of the master's ownership is merely a punitive measure for transgressing the Rabbinic regulation, no such penalty can be inflicted where the slave was taken against his will.]

(7) Apparently, forced labour exacted by the Government or bandits.

(8) I.e., do we regard this as a breach of the regulation of the Rabbis and penalise him?

(9) I.e., he sells him to marry to a Canaanitish bond woman.

(10) Lit., 'save for the precepts'.

(11) A heathen who settles in the land of Israel on condition of abstaining from idolatry, but without adopting the Jewish religion.

(12) Heb. מוֹמֵר Lit. , 'a changed (Israelite.)' a Jew who neglects the practices without discarding the beliefs of Judaism.

(13) Because they kept certain of the commandments.

(14) Lit., 'your mekilta' (measure) a record of halachahs made by R. Zerika for his private use.

(15) For the signatures to be confirmed, although as a rule the Rabbis depreciated resulting to heathen courts.

(16) Which answers the question propounded to R. Ammi.

(17) By the knowledge that he can keep the money.

(18) A.Z. 15. This shows that the 'hundred' mentioned in the case of a slave is a hyperbole.

(19) And the same should apply to a slave.

(20) Because this is all the advantage that one who sells an ox has over one who sells a slave.

(21) To impose a particularly heavy fine.

(22) And so disqualifies it for being brought as a sacrifice. and thus enables himself to consume it as common flesh.

## Talmud - Mas. Gittin 44b

If again you point [to the rule] that if a man prepares to do work during the half-festival<sup>1</sup> and then dies, his son is not penalised after him, the reason may be because he did not actually do anything forbidden. What do we say here?<sup>2</sup> Did the Rabbis penalise only the man but he no longer exists, or did they penalise his money and this does exist?<sup>3</sup> — He replied: [The answer is to be found in] what you have already learnt: 'If a field has been cleared of thorns in the seventh year it can be sown on the expiration of the seventh year. If it has been manured or if cattle have been turned out<sup>4</sup> there in

the seventh year, it must not be sown at the expiration of the seventh year';<sup>5</sup> and [commenting on this] R. Jose son of R. Hanina said: We lay down that if he manured it and then died, his son may sow it. From this [we may infer] that the Rabbis penalised him but not his son.

Abaye said: We have it on tradition that if a man renders unclean stuff belonging to another which he desired to keep ritually clean, and then dies, [the Rabbis] have not penalised his son after him. What is the reason? Damage which is not perceptible<sup>6</sup> is not legally counted as damage [according to the Torah], and the penalty for it is Rabbinical in origin, and the Rabbis penalised the man who does the damage, but they did not penalise his son. OR ABROAD. Our Rabbis taught: 'If a man sells his slave abroad, he becomes free but he requires a deed of emancipation from his second master. Rabban Simeon b. Gamaliel says: Sometimes he becomes free and sometimes he does not become free. For instance, if the master says, I have sold my slave So-and-so to So-and-so an Antiochian, he does not become free.<sup>7</sup> If he says, To an Antiochian in Antioch, he does become free'. But has it not been taught: '[If a man says,] I have sold him to an Antiochian, he becomes free, but if he says, to an Antiochian living in Lydda,<sup>8</sup> he does not become free'? — There is no contradiction: in the one case we suppose he has a house in Eretz Israel, in the other that he has only a place of stay in Eretz Israel.<sup>9</sup>

R. Jeremiah put the question: If a Babylonian [Jew] marries a woman from Eretz Yisrael and she brings him in<sup>10</sup> male and female slaves and his intention is to return [to Babylon], what is the rule?<sup>11</sup> We have to ask this whether we accept the view that the husband has the right, or whether we accept the view that the wife has the right.<sup>12</sup> We have to ask it on the view that the wife has the right. Shall we say that since she has the right they are regarded as hers,<sup>13</sup> or perhaps since they are made over to him as far as the increment<sup>14</sup> is concerned they are regarded as his?<sup>15</sup> The question has equally to be asked on the view that the husband has the right. Seeing that he has the right, are they to be regarded as his, or since he does not acquire the body<sup>16</sup> are they still regarded as hers? — This must stand over.

R. Abbahu said: R. Johanan taught me, If a servant accompanies<sup>17</sup> his master to Syria<sup>18</sup> and his master sells him there, he becomes free. But R. Hiyya teaches that he loses his right?<sup>19</sup> There is no contradiction: in the one case we presume that his master intended to return,<sup>20</sup> in the other that he did not intend to return, as it has been taught: 'A slave must leave Eretz Israel with his master for Syria . . . , Must leave, you say? Assuredly he need not leave, seeing that we have learnt, 'Not all may take out.'<sup>21</sup> What [you mean is]: 'if a slave accompanies his master<sup>22</sup> from Eretz Israel to Syria and his master sells him there, if it was his master's intention to return he is compelled to emancipate him,<sup>23</sup> but if it was not his intention to return, he is not compelled.'

R. 'Anan said: I was told by Mar Samuel two things, one in relation to this point,<sup>24</sup> and one in relation to the statement, If a man sells his field in the Jubilee year, Rab says that it is sold but must be immediately returned,<sup>25</sup> whereas Samuel says that it is not sold in the first instance. In one case [he said] the purchase money is returned and in the other case it is not returned,<sup>26</sup> and I do not know which is which. Said R. Joseph: Let us see.<sup>27</sup> Since it is stated in the Baraitha that if a man sells his slave abroad he becomes free and requires a deed of emancipation from his second master, we infer that the second master became his legal owner and that the purchase money is not to be returned,<sup>28</sup> and therefore that when Samuel said in the other case [of the field] that the field is not sold in the first instance, the money is returned.

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(1) Work, the neglect or postponement of which would involve definite loss, was allowed to be done on the intermediate days of Passover and Tabernacles. If, however, a man deliberately brought a piece of work before the festival into such a condition that it would be spoilt if not finished during the festival, he was not allowed to finish it.

(2) Where the dead man did do a forbidden act.

(3) In the hands of the son, who therefore has to redeem the slave.

- (4) For manuring purposes.
- (5) Sheb. IV, 2.
- (6) Such as rendering stuff ritually unclean.
- (7) Because we presume that the Antiochian lives or is going to live in Eretz Israel.
- (8) A town in Eretz Israel, on the border of Syria.
- (9) But his real home is abroad, and therefore the slave sold to him becomes free.
- (10) As that part of her dowry known as the 'property of the iron flock,' (Zon barzel, v. Glos) which the husband took over from her at a fixed valuation which was to be returned to her in case of his death or a divorce.
- (11) Are they regarded as sold abroad or not?
- (12) In case if a divorce, there is a difference of opinion among the authorities whether she has the right to claim the return of the original property, or whether he has the right to make her the money payment stipulated, v. Yeb. 66b.
- (13) And therefore are not sold, and so may safely be taken to Babylon.
- (14) In this case, the labour of the slaves.
- (15) And he is regarded as having purchased them from the wife, and therefore they may not be taken to Babylon.
- (16) I.e., complete ownership of the slaves, since if he dies or divorces her, they are returned to her.
- (17) Of his own free will.
- (18) The Biblical Aram Zoba, which was conquered by King David, but was not regarded as an integral part of Eretz Israel.
- (19) By leaving Eretz Israel.
- (20) And the slave followed him on that assumption.
- (21) Keth. 110b. The rule is there laid down that a master cannot force his slave to leave Eretz Israel with him.
- (22) Of his own free will.
- (23) Even though the slave accompanied him voluntarily.
- (24) Of a slave sold abroad.
- (25) In accordance with the law of the Jubilee, Lev. XXV, 10, 12.
- (26) These are the two things told by Samuel to R. 'Anan.
- (27) The emphasis is on the 'us'.
- (28) For otherwise he ought to obtain his deed of emancipation from the first master.

## **Talmud - Mas. Gittin 45a**

Rab 'Anan, however, was not acquainted with this Baraita,<sup>1</sup> and as to Samuel's dictum, how could he infer from it that, the field not being sold, the money was to be returned? Perhaps, though the field was not sold, the money was to be regarded as a gift, on the analogy of a man who affiances his sister, in regard to which it has been stated. 'If a man affiances his sister,<sup>2</sup> Rab says that the [betrothal] money is to be returned, while Samuel says that it is to be regarded as a gift'.

Said Abaye to R. Joseph: Why should you want us to penalise the purchaser?<sup>3</sup> Let us penalise the vendor! — He replied. It is not the mouse that is the thief but the hole. If there were no mouse, he retorted, how should the hole come by it? — It is only reasonable that where the forbidden stuff is found,<sup>4</sup> there we should impose the penalty.

A certain slave escaped from abroad to Eretz Israel and was pursued by his master. The [latter eventually] came before R. Ammi, who said to him, Let him make you out a bond for his value, and you must make out a deed of emancipation for him; otherwise I will make you forfeit him in accordance with the view of R. Ahi son of R. Josiah. For it has been taught: '[It is written], They shall not dwell in thy land lest they make thee sin against me, etc.<sup>5</sup> Shall I say that the text speaks of a heathen who has undertaken not to practise idolatry? [This cannot be, because] it is written, Thou shalt not deliver unto his master a servant which is escaped from his master unto thee.<sup>6</sup> What is to be done with him? He shall dwell with thee etc.'<sup>7</sup> R. Josiah found it difficult to accept this explanation, because instead of 'from his master' it should be 'from his father'.<sup>8</sup> Therefore R. Josiah explained the verse to speak of a man who sells his slave abroad. R. Ahi son of R. Josiah in turn found it

difficult [to accept this explanation], because instead of 'which is escaped unto thee' it should be 'which is escaped from thee.' R. Ahi son of R. Josiah therefore explained the verse to speak of a slave who escapes from abroad to Eretz Israel.<sup>9</sup>

Another [Baraita] taught: 'Thou shalt not deliver unto his master a servant': Rabbi says that the verse is speaking of a man who buys a slave on the understanding that he will emancipate him.<sup>10</sup> How are we to understand this? — R. Nahman b. Isaac said: He makes out a deed in these terms: 'When I buy you, you shall be regarded as having been your own master [retrospectively] from now.

A slave of R. Hisda's escaped to the Cutheans. He sent word to them that they should return him. They quoted to him in return the verse, 'Thou shalt not deliver unto his master a servant'.<sup>11</sup> (He quoted to them in return, So thou shalt do with his ass and so thou shalt do with his garment; and so shalt thou do with every lost thing of thy brother's.<sup>12</sup> But, they retorted, it is written, 'Thou shalt not deliver unto his master a servant'?) He sent to them to say: That refers to a slave who escapes from abroad to Eretz Israel, as explained by R. Ahi son of R. Josiah. Why did he quote to them the interpretation of R. Ahi son of R. Josiah [and not rather that of Rabbi]?<sup>13</sup> — Because this accords more with the literal meaning of the verse.<sup>14</sup>

Abaye lost an ass among Cutheans. He sent to them saying, Send it back to me. They sent to him saying, Give us a mark of identification. He sent word to them, that its belly was white. They sent him back word: Were you not Nahmani,<sup>15</sup> we would not send it to you. Have not all asses white bellies?

**MISHNAH. CAPTIVES SHOULD NOT BE REDEEMED FOR MORE THAN THEIR VALUE, TO PREVENT ABUSES.<sup>16</sup> CAPTIVES SHOULD NOT BE HELPED TO ESCAPE, TO PREVENT ABUSES.<sup>17</sup> RABBAN SIMEON B. GAMALIEL SAYS [THAT THE REASON IS] TO PREVENT THE ILL-TREATMENT OF FELLOW CAPTIVES.<sup>18</sup>**

**GEMARA.** The question was raised: Does this prevention of abuses relate to the burden which may be imposed on the community or to the possibility that the activities [of the bandits] may be stimulated? — Come and hear: Levi b. Darga ransomed his daughter for thirteen thousand denarii of gold.<sup>19</sup> Said Abaye: But are you sure that he acted with the consent of the Sages? perhaps he acted against the will of the Sages.

**CAPTIVES SHOULD NOT BE HELPED TO ESCAPE, TO PREVENT ABUSES. RABBAN SIMEON B. GAMALIEL SAYS, THE REASON IS TO PREVENT THE ILL-TREATMENT OF FELLOW CAPTIVES.** What practical difference does it make which reason we adopt? — The difference arises where there is only one captive.<sup>20</sup>

The daughters of R. Nahman used to stir a cauldron with their hands when it was boiling hot.<sup>21</sup> R. 'Ilish was puzzled about it. It is written [he said], One man among a thousand have I found, but a woman among all those have I not found:<sup>22</sup> and here are the daughters of R. Nahman!<sup>23</sup> A misfortune happened to them and they were carried away captive, and he also with them. One day a man was sitting next to him who understood the language of birds. A raven came and called to him, and R. 'Ilish said to him, What does it say? It says, he replied, "'Ilish, run away, 'Ilish, run away". He said, The raven is a false bird, and I do not trust it. Then a dove came and called. He again asked, What does it say? It says, the man replied, "'Ilish, run away, 'Ilish run, away." Said ['Ilish]: The community of Israel is likened to a dove;<sup>24</sup> this shows that a miracle will be performed for me. He then [said to himself], I will go and see the daughters of R. Nahman; if they have retained their virtue, I will bring them back. Said he to himself: Women talk over their business in the privy. He overheard them saying, These men are [our] husbands just as the Nehardeans [were] our husbands. Let us tell our captors to remove us to a distance from here, so that our husbands may not come and

hear [where we are] and ransom us. R. 'Ilsh then rose and fled, along with the other man. A miracle was performed for him, and he got across the river,<sup>25</sup> but the other man was caught and put to death. When the daughters of R. Nahman came back, he said, They stirred the cauldron by witchcraft.

MISHNAH. NEITHER SHOULD SCROLLS OF THE LAW, PHYLACTERIES AND MEZUZOTH<sup>26</sup> BE BOUGHT FROM HEATHENS AT MORE THAN THEIR VALUE,

- (1) About the slave, to enable him to solve the question himself.
- (2) An action in itself null and void.
- (3) Who buys the slave.
- (4) Viz., in the hands of the purchaser.
- (5) Ex. XXIII, 33.
- (6) Deut. XXIII, 16.
- (7) Which shows that heathens who do not practise idolatry are allowed to dwell in the land.
- (8) Another reading is. 'From his god'. The meaning is in either case the same.
- (9) In which case he is not to be delivered to his master.
- (10) And from that moment he is compelled to free him.
- (11) The passage in brackets is omitted in some texts.
- (12) Deut. XXII, 3.
- (13) Who was a greater authority.
- (14) And the Samaritans had more regard for the Written Law than for the Rabbis.
- (15) V. supra 34a. The meaning is: If we did not know you for a pious man who would not deceive us.
- (16) Lit., 'for the good order of the world'. I.e., so that the captors should not demand excessive ransoms.
- (17) Lest captors might put their captives in chains and otherwise maltreat them.
- (18) Lit., 'for the good of the captives'. And not of captives in general.
- (19) This shows that if an individual is willing to pay more he may do so, and the reason is because of the burden imposed on the community.
- (20) In this case the reason of Rabban Simeon b. Gamaliel does not apply, and according to him the captive may be helped to escape.
- (21) Without scalding their hands, apparently on account of their piety.
- (22) Eccl. VII, 28.
- (23) Who apparently are righteous.
- (24) E.g., in the verse, Open to me, my sister, my love, my dove, my undefiled (Cant. V, 2).
- (25) Lit., 'the ferry'.
- (26) V. Glos.

## **Talmud - Mas. Gittin 45b**

### **TO PREVENT ABUSES.<sup>1</sup>**

GEMARA. R. Budia said to R. Ashi: [The Mishnah says that] they must not be bought at more than their value, but [presumably] they may be bought at their value. This would show that a scroll of the Law which is found in the possession of a heathen may be read?<sup>2</sup> — Perhaps it can be bought to be stored away. R. Nahman said: We have it on tradition that a scroll of the Law which has been written by a Min<sup>3</sup> should be burnt, and one written by a heathen should be stored away. One that is found in the possession of a Min should be stored away; one that is found in the possession of a heathen according to some should be stored away and according to others may be read. With regard to a scroll of the Law which has been written by a heathen, it has been taught by one authority that it should be burnt, and it has been taught by another authority that it should be stored away, and it has been taught by another authority that it may be read. There is, however, no contradiction. The view that it should be burnt follows R. Eliezer, who said that the intention of the heathen is normally idolatrous;<sup>4</sup> the view that it should be stored away follows the Tanna of the following passage: For

R. Hammuna the son of Raba of Pashrunia learnt that a scroll of the Law, phylacteries and mezuzoth written by a Min,<sup>5</sup> an informer, a heathen, a slave, a woman, a minor, a Cuthean<sup>6</sup> and an irreligious Jew<sup>7</sup> are disqualified, since it says. And thou shalt bid them . . . and thou shalt write them,<sup>8</sup> which indicates that those who are subject to 'bind' may 'write', but those who do not 'bind' may not 'write'. The statement that such a scroll may be read follows the Tanna [of the following passage] where it has been taught: Scrolls of the Law may be bought from heathens in all places, provided only that they are written in the prescribed manner. A case arose of a heathen in Sidon who used to write scrolls of the Law, and Rabban Simeon b. Gamaliel permitted them to be bought from him.<sup>9</sup> Seeing that Rabban Simeon b. Gamaliel requires the tanning of the parchment to have been for the specific purpose,<sup>10</sup> will he not require the writing to have been for the specific purpose? For it has been taught: If a man overlays the phylacteries with gold or covers them with the skin of an unclean animal, they are disqualified; [if with] the skin of a clean animal, they are fit for use, even though he did not tan it for the specific purpose. Rabban Simeon b. Gamaliel says: Even if covered with the skin of a clean animal they are disqualified unless it has been tanned for the specific purpose!<sup>11</sup> — Rabbah b. Samuel explained that [the heathen of Sidon was] a proselyte who had reverted to his previous errors.<sup>12</sup> But that is worse, for he is a Min?<sup>13</sup> R. Ashi said: It means one who reverted to his old religion out of fear.<sup>14</sup>

Our Rabbis taught: 'The price offered may exceed their value to the extent of a tropaic.'<sup>15</sup> How much is a tropaic? — R. Shesheth says: An aster.<sup>16</sup>

An Arab woman brought a bag of phylacteries to Abaye. Let me have them, he said, at a couple of dates for a pair. She became furious and took them and threw them into the river. Said Abaye: I should not have made them look so cheap to her as all that.

**MISHNAH.** IF A MAN DIVORCES HIS WIFE BECAUSE OF ILL FAME, HE MUST NOT REMARRY HER.<sup>17</sup> IF BECAUSE SHE MAKES A VOW,<sup>18</sup> HE MUST NOT REMARRY HER. R. JUDAH SAYS: [IF HE DIVORCES HER] FOR VOWS WHICH SHE MADE PUBLICLY, HE MAY NOT REMARRY HER, BUT IF FOR VOWS WHICH SHE DID NOT MAKE PUBLICLY, HE MAY REMARRY HER.<sup>19</sup> R. MEIR SAYS, [IF HE DIVORCES HER] FOR A VOW WHICH REQUIRES THE INVESTIGATION OF A SAGE,<sup>20</sup> HE MAY NOT REMARRY HER, BUT IF FOR ONE WHICH DOES NOT REQUIRE THE INVESTIGATION OF A SAGE, HE MAY REMARRY HER.<sup>21</sup> R. ELIEZER SAYS THAT ONE WAS ONLY FORBIDDEN ON ACCOUNT OF THE OTHER. R. JOSE SON OF R. JUDAH SAID: A CASE HAPPENED IN SIDON OF A MAN WHO SAID TO HIS WIFE, KONAM,<sup>22</sup> IF I DO NOT DIVORCE YOU, AND HE DID DIVORCE HER,<sup>23</sup> AND THE SAGES PERMITTED HIM TO REMARRY HER — ALL THIS TO PREVENT ABUSES.<sup>24</sup>

**GEMARA.** R. Joseph b. Manyumi said in the name of R. Nahman: The rule [that he must not remarry her] applies only if he says to her, 'I am divorcing you on account of your evil name',

(1) Lit., 'for the good order of the world'. Viz., so that an excessive price should not be demanded.

(2) A question on which a difference of opinion is expressed lower down.

(3) Apparently this name is applied here to a heathen bigot or fanatic, v. Glos.

(4) So that the scroll was written for an idolatrous purpose.

(5) In some texts this word is omitted.

(6) The Cutheans (Samaritans) kept certain of the commandments, but were not regarded as genuine proselytes.

(7) Heb. **מוֹמֵר**, V. supra p. 190, n. 9.

(8) Deut. VI, 8, 9.

(9) Tosef. A.Z. III.

(10) Lit., 'for its own name,' which of course could not be done by a heathen.

(11) V. Sanh. 48b.



- (12) He knew that they must be written for the specific purpose.
- (13) V. supra p. 199, n. 1.
- (14) Of the other heathens.
- (15) I.e., we are not particular to this amount.
- (16) Half a denar.
- (17) Even if the scandal proves to be unfounded. The reasons for this and the following rules are discussed in the Gemara.
- (18) A habit of which he may disapprove, even though the vow may be annulled.
- (19) R. Judah was of opinion that vows made publicly could not be annulled.
- (20) [I.e., one which can be remitted only by a Sage after due investigation by him of the circumstances in which the vow was made, (cf. supra 35b) and which the husband could not annul on his own account.]
- (21) [R. Eliezer differs from R. Meir, and holds that a man may not remarry his wife if he divorces her for a vow which does not require the investigation of a Sage, and since he is forbidden in this case, he is forbidden in the other also.]
- (22) A species of vow. V. infra.
- (23) The bearing of this on the subject in hand is discussed in the Gemara.
- (24) Lit., 'for the good order of the world'. The Gemara discusses which part of the Mishnah these words refer to.

### **Talmud - Mas. Gittin 46a**

'I am divorcing you on account of your vow'. His view was that the reason [why he must not remarry her] was to prevent [him making] mischief subsequently.<sup>1</sup> If he uses these words to her he can make mischief for her,<sup>2</sup> but if not, he cannot make mischief for her.<sup>3</sup> Some there are who report: R. Joseph b. Manyumi said in the name of R. Nahman: He has to say to her, 'Understand that I am divorcing you on account of your evil name'; 'I am divorcing you on account of your vowing'. His view was that the reason [why he must not remarry her] is to prevent the daughters of Israel from becoming dissolute or too prone to vows;<sup>4</sup> hence he is required to address her thus.<sup>5</sup>

There is a teaching in support of the first version and a teaching in support of the second version. It has been taught in support of the first version: R. Meir says: Why has it been laid down that if a man divorces his wife on account of ill fame or on account of a vow he must not remarry her? For fear that she may go and marry another and then it may be discovered that the charge against her was unfounded and he will say, Had I known this was the case, I would not have divorced her even for a hundred manehs, and so the Get becomes retrospective]y void<sup>6</sup> and her children [from the second husband] illegitimate. Therefore they say to him [when he comes to give the divorce], Know that a man who divorces his wife on account of ill fame must not remarry her, or [if he divorces her] on account of a vow he must not remarry her.<sup>7</sup> It has been taught in support of the second version: R. Eleazar son of R. Jose says: Why has it been laid down that if a man divorces his wife on account of a scandal he should not remarry her, or on account of a vow that he should not remarry her? In order that the daughters of Israel should not become dissolute or too prone to vows.<sup>8</sup> Therefore they tell him: Say to her, Understand that I am divorcing you on account of your ill fame, I am divorcing you on account of a vow.

R. JUDAH SAYS: IF HE DIVORCES HER FOR VOWS WHICH SHE MADE PUBLICLY, HE MAY NOT REMARRY HER,<sup>9</sup> BUT IF FOR A VOW WHICH SHE DID NOT MAKE PUBLICLY, HE MAY REMARRY HER.<sup>10</sup> R. Joshua b. Levi said: What is the reason of R. Judah [for holding that a vow made publicly may not be annulled]? Because the Scripture says, And the children of Israel smote them not, because the princes of the congregation had sworn unto them.<sup>11</sup> And what do the Rabbis<sup>12</sup> [make of this verse]? — [They reply:] Did the oath there become binding upon them at all? Since they [the Gibeonites] said, We are come from a far country,<sup>13</sup> whereas they had not come from one, the oath was never binding; and the reason why the Israelites did not slay them was because [this would have impaired] the sanctity of God's name.<sup>14</sup>

How many form a 'public'?<sup>15</sup> — R. Nahman says, three, R. Isaac says, ten. R. Nahman says three, [interpreting] 'days' [to mean] two and 'many' three.<sup>16</sup> R. Isaac says ten, because the Scripture calls ten a 'congregation'.<sup>17</sup>

R. MEIR SAYS, EVERY VOW THAT REQUIRES etc. It has been taught: 'R. Eleazar says: A vow requiring [investigation] was made a ground for prohibition only on account of a vow which does not require [investigation].'<sup>18</sup> What is the point at issue [between R. Meir and R. Eleazar]? — R. Meir held that a man does not mind the indignity of his wife appearing in a Beth din,<sup>19</sup> whereas R. Eleazar held that a man is averse to subjecting his wife to the indignity of appearing in a Beth din.<sup>20</sup>

R. JOSE SON OF R. JUDAH SAID, A CASE HAPPENED IN SIDON etc. What has preceded that this should be given as an illustration?<sup>21</sup> — There is a lacuna, and the Mishnah should run thus: 'These rules apply only in the case where the wife vowed, but if he vowed he may remarry, and R. Jose son of R. Judah adduced a case which happened in Sidon of a man who said to his wife, Konam if I shall not divorce you, and he did divorce her, and the Sages permitted him to remarry her, to prevent abuses.'

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(1) [I.e., attacking the validity of the second marriage, which the woman might contract, and the legitimacy of the ensuing offspring by saying that if he had known that the charge against her was false, or that the vow could have been annulled, he would not have divorced her. V. infra.]

(2) By saying that he gave the Get under a misapprehension. But if he cannot remarry her, he has no motive to do so.

(3) And therefore there is no reason why we should forbid him to remarry her.

(4) Since the possibility of their being divorced in this way will act as a deterrent.

(5) But even if he does not, he still may not remarry her, this being her punishment.

(6) As having been given under a misunderstanding.

(7) And if in spite of this he divorces her, he shows that he is not fond of her, and cannot subsequently say that the Get was given under a misapprehension.

(8) As explained p. 201, n. 7.

(9) Because such a vow cannot be annulled and the woman is punished for making it.

(10) R. Judah holds that the reason why he must not remarry her is to prevent the women becoming too prone to vows, and this reason does not apply if the vow in question is one that can be annulled.

(11) Josh. IX, 18. The reference is to the Gibeonites who were spared although belonging to the 'seven nations'. Had the oath not been given in public, a way could have been found to annul it, since it was given under a misapprehension.

(12) Who hold that vows made publicly may be annulled.

(13) Josh. IX. 9.

(14) Since the princes had sworn to them by the Lord, *ibid.*

(15) רבים, lit., 'many'.

(16) In the verse, And if a woman have an issue of her blood many days (Lev. XV, 25), 'many' denoting there 'three', v. Nid. 73a.

(17) Num. XIV, 27: How long shall I bear with this evil congregation, where the reference is to ten of the twelve spies, v. Sanh. 2a.

(18) V. infra n. 6.

(19) To be questioned about her vow. R. Meir was of opinion that the reason of the prohibition was to prevent the husband from making mischief subsequently, and this he could do only if the vow was one which he could not annul but which a Sage could remit.

(20) And therefore by rights we should not prohibit remarrying if the divorce was given on the ground of a vow of this kind, since the husband cannot afterwards make mischief. R. Eleazar, however, holds that if the vow is one which the husband could have annulled (though he did not know it at the time), he can make mischief, and we do prohibit the remarriage, and since we prohibit in this case we prohibit also in the other.

(21) Hitherto the Mishnah has spoken of vows made by the wife, and R. Jose gives an instance of a vow made by a husband.

## Talmud - Mas. Gittin 46b

What konam<sup>1</sup> was there here? — R. Huna said: We suppose he said, Every species of produce shall be forbidden to me if I do not divorce you.

AND THEY PERMITTED HIM TO REMARRY HER. This surely is self-evident? — You might think that we should prohibit him on account of the dictum of R. Nathan, as it has been taught: R. Nathan says: To make a vow is like building a high place<sup>2</sup> and to keep it<sup>3</sup> is like bringing an offering thereon. Therefore we are told [that this is not so].

TO PREVENT ABUSES. What prevention of abuses is there here? — R. Shesheth said that the words refer to the earlier clauses [of the Mishnah]:<sup>4</sup> Rabina said that they refer indeed to the last clause, and the meaning is, There was no ground for forbidding this on the score of preventing abuses.

MISHNAH. IF A MAN DIVORCES HIS WIFE BECAUSE [HE FINDS HER] TO BE INCAPABLE OF BEARING,<sup>5</sup> R. JUDAH SAYS HE MAY NOT REMARRY HER,<sup>6</sup> BUT THE SAGES SAY THAT HE MAY REMARRY HER.<sup>7</sup> IF SHE MARRIES AGAIN AND HAS CHILDREN FROM THE SECOND HUSBAND AND THEN DEMANDS HER KETHUBAH SETTLEMENT FROM THE FIRST,<sup>8</sup> R. JUDAH SAYS, HE CAN SAY TO HER, THE LESS YOU SAY THE BETTER.<sup>9</sup>

GEMARA. This would seem to show that R. Judah takes into account the possibility of mischief-making and the Rabbis do not take it into account. But we have found the opposite opinions ascribed to them, as we have learnt: If a man divorces his wife on account of ill fame or on account of a vow she has made, he must not remarry her. R. Judah says: If the vow was made publicly, he may not remarry her, but if it was not made publicly he may remarry her.<sup>10</sup> This seems to show that the Rabbis take account of the possibility of mischief-making and R. Judah does not take account of it? — Samuel said: Reverse the names.<sup>11</sup> But since the Mishnah goes on to say, IF SHE MARRIES AGAIN AND HAS CHILDREN FROM THE SECOND HUSBAND, AND THEN DEMANDS HER KETHUBAH SETTLEMENT FROM THE FIRST, R. JUDAH SAYS THAT HE CAN SAY TO HER, THE LESS YOU SAY THE BETTER, we can conclude that R. Judah does take into account the possibility of mischief making? — Reverse the names here also.<sup>12</sup> Abaye said. There is no need to reverse, since R. Judah in that<sup>13</sup> case concurs both with R. Meir and with R. Eleazar. In the case [of a vow] which requires [the investigation of a Sage] he concurs with R. Eleazar,<sup>14</sup> and in the case [of a vow] which does not require [investigation] he concurs with R. Meir.<sup>15</sup> Raba said: Is there a contradiction between the statements of R. Judah and no contradiction between the statements of the Rabbis?<sup>16</sup> — No, said Raba; Between the statements of R. Judah there is no contradiction, as has been explained. Between the statements of the Rabbis there is also no contradiction. For who are the Sages [here]? R. Meir, who said that we require the condition to be duplicated,<sup>17</sup> and here we are dealing with a case where he did not duplicate his condition.<sup>18</sup>

MISHNAH. IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN, HE IS NOT TO BE REDEEMED. HIS CHILDREN, HOWEVER, ARE TO BE REDEEMED AFTER THE DEATH OF THEIR FATHER.

GEMARA. R. Assi said: This rule applies only if he sold himself a second and a third time. Certain [Jews of] Bemekse<sup>19</sup> borrowed money from heathens, and when they were unable to pay the latter seized them for slaves. They appealed to R. Huna, who said: What can I do, seeing that we have learnt IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN HE IS NOT TO BE REDEEMED? R. Abba thereupon said to him: You have taught us, Master, that this applies only if he has so sold himself a second and a third time. R. Huna replied: These men do this habitually.

A certain man sold himself to the Lydians<sup>20</sup> and then appealed to R. Ammi saying,

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- (1) The effect of a konam is to declare something forbidden to him who utters it in the same way as sanctified stuff. (Konam is probably derived from Aramaic kenom 'self', 'person' and is thus the object of an elliptical sentence, 'I pledge (myself) my person with So-and-so (that I will, or will not, do this or that)'; v. Cooke, North Semitic Inscriptions p. 34; and Ned. 2a.)
- (2) In the periods when the high places were forbidden, i.e., when the Temple stood.
- (3) Instead of seeking absolution from a wise man.
- (4) The prohibition to remarry.
- (5) **אִי־לֹנִית** lit., 'ramlike', manlike, v. Keth. 11a.
- (6) For fear that she may marry another and bear him children and the first husband may then say that he only divorced her with the intention of remarrying her if she should become capable of bearing, and so throw suspicion on the validity of the Get. But if he knows from the outset that he cannot remarry her, he will not do this.
- (7) As this danger is too remote to need providing against.
- (8) Which she did not receive on divorce, v. Keth. 100b.
- (9) Lit., 'your silence is better than your speech'.
- (10) Mishnah, supra 45b.
- (11) In the first clause of our Mishnah.
- (12) In the second clause of our Mishnah.
- (13) In the earlier Mishnah.
- (14) That a man does not like his wife to be brought before the Beth din. Hence in this case he cannot say, 'if I had known etc.' and there is no likelihood of his making trouble if she marries another.
- (15) That the husband will be fully cognisant of the kind of vow which he can annul, and so in this case also there is no likelihood of his making trouble. Where, however, there is a possibility of his making trouble, R. Judah will agree that we have to provide against it.
- (16) They seem to contradict themselves as much as R. Judah.
- (17) I.e., expressed both positively and negatively. V. infra, 75a.
- (18) I.e., he did not say 'I divorce you because you are barren, and if you are not barren this is no Get', so that the condition has no effect upon the Get.
- (19) [A frontier town on the South-western border of Babylon. (Obermeyer. op. cit. p. 334)]-
- (20) **לִּדְרֵי** A tribe of cannibals (Rashi). [Or 'ludarii' [ludi], people who arrange and hire men for gladiatorial contests to kill off with the finishing stroke the enraged beasts; v. Graetz, Geschichte, IV, p. 238, and Krauss, AT, I. p. 701.]

## Talmud - Mas. Gittin 47a

Redeem me. So he said:<sup>1</sup> We have learnt, IF A MAN SELLS HIMSELF AND HIS CHILDREN TO A HEATHEN HE IS NOT TO BE REDEEMED, BUT HIS CHILDREN ARE TO BE REDEEMED AFTER THE DEATH OF THEIR FATHER, to prevent their going astray.<sup>2</sup> All the more so then here, where there is a danger of their being killed. The Rabbis said to R. Assi: This man is a non-observant Israelite, who has been seen eating non-Jewish meat.<sup>3</sup> He said to them: possibly he did so because he wanted<sup>4</sup> [meat, and could get no other]? They said: There have been times when he had the choice of permitted and forbidden meat and he left the former and took the latter. He thereupon said to the man: Be off; they will not let me ransom you.

Resh Lakish<sup>5</sup> once sold himself to the Lydians. He took with him a bag with a stone in it, because, he said, it is a known fact that on the last day they grant any request [of the man they are about to kill] in order that he may forgive them his murder.<sup>6</sup> On the last day they said to him, What would you like? He replied: I want you to let me tie your arms and seat you in a row and give each one of you a blow and a half with my bottle. He bound them and seated them, and gave each of them a blow with his bag which stunned him. [One of them] ground his teeth at him. Are you laughing at me? he said. I have still half a bag left for you. So he killed them all and made off. As he was once seated [on the ground] eating and drinking,<sup>7</sup> his daughter said, Don't you want something to recline on? He replied: Daughter, my belly is my cushion.<sup>8</sup> At his death he left a kab<sup>9</sup> of saffron, and he applied to himself the verse, And they shall leave to others their substance.<sup>10</sup>

MISHNAH. IF A MAN SELLS HIS FIELD TO A HEATHEN, HE HAS TO BUY [YEARLY] THE FIRSTFRUITS FROM HIM AND BRING THEM TO JERUSALEM,<sup>11</sup> TO PREVENT ABUSES.<sup>12</sup>

GEMARA. Rabbah said: Although a heathen cannot own property in the land of Israel so fully as to release it from the obligation of tithe, since it says, For mine is the land,<sup>13</sup> as much as to say, mine is the sanctity of the land,<sup>14</sup> yet a heathen can own land in the Land of Israel so fully as to have the right of digging in it pits, ditches and caves, as it says, The heavens are the heavens of the Lord, but the earth he gave to the sons of man.<sup>15</sup> R. Eleazar, however, said: Although a heathen can own land so fully in the land of Israel as to release it from the obligation of tithe, since it says, [The tithe of] thy corn,<sup>16</sup> which implies, 'and not the corn of the heathen,' yet a heathen cannot own land in the Land of Israel so fully as to have the right of digging in it pits, ditches and caves, since it says, The earth is the Lord's.<sup>17</sup> What is the point at issue between them? — One<sup>18</sup> holds that [we interpret the word 'thy corn'] to mean 'thy corn and not the corn of the heathen' and the other holds that we interpret it to mean, 'thy storing and not the storing of the heathen.'<sup>19</sup> Rabbah said: Whence do I derive my view? Because we have learnt: Gleanings, forgotten sheaves, and produce of the corner belonging to a heathen are subject to tithe unless he has declared them common property.<sup>20</sup> How are we to understand this? Are we to say that the field belongs to an Israelite and the produce has been gathered by a heathen? If so, what is the meaning of 'unless he declared them common property,' seeing that they are already such?<sup>21</sup> We must therefore say that the field belongs to a heathen and an Israelite has gathered the produce, and the reason why he has to give no tithe from them is because he declared them common property, but otherwise he would be liable!<sup>22</sup> — This is not conclusive. I may still hold that [the field spoken of] belongs to an Israelite and that a heathen has gathered the produce; and as for your argument that it is already declared common property, granted that it is such in the eyes of the Israelite, is it such in the eyes of the heathen?<sup>23</sup>

Come and hear: If an Israelite bought a field from a heathen before the produce was a third grown and sold it back to him after it was a third grown, it is subject to tithe,<sup>24</sup> because it was so already<sup>25</sup> [before he sold it back]. The reason is [is it not] because it was so already, but otherwise it would not be subject?<sup>26</sup> — We are dealing here with a field in Syria, and [the author of this dictum] took the

view that the annexation of an individual<sup>27</sup> is not legally counted as annexation.<sup>28</sup> Come and hear: 'If an Israelite and a heathen buy a field in partnership.

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- (1) [R. Ammi to the scholars present. The word 'to him' in current editions is to be deleted, v. Bah.]
- (2) By learning the ways of the heathen, of which there was not so much danger when their father was alive.
- (3) Lit., 'nebelah and terefah', i.e., meat from an animal not killed according to the Jewish rite or disqualified on account of some physical defect. V. Glos.
- (4) Lit., 'for desire' to satisfy the appetite.
- (5) In his early years Simeon b. Lakish was a brigand.
- (6) Lit., 'his blood'. [Aruch 'that his blood may be sweet'. By fulfilling his wishes they will enjoy his blood without remorse].
- (7) It was one of the characteristics of Resh Lakish that he never made provision for the morrow.
- (8) It was his custom to lie on his stomach. Cf. Zeb. 5.
- (9) A small measure.
- (10) Ps. XLIX, 11.
- (11) This is the rendering of Rashi. According to another reading, which Tosaf. considers preferable, we should translate 'Anyone who buys it from him has to bring the firstfruits etc.'
- (12) I.e., to deter people from selling their land to heathens, or to stimulate them to redeem it if they have sold it.
- (13) Lev. XXV, 23.
- (14) That is to say, it remains holy even in the hand of the heathen, and tithe must be brought from it.
- (15) Ps. CXV, 16.
- (16) Deut. XIV, 23.
- (17) Ps. XXIV, 1.
- (18) R. Eleazar.
- (19) [The obligation for tithing comes into force only after the crop has been finally turned into corn (v. Ma'as I, 6); and according to Rabbah the verse exempts only such corn as has been at that time in the ownership of the non-Jew. Where, however, a Jew had been responsible for the final process as owner, there is liability although the crop grew in soil belonging to a non-Jew, because a non-Jew cannot own property in Eretz Israel so fully as to release it from the obligation to tithe.]
- (20) Pe'ah IV, 9.
- (21) Ipso facto, even without any declaration on the part of the owner, v. Lev. XIX. 9, 10.
- (22) Which would show that normally a field sold to a heathen is still subject to tithe.
- (23) [Consequently should a Jew buy these gleanings from the non-Jew, he will have to give tithes unless the original owner had declared them common property.]
- (24) Should another Jew buy the produce from the heathen and turn it into grain.
- (25) The rule was that produce became liable for tithe as soon as it was a third grown. R.H. 12.
- (26) Which would show that normally a field sold to a heathen is not subject to tithe.
- (27) King David. V. supra p. 25, n. 3.
- (28) [And ownership of a field in Syria by a heathen does release the produce from the tithing obligation, which is there merely of rabbinic origin.]

## Talmud - Mas. Gittin 47b

tebel and hullin<sup>1</sup> are inextricably mixed up in it.<sup>2</sup> This is the view of Rabbi. Rabban Simeon b. Gamaliel says that the part belonging to the heathen is exempt [from tithe], and the part belonging to the Israelite is subject to it'.<sup>3</sup> Now [are we not to say that] the extent of their difference consists in this, that the one authority [R. Simeon] holds that a distinction can be made retrospectively,<sup>4</sup> while the other holds that no distinction can be made retrospectively, but both are agreed that a heathen can own land in the land of Israel so fully as to release it from the obligation of tithe?<sup>5</sup> — Here too we are dealing with land in Syria, and [R. Simeon] took the view that the annexation of an individual is not legally regarded as annexation. R. Hiyya b. Abin said: Come and hear. IF ONE SELLS HIS FIELD TO A HEATHEN, HE MUST BUY FROM HIM THE FIRSTFRUITS AND TAKE THEM

TO JERUSALEM, TO PREVENT ABUSES. That is to say, the reason is to prevent abuses, but the Torah itself does not prescribe this?<sup>6</sup> — R. Ashi replied: There were two regulations. At first they [the sellers of the fields] used to bring the firstfruits as enjoined in the Torah. When [the Sages] saw that they made the recital [over them]<sup>7</sup> and still sold [fields], being under the impression that the fields still retained their holiness, they ordained that [the firstfruits] should not be brought. When they saw that those who were short of money still sold and the fields remained in the hands of the heathen, they ordained that they should be brought.<sup>8</sup>

It has been stated: If a man sells his field in respect of the produce only,<sup>9</sup> R. Johanan says that [the purchaser] brings the firstfruits and makes the recital [over them],<sup>7</sup> while Resh Lakish says that he brings them but makes no recital.<sup>10</sup> R. Johanan who says that he brings and recites is of the opinion that the possession of the increment is equivalent to possession of the [parent] body, while Resh Lakish who says that he brings without reciting is of opinion that the possession of the increment is not equivalent to the possession of the [parent] body.<sup>11</sup>

R. Johanan raised an objection against Resh Lakish [from the following]: [And thou shalt rejoice in all the good which the Lord hath given to thee] and to thy house:<sup>12</sup> this teaches that a man brings the firstfruits of his wife<sup>13</sup> and makes the recital! — Resh Lakish rejoined: There is a special reason there,<sup>14</sup> because the text says ‘his house’.<sup>15</sup> According to another report, Resh Lakish raised an objection against R. Johanan [by quoting to him]: ‘And to thy house:’ this shows that a man brings the firstfruits of his wife and makes the recital. This, [continued Resh Lakish,] is the rule in the case of the wife, because the text says and to thy house, but in other cases not! — R. Johanan replied: I derive my reason also from the same verse.<sup>16</sup> He [then] raised an objection [from the following]: ‘If while he was on the road bringing the firstfruits of his wife he heard that his wife had died, he brings them and makes the recital,’ which means, [I take it], that if she did not die he does not make the recital?<sup>17</sup> — No, [he replied]; the rule is the same even if she did not die, but it had to be stated also in regard to the case of her dying, [for this reason]. It might have occurred to us that [in this case] we should as a precaution prohibit [the husband from reciting] on account of the ruling of R. Jose b. Hanina who laid down that if a man gathered his grapes and commissioned another man to bring them [to Jerusalem] and the person commissioned died on the way, he [himself] brings them but does not make the recital, because it says, and thou shalt take . . .<sup>18</sup> and thou shalt bring,<sup>19</sup> which implies that the taking and the bringing must be performed by the same person.<sup>20</sup> We are therefore told [that we do not take this precaution].

R. Johanan and Resh Lakish are herein true to their own principles, as stated elsewhere: If a man sells his field

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(1) Tebel is produce from which tithe and other dues have not yet been separated. Hullin is produce which may be consumed without scruple by laymen.

(2) Even if they each take the produce of a separate half of the field.

(3) Tosef. Ter. II.

(4) Lit., ‘there is bererah’, (v. Glos.). I.e., we suppose that the part which the heathen took eventually was intended for him from the beginning.

(5) Which refutes Rabbah.

(6) I.e., according to the Torah, the heathen is the legal owner, and therefore tithe need not be brought, which refutes Rabbah.

(7) V. Deut. XXVI, 1-11.

(8) So that they should be impelled to buy the fields back.

(9) I.e., on the understanding that the purchaser is to acquire the produce for a certain number of years but not to become owner of the soil.

(10) Because the recital contains the words the fruit of the ground which thou, O Lord, hast given me, which could be said with propriety only by the owner of the soil.

(11) As appears later, the difference here between R. Johanan and Resh Lakish in respect to firstfruits refers to the time when the law of Jubilee was no longer in force, i.e., after the tribes of Reuben and Gad were carried off by Sennacherib (v. 2 Kings XV, 29) till the rebuilding of the Second Temple.

(12) Deut. XXVI, 11.

(13) From the so-called 'property of mulug' (v. Glos.) which belonged to the wife but of which the husband had the management and usufruct. 'House' here as in many cases is taken by the Rabbis as equivalent to 'wife'.

(14) Why the firstfruits are brought by one who does not own the soil.

(15) The Torah has made a special exception in the case of the wife's produce.

(16) I.e., R. Johanan takes the case of the wife as being not exceptional but typical.

(17) Presumably because his relation to the field is still that of purchaser.

(18) Deut. XXVI, 2 and 10.

(19) This is implied in the text, which thou shalt bring (ibid) cf. verse 10.

(20) And here the husband having in the interval been transformed from a purchaser into an heir is in a way no longer the same person.

## Talmud - Mas. Gittin 48a

in the period when the law of the Jubilee is in force,<sup>1</sup> R. Johanan says that he brings the firstfruits and makes the recital, while Resh Lakish says that he brings them without making the recital. R. Johanan who says that he brings them and makes the recital takes the view that the possession of the increment is equivalent to the possession of the [parent] body, while Resh Lakish, who says that he brings without making the recital, takes the view that the possession of the increment is not equivalent to the possession of the [parent] body. It was necessary [to state the difference between R. Johanan and Resh Lakish] in both cases. For if it had been stated only in the latter case,<sup>2</sup> I might have said that Resh Lakish rules as he does there because when the purchaser buys<sup>3</sup> [the field] he actually has in mind only the produce,<sup>4</sup> but in the other case, where he has in mind the land itself, I might think that he agrees with R. Johanan. if again I had only the other case I might think that there [only] R. Johanan rules in this way, but in this case he agrees with Resh Lakish. Hence [both] had to be [stated].

Come and hear:<sup>5</sup> If a man buys a tree and the soil under it, he brings the firstfruits from it and makes the recital!<sup>6</sup> — We are speaking here of the period when the Jubilee is not observed. Come and hear:<sup>5</sup> 'If a man buys two trees in another man's field, he brings the firstfruits but does not make the recital,'<sup>7</sup> which implies that if he buys three<sup>8</sup> he does make the recital? — There too we speak of the period when the Jubilee is not observed. Now, however, that R. Hisda has stated that the controversy [between R. Johanan and Resh Lakish] refers only to the period of the second Jubilee,<sup>9</sup> but In the period of the first Jubilee<sup>10</sup> both agree that he [the purchaser] had to bring and recite, since they still could not rely on the fields being returned, there is no difficulty: the one [R. Johanan] speaks of the first Jubilee and the other of the second Jubilee. Shall we say that we find in the following passage<sup>11</sup> the same difference between Tannaim: 'How do we know that if a man buys a field from his father and then sanctifies it and his father subsequently dies,<sup>12</sup> it is reckoned as "a field of possession"?'<sup>13</sup> Because Scripture says, And if he sanctifies . . . a field which he hath bought which is not of the field of his possession [he shall give thine estimation].<sup>14</sup> [This signifies] a field which is not capable of becoming a "field of possession,"<sup>15</sup> [and we therefore] except [from this rule] such a one as this which is capable of becoming a "field of his possession".<sup>16</sup> This is the opinion of R. Judah and R. Simeon. R. Meir says: From where do we know that if a man buys a field from his father and his father dies and he then subsequently sanctifies the field, it is reckoned as a field of his possession? Because it says, If he sanctifies a field which he hath bought which is not of the field of his possession. [This signifies] a field which is not a "field of possession", and we therefore except from this rule such a one as this which is [now] a field of his possession.'<sup>17</sup> Now R. Judah and R. Simeon, [while agreeing that in the case] where his father died and then he sanctified the field<sup>18</sup> [it is reckoned a 'field of possession'], do not require a text to indicate this.<sup>19</sup> Is not then the point at issue



between them this: R. Meir held that the possession of the increment is equivalent to the possession of the [parent] body, and in this case therefore on the death of his father he does not inherit anything, and therefore if his father died and he sanctified it subsequently a text is necessary to indicate [that it is ‘a field of his possession’],<sup>20</sup> whereas R. Judah and R. Simeon held that the possession of the increment is not equivalent to the possession of the [parent] body, and in this case on the death of his father he does inherit the field, and therefore if he sanctifies it after the death of his father no text is necessary [to indicate that it is ‘a field of his possession’], and where a text is required is to indicate [that it is ‘a field of his possession’ even] when he sanctified it before the death of his father?<sup>21</sup> — R. Nahman b. Isaac said: All the same I may still maintain that in general R. Judah and R. Simeon held that the possession of the increment is equivalent to the possession of the parent body, but in this case R. Judah and R. Simeon found a text which they interpreted [to the contrary effect]: The Divine Law [they said,] might have written, ‘If he sanctifies a field which he has bought, which is not his possession.’ What is the force of the words, ‘Which is not of the field of his possession’? [It signifies], one which is not capable of becoming the field of his possession, [and we] except from the rule one that is capable of becoming the field of his possession.<sup>22</sup>

R. Joseph said: Had R. Johanan not maintained that the possession of the increment is not equivalent to the possession of the [parent] body, he would not have had a leg to stand on<sup>23</sup> in the Beth Hamidrash. For R. Assi said in the name of R. Jonathan that if brothers divide an inheritance they stand to one another in the relation of purchasers and have to restore their shares to one another at the Jubilee.<sup>24</sup> Now [this being so], should you assume [that the possession of the increment is] not equivalent to the possession of the [parent] body, then you would not find anyone qualified to bring firstfruits save an only son who had inherited from an only son up to the days of Joshua son of Nun.<sup>25</sup>

Raba said: Both Scripture and a Baraita support Resh Lakish. Scripture,

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- (1) In which case there is no question that the purchaser does not become owner of the soil, as he has to return the land at the Jubilee.
  - (2) Where the land is purchased in the epoch of the Jubilee.
  - (3) Lit., ‘he descends into’.
  - (4) I.e., he never for a moment imagines himself to be the owner of the land.
  - (5) An argument against Resh Lakish.
  - (6) Bek. I, 11. Although the land is returnable at the Jubilee.
  - (7) Ibid. I, 6.
  - (8) In which case he automatically acquires the land under and between the trees, v. B.B. 81a.
  - (9) I.e., the period of the Second Temple, when the Jews observed the law of the Jubilee strictly.
  - (10) [I.e., of the first Temple, where it was not strictly observed (Rashi). Maim., Yad Bikkurim IV, 6. takes the first and second Jubilee in a literal sense — the first and second Jubilee cycles observed by the Jews].
  - (11) B.B. 72b.
  - (12) Before the Jubilee, when the field would automatically revert to him.
  - (13) And not one of ‘purchase’, and therefore liable to be redeemed at a lower rate. V. Lev. XXVII, 16-23.
  - (14) Lev. XXVII, 22, 23.
  - (15) E.g., one which he bought from any other man and which would have to be restored to him or to his heirs at the Jubilee.
  - (16) By inheritance.
  - (17) But not one which is only capable of becoming such subsequently.
  - (18) The case put by R. Meir.
  - (19) While R. Meir does.
  - (20) And not a field of purchase, in spite of the fact that he originally purchased it from his father.
  - (21) In spite of the fact that he purchased it from his father.
  - (22) For fuller notes on the whole of this passage, v. B.B. (Sonc. ed.) pp. 285ff.

(23) Lit., 'he would not have found his hands and feet.'

(24) B.K. 69b and supra 25a.

(25) So that the property had never been divided, for as soon as it was divided it was in effect sold, and had no owner capable of bringing firstfruits.

## Talmud - Mas. Gittin 48b

where it says, According to the number of years of the crops he shall sell unto thee.<sup>1</sup> A Baraitha, as it has been taught: A firstborn son receives a double portion of a field which [was due to] be restored to his father at the Jubilee.<sup>2</sup>

Abaye said: We have it on tradition that a husband [before going to law] about property belonging to his wife requires authorization from her.<sup>3</sup> This, however, is the case only if the suit does not concern the produce. But if the suit concerns the produce, while he is putting forward claims to the produce he can put forward claims to the land itself as well.

## CHAPTER V

MISHNAH. COMPENSATION FOR DAMAGE<sup>4</sup> IS PAID OUT<sup>5</sup> OF [PROPERTY OF] THE BEST QUALITY, A CREDITOR OUT OF LAND OF MEDIUM QUALITY, AND A WOMAN'S KETHUBAH OUT OF LAND OF THE POOREST QUALITY. R. MEIR, HOWEVER, SAYS THAT A WOMAN'S KETHUBAH IS ALSO PAID OUT OF MEDIUM [QUALITY LAND]. PAYMENT CANNOT BE RECOVERED FROM MORTGAGED PROPERTY WHERE THERE ARE FREE ASSETS AVAILABLE, EVEN IF THEY ARE ONLY LOWEST GRADE LAND. PAYMENT FROM ORPHANS CAN BE RECOVERED ONLY FROM LOWEST GRADE LAND. INDEMNIFICATION FOR PRODUCE CONSUMED<sup>6</sup> AND FOR THE BETTERMENT OF PROPERTY [DURING WRONGFUL TENURE] [AND PAYMENT] FOR THE MAINTENANCE [BY A MAN'S HEIRS] OF HIS WIDOW AND DAUGHTERS<sup>7</sup> IS NOT ENFORCED FROM MORTGAGED PROPERTY, TO PREVENT ABUSES.<sup>8</sup> THE FINDER OF A LOST ARTICLE CANNOT BE REQUIRED TO TAKE AN OATH, TO PREVENT ABUSES.<sup>8</sup>

GEMARA. [COMPENSATION . . . PROPERTY OF THE BEST QUALITY.] Is this only an ordinance to prevent abuses?<sup>9</sup> It derives from the Scripture, as it is written, The best of his field and the best of his vineyard he shall pay!<sup>10</sup> — Abaye replied: This statement holds good only if we take the view of R. Ishmael who said that according to the Torah the assessment is made on the property of the claimant of damage;<sup>11</sup> we are then told here that to prevent abuses<sup>12</sup> we make the assessment on the property of the defendant. What statement of R. Ishmael is referred to? — As it has been taught: 'The best of his field and the best of his vineyard he shall pay': [that is to say,] the best of the field of the claimant and the best of the vineyard of the claimant.<sup>13</sup> So R. Ishmael. R. Akiba said: The whole purpose of the text is to allow compensation for damage to be recovered from the best property [of the defendant]: and all the more so in the case of the Sanctuary.<sup>14</sup>

Now according to R. Ishmael,<sup>15</sup> if [a man's beast] ate the vegetables from a rich bed, he [naturally] repays the value of a rich bed, but if it ate from a poor bed is he to repay the value of a rich one? — R. Idi b. Abin said: We are dealing here with a case where it ate one bed out of a number and we do not know whether it was a rich one or a poor one; in this case he repays the value of the best. Said Raba. Seeing that if where we know that it ate a poor one he repays only the value of a poor one, here, where we do not know, is he to pay the value of a rich one? Does not the onus probandi fall on the claimant? — R. Aha b. Jacob therefore suggested

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(1) Lev. XXV, 15. This indicates that, at the time of the Jubilee, the crops were sold, not the land.

(2) A firstborn takes a double portion only of property which was actually in possession of the father at the time of death,

not of that which is to accrue subsequently. If, therefore, he takes a double portion of this field, it shows that his father, in spite of having sold it, was still reckoned as owner.

(3) Because although he owns the produce (v. Glos. s.v. Mulug), this is not equivalent to owning the land itself.

(4) Cf. Ex. XXII, 4.

(5) Lit., 'they value'.

(6) [If A wrongfully acquires a field from B and sells it to C who was unaware that it was stolen and C spends money on improving it and a crop is produced, B may come and seize the field, crop and improvements, after paying C his costs in connection with the improvements. B is then entitled to recover from A the price he paid him for the field even from A's mortgaged property, but the value of the crop and increased value of the field due to the improvements only from A's unmortgaged property.]

(7) V. Keth. 52b.

(8) Lit., 'for the good order of the world'. [This refers to all the rulings given in this Mishnah and supplies the connecting link between this chapter and the preceding one, as well as the reason for its inclusion in this tractate (v. Tosaf).]

(9) I.e., is its sanction only Rabbinic?

(10) Ex. XXII, 4.

(11) I.e., he can claim only property of the same quality as the best of his own, even if this is not equal to the best of the defendant's.

(12) The abuse to be prevented is explained lower down.

(13) The meaning of this is discussed presently.

(14) B.K. 6b. This is explained lower down.

(15) Who apparently says that according to Scripture damage is to be estimated in all cases as if done to the best of the claimant's land.

## **Talmud - Mas. Gittin 49a**

that the case here considered is one where the best of the claimant is equal [in quality] to the worst of the defendant, in which case R. Ishmael held that we assess on the land of the claimant,<sup>1</sup> whereas R. Akiba held that we assess on the land of the defendant.<sup>2</sup> What is R. Ishmael's reason? — The word 'field' occurs both in the earlier<sup>3</sup> and the later<sup>4</sup> clause; just as in the earlier clause it refers to the field of the claimant, so in the later it refers to the field of the claimant. R. Akiba, on the other hand, held that the words, from the best of his field he shall make restitution mean, from the best of him who makes restitution. What does R. Ishmael say to this? — [He says that] the gezerah shawah<sup>5</sup> has its lesson and the text has its lesson. The lesson of the gezerah shawah is what we have said.<sup>6</sup> The lesson of the text is that if the defendant has high grade and low grade land and his low grade land is not equal to the best of the claimant, he pays him from the best.<sup>7</sup>

'R. Akiba says: The whole purpose of the text is to allow compensation for damage to be recovered from the best property of the defendant; and all the more so in the case of the Sanctuary.' What is the meaning of 'all the more so in the case of the Sanctuary'? Are we to say that [this rule applies] where our ox has gored the ox of the Sanctuary? [This cannot be, because] the Divine Law says, [if one man's ox hurt] the ox of one's neighbour,<sup>8</sup> but not an ox of the Sanctuary.<sup>9</sup> Shall we say then that what is meant is that if a man says, 'I take upon myself to give a maneh for the repair of the Temple,' the treasurer can come and collect it from the best [of his land]? Surely he is in no better position than a creditor, and a creditor has a right to collect only from the medium property!<sup>10</sup> And should you contend that R. Akiba holds that a creditor can collect from the best like a [claimant for] damages, we may still object, how can you draw an analogy from a [private] creditor, who is at an advantage in that he can claim compensation for damages, to the Sanctuary, which has no right [ever] to claim compensation for damages?<sup>11</sup> — I may still say that [these words refer to the case where] our ox gored the ox of the Sanctuary, for R. Akiba held the same view as R. Simeon b. Menasya, as it has been taught: R. Simeon b. Menasya says: If an ox of the Sanctuary gores an ox of a layman, there is no liability, but if the ox of a layman gores an ox of the sanctuary, whether it was

tam<sup>12</sup> or mu'ad,<sup>12</sup> the owner has to pay compensation in full.<sup>13</sup> If that is the case, why should you say that R. Akiba and R. Ishmael differ [as to what is to be done] when the best of the claimant is equal to the worst of the defendant? Perhaps in that case both agree that we assess on the land of the claimant,<sup>14</sup> and their dispute here<sup>15</sup> is the same as that between R. Simeon b. Menasya and the Rabbis, R. Akiba adopting the same view as R. Simeon b. Menasya and R. Ishmael adopting the view of the Rabbis?<sup>16</sup> — If that were the case, why should R. Akiba have said 'The whole purpose of the text etc.,'<sup>17</sup> and again, what means 'All the more so in the case of the Sanctuary'?<sup>18</sup> And besides, R. Ashi has told us,

- (1) I.e., the quality of the field paid by the defendant as damages need not exceed the best quality of the claimant's estate. Hence in this case, he can claim only the worst of the defendant's.
- (2) Who therefore has to pay out of his best.
- (3) If a man shall cause a field or vineyard to be eaten. Ex. XXII, 4.
- (4) Of the best of his own field shall he make restitution. Ibid.
- (5) Of 'field' 'field'. V. Glos.
- (6) That we assess on the estate of the claimant.
- (7) Even though this is much better than the best of the claimant.
- (8) Ex. XXI, 35.
- (9) For the damage to which there is no liability.
- (10) As laid down in our Mishnah.
- (11) As stated supra.
- (12) V. Glos.
- (13) B.K. 37b, q.v. for notes.
- (14) And where the claimant's best equals the defendant's worst, the latter will perhaps suffice according to all opinions.
- (15) In the Baraitha quoted supra 48b.
- (16) I.e., R. Akiba differed from R. Ishmael only in the second part of his statement, regarding the Sanctuary, but not the first.
- (17) Which indicates that the interpretation of the verse (Ex. XXII, 4) is the point at issue.
- (18) [As according to the view requiring full payment in all cases, the quality of the payment for damage done to sacred property may be higher than that paid for damage done to ordinary property, and in fact nothing less than the very best of the defendant's estate would suffice.]

## **Talmud - Mas. Gittin 49b**

It has been taught expressly: From the best of his field and the best of his vineyard he shall make restitution:<sup>1</sup> this means the best of the field of the claimant and the best of the vineyard of the claimant. So R. Ishmael. R. Akiba, however, says it means, the best of the field of the defendant and the best of the vineyard of the defendant.<sup>2</sup>

Rabina said: We may maintain after all that the Mishnah follows R. Akiba,<sup>3</sup> who said that according to the Torah we assess on the land of the defendant, and it also follows here R. Simeon whose custom it was to expound the reasons of Scriptural injunctions,<sup>4</sup> and its later clause gives the reason for the earlier,<sup>5</sup> thus: Why is compensation for damage assessed on the best property? To prevent abuses, as it has been taught: R. Simeon said: Why was it laid down that compensation for damages should be paid out of the best land? As a deterrent to those who plunder or take by violence,<sup>6</sup> so that a man should say to himself, Why should I plunder or take by violence, seeing that to-morrow the Beth din will come down<sup>7</sup> on my property and take my best field, basing themselves on what is written in the Torah, 'from the best of his field and the best of his vineyard he shall make restitution'? For that reason they laid down that compensation for damages should be assessed on the best land.

Why did they lay down that a creditor should recover only from medium land? So that a man, on

seeing his neighbour possessed of a fine field or a fine house, should not be tempted to say, I will induce him to borrow money of me so that I can get them on account of my debt. For this reason they laid down that a creditor should recover only from medium land. But if that is so, he should be allowed to recover only from the lowest grade? — This would be closing the door in the face of borrowers.

A woman's Kethubah can be collected only from land of the poorest quality. So R. Judah; R. Meir, however, says, from medium land also. R. Simeon said: Why did they lay down that a woman's Kethubah is to be collected from poor land? Because the woman wants to be married more than the man wants to marry. Another explanation is that a woman is put away whether she will or not, but a man puts her away only if he wants to. How is this 'another explanation'?<sup>8</sup> — [What it means is]: Should you say that just as when the husband divorces the wife the Rabbis provided that she should obtain a Kethubah from him, so when she leaves him they should provide for him a Kethubah from her, then I would point out<sup>9</sup> that a woman is divorced whether she wants to be or not, but a man divorces only if he wants to, since he can always keep her waiting for a Get.

**A WOMAN'S KETHUBAH ONLY FROM LAND OF THE POOREST QUALITY.** Mar Zutra the son of R. Nahman said: This is the rule only [where the Kethubah is recovered] from the orphans,<sup>10</sup> but from the husband himself it can be demanded out of medium property. If [the Mishnah refers to] orphans, why does it specify a woman's Kethubah, seeing that the same applies to all payments, as we have learnt, 'PAYMENTS FROM ORPHANS CAN BE RECOVERED ONLY FROM LOWEST GRADE LAND.' Are we not [therefore obliged to say] that the Mishnah is referring to the husband himself?<sup>11</sup> — In point of fact it is to the orphans, and there was a reason for specifying the woman's Kethubah. For I might have thought that the Rabbis granted her a concession in order that she might look more favourably on suitors.<sup>12</sup> We are therefore told [that this is not so].

Raba said: Come and hear: **R. MEIR SAYS, A WOMAN'S KETHUBAH CAN ALSO BE COLLECTED FROM MEDIUM QUALITY LAND.** From whom? Shall I say from the orphans? Does R. Meir then not accept [the rule] which we have learnt: **PAYMENT FROM ORPHANS CAN BE RECOVERED ONLY FROM THE LOWEST GRADE?** We must say therefore that he means, from the husband himself; from which we can infer that in the opinion of the Rabbis<sup>13</sup> [payment can be claimed even from the husband] only in poor land. — No; [R. Meir] indeed [also referred] to orphans, and there is a special reason why [in his opinion] a woman's Kethubah [should be collected even from their medium land], namely, to make her favourably disposed to suitors. Abaye said: Come and hear: **COMPENSATION FOR DAMAGE IS PAID OUT OF [PROPERTY OF] THE BEST QUALITY, A CREDITOR OUT OF LAND OF MEDIUM QUALITY, AND A WOMAN'S KETHUBAH OUT OF LAND OF THE POOREST QUALITY.** [Collected] from whom? Shall we say, from orphans? If so, why only the woman's Kethubah [from the poorest land]? Why not [all the claims of] others as well? — R. Aha b. Jacob said: We are dealing here with a case where a man became surety for compensation for damage due from his son, for his son's debt, and for his daughter-in-law's Kethubah. Each item then follows its own rule.<sup>14</sup> Compensation and debts which are usually paid in the lifetime [of the person responsible] are paid in this case also as though in the lifetime of the person responsible.<sup>15</sup> The woman's Kethubah which is usually paid after the death of the person responsible — and by whom? by the orphans — is paid in this case as after the death of the person responsible.<sup>16</sup> But cannot this rule be derived from the fact that a surety for a Kethubah is not responsible [for its payment]?<sup>17</sup> — We speak of a kabbelan [go-between].<sup>18</sup> This solves the problem for one who holds that a kabbelan is responsible even though the borrower has no property,<sup>19</sup> but what answer is to be given to one who holds that if the borrower has property he is responsible but if the borrower has no effects he is not responsible?<sup>20</sup> — If you like I can say that in this case we suppose [the son to have] had property<sup>21</sup> which was subsequently destroyed,<sup>22</sup> or if you like I can say that in respect of his son a man would in all cases regard himself as responsible.

It has been stated [elsewhere]: With regard to a surety<sup>23</sup> for a Kethubah, all authorities are agreed that he does not become responsible.<sup>24</sup>

- (1) Ex. XXII, 4.
- (2) For all this section v. B.K. (Sonc. ed.) pp. 21-24.
- (3) And not R. Ishmael, as we have been presuming hitherto.
- (4) E.g., that of 'he shall not multiply wives to himself,' B.M. 115a.
- (5) Although the rule laid down in the earlier derives from the Torah and not merely from the Rabbis.
- (6) [ **הַמִּסְנִיף** , i.e. who appropriate forcibly but offer payment, in contradistinction from **גִּזְלָנִין** , who plunder without compensating the owner; v. B.K. 62a.]
- (7) Lit., 'jump', 'come forward'.
- (8) This being a fresh point, not a reason why the Kethubah is to be paid out of the worst land.
- (9) Lit., 'come and hear'.
- (10) After the death of the husband.
- (11) In case of divorce.
- (12) Lit., 'for the sake of favour.' This would more naturally mean, that she should find favour in the eyes of the men, and so indeed it is taken by R. Hananel. V. Tosaf. s.v.
- (13) With whom he joins issue on this point.
- (14) Viz., compensation for damage from the best property and debts from the second best, as they would have been by the son himself had he been alive.
- (15) Viz., by the father if the son dies without having paid.
- (16) Viz., from the lowest grade property, as it would be by orphans. In ordinary cases, however, a husband, according to R. Aba b. Jacob, pays the Kethubah from medium property.
- (17) V. infra.
- (18) V. Glos. The meaning is that he entered into an agreement with his daughter-in-law that she could claim either from him or from his son at will.
- (19) At the time when the debt is contracted.
- (20) Since no one would guarantee a loan where it is known that the debtor has no means wherewith to repay. A guarantee in such a case cannot therefore be taken seriously. V. B.B. 174b. And the presumption is here that the husband had no effects when the contract was made. (V. Tosaf.).
- (21) When the liability was contracted.
- (22) Lit., 'blighted'.
- (23) 'Areb., v. Glos.
- (24) Because she has not actually parted with anything.

## Talmud - Mas. Gittin 50a

With regard to a kabbelan for a debt, all are agreed that he does become responsible.<sup>1</sup> With regard to a surety for a debt and a kabbelan for a Kethubah there is a difference of opinion, some holding that even though [the debtor] had no property they become responsible, and others holding that if he had effects they become responsible, but if he had no effects they do not. The law in all these cases is that even if [the debtor] had no property [the surety or go-between] becomes responsible, save in the case of the surety for a Kethubah, who does not become responsible even if [the husband] has effects. The reason is that he performs a pious action,<sup>2</sup> and he does not cause the woman any loss.<sup>3</sup>

Rabina said:<sup>4</sup> Let us look at the basis of our regulation. It is that more than the man desires to marry the woman desires to be married. Now if you suppose [that the Mishnah refers] to orphans [when it says that the woman collects from the poorest land], then the reason would be that they are orphans. Is this not a refutation of Mar Zutra? — It is.<sup>5</sup>

Mar Zutra the son of R. Nahman said in the name of R. Nahman: If a claim is made from orphans on the strength of a bond [given by their father], even though the best land is mentioned in it,

payment can be recovered only from the worst. Abaye said: The proof of this<sup>6</sup> is that although a creditor has ordinarily the right to collect from medium land, from orphans he can recover only from the worst land. Said Raba to him: Is this really so?<sup>7</sup> According to Scriptural law, a creditor can claim only from the worst land, as laid down by ‘Ulla; for ‘Ulla said, ‘The Torah has enacted that a creditor should collect from the worst land. For it says Thou shalt stand without, and the man<sup>8</sup> etc. What would a man naturally bring out in such a case? His least valuable articles. Why then did they [the Rabbis] say that a creditor should collect from medium property? So as not to place obstacles in the way of borrowers. Where orphans are concerned, however, they left the law as it was laid down in the Torah.’<sup>9</sup> But here, since according to the Torah he can claim from the best land,<sup>10</sup> [I should say that] from orphans also he can claim from the best land? How can Raba [maintain this], seeing that Abram [of] Hozae<sup>11</sup> learnt, ‘Claims on orphans can be recovered only from their poorest land, even if these are in [compensation] for damage,’ and the law that compensation for damage can be claimed from the best is of the Torah? — We are presuming here<sup>12</sup> that the best of the claimant was only equal to the worst of the defendant, and are following R. Ishmael who said that the law of the Torah is that we should assess on the property of the claimant, but to prevent abuses the Rabbis ordained that the assessment should be made on the property of the defendant, and where orphans were concerned [the Rabbis] left the law as laid down in the Torah. Still did not R. Eliezer the Nabatean state that ‘payment recoverable from the property of orphans can be claimed only from their worst land, even if it is the best’? Now what is meant by the words, ‘even if it is the best’? Does it not mean, ‘even if the best is stipulated in the bond’?<sup>13</sup> — No; what is meant by ‘the best’ here is the strips of the best,<sup>14</sup> even as [mentioned also by] Raba. For Raba said: ‘If the damage was done to the worst land, the claimant recovers from the best; if to the strips of the best, he recovers from the medium.’<sup>15</sup> Where orphans however were concerned the Rabbis left the law as laid down in the Torah.<sup>16</sup>

**PAYMENT FROM ORPHANS CAN BE RECOVERED ONLY FROM THE POOREST LAND.**  
 R. Ahadboi b. Ammi asked: Are the orphans spoken of here minors, or are grown-ups also included? [That is to say,] were the Rabbis here taking a measure for [the protection of] orphans,<sup>17</sup> in which case they meant it to apply only to minor orphans but not to grown-ups, or was their reason that a lender does not ordinarily take into account the risk of the debtor dying and leaving his property to his orphans, so that there is no question of placing obstacles<sup>18</sup> in the way of borrowers,<sup>19</sup> and [consequently the regulation applies] to grown-ups also? — Come and hear what Abaye the elder stated, viz., that the orphans spoken of here mean grown-ups, and a fortiori the rule applies to minors. But perhaps this statement [was made] in connection with the administering of an oath,<sup>20</sup> because a grown-up is also like a child in relation to his father's affairs,<sup>21</sup> and this is not [the rule for payment out of] lowest-grade land? The law however is

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(1) In all circumstances.

(2) By enabling a marriage to be consummated.

(3) In so far as she does not actually part with anything. For fuller notes on this section v. B.B. (Sonc. ed., p. 770).

(4) Referring to the original statement of Mar Zutra, that save in the case of orphans, a Kethubah is collected from medium land.

(5) And we therefore interpret the Mishnah to mean that a Kethubah is in all cases collected only from the worst land.

(6) That such a stipulation is of no avail where orphans are concerned.

(7) That such a stipulation is of no avail.

(8) Deut. XXIV, 11.

(9) V. B.K. 8a.

(10) In virtue of the stipulation.

(11) V. infra p. 413, n. 1.

(12) In the teaching of R. Abram of Hozae.

(13) This refutes Mar Zutra's ruling.

(14) Strips of good land adjoining a river reserved for pasturage and therefore liable to be overflowed, and so of less real

value than even the worst land. V. Tosaf.

(15) This land being so very inferior.

(16) This last statement is not part of Raba's statement but explains the reason of R. Eleazar the Nabatean.

(17) So that their guardians should exert themselves to dispose of their worst land.

(18) Lit., 'so that this should bar the door'.

(19) Even if the lender knows that in case of the borrower dying he will only be able to recover from the worst land, whether the orphans are minors or grown up.

(20) I.e., with the rule that anyone claiming from orphans a debt contracted by their father, even if he produced a bond, had to take an oath. V. Shebu. 41b.

(21) I.e., he cannot be expected to know whether his father had paid the debt or not.

## **Talmud - Mas. Gittin 50b**

that the orphans spoken of are grown-ups, and the rule applies a fortiori to minors, whether in connection with an oath or [with payment out of] the worst land.

PAYMENT CANNOT BE RECOVERED FROM MORTGAGED PROPERTY WHEN THERE ARE FREE ASSETS AVAILABLE. R. Ahadboi b. Ammi asked: What is the rule in the case of a gift? Are we to say that this regulation was made for the protection of purchasers<sup>1</sup> against loss and it therefore does not apply to a gift,<sup>2</sup> where there is no question of loss to purchasers, or do we say this even in the case of a gift for if the recipient did not derive some benefit from it it would not have been given to him and therefore his loss is on the same footing as the loss of the purchaser? — [In reply] Mar Kashisha the son of R. Hisda said to R. Ashi: Come and hear 'If a dying man says, Give two hundred zuz to So-and-so, three hundred to So-and-so, and four hundred to So-and-so, we do not say that one who is mentioned earlier in the deed has a superior title to one who is mentioned later.'<sup>3</sup> Consequently if a bond is produced against the donor [after his death], the claimant can collect from all of them. If, however, he said, Give two hundred zuz to So-and-so and then<sup>4</sup> to So-and-so and then to So-and-so, we do say that whoever is mentioned earlier in the deed has the better title. Consequently if a bond is produced against the donor, the claimant collects first from the last recipient; if he has not enough, he comes on to the one before him, and if he has not enough, to the one before him;<sup>5</sup> and even though [so it would appear] the first was given medium land and the last poor land, [the claimant] has to collect from the poor before the medium.<sup>6</sup> This shows, [does it not], that the Rabbis meant their regulation to apply to a gift also?<sup>7</sup> — [Not necessarily, as] we may here be speaking of the payment of debts [and not of a gift].<sup>8</sup> But the man said 'give'? — He meant, 'Give in payment of my debt.' If so, we can see whose bond is prior? — We assume there is no bond. But [the passage quoted] says, 'Whoever is mentioned earlier in the deed'? — This means, the deed containing his instructions. Or if you like I can say the reference is also to a gift, and still there is no difficulty, since the words 'he collects from the last' mean, 'only the last [of the three] is the ultimate loser.'<sup>9</sup> Or if you like again I can say that the gifts of all were equal.<sup>10</sup>

INDEMNIFICATION FOR PRODUCE CONSUMED CANNOT BE ENFORCED etc. What is the reason? — 'Ulla said in the name of Resh Lakish: Because these<sup>11</sup> were not mentioned [in the deed of sale].<sup>12</sup> Said R. Abba to 'Ulla: But what of the maintenance of a woman and her daughters which is taken as written<sup>13</sup> and yet [the Mishnah] states that it is not enforceable? — He replied: The regulation<sup>14</sup> was so framed from the outset they are taken as written so far as concerns free assets but not so far as concerns property on which there is a lien. R. Assi also stated in the name of R. Johanan<sup>15</sup> that [the reason is] because they were not mentioned in the deed. Said R. Zera to R. Assi: But what of the maintenance of wife and daughters which also is taken as written and yet [the Mishnah] states that it is not enforceable? — He replied. The regulation was so framed from the outset: they are taken as written where free assets are concerned, but not where there is a lien on the property. R. Hanina, however, said: [The reason is] because they are not of a definite [amount].<sup>16</sup> The question was raised: In order [that a debt may be enforceable from property on which there is a



lien] does R. Hanina require that it should be both definite and written down,

- (1) Who bought land from a man after he had contracted a debt to a third party.
- (2) And recovery can he made from land which has been given away, even if there are free assets available.
- (3) Tosaf. points out that if the three gifts were equal we should say that he intended the earlier to take precedence, as otherwise he would have said, Give six hundred zuz to So-and-so and So-and-so and So-and-so.
- (4) Lit., 'and after him.'
- (5) V. B.B. 138a.
- (6) In spite of the fact that a creditor can collect from medium land.
- (7) Since the last gift was a 'free' asset by comparison with the first.
- (8) I.e., we do not say in the case of a gift that a creditor cannot collect from the gift when there are free assets available.
- (9) [The phrase, that is to say, does not mean that he collects only from the last, for where the first was the recipient of medium land and the last poor land, he would certainly be entitled to collect from the first, since the rabbinic regulation does not apply to a gift. What the phrase does mean is that only the last is the ultimate loser because the first can, after all, come on to him for what the creditor has taken from him.]
- (10) And only in this case can the first recipient force the creditor to recover first of all from the last.
- (11) The improvements and crops.
- (12) Implying that if they were, it would be enforceable. The deed is that given by the robber to the purchaser. V. supra p. 216, n. 3.
- (13) V. Mishnah Keth. 52b.
- (14) Relating to the maintenance of wife and daughters.
- (15) Who here consequently agrees with Resh Lakish.
- (16) [The exact quantity of the produce to be raised hereafter could not be known when the field was first appropriated, and therefore subsequent purchasers could not be expected to allow a sufficient margin for their indemnification. On this view, they would not be enforceable even if mentioned in the deed.]

## Talmud - Mas. Gittin 51a

or is it sufficient that it should be definite even without being written down? — Come and hear: It has been stated: If a man dies and leaves two daughters and a son, and if the first [daughter] took her tenth of the property<sup>1</sup> before the son died but the second had not time to take her tenth before the son died, R. Johanan says that the second has forfeited [her tenth].<sup>2</sup> R. Hanina remarked to him: The [Rabbis] went even further than this by laying down that payment may be enforced for [marriage] provision<sup>3</sup> though not for maintenance, and how can you say then that the second forfeits her tenth?<sup>4</sup> Now [marriage] provision is a definite sum but it is not written down, and we see [that R. Hanina says that] it is enforceable? — There is a special reason in the case of [marriage] provision; it gets talked about and therefore it is as good as written.<sup>5</sup> R. Huna b. Manoah raised an objection [from the following]: 'If [both husbands] died,<sup>6</sup> the daughters<sup>7</sup> are maintained from free assets, but she<sup>8</sup> is maintained [also] from mortgaged property, because she is in the position of a creditor'<sup>9</sup> — We presume that in this case there was a formal transfer.<sup>10</sup> If that is the case, then the daughters<sup>7</sup> also should draw on mortgaged property]? — We presume that the transfer was made on behalf of the one but not of the others. On what ground do you decide thus? — Because the daughter of his wife who was already born at the time of the transfer can benefit from the transfer, but his own daughter who was not yet born at the time of the transfer cannot benefit from it. But are we not to assume that both had already been born at the time of the transfer, [and if you ask how can this be, I answer,] supposing he had divorced her and then taken her back?<sup>11</sup> — No; what we must say is that his own daughter who is entitled to maintenance on the strength of the stipulation of the Beth din<sup>12</sup> derives no benefit from the transfer, whereas his wife's daughter who is not entitled to maintenance on the strength of the stipulation of the Beth din does derive benefit from the transfer.<sup>13</sup> Is then his own daughter to be in an inferior position? — No; since his daughter is entitled to maintenance on the strength of the stipulation of the Beth din, we presume that [at his death] he gave her a purse of money.<sup>14</sup> Come and hear: R. Nathan says: When [does this rule about consumable produce etc.

apply]? When the purchase of the second<sup>15</sup> preceded the betterment of the first. But if the betterment of the first preceded the purchase of the second, [the former] can recover from property on which there is a lien. We see therefore that the reason is because he did not improve the field first [and not because the produce is not mentioned in the deed or is not a definite sum]? — This is a point on which Tannaim also differed, as it has been taught: Indemnification for produce consumed and for betterment of land and [outlay] for maintenance of widow and daughters cannot be enforced from property on which there is a lien, to prevent abuses, since they are not written in any deed.<sup>16</sup> R. Jose said: What prevention of abuses is there here,<sup>17</sup> seeing that they are not definite?<sup>18</sup>

**THE FINDER OF A LOST ARTICLE CANNOT BE REQUIRED TO TAKE AN OATH.** R. Isaac said: [If a man says to another], ‘You found two purses tied together,’ and the other says, ‘I found only one,’ he can be forced to swear, [If he says,] ‘You found two oxen tied together,’ and the other says, ‘There was only one,’ he cannot be forced to swear. Why this difference? Because oxen can get loose from one another, but purses cannot.<sup>19</sup> [If he says,] ‘You found two oxen tied together,’ and the other says, ‘I did find, and I restored to you one of them,’ he has to take an oath.<sup>20</sup> Does then R. Isaac not accept the rule that **A FINDER OF A LOST ARTICLE CANNOT BE REQUIRED TO TAKE AN OATH, TO PREVENT ABUSES?**

- (1) The rule was that an orphan daughter was entitled to a tenth of her father's property on becoming of age or marrying, apart from her maintenance up to that time.
- (2) Because she now becomes joint heiress to the whole property.
- (3) I.e. from anyone who should have bought property from the brother.
- (4) If she can recover from others, how can we ask her to give up what is already in her hands?
- (5) Hence we may still maintain that R. Hanina requires both written and definite.
- (6) The case is one in which a woman with a daughter marries a man with the stipulation that he will maintain her daughter for a definite period, and within the period he divorces her and she marries another man with the same stipulation. Each husband has then to give the full allowance for the daughter's maintenance according to stipulation, v. Keth. 101b.
- (7) Which this woman bore to them.
- (8) The woman's daughter.
- (9) Because the term of years was definite, although there was no written contract. This contradicts ‘Ulla.
- (10) A Kinyan, v. Glos. Which would naturally be recorded in writing.
- (11) And afterwards made the agreement along with the transfer. Hence the transfer cannot be the reason.
- (12) The rule that an unmarried orphan daughter is entitled to maintenance, v. Keth. 52b.
- (13) An thus the transfer is after all the reason.
- (14) In settlement of her maintenance dues, and this is why the transfer does not apply to her.
- (15) I.e., one who bought a second field from the robber on which the first purchaser wishes to distrain.
- (16) And no-one would buy land if he was afraid it might be claimed on account of obligations not recorded in writing.
- (17) Why introduce here this consideration?
- (18) This alone is sufficient to debar enforcement from mortgaged property, which shows that R. Jose holds that even if they were written they would not be enforceable.
- (19) Hence in the case of the purses the claimant could be positive, but not in the case of the oxen, and the oath is administered only if the claimant is positive.
- (20) That he has restored one of them, since he has admitted part of the charge, which was that he found two. There is another reading (preferred by Tosaf.) ‘It has also been taught to the same effect, (If a man says,) ‘You found two oxen together’ and the other says, ‘I only found one,’ he does not take an oath. If the first says, ‘You found two purses tied together’ and the other says, ‘I did, and I gave you back one of them,’ he has to take an oath.’ V. p. 281, n. 4.

### **Talmud - Mas. Gittin 51b**

— He adopted the view of R. Eliezer b. Jacob, as it has been taught: R. Eliezer b. Jacob says, There are times when a man has to take an oath on account of his own plea. For instance: If a man says,

‘Your father lent me a maneh and I returned him half of it,’ he has to take an oath, this being the kind of person who has to take an oath on account of his own plea. The Sages, however, say that he is on the same footing as one who restores a lost article, and he is exempt [from an oath].<sup>1</sup> But does R. Eliezer b. Jacob not hold that one who restores a lost article is exempt? — Rab said: [He speaks of a case] where the claim is made by a minor.<sup>2</sup> Does any weight attach to the claim of a minor, seeing that we have learnt, ‘An oath is not administered on the claim of a deaf-mute, an idiot or a minor’?<sup>3</sup> — By ‘minor’ R. Eliezer means here a grown-up, and the reason why he calls him ‘minor’ is because in respect of the affairs of his father he is no better than a minor. If that is the case, why does he say, ‘on account of his own plea’? It is the plea of someone else? — He means, the plea of someone else and his own admission. But all charges can be called ‘the plea of someone else and his own admission’? — The truth is that they [R. Eliezer and the Rabbis] differ over the point raised by Rabbah; for Rabbah said: Why did the Torah lay down that one who admits part of the charge against him should take an oath [that he is not liable for the rest]?<sup>4</sup> The presumption is that a man will not be brazen enough in the presence of his creditor [to deny a debt outright]. Now this man would like to deny the whole, and the reason why he does not deny the whole is because he is not brazen enough.<sup>5</sup> On the other hand, he would also like to admit the whole, and the reason why he does not do so is to gain time, as he thinks to himself, When I have money I will pay him.<sup>6</sup> The All-Merciful therefore said: Impose an oath on him, so that he will admit the whole. Now R. Eliezer was of opinion that whether he is dealing with [the lender] himself or with his son, [the debtor] would not be brazen enough [to deny the debt outright], and therefore in neither case is he like one who restores a lost article.<sup>7</sup> The Rabbis, however, were of opinion that he would not be brazen enough [to deny the debt to the creditor] himself but he would to his son. Hence since he is not so brazen, he is regarded as one restoring a lost article.<sup>8</sup>

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(1) Shebu. 42a; Keth. 18a.

(2) Which he calls ‘his own plea’.

(3) Shebu. 38b.

(4) V. Ex. XXII, 10.

(5) Hence when he acknowledges part, he is not trusted in regard to the rest.

(6) Hence we are willing to trust his oath.

(7) Against whom no claim is brought in the first instance.

(8) Because he acts spontaneously. For fuller notes on this passage v. Shebu. (Sonc. ed.) pp. 258-9, and B.M. pp. 8 and 9. [R. Eliezer b. Jacob will accordingly also accept the ruling of the Mishnah that no data are required of a restorer of a lost article. Consequently he cannot be in agreement with R. Isaac, who in turn will have to fall back on the Baraitha cited above for his sole support. This argument leads Tosaf. to give preference to the reading cited supra p. 230, n. 1.]

## **Talmud - Mas. Gittin 52a**

MISHNAH. IF ORPHANS BOARD WITH A HOUSEHOLDER OR IF THEIR FATHER APPOINTED A GUARDIAN FOR THEM, IT IS HIS DUTY TO TITHE THEIR PRODUCE. A GUARDIAN WHO WAS APPOINTED BY THE FATHER OF THE ORPHANS IS REQUIRED TO TAKE AN OATH [WHEN THEY COME OF AGE],<sup>1</sup> BUT IF HE WAS APPOINTED BY THE BETH DIN HE NEED NOT TAKE AN OATH. ABBA SAUL, SAYS THAT THE RULE IS THE REVERSE.<sup>2</sup>

GEMARA. A contradiction was pointed out [between this Mishnah and the following]: [Thus] ye [also shall offer]:<sup>3</sup> [that means to say,] you and not partners,<sup>4</sup> you and not metayers,<sup>5</sup> you and not guardians, you and not one who tithes from property not his own! — R. Hisda replied: There is no contradiction; in the one case the produce referred to is meant for consumption, in the other for storing.<sup>6</sup> So it has been taught: ‘Guardians set aside terumah and tithes [from the produce of their wards] which is meant for consumption<sup>7</sup> and not for storing. They can also sell on their behalf cattle, slaves, male and female, houses, fields and vineyards in order to purchase food with the money but

not to put it aside. They can also sell for them produce, wine, oil and flour, to purchase [other] food with the money but not to set it aside. They can make for them a lulab<sup>8</sup> and willow,<sup>9</sup> a sukkah<sup>10</sup> and fringes and anything else involving a defined outlay (this includes a shofar),<sup>11</sup> and they can buy for them a scroll of the Law, phylacteries and mezuzoth<sup>12</sup> and anything involving a defined outlay (which includes a megillah).<sup>13</sup> They cannot, however, undertake on their behalf to give charity or to redeem captives or to do anything involving an unspecified outlay (which includes comforting mourners). Guardians are not allowed to enter into lawsuits concerning the property of orphans, or to entail obligations on it or to secure benefit for it.' Why can they not secure benefit? — It means, to entail obligations for the purpose of procuring benefits for the property of orphans.<sup>14</sup> 'The guardians are not at liberty to sell a distant [field] of their wards in order to redeem one that is near by<sup>15</sup> or to sell in a bad [year] with the idea of redeeming in a good one,<sup>15</sup> since there is a risk that the crops may be struck with blight.<sup>16</sup> The guardians are not at liberty to sell fields and buy slaves with the proceeds, but they can sell slaves and buy fields with the proceeds. Rabban Simeon b. Gamaliel says that they may not even sell slaves and buy fields, since there is a risk that they will not be left in peaceable possession.<sup>17</sup> The guardians are not empowered to emancipate slaves; they may, however, sell them to others who can emancipate them. Rabbi says: I maintain that the slave may pay his own purchase money and become free, since then the owner as it were sells him to himself.<sup>18</sup> The guardian must give an account of his guardianship at its close. Rabban Simeon b. Gamaliel, however, says that this is not necessary. Women, slaves and minors should not be made guardians: if, however, the father of the orphans chooses to appoint one, he is at liberty to do so.'

There was a certain guardian in the neighbourhood of R. Meir who was selling land and buying slaves [with the proceeds], but R. Meir forbade him. A voice said to him<sup>19</sup> in a dream, 'I want to destroy, and will you build'? Even so, however, he paid no heed, saying, Dreams are of no effect either one way or the other.<sup>20</sup>

There were two men who, being egged on by Satan, quarrelled with one another every Friday afternoon. R. Meir once came to that place and stopped them from quarrelling there Friday afternoons. When he had finally made peace between them, he heard Satan say: Alas for this man<sup>21</sup> whom R. Meir has driven from his house!

A certain guardian in the neighbourhood of R. Joshua b. Levi was selling land and buying cattle with the proceeds. [The Rabbi] said nothing to him, being of the same mind as R. Jose, as it has been taught: R. Jose said: All my life I have never called my wife my wife nor my ox my ox but my wife my house and my ox my field.<sup>22</sup>

Certain orphans who boarded with an old woman had a cow which she took and sold. Their relatives appealed to R. Nahman saying, What business had she to sell it? He said to them: We learnt: IF ORPHANS BOARD WITH A HOUSEHOLDER.<sup>23</sup> [But, they said, the cow] is now worth more<sup>24</sup> [than she sold it for]. [He replied,] It has become more valuable in the possession of the purchaser. But, they said, they have not yet received the money. If so, he replied, we can apply the rule of R. Hanilai b. Idi following Samuel. For R. Hanilai b. Idi said in the name of Samuel that the property of orphans is on the same footing as that of the Sanctuary, and is not transferred save on the payment of money.<sup>25</sup>

The wine of Rabbana 'Ukba the orphan was 'pulled'<sup>26</sup> [by purchasers who bought it at] four zuz [the cask]. The price [of wine] subsequently rose, so that it was worth six zuz. The case was brought before R. Nahman who said: Here the rule of R. Hanilai b. Idi applies; for R. Hanilai b. Idi said in the name of Samuel that the property of orphans is on the same footing as that of the Sanctuary, and is not transferred save through money payment.<sup>25</sup>

If purchasers have 'pulled'<sup>26</sup> the produce of orphans [without paying], and [the price

subsequently] rises, the rule of R. Hanilai b. Idi applies.<sup>27</sup> If [the price] falls, then surely a layman should not be more privileged than the Sanctuary.<sup>28</sup> If vendors have sold produce to orphans by ‘pulling’,<sup>29</sup> and [the price subsequently] rose, then we say that the layman should not be more privileged than the Sanctuary.<sup>30</sup> If [the price] falls, the students were inclined to think that here the rule of R. Hanilai b. Idi would apply,<sup>31</sup> but R. Shisha the son of R. Idi said to them: This would be detrimental to them, since they may one day require produce and no-one will sell to them unless they pay money down. If the orphans give money for produce [without taking delivery] and [the price] subsequently falls, then we say that a layman should not be more privileged than the Sanctuary.<sup>32</sup> If it rises, the students were inclined to think that the rule of R. Hanilai b. Idi would apply,<sup>33</sup> but R. Shisha b. Idi said to them: This might be detrimental to them,

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- (1) That he is not retaining any of their property.
  - (2) All these rules are also ‘to prevent abuses’.
  - (3) Num. XVIII, 28, speaking of the tithe given by the levite to the priest.
  - (4) I.e., not one partner for another.
  - (5) Since they are not the owners of the produce.
  - (6) And therefore the tithing can wait.
  - (7) Because otherwise it could not be eaten.
  - (8) V. Glos.
  - (9) Used with the palm branch on Tabernacles. This word is omitted in some readings.
  - (10) V. Glos.
  - (11) V. Glos.
  - (12) V. Glos.
  - (13) V. Glos.
  - (14) Because perhaps their plans will go wrong and they will cause loss to the orphans.
  - (15) V. ‘Ar. 30a.
  - (16) And so what appears to be a good bargain may result in loss.
  - (17) As their title to the fields may be disputed.
  - (18) V. supra 38b.
  - (19) Lit., ‘they showed him’.
  - (20) Lit., ‘words of dreams neither cause to ascend or descend.’
  - (21) Meaning himself.
  - (22) Hence buying cattle was equivalent to buying land.
  - (23) Which shows that such a householder is on the same footing as a guardian, who has the right to sell cattle.
  - (24) And this should warrant the cancellation of the sale.
  - (25) Hence the transaction could still be cancelled.
  - (26) As a sign of transference of ownership. V. Glos. s.v. Meshikah.
  - (27) And the orphans can retract.
  - (28) I.e., the purchasers could not withdraw even if the vendor was a layman (v. B.M. 44a), still less then in this case.
  - (29) Lit., ‘They made pull to orphans’ i.e., the orphans ‘pulled’ the produce they purchased.
  - (30) I.e., the vendors could not withdraw even if the purchaser was a layman, still less here.
  - (31) And the orphans could pay the lower price and keep the wine.
  - (32) And even a layman could withdraw in such a case.
  - (33) And the vendors should not be able to retract.

## **Talmud - Mas. Gittin 52b**

since the sellers would be able to say to them, Your wheat has been burnt in the storehouse.<sup>1</sup> If [purchasers] have given money to orphans for produce and [the price] rises [before delivery has been made], then we say that the layman should not be more privileged than the Sanctuary.<sup>2</sup> If [the price] falls, then the students thought that here the rule of R. Hanilai b. Idi would apply,<sup>3</sup> but R. Shisha the son of R. Idi said to them, This might be detrimental to them, for they might sometimes want money,

and no-one would give them before they delivered the produce.

R. Ashi said: I and R. Kahana signed as witnesses to the deed of sale of the mother of the orphan Ze'ira, who sold some land in order to pay the poll tax without giving public notice.<sup>4</sup> For the Nehardeans have ruled that to raise money for the poll tax, for food and for burial, land may be sold without public notice.<sup>5</sup>

Amram the dyer was the guardian of [some] orphans. The relatives came to R. Nahman and complained that he was [buying] clothes<sup>6</sup> for himself from the property of the orphans. He said: [He dresses so] in order to command more respect.<sup>7</sup> [But, they said,] he eats and drinks out of their [money], as he is not a man of means. I would suggest, [he replied], that he had a valuable find. [But, they said,] he is spoiling [their property].<sup>8</sup> He said: Bring evidence that he is spoiling it and I will remove him. For R. Huna our colleague said in the name of Rab: If a guardian spoils the orphans' property we remove him. For it has been stated: 'If a guardian spoils the property, R. Huna says in the name of Rab that we remove him, while the School of R. Shilah say that we do not remove him.' The law, however, is that we remove him.

**A GUARDIAN WHO WAS APPOINTED BY THE FATHER OF THE ORPHANS IS REQUIRED TO TAKE AN OATH.** What is the reason? — If he were not to derive some benefit from this, he would not become a guardian, and he will not be deterred by the requirement of an oath, **IF, HOWEVER, THE BETH DIN APPOINTED HIM HE IS NOT REQUIRED TO TAKE AN OATH.** [The reason is that] he assumes the office only to oblige the Beth din, and if an oath is to be imposed on him he would refuse. **ABBA SAUL SAYS THAT THE RULE IS THE REVERSE.** What is the reason? — If the Beth din appoint him he is to take an oath, because for the sake of the benefit he derives from the reputation of being a trustworthy man on whom the Beth din relies he is not deterred by [the prospect of] an oath. [If, however,] the father of the orphans appoints him, he does not take an oath, as it was simply a friendly action between the two, and if you impose an oath on him he would refuse. R. Hanan b. Ammi said in the name of Samuel: The law follows Abba Saul.

It has been taught: R. Eliezer b. Jacob says that both should take an oath, and so is the halachah.<sup>9</sup> R. Tahalifa the Palestinian<sup>10</sup> stated in the presence of R. Abbahu: A guardian who was appointed by the father of the orphans is required to take an oath, because he receives a fee. The Rabbi said to him: You have brought a kab and measured it out for him?<sup>10</sup> Rather say, 'because he is like one who receives a fee'.<sup>11</sup>

**MISHNAH. ONE WHO RENDERS UNCLEAN [ANOTHER'S FOODSTUFFS]<sup>12</sup> OR MIXES [TERUMAH WITH THEM]<sup>13</sup> OR MAKES A LIBATION [WITH HIS WINE],<sup>14</sup> IF HE DOES SO INADVERTENTLY, IS FREE FROM LIABILITY, BUT IF DELIBERATELY IS LIABLE [TO COMPENSATE HIM].<sup>15</sup>**

**GEMARA.** It has been stated: [With regard to the expression] 'MAKES A LIBATION', Rab says that it means literally making a libation<sup>16</sup> [to a heathen deity], while Samuel says that it means only mixing [Jewish with heathen wine].<sup>17</sup> Why did the one who says it means mixing not accept the view that it means making a libation? — He will tell you the latter offence involves a heavier penalty.<sup>18</sup> What does the other say [to this]? — Even as R. Jeremiah. For R. Jeremiah said that he [a robber] acquires possession from the moment he lifts the wine from the ground, whereas he does not become liable to capital punishment until he actually pours out the wine.<sup>19</sup> Why does the one who says that it means making a libation not accept the view that it means mixing? — He will tell you, mixing wine

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(1) I.e., suppose the produce was accidentally burnt, the orphans could not say that they were not yet the owners of it and demand their money back, v. B.M. (Sonc. ed.) p. 282, n. 7.

(2) And delivery could not be demanded even from a layman in such a case; the sale can accordingly be cancelled.

- (3) And the purchasers should not be able to retract.
- (4) It was usual to give thirty days' notice of the sale of property.
- (5) V. B.M. (Sonc. ed.) p. 620, n. 4.
- (6) Lit., 'he clothes and covers'.
- (7) Lit., 'that his words should be heard'.
- (8) E.g., by cutting down trees.
- (9) [Read with Trani הלכה not הלכתא or cur. edd.]
- (10) Lit., 'the son of the West'.
- (11) I.e., what proof have you that he received a fee?
- (12) Whether terumah or ordinary food.
- (13) Thus rendering them forbidden to a layman.
- (14) The meaning of this is discussed infra.
- (15) Unclean terumah could not be eaten and could be used by the priests only for feeding cattle or for fuel. Non-sacred food also if unclean was rejected by the stricter sort (Perushim). Food mixed with terumah became prohibited to a layman and therefore had to be sold to a priest at a loss. Wine poured out in libation was forbidden. Hence in all these cases loss was involved.
- (16) I.e., stirring it with his hand as preparatory to pouring it out.
- (17) Which was sufficient to make it prohibited.
- (18) Viz., the death penalty; and the rule is that a lighter penalty is not inflicted when a heavier one is involved for the same offence.
- (19) I.e., the defendant has become liable for the payment of the wine in the capacity of a robber even before he commenced to commit the capital offence of idolatrous libations, and since the civil liability is neither for the same act nor for the same moment which occasions the liability for capital punishment, each liability stands.

### Talmud - Mas. Gittin 53a

is practically the same as mixing terumah. What says the other [to this]? — [He says that the penalty for this is of the nature of] a fine,<sup>1</sup> and we do not base rules for imposing fines on mere inference.<sup>2</sup> But those who hold that the imposition of fines can be based on mere inference — why do they require all the items to be specified? They are all necessary. For if [the Mishnah] had mentioned only one who renders foodstuffs unclean, then, supposing the food was terumah, I would say that the reason [why compensation has to be made] is because he spoils it completely,<sup>3</sup> and if the food was non-sacred, because it is forbidden to cause uncleanness to non-sacred food in Eretz Israel,<sup>4</sup> but one who mixes ordinary food with terumah I should say need not make compensation. Again, if one who mixes ordinary food with terumah had been mentioned I should say the reason is because this is a common occurrence,<sup>5</sup> but in the case of one who renders foodstuffs unclean, which is not a common occurrence, I should say the rule does not apply. If again both one who renders unclean and one who mixes had been specified, I should say the reason with them [for requiring compensation] is that no heavier penalty is involved, but I should not apply this rule to one who makes a libation, where a heavier penalty is involved. Therefore we are told [that we apply here] the principle of R. Jeremiah.<sup>6</sup>

But if we accept [the teaching] learnt by the father of R. Abin, 'At first they said, The one who renders unclean and the one who makes a libation, but later they added also the one who mixes,' why do I require all the items?<sup>7</sup> — They are still necessary. For if only the one who renders unclean had been mentioned, I should have said that the reason is because no greater penalty is involved, but I should not have applied the rule to one who makes a libation, where a greater penalty is involved. If again the one who makes a libation had been mentioned, I should have said this was because the stuff is spoilt entirely, but I should not have applied the rule to one who renders unclean, where the stuff is not spoilt entirely. If again these two had been mentioned, I should say the reason is because the loss involved is considerable, but I should not apply the rule to one who mixes, where the loss involved is small.<sup>8</sup> Hence all were necessary.

Hezekiah said: The rule of the Torah is that one who commits these offences whether inadvertently or deliberately is liable to pay compensation. The reason is that damage of which there is no visible sign<sup>9</sup> is legally accounted as damage.<sup>10</sup> Why then did the Rabbis lay down that [if one does these things] inadvertently he is not liable? So that they should tell [the victims].<sup>11</sup> If that is the reason, then one who does these things presumptuously should also be quit? — How can you think so? Seeing that he deliberately tries to injure him, will he not certainly tell him?<sup>12</sup> R. Johanan said that the rule of the Torah is that whether one commits these offences innocently or deliberately he is not liable, the reason being that damage of which there is no visible sign is not legally accounted damage. Why then did the Rabbis ordain that [one who does them] presumptuously is liable? So that it should not become a common thing for a man to go and render unclean the foodstuffs of his neighbour and say, I have no liability.

We have learnt: 'If priests render the sacrifice piggu<sup>13</sup> in the Sanctuary, if they did so presumptuously they are liable [to make compensation];'<sup>14</sup> and in connection therewith it was taught: 'To prevent abuses.'<sup>15</sup> Now if you hold that damage which is not visible is legally accounted damage, then it should say, 'if they did so innocently they are not liable, to prevent abuses'?'<sup>16</sup> — This in fact is what is meant: 'If they act presumptuously they are liable; from which we infer that if they acted innocently they are not liable, to prevent abuses.' R. Eleazar [raised the following as] an objection: 'If one does work with the waters of purification and with the heifer of purification,<sup>17</sup> he is exempt before the earthly court but liable before the heavenly court.'<sup>18</sup> Now if you maintain that damage which is invisible is legally accounted as damage, then he should be liable also before the earthly court? — He raised the objection and he himself answered it, thus: [The work referred to in the case of] the heifer [was] that he brought it into the stall with the intention of letting it suck and then threshing with it;<sup>19</sup> in the case of the water [the work referred to was] that he balanced weights against it.<sup>20</sup> But has not Raba said that water of purification

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- (1) Kenas v. Glos. Because the damage done is not visible. This point is discussed infra.
  - (2) But the rule must be stated expressly in each case. Lit., 'we do not derive from Kenas'.
  - (3) I.e., as food for the priest. V. supra p. 236, n. 7.
  - (4) On account of the Perushim. V. p. 236, n. 7.
  - (5) And therefore it was deemed necessary to impose a fine.
  - (6) From which we learn that the lighter penalty stands in this case, v. supra p. 237. n. 4.
  - (7) Surely if there is liability for libation which involves a heavier penalty there must be a penalty for mixing.
  - (8) Because the stuff can still be sold to a priest at no great sacrifice.
  - (9) E.g., here, where the stuff is in exactly the same condition after the offence has been committed as before.
  - (10) And the Torah in the case of damage done by man makes no distinction between innocent and presumptuous, v. B.K. 85b.
  - (11) And so save them from eating terumah etc. unwittingly.
  - (12) Since his whole purpose is to vex him.
  - (13) V. Lev. XIX, 7: And if it (the flesh of the peace-offering) be eaten on the third day, it is an abomination (piggul). The Rabbis derived from the language of the text the rule that the flesh became piggul even if there was merely an intention of eating it on the third day.
  - (14) To the bringer of the sacrifice, who now has to bring a new one.
  - (15) Lit., 'for the good order of the world'. I.e., this is a Rabbinic, not a Scriptural rule.
  - (16) So that they should tell the owners. Because according to the Torah they are liable. V. supra, n. 2.
  - (17) The 'red heifer': v. Num. XIX. It was forbidden to do any work with it.
  - (18) V. B.K. 56a. I.e., he is punished by the hands of heaven but not with any earthly punishment.
  - (19) I.e., he had not yet done with it any work for which the earthly court could punish him, but he is punished by heaven for his intention.
  - (20) We assume that the exact weight of the water was known to him. In this case he had done no actual work with the water.



## Talmud - Mas. Gittin 53b

against which weights have been balanced is not disqualified? — There is no contradiction; the one [Raba] speaks of weighing against the water, the other of weighing in it.<sup>1</sup> When he weighs in it he is doing work with it,<sup>2</sup> and if damage which is intangible is legally accounted damage he should be punishable also in a human court? — We must say therefore that both speak of weighing against the water, and still there is no contradiction: the one [R. Eleazar] speaks of where he forgot for the moment [that it was water of purification]<sup>3</sup> and the other of where he did not forget.

R. Papa raised an objection [from the following]: If a man robbed another of a coin which afterwards was withdrawn from circulation,<sup>4</sup> or terumah which became unclean, or leaven and the Passover intervened,<sup>5</sup> he can say to him, Here is your property, take it.<sup>6</sup> Now if you say that damage of which there is no visible sign is legally accounted as damage, this [man] is a robber, and ought to pay the value in full?<sup>7</sup> — This is a refutation.

May we say that Tannaim also [differ on this point]? [For it was taught:] If one defiles [another's foodstuffs] or mixes terumah with them or pours a libation from his wine, whether inadvertently or deliberately, he is liable [to make compensation]. So R. Meir. R. Judah says: If inadvertently he is not liable, if deliberately he is liable. Is not the point at issue between them this, that the one authority holds that damage of which there is no visible sign is legally accounted damage, while the other holds that it is not legally accounted damage? — R. Nahman b. Isaac said: Both agree that damage of which there is no visible sign is not legally accounted damage, and here the point at issue between them is whether the inadvertent [act] should be penalised on account of the presumptuous one,<sup>8</sup> one holding that the innocent act is penalised on account of the presumptuous one and the other that it is not so penalised.

A contradiction was now pointed out between two statements of R. Meir, and also between two statements of R. Judah. For it has been taught: 'If one cooks food on Sabbath, if by inadvertence he may eat it, but if deliberately he may not. So R. Meir. R. Judah says: If [it was cooked] inadvertently he may eat it after the expiration of Sabbath, but if deliberately he may never eat it. R. Johanan ha-Sandalar<sup>9</sup> says: If [it was cooked] inadvertently it may be eaten after the expiration of the Sabbath by others but not by the one who cooked it, if deliberately it may never be eaten either by him or by others'.<sup>10</sup> One statement of R. Meir seems to contradict another<sup>11</sup> and one statement of R. Judah seems to contradict another? — Between the two statements of R. Meir there is no contradiction: where he imposes a fine is for [innocently breaking] a regulation of the Rabbis<sup>12</sup> but not for [breaking] a rule of the Torah.<sup>13</sup> But pouring a libation is forbidden by the Torah, and yet he imposes a fine for doing so [innocently]? — This is because of the special seriousness of the sin of idolatry. Between the statements of R. Judah there is no contradiction: where he imposes no fine is for [breaking] a rule of the Rabbis, but for [breaking] a rule of the Torah he imposes a fine.<sup>14</sup> But pouring a libation is forbidden by the Torah and he imposes no fine for doing so? — Because of the seriousness of the sin of idolatry people keep clear of it.

But even in respect of rules of the Torah one statement of R. Meir was contrasted with another. For it has been taught: 'If a man plants a tree on Sabbath, if inadvertently, he may keep it, but if deliberately, it must be uprooted. If in the Sabbatical year, however, whether he plants it inadvertently or deliberately, it must be uprooted. This is the ruling of R. Meir.<sup>15</sup> R. Judah says: In the Sabbatical year, if inadvertently, he may keep it,<sup>16</sup> but if deliberately he must uproot it: [if planted] on Sabbath, whether inadvertently or deliberately, he must uproot it'! — While you are looking for contradictions,<sup>17</sup> why not point one out in this statement itself? See now: the one [planting on Sabbath] and the other [planting in the Sabbatical year] are both forbidden by the Torah; why then should there be a difference between them? But the reason for that, you must say, is as was taught: Said R. Meir: Why do I say that [if he plants inadvertently] on Sabbath he may keep it and if

deliberately he must uproot it, whereas [if he plants] in the Sabbatical year whether inadvertently or deliberately he must uproot it? Because Israel reckon from the Sabbatical year<sup>18</sup>

- (1) Like butchers, who place meat in water to see how far it will rise, and judge the weight accordingly.
- (2) And so disqualifying it.
- (3) Lit., 'he diverted his mind'. And since it says, the water shall be to you for a charge, this disqualifies the water, though it does not render him liable to an earthly court.
- (4) By the Government.
- (5) Rendering the leaven forbidden for any use, v. Pes. II, 2.
- (6) And he has no further liability, although the property has meanwhile become worthless, because the robbed article is deemed to have been all the time in the possession of the owner; v. B.K. 96b.
- (7) [Since there has been a change in the misappropriated goods they passed into the possession of the robber who should therefore have to make full restitution, Tosaf. V. B.K. 91bff. The words 'this man is a robber' are nevertheless difficult, and best left out with MS.M.]
- (8) Even though according to strict justice he should not be so penalised.
- (9) 'The sandal-maker'.
- (10) B.K. 71a. (Sonc. ed.) pp. 408-9. q.v. for notes.
- (11) For cooking innocently on the Sabbath he imposes no fine but for defiling foodstuffs he does impose one.
- (12) Defiling foodstuffs etc. A fine is necessary because people are more careless about Rabbinical ordinances.
- (13) Breaking the Sabbath.
- (14) Because the offence is more serious.
- (15) Which shows that he does impose a fine for breaking a rule of the Torah innocently.
- (16) Which shows that R. Judah does not impose a fine for innocently breaking a rule of the Torah, so that he also contradicts himself in the same way as R. Meir.
- (17) Lit., 'on your view'.
- (18) E.g., for the years of 'uncircumcision' (v. Lev. XIX, 23ff.) Hence they remember if a tree was planted in the Sabbatical year, and if it were allowed to remain they might take it as a precedent, and so it was necessary to impose a fine in this case.

## Talmud - Mas. Gittin 54a

, but they do not reckon from Sabbaths. An alternative reason is that Israel are suspect with regard to the Sabbatical year but not with regard to Sabbath. Why give an alternative reason? — What he meant was this. Should you object that it sometimes happens that the thirtieth day [before the New Year of the Sabbatical year]<sup>1</sup> falls on Sabbath, so that if he plants on that day he has a year [before the New Year], but otherwise not, then I give you an alternative reason that<sup>2</sup> Israel are suspect with regard to the Sabbatical year but not with regard to Sabbath.<sup>3</sup> Between the statements of R. Judah there is also no contradiction, since in the district of R. Judah the Sabbatical year was regarded as very important.<sup>4</sup> For [when] a certain man there called after another, 'You are a stranger<sup>5</sup> and your mother was a stranger,' he retorted, 'I do not eat fruit of the Sabbatical year like you.'

Come and hear [a proof that R. Meir does not impose a fine for innocently breaking a Rabbinical rule]: 'If a layman [inadvertently] ate terumah, even unclean, he must make restitution with [ritually] clean non-sacred food. If he pays unclean non-sacred food, what is the law? Symmachus said in the name of R. Meir that if [he paid it] unknowingly this is accounted restitution,<sup>6</sup> but if deliberately it is not so accounted, whereas the Sages said that in either case it is accounted restitution, but he has still to pay clean non-sacred food.'<sup>7</sup> We were puzzled over this to know why [according to Symmachus] his restitution is not complete. Surely he deserves thanks<sup>8</sup> for eating something which a priest cannot eat even when he is unclean<sup>9</sup> and repaying him with something which he can eat at least when he is unclean!<sup>10</sup> Thereupon Raba, or as some say Kadi,<sup>11</sup> said that there is a lacuna, and we should read thus: 'If one ate unclean terumah, he repays in anything.<sup>12</sup> If he ate clean terumah he repays clean non-sacred food. If he repaid unclean non-sacred food, what is the law? Symmachus said in the name

of R. Meir that if [he repaid] without knowing, this is accounted a full restitution, but if deliberately it is not accounted a full restitution, whereas the Sages say that in either case it is full restitution, but he has still to pay him clean non-sacred food.' On this R. Aha son of R. Ika said that [R. Meir and the Sages] differ here on the question whether the innocent [act should be penalised on account of the presumptuous, R. Meir holding that the innocent act is not penalised on account of the presumptuous one<sup>13</sup> and the Sages holding that it is!<sup>14</sup> — Is this reasoning sound?<sup>15</sup> Here the man wants to pay, and shall we get up and fine him?

Come and hear: 'If the blood [of a sacrifice] has become unclean and was yet sprinkled on the altar, if it was done without knowing then the sacrifice has been accepted [for the bringer of the sacrifice], but if deliberately, the sacrifice has not been accepted'?'<sup>16</sup> — R. Meir can reply: Is there any comparison? There the man<sup>17</sup> really desires to make atonement,<sup>18</sup> and shall we get up and penalise him?

Come and hear: 'If a man separates tithes on Sabbath,<sup>19</sup> if inadvertently, the food may be eaten, but if deliberately, it may not be eaten'? — Is there any comparison? There the man is trying to do his duty, and shall we get up and penalise him? Come and hear: 'If a man dips vessels<sup>20</sup> on Sabbath, if inadvertently they may be used, but if deliberately they may not be used'? — Is there any comparison? There the man is desirous of purifying his vessels, and shall we get up and fine him?

A contradiction was also pointed out between two statements of R. Judah with regard to rules of the Rabbis. For it has been taught:

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(1) If a tree was planted more than thirty days before the entry of the Sabbatical year, that period was counted as one of the years of 'uncircumcision'. Hence if the thirtieth day before the Sabbatical year fell on a Sabbath, and he planted on it, this would be remembered and might be taken as a precedent. How then can you say that the Jews do not reckon from Sabbaths?

(2) Lit., 'come and hear'.

(3) [So that there is a special reason for R. Meir's ruling in the case of planting in the Sabbatical year and it cannot be contrasted with his ruling in the case of cooking on Sabbath.]

(4) And therefore in this particular case he sees no need to impose a fine for unwittingly breaking it.

(5) I.e., proselyte.

(6) It receives the character of unclean terumah.

(7) As a fine, but this does not become terumah; v. Yeb. 90a.

(8) Lit., 'may blessing come upon him.'

(9) Unclean terumah could in no circumstances be eaten, but it could only be used as food for cattle or for fuel.

(10) Viz., unclean non-sacred food.

(11) Or, 'an unknown authority'; v. B.K. (Sonc. ed.) p. 3, n. 3.

(12) I.e., clean or unclean non-sacred food. Although, as stated supra p. 243 n. 6, the food receives the character of terumah, he nevertheless had the intention to repay him food which he could eat at all times (Rashi).

(13) And therefore if he repaid without knowing that it was unclean he is not penalised by having to pay again.

(14) [This proves that R. Meir does not penalise the innocent for the presumptuous where the breach of a rabbinical law is concerned. Here the transgression involved is rabbinical, since according to the Torah he has discharged his liability by repaying the amount he had eaten. V. Yeb. 90a.]

(15) Lit., 'how so'. i.e., can we ascribe this to R. Meir as a general principle, seeing that here there is a special reason, namely that here etc.

(16) And the Rabbis ordained that the flesh may not be eaten, though expiration has been made for the bringer of the sacrifice.

(17) I.e., the priest.

(18) I.e., he desires to do a meritorious action, which is not the case with one who mixes terumah with other food, etc. Hence we do not penalise his error.

(19) This was forbidden by the Rabbis but not by the Torah, v. Bezah 36a.

(20) For ritual purification. This also was forbidden by the Rabbis on Sabbath; v. Bezah, 18a.

## Talmud - Mas. Gittin 54b

If these nuts [of ‘uncircumcision’]<sup>1</sup> fell among others and were then broken, whether [the act was done] inadvertently or deliberately they are not merged in the mass.<sup>2</sup> This is the ruling of R. Meir and R. Judah. R. Jose and R. Simeon, however, say that if [it was done] inadvertently they are merged, but if deliberately they are not. Now here is a case where according to the rule of the Torah [the forbidden element] loses its identity [if its proportion is not more than] one to two, and it is the Rabbis who decreed [that the proportion must be less than one to two hundred], and yet R. Judah imposes the line [in the case of innocent transgression]? — R. Judah there is influenced by the special consideration that [without this penalty] the offender may act with guile.<sup>3</sup> A contradiction was also pointed out between two statements of R. Jose. For we have learnt: If a sapling of ‘uncircumcision or of the mixed plants of the vineyard becomes mixed up with other saplings, its fruit should not be gathered,<sup>4</sup> but if gathered it becomes merged in two hundred and one times the quantity [of permitted fruit], provided, however, that the gathering was not done with that purpose in view. R. Jose says, Even if it was gathered deliberately, it is merged in two hundred and one times [its own quantity!]<sup>5</sup> — [This is no difficulty] since with reference to this it has been recorded: Raba said: The presumption is that a man does not make his whole vineyard forbidden for the sake of a single sapling.<sup>6</sup> So too when Rabin came [from Palestine] he said in the name of R. Johanan: The presumption is that a man will not make his whole vineyard forbidden for the sake of a single sapling.

MISHNAH. PRIESTS WHO MADE THE FLESH IN THE SANCTUARY PIGGUL,<sup>7</sup> IF THEY DID SO DELIBERATELY ARE LIABLE TO PAY COMPENSATION.<sup>8</sup>

GEMARA. Our Rabbis taught: If a man is helping another to prepare ritually clean things, and he says to him, The clean things that I have prepared with you have been defiled, or if he is helping him with sacrifices and he says to him, The sacrifices with which I have been helping you have been rendered piggul, his word is taken. If, however, he says, The clean things which I was assisting you to prepare on such and such a day have become unclean, or the sacrifices with which I was assisting you on such and such a day have been rendered piggul, his word is not taken. Why is the rule different in the first case from that of the second? — Abaye replied: So long as it is in his power to do [again what he says he has done], his word is taken.<sup>9</sup> Rab said: [Where we do not believe is] if, for instance, he came across him and said nothing to him and then came across him again and told him.<sup>10</sup>

A certain man said to another: The clean things which I helped you to prepare on such and such a day have become unclean. He applied to R. Ammi, who said to him: According to the strict letter of the law, you need not believe him. R. Assi observed to him: Rabbi, this is what you say, but R. Johanan has distinctly said in the name of R. Jose: What can I do, seeing that the Torah has declared him credible?<sup>11</sup> Where has it declared him credible? — R. Isaac b. Bisna replied: The proof is from the high priest on the Day of Atonement, since if he says [that his sacrifice<sup>12</sup> was] ‘piggul’, we believe him. Now how do we know [that he made it ‘piggul’ when he was doing the service], seeing that it is written, And there shall be no man in the tent of meeting?<sup>13</sup> The reason must therefore be that he is credible. But perhaps this is because we heard him make it ‘piggul’?<sup>14</sup> — If he were not credible, we could not believe him even if we heard him, since he might have said this after performing the ceremony.<sup>15</sup> But perhaps it means that we saw him through the pispas?<sup>16</sup> — This is indeed a difficulty.<sup>17</sup>

A certain man appeared before R. Ammi and said to him: In a scroll of the Law which I have written for So-and-so I have not written the names [of God] with proper intention.<sup>18</sup> He asked him:

Who has the scroll? — He replied: The purchaser. Whereupon he said to him: Your word is good to deprive you of your fee, but it is not good to spoil a scroll of the Law. Said R. Jeremiah to him: Granted that he has lost his fee for the names, is he to lose it for the whole of the scroll? He replied: Yes, because a scroll in which the names of God have not been written with proper intention is not worth anything. But cannot he go over them with a pen and so sanctify them? What authority would allow this? Not, we would say, R. Judah; for we have learnt, ‘Suppose the scribe had to write the tetragrammaton, and he intended [instead] to write Yehwdah [Judah]<sup>19</sup> and he made a mistake and left out the dalet,<sup>19</sup> he can go over it with a pen and sanctify it. So R. Judah. The Sages, however, say that this name is not of the best’? — You may even say that he is in accord with R. Judah. For R. Judah would allow this only in the case of one mention of the Name, but not throughout a whole scroll, because it would make it look bizarre.

A certain man came before R. Abbahu saying, I have written a scroll of the Law for So-and-so but did not prepare the parchments for the purpose.<sup>20</sup> He asked him, Who has the scroll? — He replied, The purchaser. He said to him: Since your word is good to deprive you of your fee, it is also good to spoil the scroll.

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(1) I.e., in the first three years after the planting of the tree. V. Lev. XIX, 23. Certain species of nuts, on account of their particular value, as long as they are whole do not lose their identity in whatever large mass they may happen to become mixed up. When cracked, however, they are treated like ordinary nuts and are neutralized if their proportion to the permitted element is not more than one to one hundred. ‘V. ‘Orlah III, 6-8.

(2) Lit., ‘they do not rise in the scale’, i.e., they are not neutralized, but still retain their identity as something forbidden.

(3) I.e., he will mix them purposely and pretend that it was done innocently.

(4) Because it still retains its identity as long as it is attached to the soil, and is not merged in the field as a whole.

(5) V. ‘Orlah, I, 6. Which seems to conflict with R. Jose’s ruling with regard to the nuts.

(6) By planting in it one sapling of ‘uncircumcision’ without some clear sign. Such a thing being exceptional, we do not impose a special penalty for an offence to which it may accidentally lead.

(7) By declaring at the time of bringing the sacrifice that they intended the flesh to be eaten after the prescribed time. V. Supra, p. 239, n. 5.

(8) I.e., to provide a fresh sacrifice, since the first owing to their action has not brought expiation.

(9) We understand the Baraitha therefore to be speaking of a case where he says this while he is still helping the other; e.g., while the blood is being sprinkled he may say that the killing was piggul. We then believe him because he can still render the sprinkling piggul.

(10) Because then we suppose that he merely says this to vex him. But otherwise we do believe him, even if he only says so afterwards. According to Raba we have to translate, ‘If a man was helping . . . and afterwards said etc.’

(11) Even when he declares it after some time.

(12) I.e. his ceremonies in the inner shrine. V. Lev. XVI, 12-17.

(13) Ibid. 17.

(14) He was heard to say, e.g., that he sprinkles the blood with the intention to burn the fat after the specified time.

(15) In which case it would not be piggul.

(16) One of two small gateways between the inner part of the Temple (hekal) and the place where the knives were kept. Zeb. 55. He was seen through the pispas to make the piggul declaration whilst sprinkling the blood.

(17) Against the dictum of R. Isaac b. Bisna.

(18) V. infra.

(19) Thus leaving the letters of the divine name, YHWH, written however without proper intention.

(20) Which would disqualify the scroll. V. supra 20a.

## **Talmud - Mas. Gittin 55a**

What is the difference between this case and that of R. Ammi? — In that case it might be argued that the scribe mistakenly adopted the view of R. Jeremiah,<sup>1</sup> but here, since he stakes the whole of his fee and yet comes and tells, we presume that he is telling the truth.

MISHNAH. R. JOHANAN B. GUDGADA TESTIFIED<sup>2</sup> THAT A DEAF-MUTE GIRL WHO HAS BEEN GIVEN IN MARRIAGE BY HER FATHER CAN BE PUT AWAY WITH A GET,<sup>3</sup> AND THAT

A MINOR [ORPHAN] DAUGHTER OF A LAY ISRAELITE MARRIED TO A PRIEST CAN EAT OF THE TERUMAH,<sup>4</sup> AND THAT IF SHE DIES HER HUSBAND INHERITS HER, AND THAT IF A BEAM WHICH HAS BEEN WRONGFULLY APPROPRIATED IS BUILT INTO A PALACE<sup>5</sup> RESTITUTION FOR IT MAY BE MADE IN MONEY,<sup>6</sup> SO AS NOT TO PUT OBSTACLES IN THE WAY OF PENITENTS, AND THAT A SIN-OFFERING WHICH HAS BEEN WRONGFULLY OBTAINED, SO LONG AS THIS IS NOT [KNOWN] TO MANY,<sup>7</sup> MAKES EXPIATION, TO PREVENT LOSS TO THE ALTAR.<sup>8</sup>

GEMARA. Raba said: From the testimony of R. Johanan b. Gudgada we learn that if a man said to the witnesses [to the Get],<sup>9</sup> See this Get which I am about to give to her [my wife], and then he said to his wife, Take this bond, the divorce is valid. For did not R. Johanan b. Gudgada affirm that the consent of the wife is not necessary? So here we do not require her knowledge.<sup>10</sup> Surely this is obvious? [It required to be stated] because you might have thought that his saying to her ‘take this bond’ rendered the Get void. [Raba therefore] teaches us that if he had meant to annul it he would have said so to the witnesses, and the reason why he spoke so to the wife was because he was ashamed [to call it a Get].

THAT A MINOR [ORPHAN] DAUGHTER OF A LAY ISRAELITE. A deaf-mute woman, however, [according to this] cannot eat.<sup>11</sup> What is the reason? — As a precaution against a deaf-mute priest giving a deaf-mute woman [terumah] to eat.<sup>12</sup> And suppose she does? She would only be like a child eating forbidden meat?<sup>13</sup> — It is a precaution against the possibility of a deaf-mute priest giving terumah to a wife in possession of her faculties. But allow him at least to give her terumah which is such only by the rule of the Rabbis?<sup>14</sup> — This is a precaution against the risk of her eating terumah which is such according to the Torah.

AND THAT IF A BEAM WRONGFULLY APPROPRIATED HAS BEEN BUILT INTO A PALACE. The Rabbis taught: If a man wrongfully takes a beam and builds it into a palace, Beth Shammai say that he must demolish the whole palace and restore the beam to its owner. Beth Hillel, however, say that the latter can claim only the money value of the beam, so as not to place obstacles in the way of penitents.<sup>15</sup>

THAT A SIN OFFERING WHICH HAS BEEN WRONGFULLY OBTAINED. ‘Ulla said: According to the rule of the Torah, whether the [fact is generally] known or not, [the offering] does not make expiation, the reason being that Renunciation<sup>16</sup> does not of itself confer ownership [on the robber].<sup>17</sup> Why then was it laid down that if [the fact is] not known the offering is expiatory? — So that the priests should not be grieved.<sup>18</sup> Said the Rabbis to ‘Ulla: But our Mishnah says TO PREVENT LOSS TO THE ALTAR? — He replied to them: When the priests are grieved the altar is not attended to. Rab Judah, however, said: According to the rule of the Torah, whether the fact [of its having been wrongfully acquired] is known or not known, the offering is expiatory, the reason being that Renunciation does of itself confer ownership [on the robber].

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(1) That he would lose only the fee for the names, and he was willing to risk this to annoy the purchaser.

(2) V. ‘Ed. VII, 9.

(3) Although being deaf-mute she is not capable of giving consent, and although her marriage having been contracted by her father is a binding one.

(4) Although her marriage is valid only by the rule of the Rabbis and not of the Torah. But she may eat only such as is terumah in Rabbinic law alone, but not what is terumah in Biblical law, which does not recognise her as the priest's wife.

- (5) Or any other building.
- (6) Instead of the actual beam being restored. V. infra.
- (7) [Three persons (v. J. a.l.)].
- (8) Lit., 'for the good order of the altar'. This is discussed in the Gemara infra.
- (9) Not in the wife's presence.
- (10) Which in this case includes consent.
- (11) As otherwise R. Johanan b. Gudgada would have stated the rule in reference to such a one.
- (12) The marriage of a deaf-mute priest to a deaf-mute woman was valid only by Rabbinical rule, and therefore she was not permitted to eat terumah.
- (13) Nebelah, v, Glos. And according to some authorities the Beth din do not step in to prevent this, v. Yeb. 114a.
- (14) The marriage, valid in rabbinical law, should be recognised in regard to such terumah.
- (15) As if they had to destroy the whole building they would not offer to make restitution.
- (16) Ye'ush. The abandonment by the owner of the hope of recovery.
- (17) Unless there has also been a change of ownership from the robber to a third party.
- (18) When they find out that they have eaten from a non-sacred animal that has been killed within the temple precincts, the flesh of which was forbidden, v. B.K. 67a.

### **Talmud - Mas. Gittin 55b**

Why then was it laid down that if [the fact is] known it is not expiatory?<sup>1</sup> In order that people should not say that the altar is fed from [the proceeds of] robbery. If we accept 'Ulla's view we quite understand why the Mishnah says 'SIN-OFFERING'.<sup>2</sup> But if Rab Judah's view is right, why does it say 'SIN-OFFERING'? The same would apply to a burnt-offering also?<sup>3</sup> — A stronger instance is taken: not only is this the case with a burnt-offering which is entirely [consumed on the altar], but even in the case of a sin-offering where only the fat and blood are put on the altar and the rest is eaten by the priests, even there they applied the rule, in order that people should not say that the altar is fed from robbery.

We learnt: THAT A SIN-OFFERING WHICH HAS BEEN WRONGFULLY OBTAINED, SO LONG AS THIS IS NOT KNOWN TO MANY, MAKES EXPIATION SO AS NOT TO CAUSE LOSS TO THE ALTAR. This raises no difficulty if we accept the view of 'Ulla, but on the view of Rab Judah we ought to have the opposite?<sup>4</sup> — This in fact is what he means: if [the fact is] not known it is expiatory, but if it is known it is not expiatory, to prevent loss to the altar.<sup>5</sup>

Raba raised an objection [from the following]: 'If a man stole [a beast] and sanctified it and then slaughtered and sold it, he makes twofold restitution but not four and fivefold.<sup>6</sup> And with reference to this it was taught: If [after dedication] he should kill the animal outside the precincts, his penalty is kareth.'<sup>7</sup> Now if you say that Renunciation does not of itself confer ownership [on the robber], how does kareth come in?<sup>8</sup> — R. Shezbi replied: It means, the kareth decreed by the Rabbis. They laughed at him: Is there such a thing, [they said,] as kareth decreed by the Rabbis? — Said Raba to them: When a great man has said something, do not laugh at him; he means, kareth which comes to him through their regulation; for it was the Rabbis who declared it to be in his possession<sup>9</sup> so that he might be liable for it. Raba further said: What I should like to know is this: When the Rabbis declared him to be the owner, did they mean this to apply from the time of stealing or from the time of sanctifying? What practical difference does it make? [It makes a difference] in respect of the fleece and the young;<sup>10</sup> what is the law? — Raba then [answered his own question] saying: It is reasonable to suppose that it is from the time that he sanctified them, so that a sinner should not profit from his offence.

MISHNAH. THERE WAS NO SICARICON<sup>11</sup> IN JUDEA FOR THOSE KILLED IN WAR.<sup>12</sup> AS FROM [THE TERMINATION OF] THE SLAUGHTER OF THE WAR<sup>13</sup> THERE HAS BEEN SICARICON THERE. HOW DOES THIS RULE APPLY? IF A MAN BUYS A FIELD FROM

THE SICARICON AND THEN BUYS IT AGAIN FROM THE ORIGINAL OWNER, HIS PURCHASE IS VOID,<sup>14</sup> BUT IF HE BUYS IT FIRST FROM THE ORIGINAL OWNER AND THEN FROM THE SICARICON IT IS VALID. IF A MAN BUYS [A PIECE OF A MARRIED WOMAN'S PROPERTY]<sup>15</sup> FROM THE HUSBAND AND THEN BUYS IT AGAIN FROM THE WIFE, THE PURCHASE IS VOID,<sup>16</sup> BUT IF HE BUYS IT FIRST FROM THE WIFE AND THEN FROM THE HUSBAND IT IS VALID. THIS WAS [THE RULING] OF THE FIRST MISHNAH.<sup>17</sup> THE SUCCEEDING BETH DIN,<sup>18</sup> HOWEVER, LAID DOWN THAT IF A MAN BUYS PROPERTY FROM THE SICARICON HE HAD TO GIVE THE ORIGINAL OWNER A QUARTER [OF THE VALUE].<sup>19</sup> TH<sup>19</sup> S,<sup>20</sup> HOWEVER, IS ONLY THE CASE WHEN THE ORIGINAL OWNER IS NOT IN A POSITION TO BUY IT HIMSELF, BUT IF HE IS HE HAS THE RIGHT OF PRE-EMPTION. RABBI ASSEMBLED A BETH DIN AND THEY DECIDED BY VOTE THAT IF THE PROPERTY HAD BEEN IN THE HANDS OF THE SICARICON TWELVE MONTHS, WHOSOEVER FIRST PURCHASED IT ACQUIRED THE TITLE, BUT HE HAD TO GIVE A QUARTER [OF THE PRICE] TO THE ORIGINAL OWNER.

GEMARA. If there was no sicaricon for those killed in the war is it possible that there should have been after the termination of the war? — Rab Judah said: It means that the rule of sicaricon was not applied.<sup>21</sup> For R. Assi has stated: They [the Roman Government] issued three successive decrees. The first was that whoever did not kill [a Jew on finding him] should himself be put to death. The second was that whoever killed [a Jew] should pay four zuz.<sup>22</sup> The last was that whoever killed a Jew should himself be put to death.<sup>23</sup> Hence in the first two [periods], [the Jew], being in danger of his life, would determine to transfer his property<sup>24</sup> [to the sicaricon] but in the last [period] he would say to himself, Let him take it today; tomorrow I will sue him for it.<sup>25</sup>

R. Johanan said: What is illustrative of the verse, Happy is the man that feareth alway, but he that hardeneth his heart shall fall into mischief?<sup>26</sup> The destruction of Jerusalem came through a Kamza and a Bar Kamza;<sup>27</sup> the destruction of Tur Malka<sup>28</sup> came through a cock and a hen; the destruction of Bethar came through the shaft of a leather. The destruction of Jerusalem came through a Kamza and a Bar Kamza in this way. A certain man had a friend Kamza and an enemy Bar Kamza. He once made a party and said to his servant, Go and bring Kamza. The man went and brought Bar Kamza. When the man [who gave the party] found him there he said, See, you tell tales about me; what are you doing here? Get out. Said the other: Since I am here, let me stay, and I will pay you for whatever I eat and drink.

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(1) This is not distinctly stated in the Mishnah, but is clearly implied.

(2) Because only in this case where the priests eat of the flesh is there any danger of their becoming grieved.

(3) Which is wholly burnt,

(4) Viz., 'a sin-offering . . . if this is generally known, makes no expiation'.

(5) By giving it a bad name.

(6) B.K. 68b (Sonc. ed.) p. 395, q.v. for notes.

(7) V. Glos. For killing a sacred animal outside the precincts of the Temple.

(8) Because when he dedicated it the animal was not his, and therefore when he killed it it was not sacred.

(9) When he dedicated it.

(10) If he was declared owner from the time of the theft, then the fleece was grown or the calf was born while the animal was in his possession, and he has not to make restitution for these.

(11) This word is usually regarded as being connected with the Latin sicarius, and is explained to mean a Roman soldier who threatened to kill a Jew but let him go on being given some of his property. Jastrow, however, very plausibly suggests that it is a corruption of GR. \*\*, the Imperial fiscus which after the war of Bar Cochba confiscated and appropriated the property of Jews who had fought against the Romans.

(12) The Gemara will explain the meaning of this passage. It is not clear whether only the war of Bethar is meant or the earlier war against Titus as well.

(13) V. infra in the Gemara.



- (14) Because we say that the owner only sold it out of fear, and with a mental reservation.
- (15) Settled on her by her Kethubah. V. B.B. 49b.
- (16) Because we assume that she only consented to the sale to oblige her husband.
- (17) V. Sanh. (Sonc. ed.) p. 163, n. 7.
- (18) Lit., 'the Beth din of those who came after them.'
- (19) It being estimated that the sicaricon would take a quarter less than the real value.
- (20) That a purchase from the sicaricon is valid.
- (21) [I.e., the heirs could not come and invalidate the sale to the third party. According to J. and Tosef. this rule was instituted in order to promote the settlement of Jews in Judea **שוב המדינה**, otherwise Jews would be afraid to purchase fields from the sicaricon for fear that the heirs would come and claim the return of their property.]
- (22) As a fine.
- (23) [Halevy Doroth, I.e., attempts on the basis of Josephus Wars VI, 9, 2; VII, 6; VII, 6.6, to place the three decrees shortly after the year 70 C.E.]
- (24) And therefore the purchase of it from the sicaricon by a third party was valid. [The phrase **גמר ומקני** is here used in a loose sense and is not to be taken literally. It signifies that the owner despairs of the field and will make no attempt to recover it. Similarly in the case of the Mishnah, the heirs to those fields that had been seized of those killed in the war, had given up all hope of recovering the fields. Though legally, since there has been no actual transfer, they could by rights reclaim the fields when the opportunity presented itself it was nevertheless ruled that the sale to the third party is valid for the reason stated in n. 3. This removes the contradiction which Solomon Adreth points out in his Hiddushin between our Talmud and the Tosefta.]
- (25) And since the original owner had not waived his title, the purchase by a third party was not valid. [And similarly in the case of the heirs of those who are killed after the war, since they do not despair, the law of sicaricon applies. That is, the non-Jew who seized the land is treated as an ordinary robber and his sale of the field to a third party is invalid. The reason of **שוב המדינה** is not applicable in this case since the heir himself will see to it to recover the property. For attempts to solve the problems connected with the subject, v. Elbogen MGWJ. 1925, pp. 349ff. Feist, MGWJ. 71, pp. 138, Gulak, Tarbiz, V, p. 23ff., and Halevy, Doroth, I.e., p. 130e.]
- (26) Prov. XXVIII, 14. What follows illustrates the endless misery and mischief caused by hardness of heart.
- (27) Lit., 'locust and son of locust'. The meaning is that a very trivial cause set in motion the train of events which led to the destruction of Jerusalem; and similarly with the slaughter which accompanied and followed the war of Bar Cochba.
- (28) ['The Mountain of the King'. V. Pseudo-Jonathan, Judges IV, 5, where Mt. Ephraim is rendered by Tur Malka. According to Horowitz, Palestine, p. 240, it denotes the whole mountainous region stretching from the Valley of Jezreel to the south of Judah, including the mountains of Samaria, known also by the Hebrew name Har ha-Melek. (V. also Buchler, JQR, XVI, pp. 180ff.) There is still some uncertainty whence this name was derived. Was it perhaps because this region lay within the great conquests of John Hyrcanus that it was given the name? v. p. 77a n. 3a. The destruction of Tur Malka is placed by Buchler, op. cit. p. 186ff. during the war 66-70].

## Talmud - Mas. Gittin 56a

He said, I won't. Then let me give you half the cost of the party. No, said the other. Then let me pay for the whole party. He still said, No, and he took him by the hand and put him out. Said the other, Since the Rabbis were sitting there and did not stop him, this shows that they agreed with him. I will go and inform against then, to the Government. He went and said to the Emperor, The Jews are rebelling against you. He said, How can I tell? He said to him: Send them an offering and see whether they will offer it [on the altar]. So he sent with him a fine calf.<sup>1</sup> While on the way he made a blemish on its upper lip, or as some say on the white of its eye, in a place where we [Jews] count it a blemish but they do not. The Rabbis were inclined to offer it in order not to offend the Government. Said R. Zechariah b. Abkulas to them: People will say that blemished animals are offered on the altar. They then proposed to kill Bar Kamza so that he should not go and inform against them, but R. Zechariah b. Abkulas said to them, Is one who makes a blemish on consecrated animals to be put to death? R. Johanan thereupon remarked: Through the scrupulousness<sup>2</sup> of R. Zechariah b. Abkulas our House has been destroyed, our Temple burnt and we ourselves exiled from our land.<sup>3</sup>

He [the Emperor] sent against them Nero the Caesar.<sup>4</sup> As he was coming he shot an arrow towards the east, and it fell in Jerusalem. He then shot one towards the west, and it again fell in Jerusalem. He shot towards all four points of the compass, and each time it fell in Jerusalem. He said to a certain boy: Repeat to me [the last] verse of Scripture you have learnt. He said: And I will lay my vengeance upon Edom by the hand of my people Israel.<sup>5</sup> He said: The Holy One, blessed be He, desires to lay waste his House and to lay the blame on me.<sup>6</sup> So he ran away and became a proselyte, and R. Meir was descended from him.<sup>7</sup>

He then sent against them Vespasian the Caesar<sup>8</sup> who came and besieged Jerusalem for three years. There were in it three men of great wealth, Nakdimon b. Gorion, Ben Kalba Shabua' and Ben Zizith Hakeseth. Nakdimon b. Gorion was so called because the sun continued shining for his sake.<sup>9</sup> Ben Kalba Shabua' was so called because one would go into his house hungry as a dog [keleb] and come out full [sabea']. Ben Zizith Hakeseth was so called because his fringes [zizith] used to trail on cushions [keseth]. Others say he derived the name from the fact that his seat [kise] was among those of the nobility of Rome. One of these said to the people of Jerusalem, I will keep them in wheat and barley. A second said, I will keep them in wine, oil and salt. The third said, I will keep them in wood. The Rabbis considered the offer of wood the most generous,<sup>10</sup> since R. Hisda used to hand all his keys to his servant save that of the wood, for R. Hisda used to say, A storehouse of wheat requires sixty stores of wood [for fuel]. These men were in a position to keep the city for twenty-one years.

The biryoni<sup>11</sup> were then in the city. The Rabbis said to them: Let us go out and make peace with them [the Romans]. They would not let them, but on the contrary said, Let us go out and fight them. The Rabbis said: You will not succeed. They then rose up and burnt the stores of wheat and barley so that a famine ensued. Martha the daughter of Boethius was one of the richest women in Jerusalem. She sent her man-servant out saying, Go and bring me some fine flour. By the time he went it was sold out. He came and told her, There is no fine flour, but there is white [flour]. She then said to him, Go and bring me some. By the time he went he found the white flour sold out. He came and told her, There is no white flour but there is dark flour. She said to him, Go and bring me some. By the time he went it was sold out. He returned and said to her, There is no dark flour, but there is barley flour. She said, Go and bring me some. By the time he went this was also sold out. She had taken off her shoes, but she said, I will go out and see if I can find anything to eat. Some dung stuck to her foot and she died.<sup>12</sup> Rabban Johanan b. Zakkai applied to her the verse, The tender and delicate woman among you which would not adventure to set the sole of her foot upon the ground.<sup>13</sup> Some report that she ate a fig left by R. Zadok, and became sick and died. For R. Zadok observed fasts for forty years in order that Jerusalem might not be destroyed, [and he became so thin that] when he ate anything the food could be seen [as it passed through his throat.] When he wanted to restore himself, they used to bring him a fig, and he used to suck the juice and throw the rest away. When Martha was about to die, she brought out all her gold and silver and threw it in the street, saying, What is the good of this to me, thus giving effect to the verse, They shall cast their silver in the streets.<sup>14</sup>

Abba Sikra<sup>15</sup> the head of the biryoni in Jerusalem was the son of the sister of Rabban Johanan b. Zakkai. [The latter] sent to him saying, Come to visit me privately. When he came he said to him, How long are you going to carry on in this way and kill all the people with starvation? He replied: What can I do? If I say a word to them, they will kill me. He said: Devise some plan for me to escape. Perhaps I shall be able to save a little. He said to him: Pretend to be ill, and let everyone come to inquire about you. Bring something evil smelling and put it by you so that they will say you are dead. Let then your disciples get under your bed, but no others, so that they shall not notice that you are still light, since they know that a living being is lighter than a corpse. He did so, and R. Eliezer went under the bier from one side and R. Joshua from the other. When they reached the door, some men wanted to put a lance through the bier. He said to them: Shall [the Romans] say. They

have pierced their Master? They wanted to give it a push. He said to them: Shall they say that they pushed their Master? They opened a town gate for him and he got out.

When he reached the Roman<sup>16</sup> he said, Peace to you, O king, peace to you, O king. He [Vespasian] said: Your life is forfeit on two counts, one because I am not a king and you call me king, and again, if I am a king, why did you not come to me before now? He replied: As for your saying that you are not a king,

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(1) Lit., 'a third calf'. (a) Reached a third of its growth, (b) the third-born, (c) in its third year.

(2) Lit., 'the humility'.

(3) [V. Josephus, Wars, II, 17, 2, who ascribes the beginning of the war to the refusal to accept the offering of the Emperor in 66 C.E.]

(4) Nero himself never came to Palestine,

(5) Ezek., XXV, 14.

(6) Lit., 'to wipe his hand'.

(7) [This story may be an echo of the legend that Nero who had committed suicide was still alive and that he would return to reign (v. JE. IX, 225).]

(8) [Who ultimately was known as the Caesar; v. Halevy, Doroth. I.e. p. 2.]

(9) It is related in Ta'anith, 19b, that this Nakdimon once prayed that the sun might continue shining (nakad) to enable him to discharge a certain debt he had incurred on behalf of the people, and his prayer was granted.

(10) Lit., 'they praised'.

(11) Perhaps == palace guards (from biryah). The reference is obviously to the Zealot bands who defended Jerusalem.

(12) From the shock.

(13) Deut. XXVIII, 57.

(14) Ezek. VII, 19.

(15) [Lit., Father of the Sicarii.' His real name was Ben Batiah, Ekah Rab, I. The term sicarii here is not to be confused with the sicaricon mentioned in the Mishnah, V. Rosenthal, MGWJ, 1893, p. 58].

(16) Lit. 'there'.

## **Talmud - Mas. Gittin 56b**

in truth you are a king, since if you were not a king Jerusalem would not be delivered into your hand, as it is written, And Lebanon shall fall by a mighty one.<sup>1</sup> 'Mighty one' [is an epithet] applied only to a king, as it is written, And their mighty one shall be of themselves<sup>2</sup> etc.; and Lebanon refers to the Sanctuary, as it says, This goodly mountain and Lebanon.<sup>3</sup> As for your question, why if you are a king, I did not come to you till now, the answer is that the biryoni among us did not let me. He said to him; If there is a jar of honey round which a serpent is wound, would they not break the jar to get rid of the serpent?<sup>4</sup> He could give no answer. R. Joseph, or as some say R. Akiba, applied to him the verse, [God] turneth wise men backward and maketh their knowledge foolish.<sup>5</sup> He ought to have said to him: We take a pair of tongs and grip the snake and kill it, and leave the jar intact.<sup>6</sup>

At this point a messenger came to him from Rome saying, Up, for the Emperor is dead, and the notables of Rome have decided to make you head [of the State]. He had just finished putting on one boot. When he tried to put on the other he could not. He tried to take off the first but it would not come off. He said: What is the meaning of this? R. Johanan said to him: Do not worry: the good news has done it, as it says, Good tidings make the bone fat.<sup>7</sup> What is the remedy? Let someone whom you dislike come and pass before you, as it is written, A broken spirit drieth up the bones.<sup>8</sup> He did so, and the boot went on. He said to him: Seeing that you are so wise, why did you not come to me till now? He said: Have I not told you? — He retorted: I too have told you.

He said; I am now going, and will send someone to take my place. You can, however, make a request of me and I will grant it. He said to him: Give me Jabneh and its Wise Men,<sup>9</sup> and the family

chain of Rabban Gamaliel,<sup>10</sup> and physicians to heal R. Zadok. R. Joseph, or some say R. Akiba, applied to him the verse, '[God] turneth wise men backward and maketh their knowledge foolish'. He ought to have said to him; Let them [the Jews] off this time. He, however, thought that so much he would not grant, and so even a little would not be saved.

How did the physicians heal R. Zadok? The first day they let him drink water in which bran had been soaked; on the next day water in which there had been coarse meal;<sup>11</sup> on the next day water in which there had been flour, so that his stomach expanded little by little.

Vespasian sent Titus who said, Where is their God, the rock in whom they trusted?<sup>12</sup> This was the wicked Titus who blasphemed and insulted Heaven. What did he do? He took a harlot by the hand and entered the Holy of Holies and spread out a scroll of the Law and committed a sin on it. He then took a sword and slashed the curtain. Miraculously blood spurted out, and he thought that he had slain himself,<sup>13</sup> as it says, Thine adversaries have roared in the midst of thine assembly, they have set up their ensigns for signs.<sup>14</sup> Abba Hanan said: Who is a mighty one like unto thee, O Jah?<sup>15</sup> Who is like Thee, mighty in self-restraint,<sup>16</sup> that Thou didst hear the blaspheming and insults of that wicked man and keep silent? In the school of R. Ishmael it was taught; Who is like thee among the gods [elim]?<sup>17</sup> Who is like thee among the dumb ones [illemim]. Titus further took the curtain and shaped it like a basket and brought all the vessels of the Sanctuary and put them in it, and then put them on board ship to go and triumph with them in his city, as it says, And withal I saw the wicked buried, and they that come to the grave and they that had done right went away from the holy place and were forgotten in the city.<sup>18</sup> Read not keburim [buried] but kebuzim [collected]; read not veyishtakehu [and were forgotten] but veyishtabehu [and triumphed]. Some say that keburim [can be retained], because even things that were buried were disclosed to them. A gale sprang up at sea which threatened to wreck him. He said: Apparently the power of the God of these people is only over water. When Pharaoh came He drowned him in water, when Sisera came He drowned him in water. He is also trying to drown me in water. If he is really mighty, let him come up on the dry land and fight with me. A voice went forth from heaven saying; Sinner, son of sinner, descendant of Esau the sinner, I have a tiny creature in my world called a gnat. (Why is it called a tiny creature? Because it has an orifice for taking in but not for excreting.) Go up on the dry land and make war with it. When he landed the gnat came and entered his nose, and it knocked against his brain for seven years. One day as he was passing a blacksmith's it heard the noise of the hammer and stopped. He said; I see there is a remedy. So every day they brought a blacksmith who hammered before him. If he was a non-Jew they gave him four zuz, if he was a Jew they said, It is enough that you see the suffering of your enemy. This went on for thirty days, but then the creature got used to it.<sup>19</sup> It has been taught: R. Phineas b. 'Aruba said; I was in company with the notables of Rome, and when he died they split open his skull and found there something like a sparrow two sela's in weight. A Tanna taught; Like a young dove two pounds in weight. Abaye said; We have it on record that its beak was of brass and its claws of iron. When he died he said: Burn me and scatter my ashes over the seven seas so that the God of the Jews should not find me and bring me to trial.

Onkelos son of Kolonikos<sup>20</sup> was the son of Titus's sister. He had a mind to convert himself to Judaism. He went and raised Titus from the dead by magical arts, and asked him; 'Who is most in repute in the [other] world? He replied: Israel. What then, he said, about joining them? He said: Their observances are burdensome and you will not be able to carry them out. Go and attack them in that world and you will be at the top as it is written, Her adversaries are become the head<sup>21</sup> etc.; whoever harasses Israel becomes head. He asked him:

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(1) Isa. X, 34.

(2) Jer. XXX, 21.

(3) Deut. III, 25.

(4) So you should have broken down the walls to get rid of the biryoni.

- (5) Isa. XLIV, 25.  
 (6) So they were waiting for some opportunity to get rid of the biryoni.  
 (7) Prov. XV, 30.  
 (8) Ibid. XVII, 22.  
 (9) I.e., leave to found a seminary at Jabneh (Jamnia).  
 (10) That the R. Gamaliel dynasty be spared. R. Johanan was particularly solicitous for R. Gamaliel and his family, as they were supposed to be of the house of David.  
 (11) Coarse bran mixed with flour (Rashi).  
 (12) Deut. XXXII, 37.  
 (13) Euphemism for God.  
 (14) Ps. LXXIV, 4.  
 (15) Ibid. LXXXIX, 9.  
 (16) Lit., 'and hard'.  
 (17) Ex. XV, 11.  
 (18) Eccl. VIII, 10.  
 (19) Lit., 'since it trod, it trod.'  
 (20) V. A.Z. (Sonc. ed.) p. 55, n. 1.  
 (21) Lam. I, 5.

### **Talmud - Mas. Gittin 57a**

What is your punishment [in the other world]? He replied: What decreed for myself. Every day my ashes are collected and sentence is passed on me and I am burnt and my ashes are scattered over the seven seas. He then went and raised Balaam by incantations. He asked him: Who is in repute in the other world? He replied: Israel. What then, he said, about joining them? He replied: Thou shalt not seek their peace nor their prosperity all thy days for ever.<sup>1</sup> He then asked: What is your punishment? He replied: With boiling hot semen.<sup>2</sup> He then went and raised by incantations the sinners of Israel.<sup>3</sup> He asked them: Who is in repute in the other world? They replied: Israel. What about joining them? They replied: Seek their welfare, seek not their harm. Whoever touches them touches the apple of his eye. He said: What is your punishment? They replied: With boiling hot excrement, since a Master has said: Whoever mocks at the words of the Sages is punished with boiling hot excrement. Observe the difference between the sinners of Israel and the prophets of the other nations who worship idols. It has been taught: Note from this incident how serious a thing it is to put a man to shame, for God espoused the cause of Bar Kamza and destroyed His House and burnt His Temple.

'Through a cock and a hen Tur Malka was destroyed'. How? — It was the custom that when a bride and bridegroom were being escorted a cock and a hen were carried before them, as if to say, Be fruitful and multiply like fowls. One day a band of Roman soldiers passed by and took the animals from them, so the Jews fell on them and beat them. So they went and reported to the Emperor that the Jews were rebelling, and he marched against them. There came against them one Bar Daroma<sup>4</sup> who was able to jump a mile, and slaughtered them. The Emperor took his crown and placed it on the ground, saying, Sovereign of all the world, may it please thee not to deliver me and my kingdom into the hands of one man. Bar Daroma was tripped up by his own utterance, as he said, Hast not thou, O God, cast us off and thou goest not forth, O God, with our hosts.<sup>5</sup> But David also said thus? — David wondered if it could be so. He went into a privy and a snake came, and he dropped his gut [from fright] and died. The Emperor said: Since a miracle has been wrought for me, I will let them off this time. So he left them alone and went away. They began to dance about and eat and drink and they lit so many lamps that the impress of a seal could be discerned by their light a mile away from the place. Said the Emperor; Are the Jews making merry over me? And he again invaded them. R. Assi said; Three hundred thousand men with drawn swords went in to Tur Malka, and slaughtered for three days and three nights, while on the other side dancing and feasting was going on, and one did not know about the other.

The Lord hath swallowed up all the habitations of Jacob and hath not pitied.<sup>6</sup> When Rabin came he said in the name of R. Johanan; These are the sixty thousand myriads of cities which King Jannai had in the King's Mountain.<sup>7</sup> For R. Judah said in the name of R. Assi: King Jannai had sixty myriads of cities in the King's Mountain, and in each of them was a population as large as that of the Exodus, save in three of them which had double as many. These were Kefar Bish,<sup>8</sup> Kefar Shihlayim,<sup>9</sup> and Kefar Dikraya.<sup>10</sup> [The first was called] Kefar Bish [evil village] because they never gave hospitality to visitors. The second was called Kefar Shihlayim because they made their living from shihlayim [watercress]. Kefar Dikraya [village of males] according to R. Johanan, was so called because women used to bear males first and finally a girl and then no more. 'Ulla said: I have seen that place, and it would not hold even sixty myriads of reeds. A certain Min said to R. Hanina: You tell a lot of lies.<sup>11</sup> He replied: Palestine is called 'land of the deer'.<sup>12</sup> Just as the skin of the hind cannot hold its flesh,<sup>13</sup> so the Land of Israel when it is inhabited can find room but when it is not inhabited it contracts.

Once when R. Manyumi b. Helkiah and R. Helkiah b. Tobiah and R. Huna b. Hiyya were sitting together they said: If anyone knows anything about Kefar Sekania of Egypt,<sup>14</sup> let him say. One of them thereupon said; Once a betrothed couple [from there] were carried off by heathens who married them to one another. The woman said: I beg of you not to touch me, as I have no Kethubah<sup>15</sup> from you. So he did not touch her till his dying day. When he died, she said: Mourn for this man who has kept his passions in check more than Joseph, because Joseph was exposed to temptation only a short time, but this man every day. Joseph was not in one bed with the woman but this man was; in Joseph's case she was not his wife, but here she was. The next then began and said: On one occasion forty bushels [of coin] were selling for a denar, and the number went down one, and they investigated and found that a man and his son had had intercourse with a betrothed maiden on the Day of Atonement, so they brought them to the Beth din and they stoned them and the original price was restored. The third then began and said: There was a man who wanted to divorce his wife, but hesitated because she had a big marriage settlement. He accordingly invited his friends<sup>16</sup> and gave them a good feast and made them drunk and put them all in one bed. He then brought the white of an egg and scattered it among them and brought witnesses<sup>17</sup> and appealed to the Beth din. There was a certain elder there of the disciples of Shammai the Elder, named Baba b. Buta, who said: This is what I have been taught by Shammai the Elder, that the white of an egg contracts when brought near the fire, but semen becomes faint from the fire. They tested it and found that it was so, and they brought the man to the Beth din and flogged him and made him pay her Kethubah. Said Abaye to R. Joseph: Since they were so virtuous, why were they punished? — He replied: Because they did not mourn for Jerusalem, as it is written; Rejoice ye with Jerusalem and be glad for her, all ye that love her, rejoice for joy with her all ye that mourn over her.<sup>18</sup>

'Through the shaft of a litter Bethar<sup>19</sup> was destroyed.' It was the custom when a boy was born to plant a cedar tree and when a girl was born to plant a pine tree, and when they married, the tree was cut down and a canopy made of the branches. One day the daughter of the Emperor was passing when the shaft of her litter broke, so they lopped some branches off a cedar tree and brought it to her. The Jews thereupon fell upon them and beat them. They reported to the Emperor that the Jews were rebelling, and he marched against them.

He hath cut off in fierce anger all the horn of Israel.<sup>20</sup> R. Zera said in the name of R. Abbahu who quoted R. Johanan: These are the eighty [thousand]<sup>21</sup> battle trumpets which assembled in the city of Bethar when it was taken and men, women and children were slain in it until their blood ran into the great sea. Do you think this was near? It was a whole mil<sup>22</sup>, away. It has been taught: R. Eleazar the Great said: There are two streams in the valley of Yadaim,<sup>23</sup> one running in one direction and one in another, and the Sages estimated that [at that time] they ran with two parts water to one of blood. In a Baraitha it has been taught: For seven years the Gentiles fertilised<sup>24</sup> their vineyards with the blood

of Israel without using manure.

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- (1) Deut. XXIII, 7.  
(2) Because he enticed Israel to go astray after the daughters of Moab. V. Sanh. 106a.  
(3) [MS.M. Jesus].  
(4) Lit., 'Son of the South'.  
(5) Ps. LX, 12.  
(6) Lam. II, 2.  
(7) V. supra, p. 251, n. 4.  
(8) [Identified with Kafarabis in Upper Idumea mentioned in Josephus Wars, IV, 9, 9. V. Buchler op. cit. p. 191].  
(9) [Identified with Sachlin near Ascalon. Klein, D. ZDPV. 1910, 35.]  
(10) [Dikrin, N. of Beth Gubrin (Eleutheropolis); v. EJ. 9, 1132].  
(11) Referring to the exaggerated statements about the King's Mountain.  
(12) E.V. 'glorious', Jer. III, 19; a play on the word צָבִי, which means either 'glorious' or 'deer'.  
(13) Because after the hind is killed the skin shrinks.  
(14) [Klein, S. Beitrage, p. 20, n. 1. suggests the reading נֹצְרִים (Nazarenes) instead of מִצְרַיִם (Egypt). It is thus the Kefar Sekania (Suchnin) in Galilee (v. A.Z., Sonc. ed. p. 85. n. 1) a place with Nazarene associations. It was probably to contrast the erstwhile loyalty of the place to the then prevailing defection that the incidents that follow were related].  
(15) According to Rabbinic law it is forbidden or a man to live with his wife unless he made out for her a kethubah.  
(16) 'Shoshbin' 'best men', 'Groomsmen'; v. B.B. (Sonc. ed.) p. 618, n. 10.  
(17) To prove that they had abused his wife.  
(18) Isa. LXVI, 10.  
(19) In Southern Palestine, the centre of the revolt of Bar Cochba.  
(20) Lam. II, 3.  
(21) This word is bracketed in the text.  
(22) [J., reads 'four mils'. The site of Bethar is still uncertain, v. JE. s.v.].  
(23) [Rappaport, 'Erech Millin refers this to the Roman devastation of the Jewish quarter in Alexandria in the days of Alexander Tiberius. The Valley of Yadayim ('Hands') is thus the Delta of the Nile. Graetz, Geschichte IV, p. 425 places this in the Bar Cochba war and identifies the Valley with Beth Rimmon Valley.]  
(24) Lit., 'gathered the vintage from.'

## Talmud - Mas. Gittin 57b

R. Hiya b. Abin said in the name of R. Joshua b. Korhah: An old man from the inhabitants of Jerusalem told me that in this valley Nebuzaradan the captain of the guard killed two hundred and eleven myriads,<sup>1</sup> and in Jerusalem he killed ninety-four myriads on one stone, until their blood went and joined that of Zechariah,<sup>2</sup> to fulfil the words, Blood toucheth blood.<sup>3</sup> He noticed the blood of Zechariah bubbling up warm, and asked what it was. They said: It is the blood of the sacrifices which has been poured there. He had some blood brought, but it was different from the other. He then said to them: If you tell me [the truth], well and good, but if not, I will tear your flesh with combs of iron. They said: What can we say to you? There was a prophet among us who used to reprove us for our irreligion, and we rose up against him and killed him, and for many years his blood has not rested. He said to them: I will appease him. He brought the great Sanhedrin<sup>4</sup> and the small Sanhedrin<sup>5</sup> and killed them over him, but the blood did not cease. He then slaughtered young men and women, but the blood did not cease. He brought school-children and slaughtered them over it, but the blood did not cease. So he said; Zechariah, Zechariah. I have slain the best of them; do you want me to destroy them all? When he said this to him, it stopped. Straightway Nebuzaradan felt remorse. He said to himself: If such is the penalty for slaying one soul, what will happen to me who have slain such multitudes? So he fled away, and sent a deed to his house disposing of his effects and became a convert. A Tanna taught: Naaman was a resident alien;<sup>6</sup> Nebuzaradan was a righteous proselyte;<sup>7</sup> descendants of Haman learnt the Torah in Benai Berak; descendants of Sisera taught

children in Jerusalem; descendants of Sennacherib gave public expositions of the Torah. Who were these? Shemaya and Abtalion.<sup>8</sup> [Nebuzaradan fulfilled] what is written, I have set her blood upon the bare rock that it should not be covered.<sup>9</sup> The voice is the voice of Jacob and the hands are the hands of Esau:<sup>10</sup> 'the voice' here refers to [the cry caused by] the Emperor Hadrian<sup>11</sup> who killed in Alexandria of Egypt sixty myriads on sixty myriads, twice as many as went forth from Egypt. 'The voice of Jacob': this is the cry caused by the Emperor Vespasian<sup>12</sup> who killed in the city of Bethar four hundred thousand myriads, or as some say, four thousand myriads. 'The hands are the hands of Esau:' this is the Government of Rome which has destroyed our House and burnt our Temple and driven us out of our land. Another explanation is [as follows]: 'The voice is the voice of Jacob:' no prayer is effective unless the seed of Jacob has a part in it. 'The hands are the hands of Esau:' no war is successful unless the seed of Esau has a share in it. This is what R. Eleazar said:<sup>13</sup> Thou shalt be hid from the scourge of the tongue;<sup>14</sup> this means, thou shalt be protected from the heated contests<sup>15</sup> of the tongue.

Rab Judah said in the name of Rab: What is meant by the verse, By the rivers of Babylon there we sat down, yea, we wept when we remembered Zion?<sup>16</sup> This indicates that the Holy One, blessed be He, showed David the destruction both of the first Temple and of the second Temple. Of the first Temple, as it is written, 'By the rivers of Babylon there we sat, yea we wept'; of the second Temple, as it is written, Remember, O Lord, against the children of Edom<sup>17</sup> the day of Jerusalem, who said, rase it, rase it, even unto the foundation thereof.<sup>18</sup>

Rab Judah said in the name of Samuel, or it may be R. Ammi, or as some say it was taught in a Baraitha; On one occasion four hundred boys and girls were carried off for immoral purposes. They divined what they were wanted for and said to themselves, If we drown in the sea we shall attain the life of the future world. The eldest among them expounded the verse, The Lord said, I will bring again from Bashan, I will bring again from the depths of the sea.<sup>19</sup> 'I will bring again from Bashan,' from between the lions' teeth.<sup>20</sup> 'I will bring again from the depths of the sea,' those who drown in the sea. When the girls heard this they all leaped into the sea. The boys then drew the moral for themselves, saying, If these for whom this is natural act so, shall not we, for whom it is unnatural? They also leaped into the sea. Of them the text says, Yea, for thy sake we are killed all the day long, we are counted as sheep for the slaughter.<sup>21</sup> Rab Judah, however, said that this refers to the woman and her seven sons.<sup>22</sup> They brought the first before the Emperor and said to him, Serve the idol. He said to them: It is written in the Law, I am the Lord thy God.<sup>23</sup> So they led him away and killed him. They then brought the second before the Emperor and said to him, Serve the idol. He replied: It is written in the Torah, Thou shalt have no other gods before me.<sup>24</sup> So they led him away and killed him. They then brought the next and said to him, Serve the idol. He replied: It is written in the Torah, He that sacrifices unto the gods, save unto the Lord only, shall be utterly destroyed.<sup>25</sup> So they led him away and killed him. They then brought the next before the Emperor saying, Serve the idol. He replied: It is written in the Torah, Thou shalt not bow down to any other god.<sup>26</sup> So they led him away and killed him. They then brought another and said to him, Serve the idol. He replied: It is written in the Torah, Hear, O Israel, the Lord our God, the Lord is one.<sup>27</sup> So they led him away and killed him. They then brought the next and said to him, Serve the idol. He replied; It is written in the Torah, Know therefore this day and lay it to thine heart that the Lord He is God in heaven above and on the earth beneath; there is none else.<sup>28</sup> So they led him away and killed him. They brought the next and said to him, Serve the idol. He replied: It is written in the Torah, Thou hast avouched the Lord this day . . . and the Lord hath avouched thee this day;<sup>29</sup> we have long ago sworn to the Holy One, blessed be He, that we will not exchange Him for any other god, and He also has sworn to us that He will not change us for any other people. The Emperor said: I will throw down my seal before you and you can stoop down and pick it up,<sup>30</sup> so that they will say of you that you have conformed to the desire<sup>31</sup> of the king. He replied; Fie on thee, Caesar, fie on thee, Caesar; if thine own honour is so important, how much more the honour of the Holy One, blessed be He! They were leading him away to kill him when his mother said: Give him to me that I may kiss him a little. She said to him: My



son, go and say to your father Abraham, Thou didst bind one [son to the] altar, but I have bound seven altars. Then she also went up on to a roof and threw herself down and was killed. A voice thereupon came forth from heaven saying, A joyful mother of children.<sup>32</sup>

R. Joshua b. Levi said: [The verse, 'Yea, for thy sake we are killed all the day long'] can be applied to circumcision, which has been appointed for the eighth [day]. R. Simeon b. Lakish said: It can be applied to the students of the Torah who demonstrate the rules of shechitah on themselves; for Raba said: A man can practise anything on himself except shechitah,<sup>33</sup> and something else. R. Nahman b. Isaac said that it can be applied to the students who kill themselves for the words of the Torah, in accordance with the saying of R. Simeon b. Lakish; for R. Simeon b. Lakish said: The words of the Torah abide only with one who kills himself for them, as it says, This is the Torah, when a man shall die in the tent etc.<sup>34</sup>

Rabbah b. Bar Hanah said in the name of R. Johanan: Forty se'ahs

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- (1) V. II Kings XXV, 8ff.
  - (2) The son of Jehoiada the high priest. V. II Chron. XXIV, 22.
  - (3) Hos. IV, 2.
  - (4) The high court of 71 members.
  - (5) The lesser court of 23 members.
  - (6) One who merely abstains from idolatry but does not keep the commandments.
  - (7) Who accepts all the laws of Judaism with no ulterior motive.
  - (8) The predecessors of Hillel and Shammai. V. Aboth, I.
  - (9) Ezek. XXIV, 8.
  - (10) Gen. XXVII, 22.
  - (11) [Graetz, Geschichte, IV, p. 426, on the basis of parallel passages emends; 'Trajan', the reference being to the massacre of Alexandrian Jews by Trajan as a result of an insurrection. V. Suk. 51b.]
  - (12) This seems a mistake here for Hadrian. [V. J. Ta'an. IV.]
  - (13) The remark made above that through malicious speech the Temple was destroyed etc. (Rashi). [Maharsha refers it to the efficacy of the 'voice of Jacob.']
  - (14) Job V, 21.
  - (15) Apparently this means 'slander'. [According to Maharsba render: 'Thou shalt be protected (find refuge) in the heated contests of the tongue', i.e., prayer'.]
  - (16) Ps. CXXXVII, 1.
  - (17) Stands for Rome.
  - (18) Ibid. 7.
  - (19) Ps. LXVIII, 23.
  - (20) **בין שן** of which **בשן** is taken as a contraction.
  - (21) Ibid, XLIV, 23.
  - (22) The same story is related of Antiochus Epiphanes in the second book of the Maccabees.
  - (23) Ex. XX, 2.
  - (24) Ibid, 3.
  - (25) Ibid, XXII, 19.
  - (26) Ibid, XX, 5.
  - (27) Deut. VI, 4.
  - (28) Ibid, IV, 39.
  - (29) Deut. XXVI, 17, 18.
  - (30) The seal had engraved on it the image of the king and by stooping down to pick it up he will make it appear as if he is worshipping the image (Rashi).
  - (31) Lit., 'accept the authority'.
  - (32) Ps. CXIII, 9.
  - (33) For fear that he might accidentally cut his throat.

(34) Num. XIX, 14. The meaning in the context is of course quite different.

## Talmud - Mas. Gittin 58a

of phylactery boxes<sup>1</sup> were found on the heads of the victims of Bethar. R. Jannai son of R. Ishmael said there were three chests each containing forty se'ahs. In a Baraita it was taught: Forty chests each of three se'ahs. There is, however, no contradiction; the one was referring to the phylactery of the head, the other to that of the arm.<sup>2</sup>

R. Assi said; Four kabs of brain were found on one stone. 'Ulla said: Nine kabs. R. Kahana — or some say Shila b. Mari — said: Where do we find this in the Scripture? [In the verse], O daughter of Babylon that art to be destroyed, happy shall he be that rewardeth thee . . . happy shall he be that taketh and dasheth thy little ones against the rock.<sup>3</sup>

[It is written]: The precious sons of Zion, comparable to fine gold.<sup>4</sup> What is meant by 'comparable to fine gold'? Shall I say it means that they were covered with gold? [This can hardly be] seeing that in the school of R. Shila it was stated that two state weights of fine gold came down into the world, one of which went to Rome and the other to the rest of the world! No: what it means is that they used to eclipse fine gold with their beauty. Before that the notables of the Romans used to keep an amulet set in a ring in front of them when they had sexual intercourse, but now they brought Israelites and tied them to the foot of the bed. One man asked another: Where is that written [in the Scripture]? He replied: Also every sickness and every plague which is not written in the book of this law.<sup>5</sup> Said the other: How far am I from that place? — He replied: A little,<sup>6</sup> a page and a half. Said the other: If I had got so far, I should not have wanted you.

Rab Judah reported Samuel as saying in the name of Rabban Simeon b. Gamaliel; What is signified by the verse, Mine eye affecteth my soul, because of all the daughters of my city?<sup>7</sup> There were four hundred synagogues in the city of Bethar, and in every one were four hundred teachers of children, and each one had under him four hundred pupils,<sup>8</sup> and when the enemy entered there they pierced them with their staves, and when the enemy prevailed and captured them, they wrapped them in their scrolls and burnt them with fire.

Our Rabbis have taught: R. Joshua b. Hananiah once happened to go to the great city of Rome,<sup>9</sup> and he was told there that there was in the prison a child with beautiful eyes and face and curly locks.<sup>10</sup> He went and stood at the doorway of the prison and said, Who gave Jacob for a spoil and Israel to the robbers?<sup>11</sup> The child answered, Is it not the Lord, He against whom we have sinned and in whose ways they would not walk, neither were they obedient unto his law.<sup>12</sup> He said: I feel sure that this one will be a teacher in Israel. I swear that I will not budge from here before I ransom him, whatever price may be demanded. It is reported that he did not leave the spot before he had ransomed him at a high figure, nor did many days pass before he became a teacher in Israel. Who was he? — He was R. Ishmael b. Elisha.

Rab Judah said in the name of Rab: It is related that the son and the daughter of R. Ishmael b. Elisha were carried off [and sold to] two masters. Some time after the two met together, and one said, I have a slave the most beautiful in the world. The other said, I have a female slave the most beautiful in the world. They said: Let us marry them to one another and share the children. They put them in the same room. The boy sat in one corner and the girl in another. He said: I am a priest descended from high priests, and shall I marry a bondwoman? She said: I am a priestess descended from high priests, and shall I be married to a slave? So they passed all the night in tears. When the day dawned they recognised one another and fell on one another's necks and bemoaned themselves with tears until their souls departed. For them Jeremiah utters lamentation, For these I am weeping, mine eye, mine eye drops water.<sup>13</sup>

Resh Lakish said: It is related of a certain woman named Zafenath bath Peniel (she was called Zafenath because all gazed [zofin] at her beauty, and the daughter of Peniel because she was the daughter of the high priest who ministered in the inner shrine)<sup>14</sup> that a brigand abused her a whole night. In the morning he put seven wraps round her and took her out to sell her. A certain man who was exceptionally ugly came and said: Show me her beauty. He said: Fool, if you want to buy her buy, for [I tell you that] there is no other so beautiful in all the world. He said to him: All the same [show her to me]. He took seven wraps off her, and she herself tore off the seventh and rolled in the dust, saying, Sovereign of the universe, if Thou hast not pity on us why hast thou not pity on the sanctity of Thy Name? For her Jeremiah utters lamentation, saying, O daughter of my people, gird thee with sackcloth and wallow thyself in ashes; make thee mourning as for an only son, for the spoiler shall suddenly come upon us.<sup>15</sup> It does not say upon thee,' but 'upon us:' the spoiler is come, if one may say so, upon Me and upon thee.

Rab Judah said in the name of Rab: 'What is signified by the verse, And they oppress a man and his house, even a man and his heritage?'<sup>16</sup> A certain man once conceived a desire for the wife of his master, he being a carpenter's apprentice. Once his master wanted to borrow some money from him. He said to him: Send your wife to me and I will lend her the money. So he sent his wife to him, and she stayed three days with him. He then went to him before her. Where is my wife whom I sent to you? he asked. He replied: I sent her away at once, but I heard that the youngsters played with her on the road. What shall I do? he said. If you listen to my advice, he replied, divorce her. But, he said, she has a large marriage settlement. Said the other: I will lend you money to give her for her Kethubah. So he went and divorced her and the other went and married her. When the time for payment arrived and he was not able to pay him, he said: Come and work off your debt with me. So they used to sit and eat and drink while he waited on them, and tears used to fall from his eyes and drop into their cups. From that hour the doom was sealed; some, however, say that it was for two wicks in one light.<sup>17</sup>

IF A MAN BUYS FROM THE SICARICON etc. Rab said: This holds good only where he [the original owner] said to him<sup>18</sup> [mere ly]: Go, take possession<sup>19</sup> and acquire ownership. If, however, he gave him a written deed, he does acquire title. Samuel said: Even with a written deed he does not acquire title, unless he expressly makes himself responsible.<sup>20</sup>

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(1) Not counting the straps (Rashi). [Others: 'capsules'; each phylactery box of the head contains four capsules or sections, v Aruch.]

(2) [Rashi assumes that the phylactery of the head consisting as it does of four capsules had a wider base than that of the arm.]

(3) Ps. CXXXVII, 8, 9. The 'dashing against the rock' will be 'measure for measure'.

(4) Lam. IV, 2.

(5) Deut. XXVIII, 61.

(6) Al. 'go on' (Jastrow).

(7) Lam. III, 51.

(8) This is obviously a conventional expression for 'very many'.

(9) [Perhaps in the year 95, v. Hor. (Sonc. ed.) p. 70, n. 12. Tosef. Hor. II omits Rome.

(10) Lit., 'his curly hair arranged in locks.

(11) Isa. XLII, 24.

(12) Ibid.

(13) Lam. I, 16.

(14) Heb. 'Pene'.

(15) Jer. VI, 26.

(16) Mic. II, 2.

(17) I.e., one woman marrying two men.

(18) To the buyer.

(19) By doing a little work on the property.

(20) For reimbursing him if his title should prove invalid.

## Talmud - Mas. Gittin 58b

It has been taught in agreement with Samuel: 'R. Simeon b. Eleazar says: If a man buys [a married woman's property] from the wife and then buys it again from the husband, his purchase is effective. But if he first buys from the husband and then from the wife the purchase is invalid,<sup>1</sup> unless she expressly makes herself responsible.' Are we to say that this confutes Rab's view? — Rab can answer you: What is meant by 'making herself responsible'? Giving a written deed.<sup>2</sup>

Our Rabbis have taught: If a man bought [property] from the sicaricon and had the use of it<sup>3</sup> for three years in the presence of the original owner,<sup>4</sup> and then sold it to another, the original owner has no claim against the [second] purchaser. How are we to understand this? If the [second] purchaser pleads, He bought it from you,<sup>5</sup> the rule would be the same in the case of the first [purchaser].<sup>6</sup> If he does plead, He bought it from you, then the rule does not apply to the second either?<sup>7</sup> — R. Shesheth said: We do in fact assume that he does not advance this plea, [and yet the rule applies] because in a case like this we [the Beth din] suggest a plea to the heir and suggest a plea to the purchaser;<sup>8</sup> whereas the first if he pleads [of his own accord] can acquire a title, but otherwise not.

Our Rabbis have taught: 'If [a heathen] seizes the land<sup>9</sup> [of an Israelite] on account of a debt or of an anparuth<sup>10</sup> this rule of sicaricon does not apply to it;<sup>11</sup> [and land seized] on account of anparuth must remain in his hands twelve months.'<sup>12</sup> But you just said that the rule of sicaricon does not apply to it? — What he means is, [Land bought from] the sicaricon itself must remain in his hands twelve months.<sup>13</sup> R. Joseph said: I have authority for saying that there is no anparuth in Babylonia. But we see that there is? — You should say, the law of anparuth<sup>14</sup> does not apply in Babylonia. Why so? — Since there is a Court and yet [the victim] does not go and complain, we presume that he has waived his claim.

Giddal son of Re'ilai took a field<sup>15</sup> from the owners of a certain stretch<sup>16</sup> on condition of paying the tax on it.<sup>17</sup> He paid in advance the money for three years. The first owners eventually<sup>18</sup> came back and said to him: You paid the tax for the first year and have had the produce. Now we will pay and I will have the produce. They appealed to R. Papa, who was minded to make him out a warrant against the owners of the stretch.<sup>19</sup> R. Huna the son of R. Joshua, however, said to R. Papa: This will mean applying the law of sicaricon?<sup>20</sup> No, said R. Huna the son of R. Joshua; he has risked his money and lost.<sup>21</sup>

THIS WAS THE FIRST MISHNAH. THE SUCCEEDING BETH DIN RULED THAT ONE WHO BUYS FROM THE SICARICON SHOULD GIVE THE ORIGINAL OWNER A QUARTER. Rab said: This means either a quarter in land or a quarter in money;<sup>22</sup> Samuel said: It means a quarter in land,<sup>23</sup> which is [equivalent to] a third of the money. What is the ground of their difference? — One [Samuel] holds that he buys the land for a quarter less than its value,<sup>24</sup> and the other that he buys the land for a fifth less than its value.<sup>25</sup> An objection was raised: 'This was the first Mishnah. The succeeding Beth din laid down that one who purchases from the sicaricon gives to the original owner a fourth, the latter having his choice of taking the payment either in land or in money. When is this the case? So long as he is not himself in a position to buy. But if the original owner is in a position to buy, he has the right of pre-emption. Rabbi assembled a Beth din and they decided by vote that if the property had been in the hands of the sicaricon twelve months the first comer had the right to purchase, but he had to give the original owner either a fourth in land or a fourth in money.'<sup>26</sup> — R. Ashi replied: That teaching applies, after the money has come into his hands.<sup>27</sup>

Rab said:

- (1) I.e., apparently, even if she gives him a written deed.
- (2) Without a guarantee of reimbursement.
- (3) Lit., 'he ate'.
- (4) Without him protesting.
- (5) In which case the onus probandi would be on the claimant.
- (6) I.e., this plea would be valid in the mouth of the first purchaser, and a fortiori in that of the second. Why then was not the rule stated in connection with the first?
- (7) On the principle that, to confer usucaption, occupation, even if unchallenged, must be supported by a plea of right. V. B.B. 41a.
- (8) On the ground that they were not likely to know whether the first had in fact purchased it or not.
- (9) Lit., 'he who comes'.
- (10) A debt payable by instalments, v. supra 44a.
- (11) If he retains it for twelve months and then sells it to a Jew, the purchaser cannot be quit of the original owner by giving him merely a quarter, but he has to return him the whole, since he has never waived his title. [Trani reverses: The original owner has no claim to the field since he could have redeemed it, or in the case of anaparuth recovered it at court (v. infra) and therefore it is to be assumed that he waived his right to the field. This interpretation is more in keeping with the reading, 'the rule of sicaricon does not apply', which varies but slightly from that of the Mishnah, whereas in Rashi's interpretation it is taken in a different sense.]
- (12) Apparently, as in the case of the sicaricon.
- (13) Before it can be sold to a Jew.
- (14) That the purchaser has to restore the land gratis to the original owner.
- (15) The owners of which had gone away.
- (16) Who were assessed for the land-tax jointly.
- (17) I.e., the pro rata share of that field.
- (18) After one year.
- (19) For the two years' tax which he had paid in advance.
- (20) [By making the other owners pay him, just as the purchaser of a field from the sicaricon pays the original owner a quarter; and this is not right, since there is no question of sicaricon here, as no one forced him to pay three years' tax in advance.]
- (21) Lit., 'he has put his money on the horn of the deer', an expression used for a risky speculation.
- (22) [That is, the quarter of the purchase price is repaid to the original owner either in land or in money (v. Tosaf.).]
- (23) A quarter of the field bought.
- (24) I.e., he buys land which is worth four manehs for three manehs. Hence a quarter of the value of the land is equal to a third of the purchase price.
- (25) I.e., he buys land which is worth five manehs for four manehs. Hence he returns either a fifth of the land which is the equivalent of the quarter of the purchase price, or one maneh.
- (26) As stated by Rab, and in contradiction of Samuel.
- (27) I.e., it is a fourth of the total sum paid by the purchaser both to the sicaricon and to the owner.

### **Talmud - Mas. Gittin 59a**

I was in that assembly of Rabbi, and my vote was taken first. [How could this be], seeing that we have learnt: 'In [taking decisions on] money matters and cases of cleanness and uncleanness, they commence from the principal [of those present]; in capital cases, they commence from the side'?<sup>1</sup> Rabbah the son of Raba, or as some say R. Hillel the son of R. Wallas said: The voting at the court of Rabbi was different, as in all cases it commenced from the side.<sup>2</sup>

Rabbah the son of Raba, or as some say R. Hillel the son of R. Wallas also said: Between Moses and Rabbi we do not find one who was supreme both in Torah and in worldly affairs.<sup>3</sup> Is that so?

Was there not Joshua? — There was Eleazar [with him]. But there was Eleazar?<sup>4</sup> — There was Phinehas [with him]. But there was Phinehas?<sup>5</sup> — There were the Elders<sup>6</sup> [with him]. But there was Saul?<sup>7</sup> — There was Samuel [with him]. But Samuel died [before Saul]? — We mean, [supreme] all his life. But there was David? — There was Ira the Jairite<sup>8</sup> [with him]. But he died [before David]? — We mean, [supreme] all his life. But there was Solomon? — There was Shimei ben Gera<sup>9</sup> with him. But he killed him? — We mean, all his life. But there was Hezekiah? — There was Shebna<sup>10</sup> [with him]. But he was killed?<sup>11</sup> — We mean, all his life. But there was Ezra? — There was Nehemiah son of Hachaliah with him. R. Aha son of Raba said: I too say that between Rabbi and R. Ashi there was no-one who was supreme both in Torah and in worldly affairs. Is that so? Was there not Huna b. Nathan [with him]? — We do not count Huna b. Nathan because he used to defer to R. Ashi.

MISHNAH. A DEAF-MUTE CAN HOLD CONVERSATION BY MEANS OF GESTURES.<sup>12</sup> BEN BATHYRA SAYS THAT HE MAY ALSO DO SO BY MEANS OF LIP-MOTIONS,<sup>13</sup> WHERE THE TRANSACTION CONCERNS MOVABLES. THE PURCHASE OR SALE EFFECTED BY YOUNG CHILDREN<sup>14</sup> IN MOVABLES IS VALID.

GEMARA. R. Nahman said: The difference between Ben Bathyra and the Rabbis is only on the question of movables, but where a Get is concerned both agree that gestures [must be used].<sup>15</sup> Surely this is obvious; Ben Bathyra says distinctly 'MOVABLES'? — You might take this to mean 'where movable also are concerned'; hence we are told [that this is not so].

THE PURCHASE OR SALE EFFECTED BY YOUNG CHILDREN IN MOVABLES. What is the youngest age [at which they can do so]?<sup>16</sup> — R. Judah pointed out to R. Isaac his son: About six or seven. R. Kahana said: About seven or eight. In a Baraitha it was taught: About nine or ten. There is no contradiction: Each [child] varies according to his intelligence. What is the reason [why this is allowed in the case of movables]? — R. Abba b. Jacob said in the name of R. Johanan: In order that they may procure ordinary necessities.<sup>17</sup>

And he said to him that was over the meltaha. Bring forth vestments for all the worshippers of Baal.<sup>18</sup> What is meltaha?<sup>19</sup> — R. Abba b. Jacob said in the name of R. Johanan: Something which is drawn out thin by fingering<sup>20</sup> [nimlal we-nimtah]. When R. Dimi came [from Palestine] he said in the name of R. Johanan: Bonias son of Nonias<sup>21</sup> sent to Rabbi a sibni and a homes<sup>22</sup> and salsela and malmela.<sup>23</sup> The sibni and homes [folded tip] into the size of a nut and a half, the salsela<sup>24</sup> and malmela into the size of a pistachio-nut<sup>25</sup> and a half. What is malmela? Something which fingering draws out thin.<sup>26</sup>

Up to what point [can advantage be taken of] their mistake? — R. Jonah said in the name of R. Zera: Up to a sixth, as with a grown-up.<sup>27</sup> Abaye inquired: What of the gift of such a one?<sup>28</sup> — R. Yemar replied. His gift is no gift. Mar, the son of R. Ashi, however, said that it is a valid gift. The [members of the Academy] communicated this statement to R. Mordecai with the names reversed.<sup>29</sup> He replied: Go and tell the son of the Master<sup>30</sup> that this does not correspond with the facts. As the Master was once standing with one foot on the ground and one on the steps<sup>31</sup> we asked him, What of his gift, and he answered us, His gift is a valid gift, no matter whether made when he is ill or when he is well, whether it is a big gift or a small one.

MISHNAH. THE FOLLOWING RULES WERE LAID DOWN IN THE INTERESTS OF PEACE.<sup>32</sup> A PRIEST IS CALLED UP FIRST TO READ THE LAW<sup>33</sup> AND AFTER HIM A LEVITE AND THEN A LAY ISRAELITE, IN THE INTERESTS OF PEACE. AN 'ERUB<sup>34</sup> IS PLACED IN THE ROOM WHERE IT HAS ALWAYS BEEN PLACED,<sup>35</sup> IN THE INTERESTS OF PEACE.<sup>36</sup>

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- (1) I.e., from the youngest, as Rab would be, v. Sanh. 32a.
- (2) On account of his humility.
- (3) Lit., 'Torah and greatness in one place'.
- (4) After the death of Joshua.
- (5) After the death of Eleazar.
- (6) V. Jud. II, 7.
- (7) According to the Talmudic tradition ('Er. 53a), Saul was well versed in the Torah but he did not expound.
- (8) Chief Minister to David, II. Sam. XX, 26; cf. M.K. 16b.
- (9) V. II Sam. XIX, 18.
- (10) V. Sanh. 26a.
- (11) By Sennacherib. For fuller notes v. Sanh. (Sonc. ed.) p. 227.
- (12) Lit., 'Can gesticulate and be gesticulated to'.
- (13) Lit., 'can speak with movements (of the mouth) and be spoken to by movements'. This is not as clear as gesticulations with the fingers.
- (14) From six to nine or ten, v. infra 63b.
- (15) In spite of the fact that a deaf-mute may betroth by means of lip motions.
- (16) Lit., 'up to what age (are they in this matter regarded as children).'
- (17) Lit., 'for the provision of his livelihood'.
- (18) II Kings X, 22. As R. Abba b. Jacob has just been mentioned, another saying recorded by him in the name of R. Johanan is adduced.
- (19) E.V. 'vestry'.
- (20) I.e., fine linen.
- (21) In 'Er. 85, the name is given as Bonias b. Bonias.
- (22) Head-coverings of fine linen. [Aruch reads: subni and homes subni. For subni cf. Gr. \*\* (sabanum) a 'head-cover'; homes is derived from Gr. \*\* (half). On this reading the meaning is, he sent him a full size subanum and a half size sabanum. V. Krauss, TA I, p. 521.]
- (23) Names of various kinds of fine linen.
- (24) Cf. Heb. **סלם** 'to turn', 'to plait', hence 'to weave'.
- (25) Rashi: 'Acorn'.
- (26) The word is derived from **גלגל** 'to crush', 'to rub between fingers'. [The reference is to the head-coverings made from fine elastic material worn by the Egyptian and Ethiopian nobility in antiquity. Krauss, op cit. p. 522].
- (27) Provided the error is rectified. The rule was that if an article was inadvertently bought or sold for more than a sixth of its value, the transaction could be declared void, v. B.M. 49b.
- (28) Since the consideration stated in connection with buying and selling does not apply in the case of a gift.
- (29) I.e., making R. Ashi's son say that the gift was no gift.
- (30) R. Ashi, whose disciple was R. Mordecai.
- (31) Leading up to the Academy.
- (32) Lit., 'on account of ways of peace'.
- (33) At the public reading in the synagogue etc.
- (34) Lit., 'mixture', 'combination', a measure introduced to enable tenants in a courtyard to have unrestricted access to the premises of other tenants. This is done by depositing some food in which all have a share in the house of one of the tenants. V. 'Er. VI-VII.
- (35) Lit., 'an old house'.
- (36) Between the residents, each of whom might want to have the erub in his own room.

## **Talmud - Mas. Gittin 59b**

THE PIT WHICH IS NEAREST THE [HEAD OF THE] WATERCOURSE<sup>1</sup> IS FILLED FROM IT FIRST,<sup>2</sup> IN THE INTERESTS OF PEACE. [THE TAKING OF] BEASTS, BIRDS AND FISHES FROM SNARES [SET BY OTHERS] IS RECKONED AS A KIND OF ROBBERY,<sup>3</sup> IN THE INTERESTS OF PEACE. R. JOSE SAYS THAT IT IS ACTUAL ROBBERY.<sup>4</sup> [TO TAKE AWAY] ANYTHING FOUND BY A DEAF-MUTE, AN IDIOT OR A MINOR IS RECKONED AS A

KIND OF ROBBERY,<sup>5</sup> IN THE INTERESTS OF PEACE. R. JOSE SAYS: IT IS ACTUAL ROBBERY. IF A POOR MAN GLEANS ON THE TOP OF AN OLIVE TREE, [TO TAKE THE FRUIT] THAT IS BENEATH HIM<sup>6</sup> IS COUNTED AS A KIND OF ROBBERY.<sup>7</sup> R. JOSE SAYS IT IS ACTUAL ROBBERY. THE POOR OF THE HEATHEN MAY NOT BE PREVENTED FROM GATHERING GLEANINGS,<sup>8</sup> FORGOTTEN SHEAVES,<sup>9</sup> AND THE CORNER OF THE FIELD,<sup>10</sup> IN THE INTERESTS OF PEACE.

GEMARA. [A PRIEST IS CALLED UP FIRST TO READ THE LAW]. What is the warrant for this? — R. Mattenah said: Because Scripture says, And Moses wrote this law and gave it to the priests the sons of Levi.<sup>11</sup> Now do we not know that the priests are the sons of Levi? What it means therefore is that the priests [are first] and then the sons of Levi. R. Isaac Nappaha said: We derive it from this verse, viz., And the priests the sons of Levi shall draw near.<sup>12</sup> Now do we not know that the priests are the sons of Levi? What it signifies therefore is that the priests are first and then the sons of Levi. R. Ashi derived it from this verse, The sons of Amram were Aaron and Moses, and Aaron was separated to sanctify him as most holy.<sup>13</sup> R. Hiyya b. Abba derived it from the following, And thou shalt sanctify him,<sup>14</sup> This implies, [Give him precedence] in every matter which involves sanctification. A Tanna of the school of R. Ishmael taught: ‘And thou shalt sanctify him’, to wit, [give him precedence] in every matter involving sanctification, to open proceedings, to say grace first, and to choose his portion first.<sup>15</sup>

Said Abaye to R. Joseph: Is this rule only [a Rabbinical one] in the interests of peace? It derives from the Torah? — He answered: It does derive from the Torah, but its object is to maintain peace. But the whole of the Law is also for the purpose of promoting peace, as it is written, Her ways are ways of pleasantness and all her paths are peace?<sup>16</sup> — No, said Abaye; we have to understand it in the light of what was said by the Master,<sup>17</sup> as it has been taught: Two persons wait for one another with the dish,<sup>18</sup> but if there are three they need not wait.<sup>19</sup> The one who breaks bread<sup>20</sup> helps himself to the dish<sup>21</sup> first, but if he wishes to pay respect to his teacher or to a superior he may do so.<sup>22</sup> Commenting on this, the Master said: This applies only to the table,<sup>23</sup> but not to the synagogue, since there such deference<sup>24</sup> might lead to quarrelling. R. Mattenah said: What you have said about the synagogue is true only on Sabbaths and Festivals, when there is a large congregation, but not on Mondays and Thursdays.<sup>25</sup> Is that so? Did not R. Huna read as kohen<sup>26</sup> even on Sabbaths and Festivals? — R. Huna was different, since even R. Ammi and R. Assi who were the most distinguished kohanim of Eretz Israel paid deference to him.

Abaye said: We assume the rule to be that if there is no kohen there, the arrangement no longer holds.<sup>27</sup> Abaye further said: We have it on tradition that if there is no Levite there, a kohen reads in his place. Is that so? Has not R. Johanan said that one kohen should not read after another, because this might cast a suspicion on the first,<sup>28</sup> and one Levite should not read after another because this might cast a suspicion on both? — What we meant was that the same kohen [should read in the place of the Levite].

Why just in the case of the Levites should there be a reflection on both of them? Because, [you say,] people will say that one [or other] of them is not a Levite? If one kohen reads after another, they will also say that one of them is not a kohen? — We assume that it is known that the father of the second was a kohen.<sup>29</sup> But in the same way we may say that it is known that the father of the second [Levite] was a Levite?<sup>30</sup> — They might say that he [the father] married a bastard or a nethinah<sup>31</sup> and disqualified his offspring. In the same way they might say that [the father of the second priest] married a divorced woman or a haluzah<sup>32</sup> and disqualified his offspring? — In any case [if he were suspect] would he read as Levi?<sup>33</sup> And who would suspect him? Those who remain in the synagogue?<sup>34</sup> They see [that he counts as one of the seven]!<sup>35</sup> — It must be then, those who go out of synagogue.<sup>36</sup>



## The Galileans sent to inquire of R. Helbo: After them [the kohen and levi,]

- (1) I.e., nearest the river which feeds the watercourse.
- (2) And meanwhile he owner of the pit has the right to dam the watercourse.
- (3) And whatever is taken has to be returned to the one who laid the snare, though according to the Torah the latter has not acquired ownership till it has actually come into his possession.
- (4) And the culprit becomes disqualified from giving evidence.
- (5) Although these cannot legally acquire ownership.
- (6) That has fallen as a result of his gleaning.
- (7) Although he does not become owner till he has actually handled it.
- (8) Lev. XIX, 9ff.
- (9) Deut. XXIV, 19.
- (10) Lev. XIX, 9ff.
- (11) Deut. XXXI, 9.
- (12) Deut. XXI, 5.
- (13) I Chron. XXIII, 13.
- (14) Lev. XXI, 8.
- (15) Where he has to divide an article with a lay Israelite.
- (16) Prov. III, 17.
- (17) His teacher, Rabbah b. Nahmani.
- (18) [When one interrupts his eating, the other must wait till he resumes. This was according to the old custom when all guests ate from the same dish.]
- (19) If one of them interrupts his eating.
- (20) And says the Grace, generally the host.
- (21) Lit., 'stretches forth his hand'.
- (22) V. 'Er. 47a.
- (23) Lit., 'meal'.
- (24) By a priest to a teacher or a superior, because it might be misunderstood by other people. Hence here the rule of the Torah requires to be reinforced.
- (25) On which days the Torah is also read, v. B.K. 82a.
- (26) I.e., first, although only a lay Israelite; v. Glos.
- (27) Lit., 'the bundle is separated,' i.e., it is not necessary to call up a Levite first; (v. Rashi).
- (28) This is explained immediately.
- (29) And therefore it is only the first on whom suspicion falls.
- (30) And the second Levite was called up not as Levi but as Yisrael. The order of calling up is, Kohen, Levi, Yisrael.
- (31) A descendant of the Gibeonites, v. Sanh. (Sonc. ed.) p. 340, n. 12.
- (32) V. Glos.
- (33) If he was disqualified from being called up first qua kohen, he would not be called up earlier than third.
- (34) Till the reading of the law is finished.
- (35) And therefore know that the reason why another priest or Levite was called up was not because he was disqualified.
- (36) Before the reading of the Law is concluded.

### Talmud - Mas. Gittin 60a

who are to be called up? He did not know what to reply, so he went and asked R. Isaac Nappaha. who said to him: After them are called up the scholars who are appointed Parnasim<sup>1</sup> of the community, and after them scholars who are qualified to be appointed Parnaasim of the community, and after them the sons of scholars whose fathers had been appointed Parnasim of the community and after them heads of synagogues<sup>2</sup> and members of the general public.

The Galileans sent to inquire of R. Helbo: Is it permissible to read separate humashin [of each book of the Torah]<sup>3</sup> in the synagogue in public? He did not know what to answer, so he inquired in

the Beth Hamidrash. They settled the question in the light of what R. Samuel b. Nahmani had said in the name of R. Johanan, that a scroll of the Law which is short of one flap may not be read from. This, however, is not conclusive: in that case something essential was lacking, in this case nothing essential is lacking. Rabbah and R. Joseph both concurred in ruling that separate humashin should not be read from out of respect for the congregation. Rabbah and R. Joseph also concurred in ruling that a scroll containing only the haftarahs<sup>4</sup> should not be read from on Sabbath. What is the reason? Because it is not proper to write [sections of the prophets separately]. Mar son of R. Ashi said: It is forbidden also to carry them on Sabbath, for the reason that they are not fitting to be read from.<sup>5</sup> This, however, is not correct: it is permitted to carry them and it is permitted to read from them. For R. Johanan and R. Simeon b. Lakish used to look through a book of Aggada on Sabbath. Now Aggada is not meant to be written down?<sup>6</sup> We say, however, that since this cannot be dispensed with,<sup>7</sup> when it is a time to work for the Lord, they break thy Torah.<sup>8</sup> Here too, since it cannot be dispensed with,<sup>9</sup> we say, 'when it is a time to work for the Lord, they break the law.'

Abaye asked Rabbah: Is it permitted to write out a scroll [containing a passage] for a child to learn from? This is a problem alike for one who holds that the Torah was transmitted [to Moses] scroll by scroll,<sup>10</sup> and for one who holds that the Torah was transmitted entire. It is a problem for one who holds that the Torah was transmitted scroll by scroll: since it was transmitted scroll by scroll, may we also write separate scrolls, or do we say that since it has all been joined together it must remain so? It is equally a problem for one who holds that the Torah was transmitted entire: since it was transmitted entire, is it improper to write [separate scrolls], or do we say that since we cannot dispense with this we do write them? — He replied: We do not write. What is the reason? — Because we do not write.<sup>11</sup> He then raised an objection: 'She<sup>12</sup> also made a tablet of gold on which was written the section of the Sotah'?<sup>13</sup> — R. Simeon b. Lakish had [already] explained in the name of R. Jannai: Only the first letters<sup>14</sup> [of each word were written there]. He then raised [the following objection]: 'As he<sup>15</sup> writes he looks at the tablet and writes what is written in the tablet'? — Read, 'He writes according to what is written in the tablet.' He then raised [the following objection]: 'As he writes he looks at the tablet and writes what is written in the tablet, If one lay, if one did not lie.'<sup>16</sup> — What is meant is that it was written irregularly.<sup>17</sup> On this point Tannaim differ [as we were taught]: 'A scroll should not be written for a child to learn from; if, however, it is the intention of the writer to complete it, he may do so. R. Judah says: He may write from Bereshith<sup>18</sup> to [the story of the generation of the] Flood, or in the Priests' Law<sup>19</sup> up to, And it came to pass on the eighth day.'<sup>20</sup> R. Johanan said in the name of R. Bana'ah: The Torah was transmitted in separate scrolls, as it says, Then said I, Lo I am come, in the roll of the book it is written of me.<sup>21</sup> R. Simeon b. Lakish said: The Torah was transmitted entire, as it says, Take this book of the law.<sup>22</sup> What does the other make of this verse 'Take etc.'? — This refers to the time after it had been joined together. And what does the other [Resh Lakish] make of the verse, 'in a roll of the book written of me'? — That is [to indicate] that the whole Torah is called a roll, as it is written, And he said unto me, what seest thou? And I answered, I see a flying roll.<sup>23</sup> Or perhaps [it is called roll] for the reason given by R. Levi, since R. Levi said: Eight sections were given forth<sup>24</sup> on the day on which the Tabernacle was set up. They are: the section of the priests,<sup>25</sup> the section of the Levites,<sup>26</sup> the section of the unclean,<sup>27</sup> the section of the sending of the unclean [out of the camp],<sup>28</sup> the section commencing 'After the death',<sup>29</sup>

(1) [Plur. of Parnas. In Galilee the office of Parnas was connected with the political organization of the town and its title denoted usually a general leader of the people and sometimes also a member of the council. Elsewhere the function of the Parnas was that of a charity overseer. V. Buchler, *Sepphoris*, pp. 14ff.]

(2) [The archisynagogos, the supreme authority over the synagogues in the town. V. Sot. (Sonc. ed.) p. 202, n. 5.]

(3) Plur. of Humesh, one of the five books of the Pentateuch. In olden days these too were written on scrolls.

(4) The portions from the prophets read after the weekly portion of the Law.

(5) On the principle that what may not be used on Sabbath may not be carried.

(6) According to the rule laid down *infra*.

(7) As otherwise the Aggada might be forgotten.

- (8) Ps. CXIX, 126. E.V. 'It is a time to work for the Lord, for they have broken thy commandments.'
- (9) Since some congregations cannot obtain a complete copy of the Prophets.
- (10) I.e., as each section was transmitted to Moses, he wrote it down, and in the end joined all the sections together.
- (11) I.e., there is no reason, it is a tradition.
- (12) Queen Helena of Adiabene, v. Yoma 37a, and Nazir 119b.
- (13) Unfaithful wife. V. Num. V, 11ff. This proves that separate sections may be written.
- (14) Lit., 'Alphabetically'.
- (15) The priest who transcribes the section of the Sotah.
- (16) This should be, If thou hast gone aside . . . if thou hast not gone aside. Ibid. 19, 20.
- (17) Only the beginnings of the verses were in full and the later words with first letter only.
- (18) 'In the beginning'. Gen. I, 1.
- (19) Leviticus.
- (20) Lev., IX, 1. I.e., the whole of the rules of the sacrifices, and so with any other complete section.
- (21) Ps. XL, 8. According to the Rabbis, this is a reference to the story of Lot and his daughters, to which David here appeals as a proof against his calumniators that his coming was heralded in the Torah, he being descended from Ruth the Moabite.
- (22) Deut. XXXI, 26.
- (23) Zech. V, 2. This is interpreted by the Rabbis to refer to the Torah.
- (24) And written by Moses on separate rolls, before the writing down of the whole Torah.
- (25) Lev. XXI, containing the rules of uncleanness for the priests.
- (26) Num. VIII, 5-26. The Levites were required for the service of song on that day.
- (27) Who would be required to keep the Passover in the second month, Num. IX, 9-14.
- (28) Ibid. V, 1-4. This also had to take place before the Tabernacle was set up.
- (29) Lev. XVI, dealing with the service of the Day of Atonement, which, as stated in the text, was transmitted immediately after the death of the two sons of Aaron.

## Talmud - Mas. Gittin 60b

the section dealing with the drinking of wine [by priests],<sup>1</sup> the section of the lights<sup>2</sup> [of the candlestick], and the section of the red heifer.<sup>3</sup> R. Eleazar said: The greater portion of the Torah is contained in the written Law<sup>4</sup> and only the smaller portion was transmitted orally,<sup>5</sup> as it says, Though I wrote for him the major portion of [the precepts of] my law, they were counted a strange thing.<sup>6</sup> R. Johanan, on the other hand, said that the greater part was transmitted orally and only the smaller part is contained in the written law, as it says, For by the mouth of these words.<sup>7</sup> But what does he make of the words, 'Though I write for him the major portion of my law'? — This is a rhetorical question: Should I have written for him the major portion of my law? [Even now] is it not accounted a strange thing for him? And what does the other make of the words, 'For by the mouth of these words'? — That implies that they are difficult to master.<sup>8</sup>

R. Judah b. Nahmani the public orator<sup>9</sup> of R. Simeon b. Lakish discoursed as follows: It is written, Write that these words,<sup>10</sup> and it is written, For according to the mouth of these words.<sup>11</sup> 'What are we to make of this? — It means: The words which are written thou art not at liberty to say by heart, and the words transmitted orally thou art not at liberty to recite from writing. A Tanna of the school of R. Ishmael taught: [It is written] These:<sup>12</sup> these thou mayest write, but thou mayest not write halachoth.<sup>13</sup> R. Johanan said: God made a covenant with Israel only for the sake of that which was transmitted orally, as it says, For by the mouth of these words I have made a covenant with thee and with Israel.<sup>14</sup>

AN 'ERUB SHOULD BE PLACED IN THE ROOM WHERE IT HAS ALWAYS BEEN PLACED, IN THE INTERESTS OF PEACE. 'What is the precise reason?'<sup>15</sup> Shall we say it is out of respect for the owner of the room? Then what of the shofar<sup>16</sup> which at first was in the house of Rab Judah and later in that of Rabbah and then in the house of R. Joseph and then in the house of Abaye

and finally in the house of Raba? — The real reason is, so as not to excite suspicion.<sup>17</sup>

THE PIT WHICH IS NEAREST THE HEAD OF THE WATERCOURSE. It has been stated: [‘Where fields] adjoin a river, Rab says that the owners lower down have the right to draw off water first, while Samuel says that the owners higher up have the right to draw off water first. So long as the water is allowed to flow, both agree that no problem arises.<sup>18</sup> Where they differ is on the question of damming for the purpose of watering. Samuel says that those above can draw off water first, for they can say ‘We are nearer to the source’, while Rab holds that those below can draw off first, for they can say ‘The river should be allowed to take its natural course’.<sup>19</sup> ‘We have learnt: THE PIT WHICH IS NEAREST TO THE HEAD OF THE WATERCOURSE MAY BE FILLED FROM IT FIRST, IN THE INTERESTS OF PEACE!’<sup>20</sup> — Samuel explained this on behalf of Rab to refer to a watercourse which passes close to a man's pit.<sup>21</sup> If so, what is the point of the remark? — You might think that the others can say to him, ‘Close up the mouth of your pit so as to take in water only in due proportion’; we are therefore told [that this is not so].

R. Huna b. Tahalifa said: Seeing that the law has not been determined one way or the other, each must fend for himself.<sup>22</sup> R. Shimi b. Ashi presented himself before Abaye with a request that he should give him lessons.<sup>23</sup> He replied: I use my time for my own studies. Then, he said, would your honour teach me at night. He said: I have to do some irrigation. Said the other: I will irrigate for your honour by day, and do you teach me by night. Very well, he said. So he went to the people higher up and said to them: The people lower down have the right to draw water first. Then he went to those lower down and said, The people higher up have the right to draw water first. Meanwhile he had dammed the watercourse and irrigated Abaye's fields. ‘When he presented himself before Abaye, the latter said to him: You have acted on my behalf according to two contradictory authorities;<sup>24</sup> and Abaye would not taste of the produce of that year.

Certain peasants in Be Harmal<sup>25</sup> went and dug a trench from the upper waters of the canal Shanwatha and brought it round [their fields] to the lower waters. Those higher up came and complained to Abaye, saying, They are spoiling our river.<sup>26</sup> He said to them: Deepen the bed a little [before it reaches them]. They said to him: If we do this, our trenches will be dry.<sup>27</sup> He then said to the first set: Leave the river alone.<sup>28</sup>

[THE TAKING OF] BEASTS, BIRDS AND FISHES. If loose or close nets are used,

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(1) Ibid. X, 8-11.

(2) Num. VIII, 1-4.

(3) Ibid. XIX. These last three injunctions came into force as soon as the Tabernacle was set up.

(4) Either explicitly or implicitly.

(5) I.e., as a pure tradition, without any basis in the written law.

(6) Hos. VIII, 12.

(7) Ex. XXXIV, 27. E.V. ‘for by the tenor of these words.’

(8) As if they had not been written down.

(9) The so-called meturgeman. V. Glos.

(10) Ex. XXXIV, 27.

(11) Ibid.

(12) Ibid.

(13) I.e., the Oral Law.

(14) Ex. XXXIV, 27.

(15) I.e., what reason have we for thinking that this promotes peace and good fellowship?

(16) Which was used for announcing the advent of the Sabbath. According to another explanation it was a receptacle in which were placed the contributions sent on behalf of the students of the Yeshibah.

(17) Lest, if people come into the room where they have been used to see the ‘erub and miss it, they will think that the

residents of the court have neglected to make an 'erub.

(18) All having an equal right to draw at any time.

(19) Till they have drawn off the water they require.

(20) Which seems to support the opinion of Samuel.

(21) So that he could fill it without damming.

(22) Lit., 'Whoever is stronger (whether by argument or force) prevails.' V. B.B. 34b.

(23) Lit., 'let the Master allow' me to sit for awhile.'

(24) Rab and Samuel.

(25) [Near Pumbeditha. v. Aruch, s.v. **בַּר שְׁנַיָא**, in name of Hai Gaon.]

(26) Owing to its longer course, the current of the river was now slower, and the waters above the trench were not carried off and overflowed the adjoining fields.

(27) If there was not much water, the level of the river would fall and it would not flow into the trenches.

(28) Lit., 'depart from there.'

## Talmud - Mas. Gittin 61a

there is no difference of opinion between the Rabbis and R. Jose.<sup>1</sup> Where they differ is when fishhooks and traps<sup>2</sup> [are used].

[TO TAKE AWAY] ANYTHING FOUND BY A DEAF-MUTE, AN IDIOT OR A MINOR . . . R. JOSE SAYS THAT THIS IS ACTUAL ROBBERY. R. Hisda says: [R. Jose means], actual robbery according to the Rabbis.<sup>3</sup> 'What [then] is the practical effect of R. Jose's ruling? — That the article can be recovered by process of law.'<sup>4</sup>

IF A POOR MAN IS GLEANING THE TOP OF AN OLIVE TREE, TO TAKE THE FRUIT BENEATH HIM. A Tanna taught: If the poor man had gathered the fruit and placed it on the ground with his hands, to take it is actual robbery.<sup>5</sup> R. Kahana was once going to Huzal<sup>6</sup> when he saw a man throwing sticks [at a tree] and bringing dates down,<sup>7</sup> so he went and picked up some and ate them. Said the other to him: See, Sir, that I have thrown them down with my own hands. He said to him: You are from the same place as R. Josiah.<sup>8</sup> and he applied to him the verse, The righteous man is the foundation of the world.<sup>9</sup>

THE POOR OF THE HEATHEN ARE NOT PREVENTED FROM GATHERING GLEANINGS, FORGOTTEN SHEAVES AND THE CORNER OF THE FIELD, TO AVOID ILL FEELING. Our Rabbis have taught: 'We support the poor of the heathen along with the poor of Israel, and visit the sick of the heathen along with the sick of Israel, and bury the poor of the heathen along with the dead of Israel,<sup>10</sup> in the interests of peace'.

MISHNAH. A WOMAN MAY LEND TO ANOTHER WHO IS SUSPECTED OF NOT OBSERVING THE SABBATICAL YEAR<sup>11</sup> A FAN OR A SIEVE OR A HANDMILL OR A STOVE, BUT SHE SHOULD NOT SIFT OR GRIND WITH HER. THE WIFE OF A HABER<sup>12</sup> MAY LEND TO THE WIFE OF AN 'AM HA-AREZ<sup>12</sup> A FAN OR A SIEVE AND MAY WINNOW AND GRIND AND SIFT WITH HER, BUT ONCE SHE HAS Poured WATER OVER THE FLOUR SHE SHOULD NOT TOUCH ANYTHING WITH HER, BECAUSE IT IS NOT RIGHT TO ASSIST THOSE WHO COMMIT A TRANSGRESSION.<sup>13</sup> ALL THESE RULES<sup>14</sup> WERE LAID DOWN ONLY IN THE INTERESTS OF PEACE. HEATHENS MAY BE ASSISTED<sup>15</sup> IN THE SABBATICAL YEAR BUT NOT ISRAELITES, AND GREETING MAY BE GIVEN TO THEM, IN THE INTERESTS OF PEACE.<sup>16</sup>

GEMARA. Why is the rule in the first case<sup>17</sup> different from that in the second?<sup>18</sup> — Abaye said: Most 'amme ha-arez separate their tithes.<sup>19</sup> Raba said: [We are speaking] here of the 'am ha-arez [specified] by R. Meir<sup>20</sup> and the cleanness and uncleanness recognised [only] by the Rabbis,<sup>21</sup> as it

has been taught: Who is an 'am ha-arez? One who does not insist on eating ordinary food in a ritually clean condition.<sup>22</sup> So R. Meir. The Sages, however, say it is one who does not tithe his produce. But since it says in the later clause of the Mishnah, ONCE SHE HAS Poured WATER OVER THE FLOUR SHE SHOULD NOT TOUCH ANYTHING WITH HER,<sup>23</sup> does not this show that the earlier clause<sup>24</sup> is not speaking of cleanness and uncleanness?<sup>25</sup> — Both the earlier and the later clause speak of cleanness and uncleanness, the former, however, of the uncleanness of ordinary food and the latter of that of the hallah.<sup>26</sup>

The following was adduced in contradiction:<sup>27</sup>

- (1) As these, having a hollow, certainly confer ownership on the one who set them, and to take the contents would be robbery.
- (2) Made of little joists.
- (3) And not according to the Torah.
- (4) But the robber is not disqualified from giving evidence, whereas according to the Rabbis the article cannot even be recovered by process of law.
- (5) Because by handling it he had acquired possession.
- (6) [Between Neahardea and Sura (Obermeyer, op. cit. p. 300).]
- (7) So Rashi. Tosaf., however, translates, 'was throwing down twigs (which he cut off) from a tree, and dates fell off,' which certainly renders the incident more intelligible.
- (8) And have learnt from his teaching.
- (9) Prov. X, 25. E.V., 'the righteous is an everlasting foundation.'
- (10) I.e., if there is no-one else to bury them, but not in the same cemetery.
- (11) I.e., of keeping produce which has been gathered after the inauguration of the Sabbatical year.
- (12) V. Glos.
- (13) In the case of the Sabbatical year, by breaking the precept of eating produce of the year; in the case of the 'am ha-arez, the (Rabbinical) precept of preserving the loaf from uncleanness.
- (14) That assistance may be given other than at the time of the actual breaking of the precept.
- (15) To what extent is discussed in the Gemara.
- (16) V. supra p. 279, n. 1.
- (17) Not to grind with one who does not observe the Sabbatical year.
- (18) That grinding may be done with the wife of an 'am ha-arez.
- (19) And with the ordinary 'am ha-arez this would be forbidden.
- (20) Whereas the first clause deals with a woman who is suspected in regard to the Sabbatical year.
- (21) Being only Rabbinic we need not be so particular.
- (22) Even though he is careful about tithes.
- (23) Apparently because the water renders the flour capable of becoming unclean.
- (24) That she shall not sift etc.
- (25) I.e., that the reason is not anything to do with uncleanness, and must therefore be because of tithe.
- (26) Lit. , 'loaf': 'the first of the dough' which had to be offered as a heave-offering. Num. XV, 19. As this was a precept of the Torah, greater care had to be exercised not to assist in its transgression.
- (27) Of the statement that it is permitted to help an 'am ha-arez to grind.

### **Talmud - Mas. Gittin 61b**

'It is allowed to grind corn and to deposit it with those who eat produce of the Sabbatical year and those who eat their produce in uncleanness,<sup>1</sup> but not for those who eat the produce of the Sabbatical year and for those who eat their produce in uncleanness'? — Abaye replied: 'We are dealing there with a priest who is suspected of eating terumah in uncleanness, the uncleanness there being of a kind recognised by the Torah. If that is so, how could the food be entrusted to him? 'Would not that contradict the following: 'Terumah may be entrusted to an Israelite 'am ha-arez but not to a priest 'am ha-arez, because he might take liberties with it?'<sup>2</sup> — R. Elai said: 'We are speaking here of

[produce in] an earthenware vessel with a close fitting cover.<sup>3</sup> But is there not a danger that his wife might move it while niddah?<sup>4</sup> — R. Jeremiah replied: [Even so] there is no contradiction: in the one case we speak of produce which has become capable of receiving uncleanness,<sup>5</sup> in the other of produce which is not so capable.<sup>6</sup> A further contradiction was raised:<sup>7</sup> ‘If a man takes wheat to a miller who is a Cuthean<sup>8</sup> or a heathen, it is presumed to remain in its original condition<sup>9</sup> as regards tithe or Sabbatical produce, but not as regards uncleanness’?<sup>10</sup> — ‘What refutation is there here? Have you not just explained that the reference is to produce which has not been rendered capable of receiving uncleanness?’<sup>11</sup> ‘What then was the point of the question? — Because the questioner wanted to adduce another contradiction<sup>12</sup> [as follows]; [You have just said], It is presumed to have remained in its original condition as regards tithe and Sabbatical year, that is to say, we have no fear of its having been changed. This seems to contradict the following: If a man [a haber] gives produce to his mother-in-law [the wife of an ‘am ha-arez],<sup>13</sup> he tithes what he gives to her<sup>14</sup> and what he takes back from her, because she is suspected of changing anything that becomes spoilt?’<sup>15</sup> — There the reason is as was stated: ‘R. Judah said; She is anxious for the well-being of her daughter and she is ashamed for her son-in-law.’ But in general are we not afraid [of food being changed]? Have we not learnt:<sup>16</sup> ‘If a student gives produce to the mistress of his boarding house, he tithes what he gives to her and what he takes back from her, because she is likely to change it’? — There she finds an excuse for herself, saying. Let the student eat hot and I will eat cold.<sup>17</sup> And still we ask, in general are we not afraid? Has it not been taught: ‘The wife of a haber can grind along with the wife of an ‘am ha-arez, when she is ritually unclean,<sup>18</sup> but not when she is ritually clean.<sup>19</sup> R. Simeon b. Eleazar says; Even when she is ritually unclean she should not grind with her, because the other

(1) We do not fear lest they exchange it for some produce of their own or defile it by touching it.

(2) Being used to eating terumah.

(3) Which does not become unclean by touching, v. Hul. 24b.

(4) V. Glos. This is known as hesset, a defilement communicated by moving an object without actually touching it.

(5) By means of a liquid, v. Lev. XI, 38.

(6) And it is this which may be entrusted to a priest who is suspected of eating terumah in uncleanness.

(7) V. Demai III, 4.

(8) V. Glos.

(9) I.e., not to have been exchanged or mixed.

(10) I.e., it may have been touched by the miller, whereas in the first Baraita it is permitted.

(11) I.e., grain on which water has not yet fallen.

(12) I.e., not on the point of uncleanness but of tithe etc.

(13) To prepare a dish for him.

(14) So that she should not through him eat something untithed.

(15) Demai III, 6.

(16) [This is no Mishnah, and preference is to be given to והתניא in MS.M.]

(17) Al. ‘Is the student to eat hot and I cold?’ V. Tosaf.

(18) Because she is not likely to put anything in her mouth.

(19) Because being clean she might inadvertently put untithed food in her mouth.

## Talmud - Mas. Gittin 62a

is likely to give her something which she may put in her mouth.' Seeing now that she [the wife of the 'am ha-arez] is capable of stealing,<sup>1</sup> will she not also exchange? — R. Joseph said; There too she finds an excuse [for stealing] by saying, The ox eats of his threshing.<sup>2</sup>

R. Jose b. ha-Meshullam testified<sup>3</sup> in the name of R. Johanan his brother who had it from R. Eleazar b. Hisma, that a hallah<sup>4</sup> is not to be set aside [by a baker haber] for an 'am ha-arez in ritual purity,<sup>5</sup> but [the baker] can make his ordinary dough<sup>6</sup> in ritual purity and take from it enough for a hallah and put it in a double basket<sup>7</sup> or on a tray,<sup>8</sup> and when the am ha-arez comes he can take both and [the baker] need not be afraid [that any harm will ensue].<sup>9</sup> Again, [olive pressers who are kabirim] should not set aside terumah from his olives in ritual purity,<sup>10</sup> but they can prepare his olives in ritual purity<sup>11</sup> and take from them sufficient for terumah, and put it in the vessels of a haber, and when the am ha-arez comes he can take both of them, and the others need not fear [lest harm should ensue]. Now what is the reason [for these concessions]? — R. Johanan said; To enable the baker and the olive presser to earn a livelihood. And both statements were necessary. For if I had been given only the one about the baker, I might have said that the reason [why the concession was made in his case] is because he does not earn much, and that this does not apply to an olive presser who gets a good wage. And again, if I had been given only the statement about the olive presser. I might have said that the reason is because he has not constant employment, and that this does not apply to a baker who has constant employment. Hence both were necessary.

The Master said above: 'He takes from it enough for a hallah and puts it in an inverted basket or on a tray. and when the 'am ha-arez comes he can take both and the other need not be afraid.' But he surely ought to be afraid that he has touched it? — We suppose that we say to him, Mind you don't touch it or it will become tebel<sup>12</sup> again. But he must be afraid that he will not listen to him? — Seeing that his whole object is to keep it right,<sup>13</sup> will he not then listen to him?

The Master said above; 'He can take from it sufficient for terumah and put it in the vessels of a haber, and when the 'am ha-arez comes, he can take both, and the other need not fear.' But surely he ought to be afraid lest he has touched it? In the other case, it is true, [we can find a reason why he should not], because it has some distinguishing mark,<sup>14</sup> but here what distinguishing mark is there? — That he puts it in a vessel made of baked ordure, of stone, or of earth. If that is so, why does it say. 'in vessels of a haber'? Those of an 'am ha-arez would do as well? — That in fact is what is meant; vessels of an 'am ha-arez which a haber can also use.<sup>15</sup>

ASSISTANCE MAY BE GIVEN TO HEATHENS IN THE SABBATICAL YEAR. Assistance may be given to them? Has not R. Dimi b. Shishna said in the name of Rab; It is not right to hoe with heathens in the Sabbatical year nor to give a double greeting<sup>16</sup> to heathens? — It is quite correct; what is meant is, just to say to them, Ahzuku!<sup>17</sup> Thus R. Judah used to say to them, Ahzuku! R. Shesheth used to say to them, Asharta!<sup>18</sup>

'Nor to give double greeting to heathens.' R. Hisda used to give them greeting first. R. Kahana used to say; Peace [to you,] sir. GREETING MAY BE GIVEN TO THEM, IN THE INTERESTS OF PEACE. Seeing that we may encourage them at their work, do we need to be told that we may give them greeting? — R. Yeba said; The rule had to be stated only for their feast days. For it has been taught; 'A man should not enter the house of a heathen on his feast day, nor give him greeting.<sup>19</sup> Should he meet him in the street, he should greet him in a mumbling tone and with downcast head.' As R. Huna and R. Hisda were once sitting together. Geniba<sup>20</sup> began to pass by. Said one to the other, Let us rise before him, since he is a learned man.<sup>21</sup> The other replied; Shall we rise before one who is quarrelsome? At this point he came up to them and said, Peace to you, kings, peace to you, kings. They said to him; Whence do you learn that the Rabbis are called kings? He



replied; Because it is written, By me [wisdom]<sup>22</sup> kings reign.<sup>23</sup> They then said; And whence do you learn that double greeting is to be given to kings? He replied; From what Rab Judah said in the name of Rab; 'How do we know that double greeting should be given to a king? Because it says, Then the spirit came upon Amasai who was chief of the thirty etc.<sup>24</sup> They said to him; Would you care for a bite with us? He replied; Thus said Rab Judah in the name of Rab; It is forbidden to a man to taste anything until he has given food to his beast, as it says [first]. And I will give grass in thy field for thy cattle, and then, Thou shalt eat and be full.<sup>25</sup> [

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- (1) By giving her something without her husband's permission.
  - (2) V. Deut. XXV, 4.
  - (3) V. supra 55a.
  - (4) V. supra p. 117, n. 6.
  - (5) Since the priest relying on the haber may think that it is clean, whereas the whole of the dough has already become unclean in the hands of the 'am ha-arez.
  - (6) Which does not become capable of ritual uncleanness till water has been poured on it, v. Lev. XI, 38.
  - (7) I.e., a basket with a horizontal partition in the middle and open at both ends.
  - (8) But not in the kind of receptacle ordinarily used for this purpose. V. infra.
  - (9) I.e., it will be quite safe for the priest to eat it.
  - (10) Lest the priest relying on them should think that they are clean, whereas they may have already become unclean through the touch of the 'am ha-arez.
  - (11) Before they were passed through the vat and so were not yet capable of becoming unclean.
  - (12) Produce from which the dues have not yet been separated. V. Glos.
  - (13) To have the hallah separated in such a way that it will be fit for the priest.
  - (14) Being put in an exceptional kind of vessel, so that he is likely to remember our warning.
  - (15) I.e., vessels which are not capable of receiving uncleanness.
  - (16) I.e., 'Peace, Peace.'
  - (17) Lit., 'be strong.' or 'be assisted' — a gesture of encouragement.
  - (18) Lit., 'firmness', 'strength'.
  - (19) Lest he might take it a; a compliment to his god.
  - (20) V. supra. p. 7, where it is stated that Geniba used always to annoy Mar 'Ukba.
  - (21) Lit., 'son of the law'.
  - (22) I.e., the Torah.
  - (23) Prov. VIII, 15.
  - (24) I Chron. XII, 19. The verse continues, Peace, peace be upon thee.
  - (25) Deut. XI, 15.

## **Talmud - Mas. Gittin 62b**

### CHAPTER VI

MISHNAH. IF A MAN SAYS [TO ANOTHER], RECEIVE THIS GET ON BEHALF OF MY WIFE, OR, CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT [BEFORE THE WIFE RECEIVES IT] HE MAY DO SO. IF A WOMAN SAYS [TO A MAN], RECEIVE MY GET ON MY BEHALF, [AND HE DOES SO]. IF [THE HUSBAND] DESIRES TO RETRACT HE IS NOT AT LIBERTY TO DO SO.<sup>1</sup> CONSEQUENTLY [WHAT IS THE HUSBAND TO DO?]<sup>2</sup> IF THE HUSBAND SAID TO HIM, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT ON HER BEHALF, BUT CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO.<sup>3</sup> R. SIMEON B. GAMALIEL SAYS: EVEN IF THE WIFE SAYS [MERELY]. TAKE FOR ME,<sup>4</sup> [AND HE DOES SO]. HE IS NOT AT LIBERTY TO RETRACT.

GEMARA. R. Aha the son of R. 'Awia said to R. Ashi: The reason why [in the first case the husband may retract] is because she [the wife] did not make [the man] her agent for receiving [the

Get], from which we infer that if she had made him the agent for receiving [the Get], the husband would not be at liberty to retract. This would show that 'convey' is equivalent to 'take possession of' [would it not]?<sup>5</sup> — No; I may still maintain that 'convey' is not equivalent to 'take possession',<sup>6</sup> and nevertheless it was necessary to specify the case where the husband said, Receive this Get on behalf of my wife.<sup>7</sup> For I might have argued that since the husband is not competent to make him an agent for receiving the Get,<sup>8</sup> therefore even if the Get reached her hand it would not be valid, and we are therefore told that in saying 'receive' he also implied 'and convey'.

We learnt: IF A WOMAN SAYS, RECEIVE A GET ON MY BEHALF, IF HE DESIRES TO RETRACT HE IS NOT AT LIBERTY TO DO SO. Does not this apply equally whether the husband [on handing the Get] used the expression of 'receiving' or of 'conveying'?<sup>9</sup> — No; only if he said 'receive'.<sup>10</sup> Come and hear: CONSEQUENTLY IF THE HUSBAND SAID TO HIM, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT ON HER BEHALF, BUT HERE, CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO. The reason is, is it not, that he Says. 'I am not agreeable', but if he does not say, 'I am not agreeable'. then if he desires to retract he may not do so, which would show that 'convey' 'is equivalent to 'take possession'? — Perhaps we should read, Here you are.<sup>11</sup>

It goes without saying that a man may be an agent for conveying the Get, seeing that a husband may himself convey a Get to his wife.<sup>12</sup> A woman may [similarly] be an agent for receiving, seeing that a woman receives a Get from the hand of her husband. What of a man becoming agent for receiving and a woman agent for conveying? — Come and hear: IF A MAN SAYS, RECEIVE THIS GET ON BEHALF OF MY WIFE OR CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT HE MAY DO SO. IF A WOMAN SAYS, RECEIVE MY GET ON MY BEHALF, IF HE DESIRES TO RETRACT HE MAY NOT DO SO. Does not this mean, where there is the same agent for both, which would show that the one who is qualified for conveying is also qualified for receiving? — No; we speak of two agents.

Come and hear; CONSEQUENTLY IF THE HUSBAND SAID TO HIM, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT ON HER BEHALF, BUT CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO. Now here he says this to the same agent [as she appointed], and this shows that he is qualified to receive as to convey. We can conclude from this that a man is qualified to receive, [as is also natural,] since a father may receive a Get on behalf of his minor daughter.<sup>13</sup> Whether a woman may become an agent for conveying is still a question. R. Mari said: Come and hear: 'Even the women whose word cannot be taken if they report her husband to be dead can be trusted to bring her her Get.'<sup>14</sup> 'and there they are agents for conveying. R. Ashi said: We could infer the same from the last clause [of that Mishnah], which runs, 'A woman herself may bring her Get, only she is required to declare, in my presence it was written and in my presence it was signed;' and we explained this to mean that she conveyed it.<sup>15</sup>

It has been stated: '[If a woman says to her agent]. Bring me my Get, and [he says to the husband]. Your wife said to me, Receive my Get on my behalf, and the husband said, Here you are as she said,' in such a case R. Nahman said in the name of Rabbah b. Abbahu, who had it from Rab, that even when the Get reached her hand it would not be valid.<sup>16</sup> From this we should conclude that the husband was relying on his [the agent's] word,<sup>17</sup> since if he was relying on the wife's word,<sup>18</sup> she would at any rate be divorced when the Get reached her hand. Said R. Ashi: Is that so?

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(1) The woman becomes divorced as soon as the Get came into the hands of her agent.

(2) In the latter case if he wants to retain the possibility of retracting.

(3) Because now he is no longer the wife's agent but his agent.

(4) Instead of 'receive for me'.

(5) For otherwise, the Get would still belong to the husband and he could withdraw it so long as it had not reached the

wife's hand, v. supra 14a.

- (6) And therefore the bearer is the husband's agent and not the wife's, and the husband may retract in any case.
- (7) From which we should naturally infer that the case dealt with is one where the wife did not make him her agent.
- (8) On the principle that a disadvantage cannot be imposed on a man without his consent.
- (9) And if he used the latter, this would show that 'convey' is equivalent to 'take possession of'.
- (10) In which case the bearer still remains the agent of the wife.
- (11) **הוֹלֵךְ**, instead of **הוֹלֵךְ** 'take'. By saying 'here you are', he accepts the man as the agent of the wife.
- (12) And whatever a man may do his agent may do for him.
- (13) V. Keth. 46b.
- (14) Supra 24b.
- (15) Ibid. and 5a.
- (16) Because the wife had not made him an agent for receiving the Get and the husband had not made him an agent for taking the Get.
- (17) I.e., he really supposed the wife to have told the agent to receive the Get.
- (18) That is to say, if he had allowed for the possibility of his wife having told the agent to bring the Get, and had accordingly made him his agent for conveying it.

### **Talmud - Mas. Gittin 63a**

I grant you that if the statement had been in the reverse form, thus, '[If the wife said]. Receive my Get on my behalf, and [he said], Your wife told me to bring it, and the husband says. Here you are as she said,' and if R. Nahman had said in the name of Rabbah b. Abbuha in the name Rab, 'Once the Get comes into his hand, she is divorced,' then I could infer that he relies upon her word;<sup>1</sup> or again, if he had said, '[Once the Get reaches] her hand [she is divorced]', I could have inferred that the husband relies upon the agent's word.<sup>2</sup> As it is, however, the reason why [the Get is not valid] is because the agent completely nullified his agency by saying 'I am willing to be an agent for receiving and not for conveying'.<sup>3</sup>

R. Huna b. Hiyya said [in refutation of R. Nahman]: Come and hear: IF A MAN SAYS, RECEIVE THIS GET ON BEHALF OF MY WIFE, OR, CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT HE MAY DO SO. The reason [why the Get is not effective] is that he desires to do so; if he does not [and lets the Get reach her], the Get is valid. Now why should this be, seeing that the husband is not competent to appoint an agent for receiving the Get? The reason must be because we say that once he has made up his mind to divorce her, he says to himself, Let her be divorced in any way possible.<sup>4</sup> So here also, since he made up his mind to divorce her, he says to himself, Let her be divorced in any way possible?<sup>5</sup> — Are the two cases comparable? In that case [of the Mishnah], a man knows that he cannot appoint an agent for receiving the Get and decides to give it to the agent for the purpose of conveying; but here he gives it under a misapprehension.<sup>6</sup>

Raba said: Come and hear: If a girl under age said, Receive my Get on my behalf, it is not effective until it reaches her hand.<sup>7</sup> Now at any rate [according to this] when it reaches her hand she is divorced, and yet why should this be, seeing that the husband did not make him an agent for conveying?<sup>8</sup> We say however, that since the husband made up his mind to divorce her, he says to himself, Let her be divorced in any way possible;<sup>9</sup> so here, since he made up his mind to divorce her, he says, Let her be divorced in any way possible?<sup>10</sup> — But are these two cases comparable? There, a man knows that a minor cannot appoint an agent, and therefore he decides to give it to the agent for the purpose of being conveyed on his own behalf; but here he gives it under a misapprehension.

Come and hear: [If a woman says to an agent], Bring me my Get, and [the agent says to the husband], Your wife told me to receive her Get for her, or if the wife says, Receive my Get for me, and he says, Your wife told me to bring her Get, and the husband says to him, Convey and give it to her, take possession on her behalf and receive on her behalf, if he desires to retract he may do so, but

once the Get reaches her hand she is divorced.<sup>11</sup> Now does not here the husband's saying 'receive' correspond to the agent's saying 'receive', and the husband's saying 'convey' to the agent's saying 'convey'?<sup>12</sup> — No; 'receive' corresponds to 'bring' and convey' to 'receive'.<sup>13</sup> If 'receive' corresponds to 'bring', then [if the husband relies on the wife's word] the Get should be effective as soon as it comes into the agent's hand;<sup>14</sup> [and since this is not so] it shows that he relies on his word?<sup>15</sup> — How can you say so? In that case<sup>16</sup> he says to him, 'Here you are, as she said';<sup>17</sup> in this case does he say, 'Here you are as she said'?<sup>18</sup>

Our Rabbis taught: [If a woman says to an agent], Receive my Get for me, and [he says to the husband], Your wife told me to receive her Get for her, and the husband says, Convey it and give it to her, take possession of it on her behalf, or receive it on her behalf, if he desires to retract he is not at liberty to do so.<sup>19</sup> R. Nathan says: If he says, Convey and give it to her, he can retract,<sup>20</sup> but if he says, Take possession of it and receive it for her, he cannot retract. Rabbi says, [If he uses] any of these formulas he cannot retract, but if he says, I am not agreeable that you should receive for her, but convey it and give it to her, then if he desires to retract he may do so.<sup>21</sup> Does not Rabbi merely repeat the first Tanna?<sup>22</sup> — If you like I can say that [he did so because] he desired to add the clause about not being agreeable, or if you like I can say that the repetition is meant to inform us that the first Tanna is Rabbi.

The question was raised: According to R. Nathan, is 'here you are' equivalent to 'take possession' or not? Come and hear: IF A MAN SAYS, RECEIVE THIS GET ON BEHALF OF MY WIFE OR CONVEY THIS GET TO MY WIFE, IF HE DESIRES TO RETRACT HE MAY DO SO. IF A WOMAN SAYS, RECEIVE A GET ON MY BEHALF, IF HE DESIRES TO RETRACT HE IS NOT AT LIBERTY TO DO SO.

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(1) Because if he had taken the agent's word that she told him to bring it, she would not be divorced even when it came into her hand.

(2) And so makes him an agent for conveying it.

(3) And so when the husband says, 'here you are as she said,' he cannot become his agent [or conveying either. For fuller notes v. B.M. (Sonc. ed.) pp. 440ff

(4) And when he says 'receive' he implies also 'convey'.

(5) And similarly, once the Get has reached her, he makes the wife's agent retrospectively his agent for conveying.

(6) Thinking that the wife has appointed him her agent for receiving when she has not.

(7) V. infra 65a.

(8) And the girl being a minor has no power to make him an agent for receiving.

(9) I.e., he makes him his agent nor conveying retrospectively.

(10) This refutes R. Nahman.

(11) V. Tosef. Git. IV.

(12) [I.e., we suppose that if the agent says he was appointed to receive, the husband says to him 'receive', and if he says he was appointed to bring, the husband says to him 'convey'. The fact that in the former case when the Get reaches her hand she is divorced show's that though the woman had appointed him to bring it to her, when the husband says receive' this is equivalent to 'convey'; all the more so then is the divorce valid if he says, 'here it is as she said'. This refutes R. Nahman.]

(13) And we suppose the husband to be relying on the wife's word, who made him in the first case an agent for receiving and in the second an agent for bringing, and for this reason the woman becomes divorced at least when the Get reaches her hand.

(14) Because the wife made him agent for receiving.

(15) [That he was made by the woman an agent for bringing and when the husband says 'receive' he means 'receive and convey', as inferred supra in the hypothetical case posited by R. Ashi.]

(16) The case posited by R. Ashi.

(17) [Which on the statement of the agent makes him an agent for conveying, and should we decide, in that case, that the woman is divorced on receiving the Get, this will prove that he relies on the agent's word.]

(18) [The husband merely says 'take possession on her behalf' or receive on her behalf', which can only be taken in conjunction with the statement of the agent who said that he was appointed agent for bringing. Had, however, the husband said 'here you are as she said', the divorce, it might indeed be said, would become immediately effective, the husband relying on her word.]

(19) 'Convey' being equivalent to 'take possession of', so that as soon as it comes into the agent's hand it is effective.

(20) 'Convey' not being regarded as equivalent to 'take possession of'.

(21) V. Tosef. Git. IV.

(22) In the first part of his statement.

## Talmud - Mas. Gittin 63b

Does not this mean, if he said, 'here you are',<sup>1</sup> the opinion recorded being that of R. Nathan?<sup>2</sup> — No; It means, if he said 'convey',<sup>3</sup> the opinion recorded being that of Rabbi.

Come and hear: CONSEQUENTLY IF THE HUSBAND SAID, I AM NOT AGREEABLE THAT YOU SHOULD RECEIVE IT FOR HER, BUT CONVEY IT AND GIVE IT TO HER, THEN IF HE DESIRES TO RETRACT HE MAY DO SO. Now the reason why he may retract is because he said, I am not agreeable etc., and if he did not say so he may not retract. Does not this mean, after he says, 'Here you are', the opinion recorded being that of R. Nathan? — No; it means [even] after he says, 'Convey', the opinion recorded being that of Rabbi.

Come and hear: '[If a man says], Convey this Get to my wife, if he desires to retract he may do so, but if he says, Here is<sup>4</sup> this Get for my wife, if he desires to retract he may not do so.' What authority do you find for the view that if the husband says 'convey' he is at liberty to retract? R. Nathan; and he lays down that if the husband says 'here you are' he is not at liberty to retract. This proves conclusively that 'here you are' is [according to R. Nathan]<sup>5</sup> equivalent to 'take possession'.

It has been stated: [If the wife says], Receive my Get for me, and [the agent says to the husband], Your wife told me to receive her Get for her, and the husband says, Convey and give it to her, R. Abba said in the name of R. Huna, who had it from Rab, that he becomes both her agent and his agent, and [in case of need]<sup>6</sup> she must perform halizah.<sup>7</sup> This would seem to show that Rab was in doubt whether 'convey' is equivalent to 'take possession' or not.<sup>8</sup> Yet how can this be, seeing that it has been stated: [If a man says], Take this maneh to so-and-so to whom I owe it, Rab says that he is responsible for it [till it is delivered]<sup>9</sup> and he cannot retract?<sup>10</sup> — [There is still a doubt, but] in that case the doubt concerns the ownership of money, and Rab takes the more lenient view,<sup>11</sup> in this case it concerns a religious offence<sup>12</sup> and he takes the more stringent view.

Rab said: A woman cannot appoint an agent to receive her Get from the agent of her husband. R. Haninah, however, said that a woman may appoint an agent to receive her Get from the agent of her husband. What is Rab's reason? — If you like I can say, to avoid showing contempt for the husband, and if you like I can say, because of [the resemblance of the agent to] a courtyard which comes [in to her possession] subsequently.<sup>13</sup> What difference does it make in practice which reason we adopt? — The difference arises in the case where she had appointed her agent first.<sup>14</sup>

A certain man sent a Get to his wife, and the bearer found her kneading [flour]. He said to her, Here is your Get. She replied You take it.<sup>15</sup> R. Nahman thereupon said: If [I knew that] R. Haninah is right. I would count this a valid Get. Said Raba to him: And even if R. Haninah is right, would you count this valid? There has been no time for the agent to return to the husband [and report]?<sup>16</sup> They sent to consult R. Ammi,<sup>17</sup> and he replied: The husband's commission has not been performed.<sup>18</sup> R. Hiyya b. Abba, however, said: We must consider the matter. They again sent to consult R. Hiyya b. Abba.<sup>17</sup> He said: How many more times will they send? Just as they are unable to decide, so we are unable to decide. The danger of forbidden relationship,<sup>19</sup> is involved, and wherever a sex prohibition

is involved, the woman must perform halizah.<sup>20</sup> In a case which actually happened, R. Isaac b. Samuel b. Martha declared both a new Get and halizah to be required. [Why] both? — A Get [if she desired to marry while the husband] was alive, and halizah [if she wanted to marry] after his death.

There was a certain woman named Nafa'atha, and the witnesses to the Get<sup>21</sup> wrote it Tafa'atha. R. Isaac b. Samuel b. Martha thereupon said in the name of Rab: The witnesses have discharged their commission.<sup>22</sup> Rabbah strongly demurred to this, saying. Did the husband say to them, Write out a piece of clay and give it to her? No, said Rabbah. [This is not so,] but in truth, if the witnesses had written a proper Get and it had been lost [before being given to her], then we should say that they had discharged their commission. R. Nahman strongly demurred to this, saying: Did he say, Write it and put it in your bag?<sup>23</sup> The fact is, said R. Nahman, that the Get can be written and given a hundred times [till it comes right].

Raba inquired of R. Nahman: If a man said [to the witnesses], Write [the Get] and give it to a bearer, how do we decide? Have they been discharged,<sup>24</sup> or did he merely want to save them trouble? Rabina asked R. Ashi: Suppose he adds the words, 'And let him take it,' what do we say? — These questions can stand over.

R. SIMEON B. GAMALIEL SAID: EVEN IF THE WIFE SAYS [MERELY] 'TAKE FOR ME' [AND HE DOES SO], HE IS NOT AT LIBERTY TO RETRACT.

Our Rabbis taught: 'Take for me, carry for me,' 'keep for me'<sup>25</sup> are all equivalent to receive.

MISHNAH. A WOMAN WHO SAYS [TO AN AGENT] 'RECEIVE MY GET FOR ME' REQUIRES TWO SETS OF WITNESSES, TWO [WITNESSES] TO SAY, IN OUR PRESENCE SHE TOLD HIM, AND TWO TO SAY, IN OUR PRESENCE HE RECEIVED [THE GET] AND TORE IT.<sup>26</sup> IT IS IMMATERIAL IF THE FIRST SET ARE IDENTICAL WITH THE LAST

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(1) הִיָּךְ .

(2) Who would accordingly hold that 'here you are' is equivalent to 'take possession'.

(3) הוֹלֵךְ .

(4) Lit., 'here you are'.

(5) And a plus forte raison according to Rabbi.

(6) I.e., if the husband dies childless before she receives the Get.

(7) But must not marry the husband's brother, because it is doubtful whether she was not divorced before the husband's death, (v. Glos.).

(8) If it is equivalent to 'take possession', the man is still agent for the wife, and the Get is valid as soon as it comes into his hands.

(9) Because the creditor did not tell him to send it.

(10) Which would show that 'convey' is equivalent to 'take possession'; v. supra 14a.

(11) I.e., the one more favourable to the recipient.

(12) The possibility of a man marrying the divorced wife of his brother.

(13) After the Get had been placed in it. A Get must either be given into a woman's hand or placed in property belonging to her, (v. infra 77a). If the husband threw the Get into a courtyard not belonging to the wife and it subsequently came into her possession while the Get was still there, the Get is not valid. There is a certain analogy between this and the wife appointing an agent to receive from the husband's agent, so that if the latter were permitted, people might think that the former was also permitted. v. supra p. 95, n. 9,

(14) There is now no analogy with the courtyard. but the reason of contempt still applies.

(15) Lit., 'let it be in your hand', i.e., she appointed him her agent for receiving it.

(16) V. supra p. 95, n. 3, And consequently the second agency nullifies the first.

(17) In Palestine.

(18) Lit., 'the agency has not returned to the husband'.

- (19) Viz., of a man marrying his brother's divorcee.  
 (20) And not marry the husband's brother.  
 (21) Who were commissioned to write and deliver it.  
 (22) After delivering it to her, and have no power to make out a new, and proper Get.  
 (23) So that it should not be lost.  
 (24) And if the bearer loses it they must not write another,  
 (25) Lit., 'let it be for me in thy hand.'  
 (26) The point of this is discussed in the Gemara.

## **Talmud - Mas. Gittin 64a**

OR IF THERE WAS ONE MAN IN THE FIRST SET AND ONE IN THE SECOND AND THE SAME MAN JOINED WITH BOTH OF THEM.

GEMARA. It has been stated: If the husband says, [I gave you the Get] in deposit, and the depository says, [You gave it to me] to divorce [your wife with], which is to be believed? — R. Huna said: The husband's word is to be taken. R. Hisda said: The depository's word is to be taken. R. Huna said the husband's word is to be taken, because if he had meant to give it to him for divorcing the wife, he would have given it to the wife herself.<sup>1</sup> R. Hisda said the depository's word is to be taken, because we see that the husband trusted him.

R. Abba raised an objection against R. Huna from the following: 'The admission of the litigant is equivalent to the testimony of a hundred witnesses, and the depository is more credible than either litigant. If, for instance, one says one thing and one another, the depository's word is to be taken'?<sup>2</sup> — Money is different, because the claim to it can be waived.<sup>3</sup> But it is taught [in the passage cited], 'And so with gittin'?<sup>4</sup> — This refers to money gittin.<sup>5</sup> But it is taught [in the passage cited]: 'And so with shetaroth'?<sup>6</sup> — Were they both taught together?<sup>7</sup>

We have learnt: A WOMAN WHO SAYS [TO AN AGENT] 'RECEIVE MY GET FOR ME' REQUIRES TWO SETS OF WITNESSES, TWO TO SAY, IN OUR PRESENCE SHE TOLD HIM, AND TWO TO SAY, IN OUR PRESENCE HE RECEIVED AND TORE IT. Why so? Cannot we take the word of the depository?<sup>8</sup> — Does he produce the Get that we should take his word?<sup>9</sup> This explains why witnesses are required for the telling. Why are they required for the receiving?<sup>10</sup> Rabbah replied: Who is the authority for this? R. Eleazar, who held that the witnesses to the delivery [of the Get] make it effective. Why must he tear it? — R. Judah answered in the name of Rab: This was taught in the time of the persecution.<sup>11</sup> Rabbah said: R. Huna admits that if the wife says, The depository told me that he gave it to him to divorce with, her word is to be taken. [How can this be?] Is there any statement which we would not accept from the depository himself and yet we would accept from her on his behalf? — What it should be is: If she said, in my presence he gave it to him to divorce me with, her word is taken, because if she liked she could have said that he gave it to her direct.<sup>12</sup>

If the husband says [that he gave it to the depository] to divorce with, and the depository says [it was given] to divorce with, and the wife says, He gave it to me but it has been lost, R. Johanan says: This is a statement bearing on forbidden relationships, and a statement bearing on a forbidden relationship must be substantiated by not less than two witnesses. But why so? Why not believe the depository? — Is he able to produce the Get that we should believe him? Then let us believe the husband, in accordance with what R. Hiyya b. Abin said in the name of R. Johanan: If a husband says, I have divorced my wife, his word can be taken? — Does he here say, I have divorced her?<sup>13</sup> Then let us say that the presumption is that the agent carries out his commission, since R. Isaac has said: If a man says to his agent, Go and betroth for me any woman you please,<sup>14</sup> and the agent dies, the man is forbidden to marry any woman in the world,<sup>15</sup> because the presumption is that the agent

carries out his commission?

- (1) We presume that they are all in the same town.
- (2) Kid. 65b; B.M. 3b.
- (3) And by trusting the depository, we maintain that the claimant waived his claim to the money, since if he likes he can make a present of the money to whomsoever he wishes, but he cannot make a present of his wife to another man.
- (4) Which usually means bills of divorce,
- (5) V. Glos. s.v. Get,
- (6) Another word for documents', Since these must refer to money, it would seem that the gittin mentioned above do not refer to money.
- (7) They are separate Baraithas and the two words are used by two different authorities, but in the same sense.
- (8) I.e., the agent.
- (9) Having torn the Get (v. infra) he is no longer in a position to deliver it to her and therefore his word is not to be taken.
- (10) Seeing that he himself produces the Get in our presence.
- (11) Lit 'the decree', forbidding the Jews to practise their religion. [V. Tosef. Keth. IX. Jew's were deprived of the right to draft their own legal documents after the War 70, and also during the Hadrianic persecutions. V. Blau, L. Ehescheidung, II pp. 58ff.]
- (12) And the rule is that we believe a plea where a stronger one could equally well have been adduced without fear of contradiction.
- (13) He appointed an agent to hand it over to her.
- (14) Lit., 'unspecified'.
- (15) Lest she should be of a prohibited degree of consanguinity with the woman whom the agent betrothed, v. Nazir 12a.

### **Talmud - Mas. Gittin 64b**

— That is so where [it has the effect of making the law] more stringent, but not where [it makes it] more lenient.<sup>1</sup> Then let us believe the woman herself, in accordance with R. Hamnuna; for R. Hamnuna said: If a woman says to her husband, You have divorced me, her word is taken, since the presumption is that a woman would not have the impudence to say this in the face of her husband [if it were not true]? — That is so where she has no confirmation; but where she has some confirmation,<sup>1</sup> she certainly would not shrink from doing so.

MISHNAH. IF A YOUNG GIRL<sup>2</sup> IS BETROTHED,<sup>3</sup> BOTH SHE AND HER FATHER MAY RECEIVE HER GET.<sup>4</sup> R. JUDAH, HOWEVER, SAID THAT TWO [DIFFERENT] HANDS CANNOT TAKE POSSESSION TOGETHER: HER FATHER ALONE MAY RECEIVE HER GET. ONE WHO IS NOT ABLE TO KEEP HER GET IS NOT CAPABLE OF BEING DIVORCED.<sup>5</sup>

GEMARA, What is the difference in principle [between the Rabbis and R. Judah]? — The Rabbis held that the All-Merciful conferred upon her an extra hand, whereas R. Judah held that where her father can act, her own hand counts as nothing.

ONE WHO IS NOT ABLE TO KEEP HER GET, etc. Our Rabbis taught: A child<sup>6</sup> who knows how to keep her Get can be divorced, but if she does not know how to keep her Get she cannot be divorced. Whom do we mean by a child who knows how to keep her Get? One who keeps her Get and something else. What is the meaning of this? — R. Johanan said: It means, one who keeps something else in place of her Get.<sup>7</sup> R. Huna b. Manoah strongly demurred to this, saying, Such a one is a mere idiot? No, said R. Huna b. Manoah, quoting R. Aha the son of R. Ika: It means one who can distinguish between her Get and another object.

Rab Judah said in the name of R. Assi: [A child which if offered] a stone throws it away [but if



offered] a nut takes it becomes possessor of anything given to itself<sup>8</sup> but not [of anything given to it to give] to another.<sup>9</sup> [If when given] an article [to play with] it will return it after a time [when asked], it can become possessor either for itself or for others. When I stated this in the presence of Samuel, he said to me, Both cases are just the same. What is the meaning of ‘both cases are just the same’? — R. Hisda replied: In either case the child becomes possessor for itself but not for others. R. Hinnena Waradan<sup>10</sup> raised an objection: How can [all the residents]<sup>11</sup> become partners in an alley-way?<sup>12</sup> One of them places a jar of wine there, saying, This is for all the residents of the alley-way, and he may confer possession upon them through his grown-up son or daughter or through his Hebrew manservant or maidservant. Now how are we to understand this maidservant? If she has grown two hairs,<sup>13</sup> what is she doing with him?<sup>14</sup> We must suppose therefore that she has not yet grown two hairs, and yet we are told that she can take possession on behalf of others?<sup>15</sup> — The case of partnership in an alley-way is different, because [the prohibition of taking things out there] is only Rabbinical.<sup>16</sup> R. Hisda said: Waradan was reduced to silence. What could he have answered? — [He could have said that] the Rabbis gave to their regulations

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(1) As here.

(2) A Na'arah, v. Glos. From twelve years and a day to twelve and a half years plus one day.

(3) V. Glos. s.v. Erusin.

(4) [I.e., either she or her father, so Rashi, Being a na'arah (v. Glos.), she is no longer a minor and therefore is competent to receive her Get. Her father, however, still retains the right since she is still under his authority. As to a minor, i.e., who has not reached 12 years and one day, opinions differ: Rashi does not declare her competent to receive her Get, where she has a father, whereas Tosaf, (s.v. נערה) holds that there is no difference in this respect between a na'arah and a minor, na'arah being specified in the Mishnah to emphasise the extreme view of R. Judah.]

(5) She being still strictly speaking a minor. For the reason v, infra. [Here too opinions differ, Rashi: not even if her father receives the Get on her behalf, whereas Rabbenu Tam allows her divorce to be effected through her father, v. Tosaf.]

(6) Less than twelve years and one day.

(7) If the Get should be lost.

(8) So that the donor cannot take it back.

(9) And the donor can take it back.

(10) [I.e., from Baradan, on the Eastern bank of the Tigris, two hours distance from N. of Bagdad (Obermeyer op. cit. p. 269)].

(11) In the courts abutting on an alley-way.

(12) So as to be allowed to carry articles into it and through its whole extent on Sabbath, v. 'Er. 73b.

(13) I.e., reached the age of puberty.

(14) Since it is his duty to emancipate her.

(15) Which seems to refute the dictum of Samuel.

(16) And therefore it does not matter if she did not strictly obtain possession.

## Talmud - Mas. Gittin 65a

the force of rules of the Torah. What could the other say to this? — That the Rabbis gave to their regulations the force of rules of the Torah in matters which have some basis in the Torah, but not in a matter which has no basis in the Torah.<sup>1</sup>

R. 'Awia raised an objection: What device may be adopted [to avoid paying an extra fifth]<sup>2</sup> for second tithe? A man can say to his grown-up son and daughter, or to his Hebrew manservant or maidservant, Take this money and redeem with it this second tithe.<sup>3</sup> Now how are we to understand this maidservant? If she has grown two hairs, how comes she to be with him? We must say, therefore, that she has not grown two hairs?<sup>4</sup> — We are speaking here of tithe in the present epoch,<sup>5</sup> which is Rabbinical. But is the rule regarding a Hebrew maidservant in force in the present epoch? Has it not been taught: ‘The laws relating to a Hebrew servant are in force only when the Jubilee is

observed'? — We must therefore say that [it refers to tithe from] a pot which has no hole at the bottom,<sup>6</sup> [the rule regarding] which is Rabbinical.<sup>7</sup>

Raba said: There are three grades in a child.<sup>8</sup> [If on being given] a stone he throws it away but [on being given] a nut he takes it, he can take possession for himself but not for others. A girl of corresponding age can be betrothed so effectively as not to be released [on becoming of age] without definitely repudiating the betrothal.<sup>9</sup> Pe'utoth<sup>10</sup> can buy and sell movables with legal effect, and a girl of the corresponding age can be divorced from a betrothal contracted by her father.<sup>11</sup> When they reach the age at which vows are tested,<sup>12</sup> their vows and their sanctifications are effective, and a girl of corresponding age performs halizah.<sup>13</sup> The [landed] property of his [deceased] father, however, he cannot sell till he is twenty.

MISHNAH. IF A YOUNG GIRL<sup>14</sup> SAYS [TO AN AGENT], RECEIVE MY GET FOR ME, IT IS NO GET TILL IT REACHES HER HAND. CONSEQUENTLY IF [THE HUSBAND] WISHES TO RETRACT HE IS [TILL THEN] AT LIBERTY TO RETRACT, SINCE A MINOR CANNOT APPOINT AN AGENT. IF HER FATHER SAID TO HIM, GO AND RECEIVE MY DAUGHTER'S DIVORCE FOR HER, THE HUSBAND [AFTER GIVING IT TO HIM] IS NOT AT LIBERTY TO RETRACT.<sup>15</sup> IF A MAN SAYS, GIVE THIS GET TO MY WIFE IN SUCH-AND-SUCH A PLACE AND HE GIVES IT TO HER IN AN OTHER PLACE, [THE GET IS] INVALID.<sup>16</sup> [IF HE SAYS,] SHE IS IN SUCH-AND-SUCH A PLACE, AND HE GIVES IT TO HER IN ANOTHER PLACE, [IT IS] VALID. IF A WOMAN SAYS, RECEIVE MY GET IN SUCH-AND-SUCH A PLACE AND HE RECEIVES IT FOR HER IN ANOTHER PLACE, [IT IS] INVALID. R. ELEAZAR,<sup>17</sup> HOWEVER, DECLARES IT VALID. [IF HE SAYS,] BRING ME MY GET FROM SUCH-AND-SUCH A PLACE AND HE BRINGS IT FROM SOMEWHERE ELSE, [IT IS] VALID.

GEMARA. Why does R. Eleazar make a distinction between the first ruling,<sup>18</sup> which he does not dispute and the second ruling, which he does dispute? — The husband who divorces of his own free will, [when he specifies the place] is particular;<sup>19</sup> the wife, who is divorced willy-nilly, [when she specifies the place] is merely giving a direction.<sup>20</sup>

MISHNAH. [IF A WOMAN SAYS TO AN AGENT], BRING ME MY GET, SHE MAY EAT TERUMAH<sup>21</sup> TILL THE GET REACHES HER HAND. [IF, HOWEVER, SHE SAYS,] RECEIVE FOR ME MY GET, SHE IS FORBIDDEN TO EAT TERUMAH IMMEDIATELY.<sup>22</sup> [IF SHE SAYS,] RECEIVE FOR ME MY GET IN SUCH-AND-SUCH A PLACE, SHE CAN EAT TERUMAH TILL THE GET REACHES THAT PLACE. R. ELEAZAR<sup>23</sup> SAYS THAT SHE IS FORBIDDEN IMMEDIATELY.

GEMARA [Although he receives the Get in another place] nevertheless [you say here] that it is a Get, whereas previously<sup>24</sup> it was stated that it would not be a Get?<sup>25</sup> — This ruling applies to a case where, for instance, she said, Receive my Get for me in Matha Mehasia,<sup>26</sup> but sometimes you may find him in Babylon.<sup>27</sup> What she means therefore is, Take it from him wherever you find him,

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(1) Like that of carrying from one domain into another in an alley-way.

(2) The rule was that if a man redeemed his second tithe (which otherwise had to be taken to Jerusalem), he had to add a fifth to its value, but not if he redeemed someone else's.

(3) So as to give it back to him. Our texts add here in brackets the words, 'And he eats it without adding a fifth.' V. M.Sh. IV, 4.

(4) And yet she can take possession of the tithe on his behalf, which seems to refute Samuel.

(5) Since the destruction of the Temple.

(6) So that the earth in it is not attached to the soil.

(7) Even in the epoch of the Jubilee.

- (8) In case of a boy, under thirteen years and one day.
- (9) Mi'un, the refusal of a woman to continue the work contracted by her, a fatherless girl, during her minority. Such a refusal annuls the marriage, but if she is betrothed at a younger age, the betrothal automatically lapses on her becoming of age.
- (10) Young children from six to eight or nine, according to their intelligence. V. supra 59a.
- (11) I.e., if she is an orphan she can receive the divorce herself.
- (12) In the case of a boy, at twelve years and one day, and eleven years and one day with a girl. If they make a vow at this age, they are examined to see whether they understand the nature of their vow.
- (13) If the brother of her betrothed dies without children.
- (14) A ketannah. Less than twelve years and a day old.
- (15) And the Get is effective as soon as it comes into his hand.
- (16) For the reason, v. infra.
- (17) Var. lec. R. Eliezer.
- (18) That if the husband told him to give the Get in one place and he gave it in another, it is invalid.
- (19) Because he does not want himself to be talked about in another place.
- (20) And similarly if the husband says, She is in such-and-such a place.
- (21) V. Glos. If she is the wife of a priest.
- (22) Because the Get becomes effective as soon as it reaches his hand, and he may meet the husband soon after he leaves her.
- (23) Var. lec. R. Eliezer.
- (24) In the preceding Mishnah.
- (25) According to the Rabbis.
- (26) A suburb of Sura.
- (27) In the neighbourhood of Sura, v. supra p. 17, n. 3.

## **Talmud - Mas. Gittin 65b**

but it will not be a Get till you come to Matha Mehasia.

R. ELEAZAR SAYS THAT SHE IS FORBIDDEN IMMEDIATELY. This is self-evident, [is it not,] since she is only giving him a direction [to find the husband]? — The statement was required for the case where she said to him, 'Go to the east because he is in the east', and he went to the west. You might argue in that case that [as] he is certainly not in the west [she should be permitted to eat the terumah]. We are therefore told that while going in that direction he may still come across him, and he may give him the Get.

If a man said to his agent, Make me an 'erub<sup>1</sup> with dates and [the other] made an 'erub with figs, or [if he told him to make] with figs and he made with dates, one [Baraita] taught that the 'erub is effective, while another taught that it is not effective. Rabbah said: This need cause no difficulty: the one [Baraita] follows the Rabbis and the other follows R. Eleazar. The one follows the Rabbis, who said [in the case of the Get] that [the wife] is particular. The other follows R. Eleazar, who said that she merely gives him a direction.<sup>2</sup> R. Joseph, however, said: Both [Baraitas] follow the Rabbis; the one [who says that the 'erub is effective] means, when the fruit is his own,<sup>3</sup> the other, when it is someone else's.<sup>4</sup> Said Abaye to him: But what will you make of the following that has been taught: 'If a man says to his agent, Make me an 'erub in a tower,<sup>5</sup> and he made one in the dovecote, or if he told him to make in the dovecote and he made it in the tower,' in regard to which it was taught by one [Baraita] that his 'erub is effective and by another that it is not? In that case what difference does it make whether it is his own or his neighbour's?<sup>6</sup> — There too there is [a difference between] the fruit of the tower and the fruit of the dovecote.<sup>7</sup>

MISHNAH. IF A MAN SAYS, 'WRITE A GET AND GIVE IT TO MY WIFE, DIVORCE HER,'<sup>8</sup> 'WRITE A LETTER AND GIVE HER,' THEN THOSE SO INSTRUCTED SHOULD

WRITE AND GIVE HER.<sup>9</sup> IF HE SAID, 'RELEASE HER', 'PROVIDE FOR HER', 'DO THE CUSTOMARY<sup>10</sup> THING FOR HER', 'DO THE PROPER THING FOR HER', HIS WORDS ARE OF NO EFFECT.<sup>11</sup>

GEMARA. Our Rabbis taught: [If he said], 'Send her away,'<sup>12</sup> 'Let her go,'<sup>13</sup> 'Drive her out,' then they should write and give her. If he said, 'Release her,' 'provide for her,' 'Do the customary thing for her,' 'Do the proper thing for her,' his words are of no effect. It has been taught: R. Nathan said: If he said, 'Patteruha,' his words take effect; if he said 'Pitruha', his words are of no effect.<sup>14</sup> Raba said: R. Nathan being a Babylonian distinguishes between pitruha and patteruha, but our Tanna being from Eretz Yisrael does not distinguish.<sup>15</sup>

The question was raised: If he said, 'Put her out,' what is the law?<sup>16</sup> If he said 'Izbuha',<sup>17</sup> what is the law? If he said, 'Hattiruha,'<sup>18</sup> what is the law? If he said, 'Let her be,' what is the law? If he said, 'Confer a benefit on her,' what is the law? If he said, 'Do to her according to the law,' what is the law? — One of these questions may at any rate be answered, since it has been taught: If a man says, 'Do to her according to the law,' 'Do to her the proper customary thing,' 'Do to her the proper thing,' his words are of no effect.

MISHNAH. ORIGINALLY THEY LAID DOWN THAT IF A MAN WAS BEING LED OUT TO EXECUTION<sup>19</sup> AND SAID, WRITE A GET FOR MY WIFE,<sup>20</sup> THEY MAY WRITE AND GIVE [IT TO HER].<sup>21</sup> LATER THEY ADDED, ALSO IF HE WERE LEAVING FOR A SEA VOYAGE OR FOR A CARAVAN JOURNEY. R. SIMEON SHEZURI SAID, ALSO IF HE WERE DANGEROUSLY ILL.

GEMARA. Geniba was being led out to execution. On his way out he said, Give four hundred zuz to Rabbi Abina of the wine [which I have] of Neharpania.<sup>22</sup> Said R. Zera:

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- (1) I.e., place some food two thousand cubits from the town boundary. V. Glos.
  - (2) So here, in saying 'dates' he merely meant some kind of fruit.
  - (3) As in that case the Rabbis would admit that he is not particular.
  - (4) Who allowed him specifically to use one kind and not the other.
  - (5) Meaning presumably that he told him to place it in the tower at the end of two thousand cubits from the town boundary.
  - (6) I.e., even if it is his neighbour's, can we suppose that he will be particular?
  - (7) The reference is not to the place where the 'erub is to be placed but from where to take the fruit for the 'erub. And if the fruit was his neighbour's, he might be particular.
  - (8) Lit., 'drive her out'.
  - (9) Because the word 'Get' has in popular usage become synonymous with a bill of divorce. Similarly the word 'driving out' (gerushin) is commonly used for divorce, while the name 'letter' is applied to the Get in the document itself.
  - (10) GR. \*\* .
  - (11) Because all these expressions can apply to other things equally with divorce.
  - (12) This is the biblical expression, Deut. XXIV, 1.
  - (13) Shabkuha. This expression is also found in the Get.
  - (14) Patteruha is the imperative pa'el of the Aramaic word petar, one of the meanings of which is 'to divorce'. Pitruah is the imperative kal of the Hebrew word patar which means 'to declare quit' from a liability (Rashi) v. next note.
  - (15) And he would take patteruha to be the imperative pi'el of the Hebrew word patar, with the same meaning as the kal (Rashi).
  - (16) The doubt arises because we find in the Scripture the expression 'and she go forth from his house'.
  - (17) The Hebrew equivalent of the Aramaic word Shabkuha (let her go) which above was declared to be legitimate.
  - (18) Which might either mean 'make her permitted to all other men,' and so would be legitimate, or 'release her from a vow.'
  - (19) Lit., 'who goes forth in chains ( GR. \*\*)'.

(20) Without adding, 'and give it to her'.

(21) Because we suppose he was too agitated to express himself clearly.

(22) [Also known as Harpania, a rich agricultural town in the Mesene district, S. of Babylon. (Obermeyer, op. cit. p. 197).]

## Talmud - Mas. Gittin 66a

Let R. Abina put his pack on his shoulder and go off to R. Huna his teacher,<sup>1</sup> since R. Huna had laid down that a man's Get<sup>2</sup> is on the same footing as his gift; just as if he recovers he can withdraw his gift, so if he recovers he can withdraw his Get. Similarly [we may argue], just as in the case of his Get, even though he did not express himself clearly, if he says 'write' even though he does not say also 'give' [it is sufficient], so with his gift, since he has said 'give', even though no token was given,<sup>3</sup> [it is sufficient]. R. Abba strongly demurred to this [dictum of R. Huna], saying, [Shall I argue on this principle that] just as a gift may take effect after death, so a Get may take effect after death?<sup>4</sup> — Is there any comparison? A gift can take effect after death, but is there such a thing as a Get after death?<sup>5</sup> No; R. Abba's real difficulty was this. [Geniba's gift] was a gift made by one about to die of part of his property, and a gift made by one about to die of part of his property needs to be confirmed by a token gift.<sup>6</sup> This would seem to show that according to R. Huna<sup>7</sup> it does not need to be confirmed by a token gift, and yet we know for a fact that it does require a token gift? — There is a special reason here, because he was giving his last dispositions.<sup>8</sup> This again would show that in R. Abba's opinion even where one gives his last dispositions, there must be a token gift, and we know for a fact that this is not the case? — No; the real difficulty of R. Abba is this. He did not say, [Give] wine,<sup>9</sup> nor did he say, [Give] the money value of wine.<sup>10</sup> What he said was 'of the wine'.<sup>11</sup> — What does the other [R. Zera] [make of this]? — [He says that] he used the expression 'of the wine' to make his title more secure.<sup>12</sup> They sent from there [Palestine] to say, 'Of the wine' makes his title more secure.

MISHNAH. IF A MAN HAD BEEN THROWN INTO A PIT AND CRIED OUT<sup>13</sup> THAT WHOEVER HEARD HIS VOICE SHOULD WRITE A GET FOR HIS WIFE, THE GET SHOULD BE WRITTEN AND PRESENTED TO HER.

GEMARA. But is there not a possibility that it may be a demon? — Rab Judah said: We assume that he can be seen to have the appearance of a man. But the demons also can look like men? — We assume that they see his shadow. But they also have a shadow? — We assume they see a shadow of a shadow. But perhaps they also have a shadow of a shadow? — R. Hanina said: Jonathan my son has taught me that they have a shadow, but not a shadow of a shadow. But perhaps it is her rival?<sup>14</sup> — A Tannah of the school of R. Ishmael taught: In time of danger<sup>15</sup> we can write and [give a Get], even if we do not know him.<sup>16</sup>

MISHNAH. IF A MAN IN HEALTH SAYS, WRITE A GET FOR MY WIFE,<sup>17</sup> HIS INTENTION IS MERELY TO PLAY WITH HER. IT ONCE HAPPENED WITH A MAN IN GOOD HEALTH WHO SAID, WRITE A GET FOR MY WIFE, AND THEN WENT UP ON TO A ROOF AND FELL DOWN FROM IT AND DIED, AND RABBAN SIMEON B. GAMALIEL SAID THAT IF HE HAD THROWN HIMSELF DOWN THIS WAS A GET,<sup>18</sup> BUT IF THE WIND HAD BLOWN HIM OVER IT WAS NO GET.

GEMARA. The instance adduced disproves the rule, [does it not]?<sup>19</sup> — There is a lacuna, and the Mishnah should run thus: 'If his subsequent conduct reveals his intention [to kill himself], the Get is valid. IT ONCE HAPPENED WITH A MAN IN GOOD HEALTH WHO SAID, WRITE A GET FOR MY WIFE, AND THEN WENT UP TO A ROOF AND FELL DOWN FROM IT AND DIED, AND RABBAN SIMEON B. GAMALIEL SAID: IF HE HAD THROWN HIMSELF DOWN THIS WAS A GET, B UT IF THE WIND HAD BLOWN HIM OVER IT WAS NO GET.

A certain man went into the synagogue and found a teacher of children and his son sitting there and a third man sitting by them. He said to them: I want two of you to write a Get for my wife. Before the Get was given<sup>20</sup> the teacher died. [The question arose], Do people usually make a son their agent in the place of his father or not?<sup>21</sup> — R. Nahman said: People do not make a son the agent in the place of his father, while R. Papi said that people do make a son their agent in the place of his father.<sup>22</sup> Raba said: The law is that people do make a son the agent in place of the father.

#### MISHNAH. IF A MAN SAID TO TWO PERSONS, GIVE A GET TO MY WIFE,<sup>23</sup>

- (1) Who would confirm his title.
- (2) Given on a sick bed.
- (3) I.e., there was no kinyan. v. Glos.
- (4) The wife becomes automatically released on the death of her husband, so that no Get can be effective after death. The Get is in fact meant to take effect before death, to release the wife from the obligation of halizah.
- (5) Where the husband made such a stipulation.
- (6) Because by giving only part, he shows that he has in mind the possibility of recovery, and therefore the gift is on the same footing as one given by a healthy person, v. B.B. 151b.
- (7) Since R. Huna would, it is held, confirm the title to the gift.
- (8) Lit., 'ordering by reason of death'.
- (9) To the value of four hundred zuz.
- (10) I.e., sell four hundred zuz worth and give him the money.
- (11) I.e., money from wine, which has no meaning.
- (12) So that he should have a lien on the whole of the wine in case any of it went sour or the money obtained from the sale of it was lost, the words 'of wine' including both the wine and its money value.
- (13) Giving his name and the name of his town.
- (14) Who wants her to obtain a Get so that she may marry again and become forbidden to her present husband.
- (15) As in the case of one who is in imminent danger of death.
- (16) I.e., whether he is the man who he says he is.
- (17) Without adding, Give it to her.
- (18) Because, having had the intention to commit suicide, he was on the same footing as one in imminent danger of death.
- (19) Since the rule is given without qualification.
- (20) Lit., 'At the end'.
- (21) The husband had gone away, and the question was whether when the man said 'two of you', his words could apply equally to the son alone as well as to the father alone in conjunction with the third man, or to the father only, the son being ineligible when the father was present.
- (22) And the son can form the second man to write the Get.
- (23) But did not say write'.

#### Talmud - Mas. Gittin 66b

OR TO THREE PERSONS, WRITE A GET AND GIVE IT TO MY WIFE, THEY SHOULD WRITE AND GIVE IT. IF HE SAID TO THREE PERSONS, GIVE A GET TO MY WIFE,<sup>1</sup> THEY MAY TELL OTHERS TO WRITE<sup>2</sup> BECAUSE HE HAS MADE THEM A BETH DIN.<sup>3</sup> THIS IS THE VIEW OF R. MEIR, AND THIS IS THE HALACHAH WHICH R. HANINA A MAN OF ONO<sup>4</sup> BROUGHT [FROM R. AKIBA IN] PRISON:<sup>5</sup> 'I HAVE IT FROM MY TEACHERS THAT IF A MAN SAYS TO THREE PERSONS, GIVE A GET TO MY WIFE, THEY MAY TELL OTHERS TO WRITE IT, BECAUSE HE HAS CONSTITUTED THEM A BETH DIN. R. JOSE SAID: WE SAID TO THE MESSENGER, WE ALSO HAVE IT ON TRADITION FROM OUR TEACHERS THAT EVEN IF HE SAID TO THE GREAT BETH DIN IN JERUSALEM,<sup>6</sup> GIVE A GET TO MY WIFE, 'THEY SHOULD LEARN<sup>7</sup> AND WRITE AND GIVE IT. IF A MAN SAYS

TO TEN PERSONS, WRITE A GET AND DELIVER IT TO MY WIFE, ONE WRITES, AND TWO SIGN AS WITNESSES. [IF HE SAID,] ALL OF YOU WRITE, ONE WRITES AND ALL SIGN. CONSEQUENTLY IF ONE OF THEM DIES, THE GET IS INVALID.

GEMARA. R. Jeremiah b. Abba said: An inquiry was sent from the school of Rab<sup>8</sup> to Samuel: Would our teacher inform us: If a man said to two persons, Write and deliver a Get to my wife, and they told a scribe and he wrote it and they themselves signed it, what is the law?<sup>9</sup> — He sent back word: She must leave [her second husband],<sup>10</sup> but the matter requires further study. What did he mean by saying that the matter requires further study? Shall we say it is because only a verbal instruction<sup>11</sup> was given to them,<sup>12</sup> and Samuel is in doubt whether a verbal instruction can be passed on to another agent or not? Has not Samuel said in the name of Rabbi that the halachah follows R. Jose who said that verbal instructions cannot be passed on to another agent?<sup>13</sup> — No; what Samuel wanted to know was this. [When the husband said to the men], ‘write’, did he mean their signatures or the Get?<sup>14</sup> — Cannot this be determined from the Mishnah: IF A MAN SAID TO TWO PERSONS, GIVE A GET TO MY WIFE, OR IF HE SAID TO THREE, WRITE A GET AND GIVE [IT] TO MY WIFE, THEY SHOULD WRITE AND DELIVER [IT]? — Here too he was in doubt whether ‘WRITE’ meant their signatures or the actual Get. Surely it is obvious that it must be the Get, from what we read in the later clause: R. JOSE SAID, WE SAID TO THE MESSENGER, WE TOO HAVE IT ON TRADITION FROM OUR TEACHERS THAT EVEN IF HE SAID TO THE GREAT BETH DIN IN JERUSALEM, GIVE A GET TO MY WIFE, THEY SHOULD LEARN AND WRITE AND GIVE TO HER.<sup>15</sup> Now if you say that the writing of the Get is meant, this creates no difficulty, but if you say it is the writing of the signatures, surely there is no Beth din, the members of which do not know how to sign their names? — Yes; this might happen in a new Beth din.

Now if we adopt the opinion that ‘write’ means ‘write your signatures,’ but as to the actual Get, it is in order even if written by others [how can this be seeing that] Samuel said in the name of Rabbi that the halachah is in accordance with R. Jose who said that verbal instructions cannot be passed on to another agent? — We might reply that if we adopt the opinion that ‘write’ means the signatures, then as far as the writing of the Get is concerned it is as though the husband had given instructions that they should tell [the scribe], and R. Jose admits that [the Get written by the scribe is valid] where he said, Tell [the scribe to write it].

But does R. Jose admit that it is valid where he says to them, Tell [the scribe]? Have we not learnt: ‘If the scribe wrote and there was one witness [besides], the Get is valid,’<sup>16</sup> and R. Jeremiah said in regard to this, Our Version is, If the scribe signs,<sup>17</sup> and R. Hisda said, Whom does the Mishnah follow? R. Jose, who said that verbal instructions cannot be passed on to another agent.<sup>18</sup> Now if you assume that R. Jose admits [that the Get is valid] where he says, Tell [the scribe], then a calamity may result, since sometimes he will say to two persons,

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(1) Without saying ‘write’.

(2) And sign.

(3) And they have authority to do this.

(4) In Benjamin near Lydda. I Chron. VIII, 12.

(5) Var. lec. Which R. Hanina sent from prison.

(6) The Synhedrion.

(7) How to write.

(8) [Probably after the death of Rab (247 C.E.) or simply ‘from the school’.]

(9) Are the words THEY SHOULD WRITE in the Mishnah to be taken literally or do they denote merely the signatures.

(10) If she has married again on the strength of the Get.

(11) Lit., ‘words’.

(12) And they were not given the actual Get to deliver.

(13) And therefore if these tell a scribe to write the Get it is invalid, v. supra 29a.

(14) If he meant them to write only the signatures the Get is valid, and therefore he was in doubt.

(15) Infra 71b.

(16) [Our Mishnah text actually reads: WRITE AND GIVE, but this Gemarah reading is supported by the J. Mishnah.]

(17) He signs the Get as witness, in conjunction with another witness.

(18) Consequently we may safely assume that the scribe was commissioned to sign by the husband himself, and there is no fear that the agent told him to do so on his own authority, so as not to offend the scribe.

## Talmud - Mas. Gittin 67a

Tell the scribe to write and So-and-so and So-and-so to sign, and out of fear of offending the scribe they will agree that one of them should sign and the scribe with him, which is not what the husband said?<sup>1</sup> — Since a Master has said<sup>2</sup> [that a Get of this kind<sup>3</sup> is] valid but this should not be done in Israel, it is not usual.<sup>4</sup> But is there not the possibility that he may say to two persons, Tell the scribe to write and do you sign, and they will go and in order not to offend the scribe let the scribe sign along with one of them, which is not what the husband said? — We say here also: Such a Get is valid, but this should not be done in Israel.<sup>5</sup> This is a sufficient answer for one who holds that it is valid but should not be done, but to one who holds that it is valid and may be done what are we to say? — The truth is that R. Jose laid down two [disqualifications],<sup>6</sup> and Samuel concurred with him in regard to one and differed from him in regard to the other.<sup>7</sup> The text above [states]: ‘Samuel said in the name of Rabbi that the halachah is in accordance with R. Jose, who said that verbal instructions cannot be passed on to an agent’. R. Simeon son of Rabbi said to him: Seeing that R. Hanina of Ono and R. Meir take a different view from R. Jose, what was Rabbi's reason for saying that the halachah follows R. Jose? — He replied: Say nothing, my son, say nothing; you have never seen R. Jose. Had you seen him, [you would know] that he always had good ground for his views.<sup>8</sup> For so it has been taught: Issi b. Judah used to specify the distinctive merits of the various Sages. R. Meir [he said], was wise and a scribe.<sup>9</sup> R. Judah was wise when he desired to be.<sup>10</sup> R. Tarfon was a heap of nuts.<sup>11</sup> R. Ishmael was a well-stocked shop.<sup>12</sup> R. Akiba was a storehouse with compartments.<sup>13</sup> R. Johanan b. Nuri was a basket of fancy goods.<sup>14</sup> R. Eleazar b. Azariah was a basket of spices.<sup>15</sup> The Mishnah of R. Eliezer b. Jacob [the Elder] was little and good.<sup>16</sup> R. Jose always had his reasons. R. Simeon used to grind much and let out little. A Tanna [explained this to mean that] he used to forget little, and what he let go from his mind was only the bran.<sup>17</sup> So too said R. Simeon to his disciples: My sons, learn my rules,<sup>18</sup> since my rules are the cream of the cream<sup>19</sup> of R. Akiba's. The text above [states]. ‘If a man said to two persons, Tell the scribe to write and So-and-so and So-and-so to sign, R. Huna said in the name of Rab that [the Get is] valid, but this should not be done in Israel.’ Said ‘Ulla to R. Nahman (or, according to others, R. Nahman said to ‘Ulla): Seeing that [the Get is] valid, why should this not be done in Israel? — He replied: We are afraid lest she might suborn witnesses.<sup>20</sup> But do we entertain any such fear? Has it not been taught: Once the witnesses have signed to a deed of purchase of a field or the Get of a woman, the Sages entertain no doubts about their reliability? They would not do anything wrong,<sup>21</sup> but they might say something.

If a man said to two persons, Tell the scribe to write and do you sign, R. Hisda said [that the Get would be] valid but this should not be done; Rabbah b. Bar Hanah said that it is valid and this may be done; R. Nahman said it is valid and this may not be done; R. Shesheth said it is valid and this may be done; Rabbah said it is valid and this may not be done; R. Joseph said it is valid and this may be done.

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(1) He appointed special witnesses for the signature. This proves that the view that the scribe may witness the Get is not compatible with the view that the husband can say to the agent, Tell the scribe.

(2) Infra.

(3) ‘Tell the scribe to write and So-and-so etc., to sign.’



- (4) And therefore R. Jose would not make provision against so remote a danger.
- (5) And therefore this also is unusual.
- (6) That the Get is invalid whether he told three persons to write and they told a scribe to write, or whether he told two persons to tell a scribe to write and two persons to sign, and they did so.
- (7) [Samuel agreed that if he did not say 'tell the scribe' the Get is invalid, since oral instructions cannot be committed to an agent, but he held that if he did say so the Get would be valid. Hence, as regards the query sent to Samuel, if the word 'write' meant only the signature, they would be able to tell the scribe to write. And it was with reference to this that Samuel required the matter to be studied further.]
- (8) Lit., 'his depth is with him', or 'his nomikon (logic)'.
- (9) This was his profession. V. Sotah, 20.
- (10) I.e., when he was not too hasty, he could be even wiser than R. Meir (Tosaf.).
- (11) When he was asked a question, his instances came out like a heap of nuts toppling over one another.
- (12) Where it is not necessary to keep the customer waiting while the article required is brought from outside.
- (13) All his learning being classified under various heads Scripture, Halachah, Aggadah, etc. like different kinds of corn in a storehouse.
- (14) Apparently this indicates that while his knowledge was well arranged like that of R. Akiba, it was not so well unified and correlated.
- (15) Apparently, less in quantity than R. Johanan's.
- (16) Lit., 'a kab and fine'. So that wherever he gives an opinion, the halachah follows him.
- (17) I.e., those statements which were not followed by the halachah.
- (18) Lit., 'measures'.
- (19) Lit., 'the terumah of the terumah'.
- (20) To say this to the scribe and the witnesses in the name of her husband.
- (21) E.g., sign their own names.

## **Talmud - Mas. Gittin 67b**

Some reverse [the names in] the last two statements.

IF HE SAID TO TEN PERSONS, WRITE A GET. Our Rabbis taught: If he says to ten persons, Write a Get and give it to my wife, one writes on behalf of all of them. [If he says,] All of you write, one writes in the presence of all of them. If he says [to ten], Take a Get to my wife, one takes it on behalf of all of them. If he says, All of you take it, one takes it in the company of the rest. The question was raised: If he enumerated them [one by one], what is the law? — R. Huna said: Enumeration is not the same as saying 'all of you'; R. Johanan said in the name of R. Eleazar from Ruma<sup>1</sup> that enumeration is the same as saying 'all of you'. R. Papa said: They are not in conflict: the one speaks of where he enumerated all of them and the other of where he enumerated only some of them. Some explain this in one way and some explain it in the opposite way.<sup>2</sup>

Rab Judah made a regulation that in a Get [which the husband had ordered with the word] 'all of you' [they should insert<sup>3</sup> the words, He said to us], Write either all of you or any one of you; Sign either all of you or any two of you; Convey all of you or any one of you.<sup>4</sup> Raba said: Sometimes a man cuts his words short and says 'all of you' without adding, 'any one of you,' and he can afterwards come and declare the Get invalid. Raba therefore said that [they should insert the words], Write any one of you, Sign any two of you, Convey any one of you.<sup>5</sup>

## CHAPTER VII

MISHNAH. IF A MAN IS SEIZED WITH A KORDIAKOS<sup>6</sup> AND SAYS, WRITE A GET FOR MY WIFE, HIS WORDS ARE OF NO EFFECT. IF HE SAYS, WRITE A GET FOR MY WIFE, AND IS THEN SEIZED WITH A KORDIAKOS AND THEN SAYS, DO NOT WRITE IT, HIS LATER WORDS ARE OF NO EFFECT. IF HE IS STRUCK DUMB, AND WHEN THEY SAY TO

HIM, SHALL WE WRITE A GET FOR YOUR WIFE, HE NODS HIS HEAD, HE IS TESTED WITH THREE QUESTIONS.<sup>7</sup> IF HE SIGNIFIES 'NO' AND 'YES' PROPERLY EACH TIME, THEN THE GET SHOULD BE WRITTEN AND GIVEN FOR HIM.

GEMARA. What is kordiakos? — Samuel said: Being overcome<sup>8</sup> by new wine from the vat. Then why does it not Say. If one is overcome by new wine? — The mode of expression teaches us that this spirit [which causes the dizziness] is called kordiakos. Of what use is this [knowledge]? — For a charm. What is the remedy for it? Red<sup>9</sup> meat broiled on the coals, and wine highly diluted.

Abaye said: My mothers told me that for a sun-stroke [fever] the remedy is on the first day to take a jug of water, [if it lasts] two days to let blood, [if] three days to take red meat broiled on the coals and highly diluted wine. For a chronic heat stroke, he should bring a black hen and tear it lengthwise and crosswise and shave the middle of his head and put the bird on it and leave it there till it sticks fast, and then he should go down [to the river] and stand in water up to his neck till he is quite faint, and then he should swim out and sit down. If he cannot do this, he should eat leeks and go down and stand in water up to his neck till he is faint and then swim out and sit down. For sunstroke one should eat red meat broiled on the coals with wine much diluted. For a chill<sup>10</sup> one should eat fat meat broiled on the coals with undiluted wine. When the household of the Exilarch wanted to annoy R. Amram the Pious,<sup>11</sup> they made him lie down in the snow. On the next day they said, What would your honour like us to bring you? He knew that whatever he told them they would do the reverse, so he said to them, Lean meat broiled on the coals and wine much diluted. They brought him fat meat broiled on the coals and undiluted wine. Yaltha<sup>12</sup> heard and took him in to the bath, and they kept him there till the water turned to the colour of blood<sup>13</sup> and his flesh was covered with bright spots. R. Joseph used to cure the shivers by working at the mill, R. Shesheth by carrying heavy beams. He said: Work is a splendid thing to make one warm.<sup>14</sup>

The Exilarch once said to R. Shesheth, Why will your honour not dine with us? He replied: Because your servants are not reliable, being suspected of taking a limb from a living animal. You don't say so,<sup>15</sup> said the Exilarch. He replied, I will just show you. He then told his attendant to steal a leg from an animal and bring it. When he brought it to him he said [to the Servants of the Exilarch], place the pieces of the animal before me. They brought three legs and placed them before him. He said to them, This must have been a three-legged animal. They then cut a leg off an animal and brought it. He then said to his attendant, Now produce yours. He did so, and he then said to them, This must have been a five-legged animal. The Exilarch said to him, That being the case, let them prepare the food in your presence<sup>16</sup> and then you can eat it. Very good, he replied. They brought up a table and placed meat before him, and set in front of him a portion with a dangerous bone.<sup>17</sup> He felt it and took and wrapped it in his scarf. When he had finished they said to him

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(1) [In the neighbourhood of Zepphoris. V. Klein, NB p. 22.]

(2) Some say that if he enumerated all of them this is equivalent to saying 'all of you'. whereas if he enumerated only some, this shows that he abandoned his intention of making all of them responsible, and it is sufficient if any two of those enumerated sign. Others explain that if he enumerated some, this shows that he was particular that all these should sign, whereas if he enumerated all without saying 'all of you,' this shows that he desired any two to sign, but in the presence of the rest.

(3) To provide against the possibility that the husband may insist that he meant that it should be signed by all.

(4) Should one of them be absent at the writing or fail to sign the Get.

(5) Omitting 'all of you'.

(6) A kind of delirium in which he does not know exactly what he is saying. V. *Infra*. Apparently == GR. \*\*, which, however, is not found in this sense. Goldschmidt derives it from GR. \*\*

(7) Lit., 'three times', to see if he is still *compos mentis*.

(8) Lit., 'bitten'.

(9) I.e.. without much fat. (5) V. Kid. 31b.

(10) Lit., 'snow'.

(11) Because he used to vex them with his numerous restrictions.

(12) The daughter of the Exilarch and wife of R. Nahman.

(13) From the perspiration.

(14) Lit., 'to make warm its master'.

(15) Lit., 'who will say'.

(16) According to another reading 'in the presence of your servant,' as R. Shesheth was blind.

(17) Lit., 'the portion which chokes the mother-in-law'. According to Rashi, this was a part above the hind leg containing a very small bone.

## Talmud - Mas. Gittin 68a

. A silver cup has been stolen from us.<sup>1</sup> In the course of their search for it they found the meat wrapped in his scarf, whereupon they said to the Exilarch, See, sir, that he does not want to eat, but only to vex us. He said, I did eat, but I found in it the taste of a boil. They said to him, No animal with a boil has been prepared for us to-day. He said to them, Examine the place [where my portion came from].<sup>2</sup> since R. Hisda has said that a white spot on black skin or a black spot on white skin is a mark of disease.<sup>3</sup> They examined and found that it was so. When he was about to depart they dug a pit and threw a mat over it, and said to him, Come, sir, and recline. R. Hisda snorted behind him.<sup>4</sup> and he said to a boy. Tell me the last verse you have learnt.<sup>5</sup> The boy said. Turn thee aside to thy right hand or to thy left.<sup>6</sup> He said to his attendant, What can you see? He replied. A mat thrown across [the path]. He said, Turn aside from it. When he got out, R. Hisda said to him, How did you know, sir? He replied. For one thing because you, sir, snorted [behind me], and again from the verse which the boy quoted, and also because the servants are suspect of playing tricks.<sup>7</sup>

I gat me sharim and sharoth,<sup>8</sup> and the delights of the sons of men, Shidah and shidoth.<sup>9</sup> 'Sharim and Sharoth', means diverse kinds of music; 'the delights of the sons of men' are ornamental pools and baths. 'Shidah and shidoth': Here [in Babylon] they translate as male and female demons. In the West [Palestine] they say [it means] carriages.

R. Johanan said: There were three hundred kinds of demons in Shihin, but what a shidah is I do not know.<sup>10</sup>

The Master said: Here they translate 'male and female demons'. For what did Solomon want them? — As indicated in the verse, And the house when it was in building was made of stone made ready at the quarry, [there was neither hammer nor axe nor any tool of iron heard in the house while it was in building];<sup>11</sup> He said to the Rabbis, How shall I manage [without iron tools]? — They replied, There is the shamir<sup>12</sup> which Moses brought for the stones of the ephod. He asked them, Where is it to be found? — They replied, Bring a male and a female demon and tie them together; perhaps they know and will tell you. So he brought a male and a female demon and tied them together. They said to him, We do not know, but perhaps Ashmedai the prince of the demons knows. He said to them, Where is he? — They answered, He is in such-and-such a mountain. He has dug a pit there, which he fills with water and covers with a stone, which he then seals with his seal. Every day he goes up to heaven and studies in the Academy of the sky and then he comes down to earth and studies in the Academy of the earth, and then he goes and examines his seal and opens [the pit] and drinks and then closes it and seals it again and goes away. Solomon thereupon sent thither Benaiahu son of Jehoiada, giving him a chain on which was graven the [Divine] Name and a ring on which was graven the Name and fleeces of wool and bottles of wine. Benaiahu went and dug a pit lower down the hill and let the water flow into it<sup>13</sup> and stopped [the hollow] With the fleeces of wool, and he then dug a pit higher up and poured the wine into it<sup>14</sup> and then filled up the pits. He then went and sat on a tree. When Ashmedai came he examined the seal, then opened the pit and found it full of wine. He said, it is written, Wine is a mocker, strong drink a brawler, and whosoever

erretth thereby is not wise,<sup>15</sup> and it is also written, Whoredom and wine and new wine take away the understanding.<sup>16</sup> I will not drink it. Growing thirsty, however, he could not resist, and he drank till he became drunk, and fell asleep. Benaiahu then came down and threw the chain over him and fastened it. When he awoke he began to struggle, whereupon he [Benaiahu] said, The Name of thy Master is upon thee, the Name of thy Master is upon thee. As he was bringing him along, he came to a palm tree and rubbed against it and down it came. He came to a house and knocked it down. He came to the hut of a certain widow. She came out

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(1) A mere pretext in order to search him.

(2) I.e., the skin.

(3) Of the flesh.

(4) As a signal.

(5) For an omen; cf. supra 56a.

(6) II Sam. II, 21.

(7) Lit., 'of not being good'.

(8) E.V. 'men-singers and women-singers'.

(9) Eccl. II. 8.

(10) Al. 'the real mother of the demons I do not know'.

(11) I Kings VI, 7.

(12) A fabulous worm which could cut through the sharpest stone. [So Maimonides, *Aboth*, v. 6. and Rashi, *Pes.* 54a, though none of the old Talmudic sources states explicitly whether the Shamir was a living creature or a mineral. The Testament of Solomon, however, seems to regard it as a stone. V. Ginzberg *Legends*, V, p. 55, n. 105, and VI, p. 299, n. 82, also *Aboth*, (Sonc. ed.) p. 63, n. 6.]

(13) From Ashmedai's pit by means of a tunnel connecting the two.

(14) So that it should flow into Ashmedai's pit.

(15) Prov. XX, 1.

(16) Hos, IV, 11.

## **Talmud - Mas. Gittin 68b**

and besought him, and he bent down so as not to touch it, thereby breaking a bone. He said, That bears out the verse, A soft tongue breaketh the bone<sup>1</sup> He saw a blind man straying from his way and he put him on the right path. He saw a drunken man losing his way and he put him on his path. He saw a wedding procession making its way merrily and he wept. He heard a man say to a shoemaker, Make me a pair of shoes that will last seven years, and he laughed. He saw a diviner practising divinations and he laughed. When they reached Jerusalem he was not taken to see Solomon for three days. On the first day he asked, Why does the king not want to see me? They replied, Because he has overdrunk himself. So he took a brick and placed it on top of another. When they reported this to Solomon he said to them, What he meant to tell you was, Give him more to drink. On the next day he said to them, Why does the king not want to see me? They replied, Because he has over-eaten himself. He thereupon took one brick from off the other and placed it on the ground. When they reported this to Solomon, he said, He meant to tell you to keep food away from me. After three days he went in to see him. He took a reed and measured four cubits and threw it in front of him, saying, See now, when you die you will have no more than four cubits in this world. Now, however, you have subdued the whole world, yet you are not satisfied till you subdue me too. He replied: I want nothing of you. What I want is to build the Temple and I require the shamir. He said: It is not in my hands, it is in the hands of the Prince of the Sea who gives it only to the woodpecker,<sup>2</sup> to whom he trusts it on oath. What does the bird do with it? — He takes it to a mountain where there is no cultivation and puts it on the edge of the rock which thereupon splits, and he then takes seeds from trees and brings them and throws them into the opening and things grow there. (This is what the Targum means by *nagar tura*).<sup>3</sup> So they found out a woodpecker's nest with young in it, and covered it over with white glass. When the bird came it wanted to get in but could not, so it went and brought

the shamir and placed it on the glass. Benaiahu thereupon gave a shout, and it dropped [the shamir] and he took it, and the bird went and committed suicide on account of its oath.

Benaiahu said to Ashmedai, Why when you saw that blind man going out of his way did you put him right? He replied: It has been proclaimed of him in heaven that he is a wholly righteous man, and that whoever does him a kindness will be worthy of the future world. And why when you saw the drunken man going out of his way did you put him right? He replied, They have proclaimed concerning him in heaven that he is wholly wicked, and I conferred a boon on him in order that he may consume [here] his share [in the future].<sup>4</sup> Why when you saw the wedding procession did you weep? He said: The husband will die within thirty days, and she will have to wait for the brother-in-law who is still a child of thirteen years.<sup>5</sup> Why, when you heard a man say to the shoemaker, Make me shoes to last seven years, did you laugh? He replied: That man has not seven days to live, and he wants shoes for seven years! Why when you saw that diviner divining did you laugh? He said: He was sitting on a royal treasure: he should have divined what was beneath him.

Solomon kept him with him until he had built the Temple. One day when he was alone with him, he said, it is written, He hath as it were to'afoth and re'em,<sup>6</sup> and we explain that to'afoth means the ministering angels and re'em means the demons.<sup>7</sup> What is your superiority over us?<sup>8</sup> He said to him, Take the chain off me and give me your ring, and I will show you. So he took the chain off him and gave him the ring. He then swallowed him,<sup>9</sup> and placing one wing on the earth and one on the sky he hurled him four hundred parasangs. In reference to that incident Solomon said, What profit is there to a man in all his labour wherein he laboureth under the sun.<sup>10</sup>

And this was my portion from all my labour.<sup>11</sup> What is referred to by 'this'? — Rab and Samuel gave different answers, one saying that it meant his staff and the other that it meant his apron.<sup>12</sup> He used to go round begging, saying wherever he went, I Koheleth was king over Israel in Jerusalem.<sup>13</sup> When he came to the Sanhedrin, the Rabbis said: Let us see, a madman does not stick to one thing only.<sup>14</sup> What is the meaning of this? They asked Benaiahu, Does the king send for you? He replied, No. They sent to the queens saying, Does the king visit you? They sent back word, Yes, he does. They then sent to them to say, Examine his leg.<sup>15</sup> They sent back to say, He comes in stockings, and he visits them in the time of their separation and he also calls for Bathsheba his mother. They then sent for Solomon and gave him the chain and the ring on which the Name was engraved. When he went in, Ashmedai on catching sight of him flew away, but he remained in fear of him, therefore is it written, Behold it is the litter of Solomon, threescore mighty met, are about it of the mighty men of Israel. They all handle the sword and are expert in war, every man hath his sword upon his thigh because of fear in the night.<sup>16</sup>

Rab and Samuel differed [about Solomon]. One said that Solomon was first a king and then a commoner,<sup>17</sup> and the other that he was first a king and then a commoner and then a king again.

For blood rushing to the head the remedy is to take shurbina<sup>18</sup> and willow and moist myrtle and olive leaves and poplar and rosemary and yabla<sup>19</sup> and boil them all together. The sufferer should then place three hundred cups on one side of his head and three hundred on the other. Otherwise he should take white roses with all the leaves on one side and boil them and pour sixty cups over each side of his head. For migraine one should take a woodcock and cut its throat with a white zuz<sup>20</sup> over the side of his head on which he has pain, taking care that the blood does not blind him, and he should hang the bird on his doorpost so that he should rub against it when he goes in and out.

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(1) Prov. XXV, 15.

(2) Lit., 'Cock of the prairie'.

(3) Lit., 'One that saws the rock': the rendering in Targum Onkelos of the Hebrew דוכיפת generally rendered by hoopoe; Lev. XI, 19.

- (4) That there may remain no share for him to enjoy in the hereafter.
- (5) Before he can give her halizah (v. Glos.) and enable her to marry again.
- (6) Num. XXIV, 8. E.V., 'the strength of a wild ox'.
- (7) So Targum Onkelos.
- (8) That you should be a standard of comparison for Israel.
- (9) Al. 'it' (the ring).
- (10) Eccl. I, 3. [No satisfactory explanation has yet been given of the name of Ashmedai. Ginzberg (JE. II s.v. Asmodeus) gives it an Aramaic derivation. Kaminka JQR. (NS) XIII. p. 224 connects it with Smerdis, the magician, a hero in a Persian legend preserved by Herodotus, which has many points of similarity with the Ashmedai story.]
- (11) Ibid. II, 10.
- (12) Al. 'his platter', v. Sanh. (Sonc. ed.) p. 110 and notes.
- (13) Ibid. I, 12.
- (14) I.e., if Solomon were mad, he would show it by other things as well.
- (15) Because a demon's legs are like those of a cock, v. Ber. 6a.
- (16) Cant. III, 7, 8.
- (17) That is to say, that though he was restored to his kingdom, he did not rule over the unseen world as formerly, v. Sanh. loc. cit.
- (18) A kind of cedar.
- (19) A certain herb, cynodon.
- (20) I.e., a white silver coin.

## Talmud - Mas. Gittin 69a

. For a cataract he should take a scorpion with stripes of seven colours and dry it out of the sun and mix it with stibium in the proportion of one to two and drop three paint — brushfuls into each eye — not more, lest he should put out his eye. For night blindness<sup>1</sup> he should take a string made of white hair and with it tie one of his own legs to the leg of a dog, and children should rattle potsherds behind him saying 'Old dog, stupid cock'. He should also take seven pieces of raw meat from seven houses and put them on the doorpost and [let the dog] eat them on the ashpit of the town. After that he should untie the string and they should say, 'Blindness of A, son of the woman B, leave A, son of the woman B,' and they should blow into the dog's eye. For day blindness he should take seven milts from the insides of animals and roast them in the shard of a blood-letter, and while he sits inside the house another man should sit outside and the blind man should say to him, 'Give me to eat, and the other, the seeing man, should answer, 'Take and eat,' and after he has eaten he should break the shard, as otherwise the blindness may come back. To stop bleeding at the nose he should bring a kohen whose name is Levi and write Levi backwards, or else bring any man and write, I Papi Shila bar Sumki, backwards, or else write thus: Ta'am deli beme kesaf, ta'am deli be-me pegam.<sup>2</sup> Or else he can take root of clover and the rope of an old bed and papyrus and saffron and the red part of a palm branch and burn them all together and then take a fleece of wool and weave two threads and steep them in vinegar and roll them in the ashes and put them in his nostrils. Or he can look for a watercourse running from east to west and stand astride over it and pick up some clay with his right hand from under his left leg and with his left hand from under his right leg and twine two threads of wool and rub them in the clay and put them in his nostrils. Or else he can sit under a gutter pipe while they bring water and pour over him saying, 'As these waters stop, so may the blood of A, son of the woman B, stop'. To stop blood coming from the mouth he should [first] be tested with a wheat straw. If the blood sticks, It comes from the lungs and can be cured, but if not it comes from the liver and cannot be cured. Said R. Ammi to R. Ashi: But we have learnt the opposite:<sup>3</sup> '[The animal is trefa] if the liver has been removed and nothing of it is left, or if the lung is pierced or defective'<sup>4</sup> — He replied: Since it comes away from his mouth, we assume that the liver has been entirely dissolved [in the lung].<sup>5</sup>

The Master just said: If it comes from the lung, there is a remedy for it. What is the remedy? Let

him take seven handfuls of hashed beets and seven handfuls of mashed leeks and seven handfuls of jujube berry and three handfuls of lentils and a handful of camon and a handful of flax<sup>6</sup> and a quantity equal to all these of the ileum of a first-born animal and let him cook the mixture and eat it, washing it down with strong beer made in [the month of] Tebeth.<sup>7</sup> For toothache Rabbah b. R. Huna says that he should take the top of a garlic with one stalk only and grind it with oil and salt and put it on his thumb nail on the side where the tooth aches and put a rim of dough round it, taking care that it does not touch his flesh, as it may cause leprosy. For swollen glands,<sup>8</sup> R. Johanan said that pellitory leaves are as good as mamru<sup>9</sup> and the root of pellitory better than mamru, and he should put them in his mouth. This is to prevent it from spreading. To soften it he should take bran that came to the top of the sieve and lentils with the earth still on them and clover and hemlock flower and the bud of cuscuta, and he should put about the size of a nut in his mouth. To make it burst, someone should blow into his throat seeds of unripe dates, through a wheat straw. To make the flesh close he should bring dust from the shadow of a privy and knead it with honey and eat. This is effective. For catarrh<sup>10</sup> he should take about the size of a pistachio of gum-ammoniac and about the size of a nut of sweet galbanum and a spoonful of white honey and a Mahuzan natla<sup>11</sup> of clear<sup>12</sup> wine and boil them up together; when the gum-ammoniac boils, it is all boiled enough. If he cannot manage this, let him take a revi'ith of milk of a white goat

(1) [Shabrire, a shaf'el form of ברר 'clear', a euphemism for 'blindness'. In this infliction, ascribed to the demons, a distinction was made between day-shabrire and night-shabrire which is said to correspond with hemeralopia and nyctalopia. V. Preuss, *Biblich-talmudische Medizin*, p. 312, and A.Z., (Sonc. ed.) p. 64, n. 4.]

(2) Lit., 'The taste of the bucket in water of silver, the taste of the bucket in water of blemish'.

(3) Hul. 42a.

(4) This would show that if the blood comes from the lungs it is more fatal than from the liver.

(5) And the blood is really from the liver.

(6) [Var. lec. 'spices'].

(7) In the winter when the brew is made strong.

(8) So Rashi. Jast.: 'jaws'.

(9) A kind of herb.

(10) [So Rashi. Preuss (op. cit. p. 198) Pleurisy.]

(11) About a revi'ith (1/4 log).

(12) I.e., not dark.

## Talmud - Mas. Gittin 69b

and let it drip on three stalks of carob and stir it with a piece of stem of marjoram; when the stem of marjoram is boiled it is all boiled enough. He can also take the excrement of a white dog and knead it with balsam, but if he can possibly avoid it he should not eat the dog's excrement as it loosens the limbs. For gira<sup>1</sup> he should take an arrow of Lilith<sup>2</sup> and place it point upwards and pour water on it and drink it. Alternatively he can take water of which a dog has drunk at night, but he must take care that it has not been exposed.<sup>3</sup> For [drinking] water which has been exposed let him take an anpak of undiluted wine. For an abscess, an anpak of wine with purple-coloured aloes. For palpitations of the heart he should take three barley-cakes and streak them with liamak<sup>4</sup> which has been made less than forty days before, and eat it and wash it down with wine well diluted. Said R. Aha from Difti to Rabina: This will make his heart palpitate all the more! — He replied: I was speaking of heaviness of heart. For palpitations of the heart he should take three cakes of wheat and streak them with honey and eat them and wash them down with strong wine. For pressure of the heart he should take the size of three eggs of mint and an egg of camon and an egg of sesame and eat them. For pain in the stomach he should take three hundred long pepper grains and every day drink a hundred of them in wine. Rabin of Naresh<sup>5</sup> used for the daughter of R. Ashi a hundred and fifty of our grains; it cured her. For intestinal worms, an anpak<sup>6</sup> of wine with bay leaves. For white intestinal worms he should take eruca seed and tie it in a piece of cloth and soak it in water and drink it, taking care not to

swallow the pips, since they may pierce his bowels. For looseness of the bowels, moist polio in water. For constipation, dry polio in water. The mnemonic<sup>7</sup> is, 'dry twigs stop the stream'. For swelling of the spleen, let him take seven leeches and dry them in the shade and every day drink two or three in wine. Alternatively he may take the spleen of a she-goat which has not yet had young, and stick it inside the oven and stand by it and say, 'As this spleen dries, so let the spleen of So-and-so son of So-and-so' dry up'. Or again he may dry it between the rows of bricks in a house and repeat these words. Or again he may look out for the corpse of a man who has died on Sabbath and take his hand and put it on the spleen and say, 'As this hand is withered so let the spleen of So-and-so son of So-and-so wither.'<sup>8</sup> Or again, he can take a fish and fry it in a smithy and eat it in the water of the smithy<sup>9</sup> and wash it down with the water of the smithy. A certain goat which drank from the water of a smithy was found on being killed to have no spleen. Another remedy is to open a barrel of wine expressly for him.<sup>10</sup> Said R. Aha the son of Raba to R. Ashi: If he has a barrel of wine, he will not come to consult your honour.<sup>11</sup> No; [what you should say is that] he should take regularly a bite early in the morning, as this is good for the whole body. For anal worms he should take acacia and aloe juice and white-lead and silver dross<sup>12</sup> and an amulet-full of phyllon<sup>13</sup> and the excrement of doves and tie it all up in linen rags in the summer or in cotton rags in the winter.<sup>14</sup> Alternatively, let him drink strong wine well diluted. For hip disease<sup>15</sup> let him take a pot of fish brine and rub it sixty times<sup>16</sup> round one hip and sixty times round the other. For stone in the bladder let him take three drops of tar and three drops of leek juice and three drops of clear wine and pour it on the membrum of a man or on the corresponding place in a woman — Alternatively he can take the ear of a bottle and hang it on the membrum of a man or on the breasts of a woman. Or again he can take a purple thread which has been spun by a woman of ill repute or the daughter of a woman of ill repute and hang it on the membrum of a man or the breasts of a woman. Or again he can take a louse from a man and a woman and hang it on the membrum of a man and the corresponding place in a woman; and when he makes water he should do so on dry thorns near the socket of the door, and he should preserve the stone that issues, as it is good for all fevers. For external fever<sup>17</sup> he should take three sacks of date stones and three sacks of adra<sup>18</sup> leaves and boil each separately while sitting between them and put them in two basins and bring a table and set them on it and bend first over one and then over the other until he becomes thoroughly warmed, and then he should bathe himself in them, and in drinking thereof<sup>19</sup> afterwards he should drink only of the water of the adra leaves but not of the date stones, as they cause barrenness. For internal fever he should take seven handfuls of beet from seven beds and boil them with their earth and eat them and drink adra leaves in beer

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(1) Perhaps a kind of fever.

(2) Probably a kind of meteoric stone.

(3) For fear a snake may have injected venom into it.

(4) A Persian sauce of milk.

(5) [Identical with Nars on the canal of the same name, on the East bank of the Euphrates. Obermeyer op. cit. p. 307.]

(6) About a revi'ith.

(7) For remembering when to use the dry and when the moist.

(8) Mentioning his own name and the name of his mother.

(9) Used for cooling the metal.

(10) I.e., he should drink plenty of wine.

(11) The wine he has would protect him from such a disease.

(12) Used for cooling the metal.

(13) A kind of scent often carried by women in a little case attached to their necklaces.

(14) Applying it to the affected part.

(15) [Apparently lumbago. v. Preuss, op. cit. p. 355.]

(16) [A round number, I. e., many times, v. Preuss, loc. cit. n. 5.]

(17) I.e., eruptions.

(18) [A species of cedar, probably Spanish juniper.]

(19) [As is usual after a hot bath, v. Shab. 41a.]



## Talmud - Mas. Gittin 70a

or grapes from a vine trailed on a palm tree in water. For lichen,<sup>1</sup> he should take seven Arzanian wheat stalks<sup>2</sup> and roast them over a new hoe and smear himself with the juice that exudes from them. R. Shimi b. Ashi used this remedy for a heathen for something else,<sup>3</sup> and it cured him.

Samuel said: If a man has been wounded by a Persian lance<sup>4</sup> there is no hope for him. All the same, however, he should be given fat roast meat and strong wine, as this may keep him alive long enough to enable him to give his last instructions. R. Idi b. Abin said: If a man has swallowed a wasp there is no hope for him. It is as well, however, to give him a revi'ith of Shamgaz vinegar<sup>5</sup> to drink, as this may keep him alive long enough to enable him to give his last instructions.

R. Joshua b. Levi said: If a man eats beef with turnips and sleeps in the moon on the nights of the fourteenth and fifteenth of the month in the cycle of Tammuz,<sup>6</sup> he is liable to ahilu.<sup>7</sup> To this a gloss was added: If one gorges himself with anything, he is liable to ahilu. R. Papa said: This applies even to dates. Is not this obvious? — [Not so: for] you might argue thus: Seeing that a Master has said, Dates fill and warm and promote digestion and strengthen and do not spoil the taste,<sup>8</sup> I might think [that dates are] not [included]; hence we are told [that they are]. What is ahilu? — R. Eleazar said: A burning in the bones.<sup>9</sup> (What is meant by a burning of bones? — Abaye replied: A burning in the bones.)<sup>10</sup> What is the remedy for it? — Abaye said: I have been told by my mother that all medicines are to be taken either three days or seven or twelve, but with this he must go on till he is cured. All other medicines must be taken on an empty stomach; this one, however, [is different]. After he has eaten and drunk and relieved himself and washed his hands, they must bring him a handful of shatitha<sup>11</sup> with lentils, and a handful of old wine, and mix them together, and he must then eat it and wrap himself in his cloak and sleep, and he must not be disturbed till he wakes of himself. When he wakes he must remove his cloak, otherwise the illness will return.

Elijah once said to R. Nathan: Eat a third and drink a third and leave a third for when you get angry, and then you will have had your fill.<sup>12</sup>

R. Hiyya taught: If a man wants to avoid stomach trouble, he should take tibbu<sup>13</sup> regularly summer and winter. In a meal which you enjoy indulge not too freely, and do not wait too long to consult nature.

Mar 'Ukba said: If a man drinks white tilia,<sup>14</sup> he will be subject to debility. R. Hisda said: There are sixty kinds of wine; the best of all is red fragrant wine, the worst is white tilia. Rab Judah said: If a man sits by the fire on the mornings of Nisan and rubs himself with oil and then goes out and sits in the sun, he will be liable to debility.

Our Rabbis taught: If a man lets blood and then has marital intercourse his children [born therefrom] will be weaklings. If both man and wife let blood before intercourse their children will be liable to ra'athan.<sup>15</sup> R. Papa said: This is the case only if they did not take anything to eat [in between], but if they took something to eat, there is no harm. Rabbah b. Bar Huna said: If a man immediately on returning from a journey has marital intercourse, his children will be weaklings. The Rabbis taught: On coming from a privy a man should not have sexual intercourse till he has waited long enough to walk half a mil, because the demon of the privy is With him for that time; if he does, his children will be epileptic. The Rabbis taught: If a man has sexual intercourse standing, he will be liable to convulsions; if sitting, to spasms;<sup>16</sup> if she is above and he below, he will be subject to delaria [diarrhoea]. What is delaria!<sup>17</sup> R. Joshua b. Levi says: The cure for diarrhoea is dardara. What is dardara? — Abaye said: The 'crocus of thorns'.<sup>18</sup> R. Papa used to crunch it in his teeth and swallow it: R. Papi used to crunch it and spit it out.

Abaye said: One who is not conversant with the 'way of the world'<sup>19</sup> should take three kefizi<sup>20</sup> of safflower and grind it and boil it in wine and drink it. R. Johanan said: This is just what restored me to my youthful vigour.

Three things weaken a man's strength, namely, anxiety, travelling and sin. Anxiety, as it is written, My heart fluttereth, my strength faileth me.<sup>21</sup> Travelling, as it is written, He weakened my strength it, the way.<sup>22</sup> Sin, as it is written, My strength faileth because of mine iniquity.<sup>23</sup>

Three things enfeeble a man's body, namely, to eat standing, to drink standing, and to have marital intercourse standing.

Five are nearer to death than to life, namely, one who eats and rises immediately, or who drinks and rises immediately, or who lets blood and rises immediately, or who rises immediately on waking or after marital intercourse.

If one does the following six things [together], he will die immediately: if he comes weary from a journey, lets blood and has a bath and drinks himself drunk and lies down to sleep on the floor and has marital intercourse. R. Johanan said: That is, if he does them in this order; Abaye said: If he does them in this order he will die; if not in this order he will fall ill. Is that so? Did not [a certain] Me'orath do three of these things to her slave and he died? — He was a weakling.

There are eight things which in large quantities are harmful but in small quantities are beneficial, namely, travelling, the 'way of the world', wealth, work, wine, sleep, hot baths, and blood-letting.

Eight things cause a diminution of seed, namely, salt, hunger, scalls, weeping, sleeping on the ground, lotus, cucumbers out of season, and bloodletting below, which is as bad as any two. A Tanna taught: As it is as bad as any two below, so it is as good as any two above. R. Papa said:

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- (1) A kind of skin disease.
  - (2) Which were noted for their size.
  - (3) I.e., leprosy.
  - (4) The tip of which was usually poisoned.
  - (5) [Shamgaz is probably the name of a place. Others simply: Strong vinegar.]
  - (6) I.e., the three summer months. v. p. 128, n. 7.
  - (7) A chili or fever. V. infra.
  - (8) I.e., make one fastidious.
  - (9) Lit., 'a fire of bones'.
  - (10) [Abaye is but giving an Aramaic version of R. Eleazar's definition in Hebrew.]
  - (11) A kind of sauce made with flour and honey.
  - (12) As much as to say, Otherwise when you fall into a passion you will burst.
  - (13) Lit., 'dippings': bread or other food dipped in wine or vinegar as a relish.
  - (14) An inferior kind of wine.
  - (15) A kind of skin disease.
  - (16) Reading אַרְרִיָא, s.v. Aruch, curt. edd. read אַרְרִיָד (delaria) v. infra.
  - (17) The answer to this question seems to have dropped out of the text.
  - (18) *Cantharus tinctorius*.
  - (19) A euphemism for marital intercourse.
  - (20) A small measure.
  - (21) Ps. XXXVIII, 11.
  - (22) Ibid. CII, 24.
  - (23) Ibid. XXXI, 11.

## Talmud - Mas. Gittin 70b

: 'Below' means below the middle,<sup>1</sup> and 'above' means above the middle. In regard to cucumbers out of season a gloss was added: As they are bad out of season, so they are good in season. R. Papa said: 'In season' means Tammuz; 'out of season' means Tebeth; round about Nisan and Tishri they are neither good nor bad.

IF HE SAYS, WRITE A GET FOR MY WIFE, AND IS THEN SEIZED WITH A KORDIAKOS AND THEN SAYS, DO NOT WRITE, HIS LAST WORDS ARE OF NO EFFECT. R. Simeon b. Lakish said: The Get may be written immediately;<sup>2</sup> R. Johanan, however, said that it is not to be written till he comes to himself again. What is the reason of Resh Lakish? — Because it is stated, HIS LAST WORDS ARE OF NO EFFECT. To this R. Johanan replies that the words HIS LAST WORDS ARE OF NO EFFECT' mean that when he recovers the scribe need not consult him again, but all the same the Get is not written until he comes round. In what do they differ in principle? — Resh Lakish puts the man on a par with one who is asleep and R. Johanan with a madman. Why should not R. Johanan put him on the same footing as a sleeper? — A sleeper needs no treatment, this man does. Why does not Resh Lakish put him on the same footing as a madman? — For a madman we have no cure, for this man we have, namely red flesh broiled on the coals and wine much diluted.<sup>3</sup> But can R. Johanan have said this, seeing that Rab Judah has said in the name of Samuel, If a man had two passages<sup>4</sup> or the greater part of two passages cut and he indicated by a gesture<sup>5</sup> that they should write a Get for his wife, the Get should be written and given,<sup>6</sup> and it has also been taught, 'If people saw him hacked or nailed to a cross and he indicated by a gesture, Write a Get for my wife, they should write and deliver it'? — Are the two cases comparable? In that case his mind was clear, and only physical weakness had set in,<sup>7</sup> but here his mind is clouded. But did Samuel really say this? Did not Rab Judah say in the name of Samuel: If he had two passages or the greater part of two passages cut and ran away, those who saw him can testify that he is dead.<sup>8</sup> Now if we presume that he is alive [after the passages have been cut],<sup>9</sup> why can they testify that he is dead? — We say that he is alive, but he is bound to die. But if that is the case, [the man who cut his throat] [accidentally] should be exiled [to a city of refuge] on account of him; why then has it been taught, 'If one cut [accidentally] two passages or the greater part of two passages of [the throat of] another, he is not exiled'? — It has been explained in regard to this that R. Oshaia said: We consider it possible that the wind troubled him or that he hastened his own death.<sup>10</sup> What difference does it make which reason we adopt? — There is a difference where he killed him in a marble room and he struggled,<sup>11</sup> or where he killed him outside and he did not struggle.

IF HE IS STRUCK DUMB AND THEY SAY TO HIM, SHALL WE WRITE A GET FOR YOUR WIFE etc. But is there not a possibility that he was seized [just then] with an involuntary nodding of the head in a negative or a positive sense?<sup>12</sup> — R. Joseph b. Manyumi said, in the name of R. Nahman: [We suppose that] we question him at intervals. But perhaps the involuntary nodding seized him at the same intervals? — We suppose that we ask him two [questions requiring a] negative [answer] and one [requiring an] affirmative [answer], or two [requiring an] affirmative and one a negative [answer]. In the school of R. Ishmael it was taught: They talk to him about the requirements of the summer season in the rainy season and of the rainy season in the summer season. What is referred to here? Shall we say winter coat and summer coat? Perhaps just then he was seized with a shiver or a perspiration?<sup>13</sup>

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(1) E.g., the legs and thighs.

(2) After the last words are uttered.

(3) As supra p. 415.

(4) The windpipe and the oesophagus.

(5) I.e., he nodded assent when they asked him.

- (6) Apparently the questioner puts such a man on the same footing as one suffering from kordiakos. But in this case it is not easy to see why the question was not raised against the Mishnah itself and not against R. Johanan (v. Tosaf.).
- (7) Lit., 'had begun with him'.
- (8) So that his wife can marry again.
- (9) So that his Get is valid.
- (10) And therefore we do not hold the man who cut his throat guilty even of accidental homicide.
- (11) In which case his death could not have been due to the wind, and therefore if we adopt the first reason the other man would be guilty of homicide.
- (12) Lit., 'a bending of no, no"! or "yes, yes"! I.e., sideways or forwards, so that he was not giving any answer to the question.
- (13) And even if he asked for a summer coat in winter or vice-versa, his answer might still be rational.

## Talmud - Mas. Gittin 71a

— The proper way is to ask him about fruit.<sup>1</sup>

R. Kahana said in the name of Rab: If a deaf-mute can signify his meaning by writing, a Get may be written and given to his wife.<sup>2</sup> Said R. Joseph: What does this tell us [that we do not know already]? We have learnt: IF A MAN IS STRUCK DUMB AND WHEN THEY SAY TO HIM, SHALL WE WRITE A GET FOR YOUR WIFE, HE NODS HIS HEAD, HE IS TESTED WITH THREE QUESTIONS. IF HE SIGNIFIES 'NO' AND 'YES' PROPERLY EACH TIME, THEN THE GET SHOULD BE WRITTEN AND GIVEN FOR HIM?<sup>3</sup> — R. Zera replied to him: You have quoted a statement about an illem [mute]. An illem is different, as it has been taught: One who can speak but not hear is called heresh,<sup>4</sup> and one who can hear but not speak is called illem, and both are considered to be in possession of their faculties for all purposes. What is your warrant for saying that one who can speak but not hear is called heresh, and one who can hear but not speak is called illem? — Because it is written, But I am as a deaf man [heresh] I hear not, and I am as a dumb man [illem] that openeth not his mouth.<sup>5</sup> Or if you like I can say that we know it from the colloquial description<sup>6</sup> of a dumb man as Ishtekil Miluleh.<sup>7</sup>

R. Zera said: If I do find any difficulty [in R. Kahana's remark] it is this, that it has been taught: 'If he do not utter it.'<sup>8</sup> This excludes a mute who cannot utter'. Now why should this be, seeing that [according to R. Kahana] he can signify by writing? — Abaye replied to him: You are speaking of testimony, and testimony comes under a different rule, because the All-Merciful has said that it must be from their mouths,<sup>9</sup> and not from their writing.

[The following] was raised in objection [to Abaye's statement]: In the same way as he<sup>10</sup> is tested in connection with a Get, so he is tested in connection with business transactions, with testimony, and with bequests. Now 'testimony' is mentioned here? — R. Joseph b. Manyumi said in the name of R. Shesheth: This applies only to testimony regarding the status of a woman,<sup>11</sup> with which the Rabbis were not so strict. But it also says 'bequests'?<sup>12</sup> — R. Abbahu said: It refers to the inheritance of his eldest son.<sup>13</sup> But it also says 'in connection with business transactions', and this presumably means anyone's? — No, it refers only to his own.

[The following] was then raised in objection: The directions of a deaf-mute given by gestures, by lip-movements, and by writing are to be followed only in regard to the transfer of movables, but not to a Get?<sup>14</sup> — There is in truth a difference of opinion on this point between Tannaim, as it has been taught: R. Simeon b. Gamaliel says: This<sup>15</sup> is the case only with one who was a deaf-mute from the outset, but one who was originally whole and became a deaf-mute after marriage can write a Get for himself which others can sign.<sup>16</sup>

But cannot one who was originally a deaf-mute give a Get? As he married her by gesture, cannot

he also divorce her by gesture? — If [we were speaking] of his wife, this would indeed be the case, but [in fact] we are dealing with his sister-in-law.<sup>17</sup> His sister-in-law from whom? Are we to say, one who fell to his lot from his [deceased] brother who was also a deaf-mute? [In that case], just as she was married by gesture,<sup>18</sup> so she can be put away by gesture! No; it is one who fell to his lot from a brother in possession of his faculties.<sup>19</sup> Alternatively I may say that she did fall to his lot from a brother who was a deaf-mute, and we forbid the [wife of a] deaf-mute to be divorced by gesture so as not to set a precedent for [the wife of] one who was sound. If that is the case, should we not forbid him to divorce his wife also?<sup>20</sup> — A sister-in-law can be confused with a sister-in-law, but not with a wife. But do we indeed forbid [a deaf-mute] because [of a sound one]?

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- (1) I.e., whether he wants freshly plucked fruit when they are out of season.
- (2) I.e., if he was whole at the time of marriage and so made a proper betrothal. If he was deaf and dumb before marriage, he betroths by gesture and can also divorce by gesture, v. infra.
- (3) And writing is surely as effective as nodding.
- (4) In Biblical phraseology. Whereas in Rabbinical language *heresh* generally denotes a deaf-mute, and it is to a deaf-mute that R. Kahana refers.
- (5) Ps. XXXVIII, 14.
- (6) Lit., 'as men say'.
- (7) I.e., 'his speech has been taken away from him'.
- (8) Lev. V, 1, of one who is called on to testify and withholds his evidence.
- (9) Deut. XIX, 15, 'At the mouth of two witnesses . . . shall a matter be established'.
- (10) The reference is to one who is struck dumb.
- (11) I.e., whether she may contract a certain marriage or not on his evidence regarding the death of her husband.
- (12) Which presumably means, giving evidence about other people's bequests.
- (13) I.e., his signifying that his eldest son should not have a double portion (Rashi), or that one of his sons was the eldest (Tosaf).
- (14) This refutes R. Kahana.
- (15) That the directions of a deaf-mute are not to be followed in regard to a *Get*.
- (16) In agreement with R. Kahana.
- (17) A deaf and dumb man cannot give *halizah* (v. Glos.), because he cannot say 'I do not desire to marry her'. He must therefore contract the levirate marriage, and as the betrothal of the first husband was effected by word of mouth, he cannot undo it by a gesture or by writing.
- (18) By the first husband.
- (19) And as the betrothal of the first husband was effected by word of mouth, he cannot undo it by a gesture or by writing.
- (20) Lest she should set a precedent for the sister-in-law.

## **Talmud - Mas. Gittin 71b**

Have we not learnt, 'If two brothers, deaf-mutes, were married to two sisters who were not deaf-mutes or to two sisters who were deaf-mutes or to two sisters one of whom was a deaf-mute and the other not, and similarly if two sisters who were deaf-mutes were married to two brothers who were not deaf-mutes or to two brothers who were deaf-mutes or to two brothers one of whom was a deaf-mute and the other not, these sisters<sup>1</sup> are free from the obligation of *halizah* or levirate marriage.<sup>2</sup> If however, the women were not related to one another, they must contract the marriage,<sup>3</sup> and if [the second husband] desires to put her away<sup>4</sup> he may do so'<sup>5</sup> — The truth is that the first answer is the best.

R. Johanan said: R. Simeon b. Gamaliel's colleagues<sup>6</sup> differed from him. Abaye said: We have also learnt to the same effect:<sup>7</sup> If the wife became insane, he cannot put her away. If he became deaf and dumb or insane, he can never put her away.<sup>8</sup> What is meant by 'never'? Surely it means, even if he can signify his intention in writing? — R. Papa said: But for the statement of R. Johanan, I would

have said that R. Simeon b. Gamaliel intended only to explain the statement of the previous Tanna, and that 'never' means, 'even though we see that he is intelligent'.<sup>9</sup> Or, I might have said, the word 'never' indicates the lesson taught by R. Isaac. For R. Isaac said: According to the rule of the [written] Torah, an insane wife can be divorced, being on the same footing as a sound woman who is divorced without her own consent. Why then did the Rabbis lay down that she should not be divorced? In order that she should not be used for immoral purposes.<sup>10</sup>

**MISHNAH.** IF THEY SAID TO HIM, SHALL WE WRITE A GET FOR YOUR WIFE, AND HE SAID TO THEM, WRITE, AND IF THEY THEN TOLD A SCRIBE AND HE WROTE AND WITNESSES AND THEY SIGNED, EVEN THOUGH THEY HAVE ALREADY WRITTEN AND SIGNED IT AND GIVEN IT TO HIM AND HE IN TURN HAS GIVEN IT TO HER, THE GET IS VOID UNLESS HE HIMSELF HAS SAID TO THE SCRIBE 'WRITE' AND TO THE WITNESSES, 'SIGN'.

**GEMARA.** The reason [why it is invalid] is because he did not say 'give' [instead of 'write'].<sup>11</sup> We presume, therefore, that if he said 'give' they [may tell others to write and] give.<sup>12</sup> Whose view is this? R. Meir's, who said that verbal instructions can be entrusted to an agent.<sup>13</sup> Read now the later clause: UNLESS HE HAS SAID TO THE SCRIBE, 'WRITE' AND TO THE WITNESSES 'SIGN'. This brings us round to the view of R. Jose who said that verbal instructions cannot be entrusted to an agent. Are we to say then that the first clause follows R. Meir and the second R. Jose? — Yes; the first follows R. Meir and the second R. Jose. Abaye, however, said: The whole follows R. Meir, and we are dealing here [in the last clause] with the case where he did not say 'give'.<sup>14</sup> If that is the case, it should say, 'he must say, Give'?<sup>15</sup> — In fact the case here is one in which he did not tell three persons.<sup>16</sup> If that is the case, it should say, 'He must tell three'? — Hence the whole follows R. Jose, and the case here is one in which he did not say, 'Tell'.<sup>17</sup> If that is the case, it should say, 'He must say, Tell'? And besides, does R. Jose admit that the Get is valid where he says 'tell'? Have We not learnt: 'If a scribe wrote and a witness signed, it is valid', and R. Jeremiah explained that what is meant is that the scribe [also] signed, and R. Hisda said, Whom does this Mishnah follow?

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- (1) The widow of any of the brothers who died without issue.
  - (2) That is to say, although the marriage was contracted at least on one side by gesture only, it is sufficiently valid to release the wife's sister from the obligation of giving halizah to or to bar her from marrying the husband, v. Yeb. I, 1.
  - (3) Not being able to give halizah because either he or she cannot recite the requisite formula.
  - (4) I.e., after having Performed the levir marriage.
  - (5) V. Yeb. 110b. Which shows that we do not forbid a deaf-mute to divorce the wife of his deceased brother who was also a deaf-mute.
  - (6) The representatives of the anonymous view mentioned in the Baraita cited supra p. 338.
  - (7) The view of the Rabbis which R. Simeon opposes.
  - (8) Yeb. 110b.
  - (9) But not, 'even though he can write', so that this Mishnah would not differ from R. Simeon.
  - (10) The insertion of the word 'never' in the second clause is not intended to exclude the deaf-mute's divorce by writing, but is meant to indicate that the rule regarding the husband has the sanction of the Torah, whereas the one regarding the wife mentioned in the first clause has the sanction only of the Rabbis.
  - (11) V. Rashi a.l.
  - (12) That is to say, if there were three of them, in which case the word 'give' constitutes them a Beth din to write and deliver the Get.
  - (13) I.e., that the agent is at liberty to instruct someone else to carry out the instructions which were given to him, v. supra 29b.
  - (14) I.e., in such a case the Get is invalid unless he tells the scribe etc.
  - (15) Instead of 'write'. And there is no need to mention the case of his telling the scribe personally.
  - (16) And if he told only two, even if he used the word 'give', they would not be at liberty to tell a scribe.
  - (17) I.e., tell the scribe to write etc.

## Talmud - Mas. Gittin 72a

R. Jose, who said that instructions are not transmitted to a messenger? Now if you should assume that R. Jose admits that the Get is valid where he said 'tell,'<sup>1</sup> then serious results may sometimes ensue, for it may happen that he says to two persons, 'Tell the scribe to write and So-and-so and So-and-so to sign', and they, in order not to offend the scribe, let him sign, and this is not what the husband said?<sup>2</sup> — The best view therefore is that the first clause follows R. Meir and the later one R. Jose.

R. Ashi said: The whole follows R. Jose, and [the last clause] forms a climax: Not only where he omitted to say 'give' [is the Get invalid] but even where he said 'give', and not only where he did not tell three persons but even where he told three persons, and not only where he did not say 'tell' but even where he said 'tell' [the Get is invalid till he says to the scribe etc.].

It has been taught in accord with R. Ashi: 'In the case where the scribe wrote and the witnesses signed for her name, though they had written and signed it and given it to him and he had given it to her, the Get is void unless they had heard him saying with his own voice to the scribe, Write, and to the witnesses, Sign'. The word 'hear' excludes the opinion [mentioned above], that R. Jose admits that the Get is valid where the husband said 'tell'. 'His voice' excludes the statement made by R. Kahana in the name of Rab.<sup>3</sup>

MISHNAH. [IF A MAN SAYS] THIS IS YOUR GET IF I DIE, THIS IS YOUR GET [IF I DIE]<sup>4</sup> FROM THIS ILLNESS, THIS IS YOUR GET AFTER [MY] DEATH, HIS WORDS ARE OF NO EFFECT.<sup>5</sup> [IF HE SAYS], FROM TODAY IF I DIE, FROM NOW IF I DIE, THE GET IS VALID.<sup>6</sup> [IF HE SAYS], FROM TODAY AND AFTER [MY] DEATH, IT IS BOTH A GET AND NO GET, AND IF HE DIES [WITHOUT ISSUE] SHE MUST GIVE HALIZAH<sup>7</sup> BUT SHE CANNOT MARRY THE HUSBAND'S BROTHER.<sup>8</sup> [IF HE SAID], THIS IS YOUR GET FROM TODAY IF I DIE FROM THIS ILLNESS, AND HE THEN GOT UP AND WENT ABOUT AND FELL SICK AND DIED, WE MUST ESTIMATE [THE PROBABLE CAUSE OF HIS DEATH]; IF HE DIED FROM THE FIRST ILLNESS, THE GET IS VALID, BUT OTHERWISE NOT.

GEMARA. [IF HE SAID, THIS IS YOUR GET IF I DIE etc.] This would indicate that the formula 'IF I DIE' is equivalent to 'AFTER [MY] DEATH'; yet in the next clause we are told that [the Get is valid if he says] 'FROM TODAY IF I DIE, FROM NOW IF I DIE', which would indicate that it is not equivalent to 'AFTER DEATH'! — Abaye explained that the expression 'IF I DIE' can have two implications, viz., either 'as from now' or 'as from the time of my death'. If he [further] said to her 'from to-day', it is equivalent to saying to her 'as from now'; if he did not say to her 'from to-day', it is equivalent to saying to her 'from the time of my death'.

IF HE SAID, THIS IS YOUR GET IF I DIE, HIS WORDS ARE OF NO EFFECT. R. Huna said: The wife none the less must give halizah. But it is taught 'HIS WORDS ARE OF NO EFFECT'? — His words are of no effect to the extent that she remains prohibited to all other men and also to the brother-in-law. But since in the later case<sup>9</sup> it says specifically that SHE GIVES HALIZAH, we understand that in the earlier case<sup>10</sup> [where it does not say so] she may also marry the brother-in-law? — The Mishnah follows the view of the Rabbis and R. Huna that of R. Jose, who said that the date of the document is sufficient indication.<sup>11</sup> If we follow the View of R. Jose, she should not require to give halizah either?<sup>12</sup> perhaps you will aver that R. Huna was uncertain whether the halachah follows R. Jose or not.<sup>13</sup> But can you indeed say so? For once when Rabbah b. Abbuha was ill, R. Huna and R. Nahman went to visit him, and R. Huna said to R. Nahman, Ask Rabbah b. Abbuha whether the halachah follows R. Jose or not,<sup>14</sup> and R. Nahman answered, I do not know R. Jose's reason, and how can I ask him the halachah, whereupon R. Huna said, You ask him

the halachah and I will tell you the reason. He therefore asked him, and he replied: Thus said Rab: the halachah is according to R. Jose. When he came out he [R. Huna] said to him, The reason of R. Jose is this; he held that the date of the document is sufficient indication. [This then cannot be R. Huna's reason]! — We must suppose therefore that he was uncertain

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- (1) I.e., where the scribe signed on the instructions not of the husband but of his agent.
  - (2) V. supra 67a and notes.
  - (3) That a deaf-mute may give instructions in writing.
  - (4) [The bracketed words are supplied from the printed texts of the Mishnayoth. Rashi, however, omits these words and takes the phrase 'THIS IS YOUR GET FROM THIS ILLNESS' to mean that the Get is to take effect after this illness.]
  - (5) Because there is no such thing as a Get after death.
  - (6) The Get in this case comes retrospectively into force at the moment of his death.
  - (7) For fear it was no Get.
  - (8) As levir, for fear it was a Get.
  - (9) Where he says, 'FROM TODAY AND AFTER MY DEATH'.
  - (10) Where it is laid down that his words are of no effect.
  - (11) Lit., 'is the proof thereof'. The document referred to is one in which a man assigns all his property to his sons in his lifetime, intending to keep the usufruct for himself. According to the Rabbis, if he desires to transfer to them the body of the property at once, he must insert the words 'from to-day and after my death': according to R. Jose this is not necessary, the date of the document being sufficient to give this indication. V. B.B. 136a.
  - (12) Since the date makes it a valid Get immediately.
  - (13) And therefore he treated the document as a 'Get and no Get'.
  - (14) In the matter of transference of property.

## **Talmud - Mas. Gittin 72b**

whether R. Jose meant his ruling to apply to a verbal declaration<sup>1</sup> or not. But was he uncertain? Have we not learnt, 'If a man said, This is your Get if I do not return within twelve months from now,<sup>2</sup> and he died within the twelve months, the Get is not valid',<sup>3</sup> and in this connection it was taught: 'Our Rabbis allowed her to marry', and we stated [in the Beth Hamidrash], Who are 'our Rabbis'? and Rab Judah said in the name of Samuel, The Beth din which permitted oil,<sup>4</sup> and they took the same view as R. Jose?<sup>5</sup> — We must therefore say that R. Huna's uncertainty was as to whether the halachah follows R. Jose where the declaration was made by word of mouth or not. But can he have been in doubt about this, seeing that Raba has said, If a man says, 'This is thy Get if I die', or 'supposing I die', the Get is valid, but if he said, 'When I die,' or 'After [my] death,' the Get is not valid. Now, how are we to understand this? Are we to suppose that he [also] said 'from to-day', and [that Raba adopted the view of] the Rabbis? Surely there is no need to tell us this, seeing that we have learnt, IF HE SAID, FROM TO-DAY IF I DIE, THE GET IS VALID. We must therefore suppose that he does not say to her 'from to-day', and that Raba adopted the view of R. Jose; which shows that the halachah is in accordance with R. Jose,<sup>6</sup> [does it not]? — Raba was quite sure on the point, R. Huna was uncertain. Alternatively I may suppose [Raba to have meant that] the man does say 'from to-day', and that he was giving the view of the Rabbis, and that his purpose was to explain in regard to these various expressions that 'supposing I die' is equivalent to 'if I die', and 'when I die' to 'after [my] death'.

Some connect [R. Huna's remark] with the latter clause [of the Mishnah], thus: IF A MAN SAYS, THIS IS YOUR GET AFTER [MY] DEATH, HIS WORDS ARE OF NO EFFECT: R. Huna said, If we accept the view of R. Jose, she must give halizah. Surely this is obvious: since in the later case<sup>7</sup> the ruling of the Rabbis [requires her to] give halizah, in the earlier case also the ruling of R. Jose [must require her to] give halizah? — You might think that in this case R. Jose concurs with Rabbi who said that it is an unexceptionable Get<sup>8</sup> and that she would not require to give halizah either, R. Huna therefore tells us that neither did Rabbi concur with R. Jose nor R. Jose with Rabbi. Rabbi did



not concur with R. Jose because he stated expressly 'a Get like this is valid', to exclude one allowed by R. Jose.<sup>8</sup> R. Jose did not concur with Rabbi, because he stated expressly, 'a Get like this is valid', to exclude one allowed by Rabbi. In what connection did Rabbi use these words? — As it has been taught: [If a man says,] From to-day and after my death, this is a Get and no Get. So the Rabbis; but Rabbi says, A Get like this is valid.<sup>9</sup> In what connection did R. Jose use these words? — As we have learnt: [If a man says,] Write and give a Get to my wife if I do not come within twelve months from now, if then they wrote it within the twelve months and gave it after the twelve, it is no Get. R. Jose, however, said: A Get like this is valid.<sup>10</sup>

IF HE SAYS, THIS IS YOUR GET FROM TO-DAY IF I DIE AND HE GETS UP AND GOES ABOUT etc. R. Huna said: His<sup>11</sup> Get is on the same footing as his gift; just as if he gets up he can withdraw his gift, so if he gets up he can withdraw his Get. And just as his Get, even though he does not express his intention precisely, is valid once he says 'write', even though he does not add 'give', so his gift is valid as soon as he says 'give' even though no token gift is made.<sup>12</sup> We have learnt: IF HE SAYS, THIS IS YOUR GET FROM TO DAY IF I DIE FROM THIS ILLNESS, AND HE THEN GOT UP AND WENT ABOUT AND FELL SICK AND DIED, WE MUST ESTIMATE THE PROBABLE CAUSE OF HIS DEATH: IF HE DIED FROM THE FIRST ILLNESS, THE GET IS VALID, BUT OTHERWISE NOT. Now if you say that if he gets up he can retract, why do I require an estimate? We see that he has got up?<sup>13</sup> — Mar the son of R. Joseph said in the name of Raba: We suppose he has passed from one illness into another.<sup>14</sup> But it says that 'HE GETS UP'? — He gets up from one illness and falls into another. But it says 'HE GOES ABOUT'? — It means that he goes with a crutch;

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(1) I.e., where the words 'THIS IS YOUR GET IF I DIE' if used at all were not inserted in the document, but spoken by word of mouth.

(2) Which is equivalent to saying 'if I die'.

(3) V. infra 76b.

(4) R. Judah Nesi'a, (the Prince), the grandson of Rabbi, permitted the oil of heathens to be used. A.Z. 37a.

(5) Which shows that according to R. Jose the formula 'if I die' spoken by word of mouth makes the Get valid, and R. Huna could not have been uncertain on this point.

(6) Even when the declaration was made by word of mouth.

(7) Where he said, 'from to-day and after death'.

(8) V. infra.

(9) To exclude where he said merely 'after death', which, according to R. Jose is sufficient.

(10) V. infra 76b. But not where he said 'from to-day and after death', since the words 'after death' may be interpreted as retracting the words 'from to-day'. Although in the matter of transference of property R. Jose will hold the gift valid, because the declaration there can be explained as intended to reserve the usufruct for the donor during his lifetime.

(11) The reference is to a sick person on the point of death.

(12) V. supra p. 66a and notes.

(13) And the Get is ipso facto annulled.

(14) [Since in the Mishnah it was specifically made conditional on his dying, (v. Tosaf.). Trani is of the opinion that in every case the Get is rendered void, any deposition made by a dying man being understood to be conditional. The same holds good of a gift.]

## Talmud - Mas. Gittin 73a

and this is to show us that it is when he goes on a crutch that an estimate must be made, but that in the other case we do not even require to estimate.<sup>1</sup> Are we to understand from this that the gift of a sick person who passes from one illness to another [and dies] is valid? — Yes, since R. Eleazar has said in the name of Rab, The gift of a sick person who passes from one illness into another is valid.

Rabbah and Raba did not concur in this opinion of R. Huna,<sup>2</sup> as they were afraid it might lead

people to think that a Get could be given after death.<sup>3</sup> But is it possible that where a Get is invalid according to the Torah<sup>4</sup> we should, for fear [of misleading people], declare it effective for making a married woman marriageable? — Yes; whoever betroths a woman does so on the conditions laid down by the Rabbis, and the Rabbis have nullified the betrothal of such a one.<sup>5</sup> Said Rabina to R. Ashi: This can well be where he betrothed by means of a money gift, but if he betrothed by means of intercourse what can we say? — He replied: The Rabbis declared his intercourse to be fornication.<sup>6</sup>

Our Rabbis taught: If he says, This is thy Get from to-day if I die from this illness, and the house fell on him or a serpent bit him, it is no Get. If he said, If I do not get up from this illness, and the house fell on him or a serpent bit him, it is a Get. Why is the rule different in the first case and in the second?<sup>7</sup> — They sent from there<sup>8</sup> to say [in answer to an inquiry], If a lion consumed him, we cannot consider [it a Get].<sup>9</sup>

A certain man sold a field to his neighbour, guaranteeing him against any accident that might happen to it. Eventually they [the Government] turned a river through it. He consulted Rabina, who said to him, You must go and clear it for him, since you have guaranteed him against any accident which may happen to it. Thereupon R. Aha b. Tahalifa remarked to Rabina: It is an exceptional kind of accident. Various opinions were taken<sup>10</sup> and the matter was at last laid before Raba, who said, it is an exceptional kind of accident. Rabina raised [the following] objection against Raba: '[Where he said] If I do not get up from this illness, and the house fell on him or a serpent bit him, this is a Get'? — Raba replied: Why do you not quote the earlier clause, where it says, 'It is no Get'? — Said R. Aha from Difti to Rabina: Because the first clause conflicts with the second, may we not raise an objection from the latter? — He replied: That is so; since the first clause conflicts with the second, the latter was not discussed in the Beth Hamidrash, and it is not authentic. [You must therefore] follow your own reason.<sup>11</sup>

R. Papa and R. Huna the son of R. Joshua bought some sesame on the bank of Nehar Malka,<sup>12</sup> and they hired some boatmen to bring it across<sup>13</sup> with a guarantee against any accident that might happen to it. After a time the Nehar Malka canal was stopped up. They said to them: Hire asses and deliver the stuff to us, since you have guaranteed us against any accident. They appealed to Raba, who said to them: White ducks<sup>14</sup> who want to strip men of their clothes, it is an exceptional kind of accident.<sup>15</sup>

**MISHNAH. SHE<sup>16</sup> SHOULD NOT CONSORT WITH HIM<sup>17</sup> SAVE IN THE PRESENCE OF WITNESSES, THOUGH A SLAVE OR A BONDWOMAN IS SUFFICIENT — NOT, HOWEVER, HER OWN BONDWOMAN, SINCE SHE CAN TAKE LIBERTIES WITH HER OWN HANDMAID.<sup>18</sup> WHAT IS HER STATUS DURING THOSE DAYS?<sup>19</sup> R. JUDAH SAYS THAT**

(1) And even if he passes from one illness to another, we presume that he died from the first illness.

(2) That a sick man on getting up can withdraw his Get, even if he had not used the formula 'if I die'. But v. Tosaf. 72b s.v. **אמר**.

(3) When they see a Get which would become void if he recovered taking effect after his death if he does not recover.

(4) Because the condition that he should die is not fulfilled.

(5) By means of this Get.

(6) V. supra, 33a.

(7) [The answer to the questions left unanswered here is supplied by the Jerusalem Talmud. In the first case he did not die from that illness. Whereas in the second, where the emphasis was on his 'getting up', the Get is valid since he did not after all 'get up'. Our Talmud however, did not evidently accept this distinction, seeing that in both cases the words 'from this illness' form part of the condition, and thus rejects the Baraita. Tosaf.]

(8) Palestine.

(9) Because this is an exceptional accident which he cannot have had in his mind when he said 'if I die'.

(10) Lit., 'the matter was circulated'.

- (11) Which would tell you that he did not have such an exceptional accident in his mind.
- (12) [Alfasi reads Nehar Malka Saba, the Grand Canal connecting the Euphrates with the Tigris, (Obermeyer op. cit. p. 171). V. also B.M. (Sonc. ed.) p. 609, n. 5.]
- (13) To Naresh (v. supra p. 330, n. 1.) the home of R. Papa. The boats had for this purpose to sail up the Euphrates and thence pass into the canal Nars (loc. cit. p. 171).
- (14) I.e., greybeards (Rashi). Cf. Keth. 85a. [Obermeyer loc. cit. Pelican, a bird which owing to its large pouch on its lower jaw for the storage of fish is a symbol among orientals for greediness.]
- (15) And therefore they are not responsible.
- (16) A woman to whom her husband has given a Get with the words 'from now if I die'.
- (17) Because if she is still his wife and he has intercourse with her she will require a second Get, and if she is not his wife he commits an offence by consorting privately with an unmarried woman.
- (18) Lit., 'her heart in her is proud towards her handmaid', i.e., she feels no shame in her presence.
- (19) Between the delivery of the Get and his death.

## Talmud - Mas. Gittin 73b

SHE IS REGARDED AS A MARRIED WOMAN IN EVERY RESPECT; R. JOSE SAYS THAT SHE IS BOTH DIVORCED AND NOT DIVORCED.

GEMARA. Our Rabbis taught: If people have observed that she consorted with him in the dark or slept with him under the foot of the bed, they do not suspect them of having engaged in something else',<sup>1</sup> but they do suspect them of loose conduct, and they do not suspect that he has betrothed her. R. Jose son of R. Judah, however, says, They also suspect him of having betrothed her. What is the meaning of this?<sup>2</sup> — R. Nahman said in the name of Rabbah b. Abbuha, The meaning is this: If they saw him have intercourse with her, they suspect he has done so as a method of betrothing her.<sup>3</sup> If he [afterwards] gave her money, they suspect that it was on account of fornication, as we say that he gave it her for her hire; but we do not suspect it was for betrothal. R. Jose son of R. Judah, however, says that in this case also we have to suspect that it may have been for betrothal. On which of these views can we justify the statement made by Rabbah b. Bar Hanah in the name of R. Johanan: 'The difference<sup>4</sup> arises only in the case where they saw her have intercourse, but if they did not see her have intercourse, both sides agree that she does not require from him a second Get'. On which view can this be justified? — On both views.<sup>5</sup>

Abaye strongly demurred to the explanation [given by R. Nahman]. Is the giving of money, [he said,] mentioned?<sup>6</sup> — No, said Abaye; the meaning is this. If they saw her have intercourse they suspect<sup>7</sup> her of fornication but do not suspect it was for betrothal. R. Jose son of R. Judah says, We also suspect that it may have been for betrothal. On which of these views can we justify the statement made by Rabbah b. Bar Hanah in the name of R. Johanan: 'The difference arises only in the case where they saw her have intercourse, but if they did not see her have intercourse, both sides agree that she does not require from him a second Get'? On which view can this be justified? On the view of R. Jose.<sup>8</sup> Raba strongly demurred to this, [saying,] If so, what is the point of 'also'?<sup>9</sup> — No, said Raba; the meaning is this. R. Jose, son of R. Judah, says that even if they did not see her have Intercourse,<sup>10</sup> we still suspect he may have betrothed her. On which of these views can we justify the statement of Rabbah b. Bar Hanah in the name of R. Johanan: 'The difference arises where they saw her have intercourse, but if they did not see her have intercourse, both sides agree that she does not require from him a second Get'? On whose view is this justified? — On neither.<sup>11</sup>

WHAT IS HER STATUS DURING THOSE DAYS? R. JUDAH SAYS THAT SHE IS REGARDED AS A MARRIED WOMAN IN ALL RESPECTS; R. JOSE SAYS THAT SHE IS DIVORCED AND NOT DIVORCED. A Tanna taught:<sup>12</sup> Provided he dies.<sup>13</sup> And when he dies will it be a Get?<sup>14</sup> Is it not an established maxim that there is no Get after death? — Rabbah replied: We presume that what he said to her was, [This will be a Get] from the time that I am still in the world.<sup>15</sup>

Our Rabbis taught: In the days between,<sup>16</sup> her husband is entitled to her finds and the product of her labour, he can annul her vows, he inherits her,

- (1) I.e., sexual intercourse.
- (2) I.e., how explain the apparent contradiction between the various clauses.
- (3) Intercourse being one of three methods of betrothal, v. Kid. 2a, she will now require another Get.
- (4) Between Beth Hillel and Beth Shammai, infra 81a. If a man has divorced his wife and she stays in the same inn with him, Beth Hillel require him to give her a second Get, but Beth Shammai do not.
- (5) Because both the first Tanna and R. Jose agree that where she was not seen to have intercourse a second Get is not required.
- (6) In the Baraita quoted, and how could so essential a point have been omitted?
- (7) The word 'suspect' is used loosely here, and is equivalent to 'put it down to'.
- (8) For according to the first Tanna a second Get is not required even where they saw her. This therefore must also be the view of Beth Hillel, as the first Tanna is not likely to follow Beth Shammai in preference to Beth Hillel with whom the halachah generally rests.
- (9) In the observation of R. Jose. Since the assumption that this is a case of fornication saves her from the necessity of another Get, R. Jose should have merely said, 'They suspect him of having betrothed her'.
- (10) But only consort with him.
- (11) Since the first Tanna does not require a second Get even where she was seen, and R. Jose requires it even where she was not seen.
- (12) In connection with the statement of R. Jose.
- (13) If he does not die, she remains a married woman, with certain consequences which are discussed presently.
- (14) I.e., if it was not a Get at some time during his life, how can it become one upon his death?
- (15) Which denoted the period immediately preceding his death. R. Judah being of the opinion that the Get comes into force only at the moment before his death, whereas according to R. Jose the Get is in doubtful operation all the time as every moment from the time of delivery may be deemed as the possible moment before his death. Tosaf. suggests a slight change in reading, according to which the rendering would be: '(When he says, "from to-day if I die", this is equivalent to saying) from the time that I am in the next world.' According to Rabbah the dispute of R. Judah and R. Jose is not concerned with the opening case when he said 'from now if I die', where all would agree that the Get becomes retrospectively valid at the time of his death.
- (16) The giving of the Get and his death.

## Talmud - Mas. Gittin 74a

, and he defiles himself for her [corpse];<sup>1</sup> in a word, she is his wife in all respects, save that she does not require from him a second Get.<sup>2</sup> This is the view of R. Judah. R. Meir says that if she has intercourse [with another man], judgment on it must be suspended.<sup>3</sup> R. Jose says that its character is doubtful,<sup>4</sup> while the Sages say that she is divorced and not divorced, provided only that he dies. How would the difference between R. Meir and R. Jose work out in practice? — R. Johanan says: In respect of a guilt-offering brought out of doubt;<sup>5</sup> according to R. Meir the man does not bring a guilt-offering out of doubt,<sup>6</sup> according to R. Jose he does. 'The Sages say that she is divorced and not divorced': the Sages say the same thing as R. Jose, do they not? — A practical difference arises in the application of the rule laid down by R. Zera; for R. Zera said in the name of Rabba b. Jeremiah who had it from Samuel: Wherever the Sages have said that a woman 'is divorced and not divorced', the husband is under obligation to maintain her.

MISHNAH. [IF A MAN SAYS], THIS IS YOUR GET ON CONDITION THAT YOU GIVE ME TWO HUNDRED ZUZ, SHE IS DIVORCED THEREBY AND SHE HAS TO GIVE [HIM THE MONEY]. [IF HE SAYS], ON CONDITION THAT YOU GIVE [IT] ME WITHIN THIRTY DAYS FROM NOW, IF SHE GIVES HIM WITHIN THIRTY DAYS SHE IS DIVORCED, BUT IF NOT SHE IS NOT DIVORCED. RABBAN SIMEON B. GAMALIEL SAID: IT HAPPENED IN SIDON

THAT A MAN SAID TO HIS WIFE, THIS IS YOUR GET ON CONDITION THAT YOU GIVE ME [BACK] MY ROBE, AND HIS ROBE WAS LOST, AND THE SAGES SAID THAT SHE SHOULD GIVE HIM ITS VALUE IN MONEY.

GEMARA. What precisely is meant by the words 'AND SHE HAS TO GIVE HIM'? — R. Huna says it means, 'and she shall [thereafter] give him'; Rab Judah says it means, 'when she gives him'. What difference does it make in practice which view we adopt? — It makes a difference if the Get is torn or lost [before the money is given]. According to R. Huna who said it means that she is [thereafter] to give, she does not require from him a second Get,<sup>7</sup> according to Rab Judah who said that it means 'when she gives', she requires from him a second Get.<sup>8</sup> In connection with betrothals also we have an analogous statement, as we have learnt: 'If a man says to a woman, Behold thou art betrothed to me on condition that I give thee two hundred zuz, she is betrothed to him and he is to give her the money,<sup>9</sup> 'and in the discussion thereon it was said, What is meant by 'he is to give', and R. Huna said, It means, he shall [thereafter] give, while Rab Judah said, It means, When he gives. What practical difference does it make which view we adopt? — A difference arises if she puts forth her hand and receives betrothal money from another. According to R. Huna who said that it means, 'he shall [thereafter] give', the giving is a mere condition, and he has only to fulfil his condition,<sup>10</sup> whereas according to Rab Judah who said that it means 'when he gives', the betrothal takes effect only when he gives, but at the time it is no betrothal. And both cases required to be stated. For if the rule had been stated only in regard to betrothal, I might have thought that in that case R. Huna said that it means 'and he is to give', because his intention is to bring her nearer [to himself],<sup>11</sup> but in the case of divorce where his intention is to put her away [from himself]<sup>12</sup> I might have thought that he accepts the view of Rab Judah. If again it had been stated in regard only to divorce, I might have thought that in that case R. Huna said it means 'he shall [thereafter] give' because he would not be shy to ask her,<sup>13</sup> but in the case of betrothal where she might be diffident to ask him, I might have thought that he would accept the view of Rab Judah. Again, if the rule had been stated in connection only with betrothal, I might have thought that Rab Judah said that in that case It means 'when she gives' because she is diffident to ask him, but in the case of divorce where he would not be shy to ask her I might have thought that he accepts the view of R. Huna. And if the rule had been stated only in connection with divorce, I might have thought that in that case Rab Judah says it means 'when she gives', because his intention is to put her away [from him], but in the case of betrothal where his intention is to bring her nearer [to him] I might have thought that he accepts the view of R. Huna. Therefore [both statements] were necessary.

An objection was raised [If a man says,] This is your Get on condition that you give me two hundred zuz, even though the Get is torn or lost she is divorced, though she cannot marry any other man until she gives him the money.<sup>14</sup> Further it has been taught: [If a man says,] This is your Get on condition that you give me two hundred zuz and he dies, if she has already given [before he dies] she is not in any way tied to the brother-in-law, but if she has not yet given she is tied to the brother-in-law. Rabban Simeon b. Gamaliel Says, She can give the money to his father or his brother or to one of the relatives.<sup>15</sup> Now the two authorities here differ only to this extent, that one holds that '[give] me' means 'to me but not to my heirs', and the other holds that it means 'to me or even to my heirs', but both hold that it is a mere condition. This would seem to be a refutation of Rab Judah! — Rab Judah, however, may answer: Who is the authority for this view? It is Rabbi, since R. Huna has said in the name of Rabbi, The formula 'on condition' is equivalent to 'from now';<sup>16</sup> but the Rabbis join issue with him, and I follow the Rabbis.

R. Zera said: When we were in Babylon, we used to state that [the ruling] which R. Huna said in the name of Rabbi, that the formula 'on condition' is equivalent to 'from now', is disputed by the Rabbis. When I went up [to Eretz Yisrael], I found R. Assi sitting and saying in the name of R. Johanan, All agree that the formula 'on condition' is equivalent to 'from now'; a difference of opinion arose only with regard to the formula 'from to-day and after [my] death',

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- (1) Even if he is a priest.
  - (2) If he had intercourse with her and died subsequently, since the Get takes effect just immediately before his death.
  - (3) If the husband dies, she was divorced at the time, and there is no penalty for the intercourse; if the husband recovers, the man has to bring a sin-offering.
  - (4) If the husband dies, R. Jose is doubtful whether retrospectively the Get had or had not taken effect when the intercourse took place, and consequently whether the man is or is not liable to a guilt-offering.
  - (5) I.e. where he is in doubt as to whether the sin has been committed or not. V. Lev. V, 17ff.
  - (6) If the husband dies.
  - (7) Because the Get takes effect retrospectively whenever the money is paid.
  - (8) The Get comes into force only from the moment of payment, but since at that time the Get is no longer in existence it has no effect.
  - (9) Kid. 60a.
  - (10) When his betrothal takes retrospective effect, so that that of the second is null and void.
  - (11) And therefore he meant it to take effect at once.
  - (12) Which he wishes to delay as long as possible.
  - (13) And therefore he does not mean to make the operation of the Get conditional on the receipt of the money, but intends it to take effect at once.
  - (14) Because she may after all not give, so that the Get will never take effect retrospectively.
  - (15) Tosef. Git. V.
  - (16) And makes the Get take effect retrospectively as soon as the condition is fulfilled.

### **Talmud - Mas. Gittin 74b**

, as it has been taught: '[If he says] From to-day and after [my] death, it is a Get and no Get. This is the opinion of the Sages. Rabbi says, One like this is a Get'.<sup>1</sup> Now if Rab Judah is right in saying that they differ [as to the effect of] 'on condition', instead of joining issue [in the Baraitha] on the question of 'from now and after my death', let them join issue on 'on condition'? — This is to show you how far Rabbi is prepared to go.<sup>2</sup> But let them differ about 'on condition' to show how far the Rabbis are prepared to go?<sup>3</sup> — The Tanna [of the Baraitha] preferred to make the stronger instance one of permission.

ON CONDITION THAT YOU GIVE ME WITHIN THIRTY DAYS FROM NOW. Surely this is obvious? — You might think that he is really not particular and that he only wants to urge her on.<sup>4</sup> We are told therefore that this is not so.

RABBAN SIMEON B. GAMALIEL SAID: IT HAPPENED IN SIDON etc. Of what statement is this given as an illustration?<sup>5</sup> — There is a lacuna, and we should read thus: If he said to her, On condition that you give me my robe, and his robe was lost, we rule that he meant his particular robe and nothing else. Rabban Gamaliel says that she can give him the money value; and [in confirmation] R. Simeon b. Gamaliel further said that a case happened in Sidon where a man said to his wife, This is your Get on condition that you give me my robe, and his robe was lost, and the Sages said that she should give him the money value of it.

R. Assi inquired of R. Johanan: [If a man said,] This is your Get on condition that you give me two hundred zuz, and he then changed his mind and said, You can keep the money,<sup>6</sup> what is the law? This is equally a problem whether we adopt the view of the Rabbis or whether we adopt that of Rabban Simeon b. Gamaliel. From the standpoint of the Rabbis it is a problem, because [we may hold that] the Rabbis only ruled as they did in the other case [of the robe] because he did not forgo his claim, but here we see that he tells her that she can keep the money. Or we may also hold that Rabban Simeon b. Gamaliel ruled as he did only because she made it good for him with a money payment, but where she pays him nothing at all he would not say [that she is divorced]? — He

replied: She is not divorced. He [R. Assi] therefore raised [the following] objection: If a man says to another Konam<sup>7</sup> be whatever benefit you have of me unless you give my son a kor of wheat and two barrels of wine, R. Meir says he is forbidden [to have any benefit of him] until he gives, but the Sages say that such a man also may release himself from his own Vow without consulting a wise man by saying to himself, I regard myself as having received them [on his behalf]?<sup>8</sup> — Are these two cases parallel? In that case his intention is to give her trouble and he has not done so, but in this case he was trying to obtain some positive advantage and found he could do without it.

A certain man said to his metayer, The general rule is that [a metayer] irrigates [the land] three times [a year] and takes a fourth of the produce [as his share]. [I want] you to irrigate four times and take a third. Before [he had finished irrigating] the rain came. R. Joseph said, He has not actually irrigated [the fourth time].<sup>9</sup> Rabbah said, There was no need [for a fourth irrigation].<sup>10</sup> May we say that R. Joseph adopted the point of view of the Rabbis<sup>11</sup> and Rabbah that of Rabban Simeon b. Gamaliel? — Can you really maintain this, seeing that it is a fixed rule with us that the law follows Rabbah,<sup>12</sup> and in this matter the halachah does not follow Rabban Simeon b. Gamaliel?<sup>13</sup> — No. There can be no question that the law is as determined by the Rabbis.<sup>14</sup> R. Joseph follows the Rabbis without question, while Rabbah can say to you, My view can be justified even from the standpoint of the Rabbis. For the reason why the Rabbis ruled as they did in that case was only because his intention was to give her trouble,<sup>15</sup> but here he was after some advantage and he found that he could do without it.

We have learnt in another place: At first a man [who had bought a house from another in a walled city] used to hide himself on the last day of the twelve-month period, so that [the house] should become his for ever.<sup>16</sup> Hillel the Elder, therefore, ordained that he [the owner] should throw his money into a certain chamber and that [having done so] he should be at liberty to break the door open and enter, and the other whenever he liked should come and take his money.<sup>17</sup> Raba remarked upon this: From this regulation of Hillel we may learn that if a man said, This is your Get on condition that you give me two hundred zuz, and she gave it to him, if he accepted the money willingly she is divorced, but if she had to force it on him she is not divorced. For since Hillel found it necessary to ordain in this instance that a gift forced on the donee should be accounted a gift,

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(1) V. supra 72b. And since they differ on 'from today etc.' we presume that they agree on 'on condition'. V. Tosaf. s.v.

(2) In permitting her to marry again.

(3) In forbidding her to marry.

(4) To fulfil the condition the sooner.

(5) Lit., 'what did he teach that he states an incident'. Seeing that there has been no mention of money so far.

(6) Lit., 'they are forgiven thee'.

(7) V. Glos.

(8) V. Ned. 24a. Which shows that to waive the claim is equivalent to receiving the money.

(9) And decided in favour of the owner, assigning the metayer only a fourth.

(10) And decided in favour of the metayer, since after all the field had been properly watered.

(11) That the condition must be fulfilled to the letter.

(12) V. B.B. 114b.

(13) V. infra p. 75a.

(14) The rain being to irrigation as money to the robe.

(15) As a man who divorces his wife may be presumed to dislike her, we suppose that the reason why he made it a condition that she should give him money was in order to annoy her and not because he wanted to make some Profit.

(16) V. Lev. XXV, 29, 30.

(17) V. 'Ar. 31b.

, we conclude that in general a gift forced on the donee is not accounted a gift. R. Papa (or as some say R. Shimi b. Ashi) strongly demurred to this, [saying:] But perhaps Hillel thought there was need for a special regulation only where the money was given not in the donee's presence, but where it was made to him personally, the gift would be effective whether he was willing to receive it or not? According to another version, Raba said: From the regulation of Hillel we may infer that if he said, This is your Get on condition that you give me two hundred zuz and she gave them to him, whether he accepted them willingly or she forced them on him, the transfer is effective. For Hillel felt the need for a special regulation only where the money was given not in his presence, but if given to him personally the gift, whether accepted or forced on one, is effective. To this R. Papa (or some say R. Shimi b. Ashi) strongly demurred, [saying], Perhaps even if made to him personally the gift if made with his consent is effective but if against his will not, and Hillel made only the adjustment which was required?<sup>1</sup>

Rabbah b. Bar Hanah said in the name of R. Johanan: Wherever Rabban Simeon b. Gamaliel gives a ruling in our Mishnah, the halachah follows him, save in the matters of the 'Areb',<sup>2</sup> of 'Sidon',<sup>3</sup> and of the 'later proof'.<sup>4</sup>

Our Rabbis taught: If a man says, This is your Get on condition that the paper belongs to me, she is not divorced;<sup>5</sup> if he says, On condition that you return me the paper, she is divorced.<sup>6</sup> Why this difference between the two cases?<sup>7</sup> — R. Hisda replied: The authority followed here is Rabban Simeon b. Gamaliel, who said [in an analogous case that] she should give the money value; so here too, it is possible for her to make it right for him with a money payment.<sup>8</sup> Abaye strongly demurred to this, saying: I grant you that Rabban Simeon b. Gamaliel meant this ruling to apply where the object for which compensation is given cannot be produced,<sup>9</sup> but would he have said the same where it can be produced? No, said Abaye: the authority followed here is R. Meir, who said that a condition to be binding must be duplicated,<sup>10</sup> and here he has not duplicated his condition.<sup>11</sup> Raba strongly objected to this, saying, The reason [according to you] is that he did not duplicate the condition, so that if he had duplicated the condition it would not have been a Get. Let us see now. Whence do we derive [the rule governing] conditions? From [the condition] of the children of Gad and the children of Reuben.<sup>12</sup> Therefore just as there the condition was mentioned before the act conditional on it,<sup>13</sup> so in all cases the condition should be mentioned before the act, and that excludes the present case where the act is mentioned before the condition.<sup>14</sup> No, said Raba: the reason is that the act is mentioned before the condition. R. Ada b. Ahabah strongly objected to this, saying, The reason [according to you] is that the act was mentioned before the condition, so that if the condition were mentioned before the act it would not be a divorce. Let us see now. Whence do we derive the rule of conditions? From that of the sons of Gad and the sons of Reuben. Therefore just as there the condition relates to one thing and the act to another,<sup>15</sup> so it should be in all cases, to exclude such a one as this

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(1) He found that the owners hid themselves and consequently made the necessary regulation. And if it had been a common thing to refuse the payment when offered, he would have ordained that the gift should be effective in this case also, and therefore the money for the Get cannot be forced on him against his will.

(2) 'Surety'. V. B.B. 173a, on the law of recovering from a surety if the borrower has assets.

(3) Our own Mishnah.

(4) I.e., evidence brought after the time allowed by the Beth din. Sanh. 31a.

(5) Because he does not carry out the injunction, 'he shall give into her hand', Deut. XXIV, I.

(6) V. supra 20b.

(7) [It is assumed that in the latter case the Get comes into force only after the return of the paper when the condition has been fulfilled. Hence the question.]

(8) And as the condition can be fulfilled the Get is valid.

(9) As in the case of the lost robe.

(10) I.e., expressed both affirmatively and negatively. Kid. 61a



(11) And therefore it is a Get unconditionally.

(12) Num. XXXII, 20ff, 'If ye shall do this thing . . . then this land shall be unto you a possession; and if ye shall not do so . . . behold ye have sinned, etc.

(13) ['If ye shall do this thing . . . (condition), then his land shall be unto you a possession' (act).]

(14) [He said first 'this is your Get and then added the condition that 'the paper belongs to me'.]

(15) The condition to crossing the Jordan, and the act to their taking possession of the land of Sihon and Og.

## Talmud - Mas. Gittin 75b

where both the condition and the act relate to the same thing?<sup>1</sup> No, said R. Ada b. Ahabah: the reason [why she is divorced] is because the condition and the act relate to the same thing. R. Ashi, however, said: The authority followed here is Rabbi; for R. Huna has said in the name of Rabbi: The formula on condition' is equivalent to 'from now'.<sup>2</sup>

Samuel laid down that a Get given by a man on a sick bed<sup>3</sup> should run, 'If I do not die, this will not be a Get, and if I die it will be a Get'. Why not rather say, If I die it will be a Get and if I do not die it will not be a Get?<sup>4</sup> — A man does not like to commence with a mention of evil for himself. But why should he not say, This will not be a Get if I do not die?<sup>5</sup> — The condition must be mentioned before the act. Raba strongly questioned [Samuel's dictum]: Let us see, he said; whence do we derive the rule for conditions? From the condition of the sons of Gad and the sons of Reuben. Therefore just as there the affirmative comes before the negative, so it should be in all cases, which would exclude this one where the negative comes before the affirmative? No, said Raba; the Get should run as follows: 'If I do not die it will not be a Get: if I die it will be a Get, if I do not die it will not be a Get.' [We write] 'If I do not die it will not be a Get', so as to avoid his commencing with a mention of evil for himself. [Then we say] 'If I die it will be a Get, if I do not die it will not be a Get', so that the affirmative may precede the negative.

MISHNAH. [IF A MAN SAYS], HERE IS YOUR GET ON CONDITION THAT YOU LOOK AFTER MY FATHER, ON CONDITION THAT YOU GIVE SUCK TO MY CHILD, (HOW LONG IS SHE TO GIVE IT SUCK? TWO YEARS.<sup>6</sup> R. JUDAH SAYS, EIGHTEEN MONTHS), IF THE CHILD DIES OR THE FATHER DIES,<sup>7</sup> THE GET IS VALID. [IF HE SAYS], THIS IS YOUR GET ON CONDITION THAT YOU LOOK AFTER MY FATHER FOR TWO YEARS, ON CONDITION THAT YOU GIVE SUCK TO MY CHILD FOR TWO YEARS, THEN IF THE CHILD DIES OR IF THE FATHER SAYS, I DON'T WANT YOU TO LOOK AFTER ME, EVEN THOUGH SHE HAS GIVEN NO CAUSE FOR COMPLAINT, THE GET IS NOT VALID. RABBAN SIMEON B. GAMALIEL, HOWEVER, SAYS THAT A GET LIKE THIS IS VALID. RABBAN SIMEON B. GAMALIEL LAID IT DOWN AS A GENERAL RULE THAT WHEREVER THE OBSTACLE DOES NOT ARISE FROM HER SIDE, THE GET IS VALID.

GEMARA. Do we require so long a period [as two years]? The following seems to contradict this: If she waited on him one day, or gave the child suck one day, the Get is valid?<sup>8</sup> — R. Hisda replied: There is no contradiction; one statement gives the view of the Rabbis, the other that of Rabban Simeon b. Gamaliel. Our Mishnah gives the view of Rabban Simeon b. Gamaliel,<sup>9</sup> and the Baraitha that of the Rabbis.<sup>10</sup> But since the later clause in our Mishnah states the view of Rabban Simeon b. Gamaliel, it follows [does it not] that the earlier clause states a view which is not that of Rabban Simeon b. Gamaliel? — We must say therefore that the Baraitha gives the view of Rabban Simeon b. Gamaliel, who insists only on a minimum fulfilment of<sup>11</sup> conditions, while the Mishnah gives the view of the Rabbis. Raba said: There is no contradiction; in the one case [the Mishnah] we suppose he mentions no time limit, in the other case he mentions a definite time limit.<sup>12</sup> Upon which R. Ashi remarked: Wherever no time limit is mentioned, it is the same as mentioning a limit of one day.<sup>13</sup>

We have learnt: HOW LONG IS SHE TO GIVE IT SUCK? TWO YEARS, RABBI JUDAH

SAYS, EIGHTEEN MONTHS. If we accept the view of Raba, this creates no difficulty, but if we accept that of R. Ashi, why should we require two years or eighteen months? One day should be enough? — What it means is this: One day in the next two years, to exclude the period after two years; one day in the next eighteen months, to exclude the period after eighteen months. An objection was raised [against this from the following]: [IF HE SAYS] THIS IS YOUR GET ON CONDITION THAT YOU LOOK AFTER MY FATHER FOR TWO YEARS, ON CONDITION THAT YOU SUCKLE MY CHILD FOR TWO YEARS, THEN IF THE CHILD DIES, OR THE FATHER SAYS, I DON'T WANT YOU TO LOOK AFTER ME, EVEN THOUGH SHE GAVE NO CAUSE FOR COMPLAINT, THE GET IS NOT VALID.

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- (1) The Get itself which has to be returned and so become a Get.
  - (2) [Contrary to what has been assumed hitherto (p. 357, n. 7) the Get therefore, is valid retrospectively, when she returns the paper, the gift of which is regarded as a temporary one.]
  - (3) In order to release the wife from all ties to her brothers-in-law.
  - (4) So as to commence with the affirmative condition.
  - (5) Why did Samuel insist on the exact words of the formula?
  - (6) I.e., until it is two years old, (v. Keth. 60b). The words in brackets are best taken as a parenthesis.
  - (7) According to Rashi, this means, before the time has expired; according to Tosaf., even before she has commenced her duties.
  - (8) V. Tosef. Cit. V.
  - (9) Who said above that if the robe is lost she can give the money value, which shows that in his opinion, the husband's object in making a condition is to obtain some substantial advantage, and therefore she may have to suckle the child for as much as two years.
  - (10) Who said that she must give the robe itself, which shows that the condition is to be taken au pied de la lettre, and therefore one day is sufficient.
  - (11) Lit., 'who is lenient in regard to'.
  - (12) He said one day.
  - (13) [R. Ashi has no intention for the present to reconcile the Mishnah and Baraitha; he merely disagrees with Raba's opinion.]

### **Talmud - Mas. Gittin 76a**

This creates no difficulty for Raba, who may say that the previous clause<sup>1</sup> speaks of the case where he does not mention any time limit and this where he does.<sup>2</sup> But on R. Ashi's view, why should the ruling be different in the first case from that in the second?<sup>3</sup> — This is indeed a difficulty.

Our Rabbis taught: [If a man says,] This is your Get on condition that you look after my father for two years, or on condition that you suckle my child for two years, even though the condition is not fulfilled, the Get is valid because he did not say to her, [first] 'if you look after' [and then] 'if you do not look after', 'if you suckle' and 'if you do not suckle'.<sup>4</sup> This is the view of R. Meir. The Sages, however, say that if the condition is fulfilled it is a Get and if not it is no Get. Rabban Simeon b. Gamaliel says: There is no condition in the Scriptures which is not duplicated.<sup>5</sup> According to one explanation, he addressed this remark to R. Meir, and according to another he addressed it to the Sages. According to one view he addressed his remark to R. Meir, and what he meant was this: There is no condition in the Scriptures which is not duplicated. Hence in this connection we have two texts from which the same inference may be drawn, and wherever we have two texts from which the same inference may be drawn, we do not base a rule upon them.<sup>6</sup> According to another explanation he addressed his remark to the Rabbis, and what he meant was this: There is no condition in the Scripture which is not duplicated and we base our rules upon them.

A contradiction was raised [from the following]: [If a man said], This is your Get on condition that you look after my father for two years, on condition that you suckle my child for two years, then if

the father or the child dies the Get is not valid. This is the view of R. Meir. The Sages, however, say that although the condition has not been fulfilled the Get is valid, since she can say to him, Produce your father and I will wait on him, produce your child and I will suckle it. Now, R. Meir would seem to be in contradiction with himself, and the Rabbis would also seem to be in contradiction with themselves? — Between the two statements of R. Meir there is no contradiction: the former [speaks of] where [the man] did not double his condition, the latter of where he did double it. Between the two statements of the Rabbis there is also no contradiction; for by the ‘Sages’ here mentioned we understand Rabban Simeon b. Gamaliel, who said that wherever the obstacle does not arise from her side the Get is valid.

Our Rabbis taught: If a man said to his wife in the presence of two witnesses, Here is your Get<sup>7</sup> on condition that you look after my father for two years, and he subsequently said to her in the presence of two witnesses, Here is your Get on condition that you give me two hundred zuz, the second statement does not nullify the first,<sup>8</sup> and she has the option of either waiting on the father or giving the husband the two hundred zuz. If, however, he said to her in the presence of two witnesses, Here is your Get on condition that you give me two hundred zuz, and he subsequently said to her in the presence of two witnesses, Here is your Get on condition that you give me three hundred zuz, the second statement nullifies the first, nor can one of the first two witnesses and one of the second combine to form a pair.<sup>9</sup> To which ruling [does this last statement belong]? It cannot be the second one, because [the first condition there] is nullified?<sup>10</sup> Rather it is the first one. But in this case it is self-evident?<sup>11</sup> — You might think that all [the witnesses who can help] to establish that there was a condition can be joined together. We are therefore told [that this is not so].

**MISHNAH.** [IF A MAN SAYS,] THIS IS YOUR GET IF I DO NOT RETURN WITHIN THIRTY DAYS, AND HE WAS ON THE POINT OF GOING FROM JUDEA TO GALILEE, IF HE GOT AS FAR AS ANTIPRAS<sup>12</sup> AND THEN TURNED BACK, HIS CONDITION IS BROKEN.<sup>13</sup> [IF HE SAYS,] HERE IS YOUR GET ON CONDITION THAT I DO NOT RETURN WITHIN THIRTY DAYS, AND HE WAS ON THE POINT OF GOING FROM GALILEE TO JUDEA, IF HE GOT AS FAR AS KEFAR ‘UTHNAI<sup>14</sup> AND THEN TURNED BACK, THE CONDITION IS BROKEN. [IF HE SAID,] HERE IS YOUR GET ON CONDITION THAT I DO NOT RETURN WITHIN THIRTY DAYS, AND HE WAS ON THE POINT OF GOING INTO FOREIGN PARTS, IF HE GOT AS FAR AS ACCO [ACRE] AND TURNED BACK HIS CONDITION IS BROKEN. [IF HE SAID,] HERE IS YOUR GET SO SOON AS I SHALL HAVE KEPT AWAY FROM YOUR PRESENCE THIRTY DAYS, EVEN THOUGH HE CAME AND WENT CONSTANTLY, SO LONG AS HE WAS NOT CLOSETED WITH HER, THE GET IS VALID.

**GEMARA.** [IF HE GOT AS FAR AS ANTIPRAS,] This would seem to imply that Antipras is in Galilee,<sup>15</sup> which [apparently] contradicts the following: ‘Antipras is in Judea and Kefar ‘Uthnai in Galilee. The space between the two is subject to the disabilities of both<sup>16</sup> so that [if he gets there and returns] she is divorced

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(1) ‘If the child dies . . . the Get is valid’.

(2) [For the fact of his mentioning a time limit shows that he is particular about the child being suckled for two years. So Rashi; but v. Tosaf.]

(3) I.e., in the first case also, if the child dies before she has suckled it one day, why should not the Get be void?

(4) I.e., he did not state the condition both affirmatively and negatively, after the model of the condition of the sons of Gad and Reuben.

(5) E.g., Gen. XXIV, 3ff.; Num. XIX, V, 19ff.; Is., I, 19, 20.

(6) V. Sanh. (Sonc. ed.) p. 458, n. 9.

(7) I.e., showing it to her without giving it to her.

(8) Because the condition is of an entirely different nature.

- (9) To testify that there was a certain condition attached to the Get though not inserted in writing.
- (10) And even if the two witnesses to that condition came together, their evidence would be of no effect.
- (11) Because they cannot both testify to the same thing.
- (12) Antipatris, on the borders of Judea and Galilee.
- (13) This is explained infra, in the Gemara.
- (14) On the borders of Galilee and Judea, v. supra p. 34, n. 4.
- (15) The Gemara understands the Mishnah thus: If he actually went to Galilee but did not stay there thirty days, the Get is void, as his condition has not been fulfilled. If, however, he returns before reaching Galilee, he has not broken his condition, and is still able to fulfil it by going to Galilee and remaining there thirty days. Hence, since by going to Antipras and returning at once he makes the Get void, Antipras must be in Galilee, and similarly Kefar 'Uthnai must be in Judea.
- (16) That is to say, we reckon the condition as both broken and not broken, to the wife's disadvantage.

## Talmud - Mas. Gittin 76b

and not divorced?<sup>1</sup> — Abaye replied: [We suppose that] he makes two conditions with her, thus: If I reach Galilee, this will be a Get at once, and also if I remain on the road thirty days and do not return it will be a Get. If then he reached Antipras and came back, so that he did not get to Galilee nor did he remain on the road thirty days, his condition has been broken.

HERE IS YOUR GET ON CONDITION THAT I DO NOT RETURN WITHIN THIRTY DAYS [AND HE GOT AS FAR AS ACCO]. This would imply that Acco is in foreign parts.<sup>2</sup> But how can this be, seeing that R. Safra has said: When the Rabbis took leave of one another,<sup>3</sup> they did so in Acco, because it is forbidden for those who live in Eretz Yisrael to go out of it? — Abaye replied: He made two conditions with her, thus: If I reach foreign parts, this will be a Get at once, and if I remain on the road and do not return within thirty days it will be a Get. If he got as far as Acco and returned, so that he neither reached foreign parts nor remained on the road thirty days, his condition is broken.

HERE IS YOUR GET SO SOON AS I SHALL KEEP AWAY etc. But he does not keep away?<sup>4</sup> — R. Huna replied: What is meant by 'PRESENCE here'? Marital intercourse. And why is it called 'PRESENCE'? A polite expression is used. R. Johanan, however, said: The word 'PRESENCE' is to be taken literally. For it does not say that [if he comes and goes] she is divorced, but 'THE GET IS VALID', that is to say, it does not become an 'old' Get<sup>5</sup> and when thirty days have passed [without his seeing her] it is a valid Get. It has been taught in accordance with R. Johanan: '[If he says,] Here is your Get so soon as I shall keep away from your presence thirty days, even though he was constantly coming and going, so long as he was not closeted with her the Get is valid, and we have no fear of its being an 'old' Get, since he was not closeted with her.' But is there not the possibility that he made it up with her?<sup>6</sup> — Rabbah son of R. Huna replied: Thus said my father, my teacher, in the name of Rab: This rule applies where he gives an undertaking<sup>7</sup> that he will accept her word if she says he did not come [to her]. Some attach this statement to the Mishnah,<sup>8</sup> thus: [If a man says, this is your Get] from now if I do not return within twelve months, and he died within the twelve months, the Get is valid. But is there not the possibility that he made it up with her? Rabbah son of R. Huna replied: Thus said my father, my teacher in the name of Rab: The rule applies where he gives an undertaking that he will accept her word if she says that he did not come to her. Those who attach this statement to the Mishnah would without question attach it to the Baraitha<sup>9</sup> also. But those who attach it to the Baraitha might hesitate to attach it to the Mishnah, because [as far as we know] he has not come to see her.<sup>10</sup>

MISHNAH. [IF A MAN SAYS,] THIS IS YOUR GET IF I DO NOT RETURN WITHIN TWELVE MONTHS, AND HE DIES WITHIN TWELVE MONTHS, IT IS NO GET.<sup>11</sup> [IF HE SAYS,] THIS IS YOUR GET FROM NOW IF I DO NOT RETURN WITHIN TWELVE MONTHS, AND HE

DIES WITHIN TWELVE MONTHS, IT IS A GET. [IF HE SAYS,] IF I DO NOT COME WITHIN TWELVE MONTHS, WRITE A GET AND GIVE IT TO MY WIFE, AND THEY WROTE A GET BEFORE TWELVE MONTHS HAD PASSED AND GAVE IT AFTER, IT IS NO GET. [IF HE SAID,] WRITE A GET AND GIVE IT TO MY WIFE IF I DO NOT COME WITHIN TWELVE MONTHS, AND THEY WROTE IT BEFORE THE TWELVE MONTHS HAD PASSED AND GAVE IT AFTER, IT IS NO GET. R. JOSE, HOWEVER, SAYS THAT A GET LIKE THAT IS VALID.<sup>12</sup> IF THEY WROTE IT AFTER TWELVE MONTHS AND DELIVERED IT AFTER TWELVE MONTHS AND HE DIED, IF THE DELIVERY OF THE GET PRECEDED HIS DEATH THE GET IS VALID, BUT IF HIS DEATH PRECEDED THE DELIVERY OF THE GET IT IS NOT VALID. IF IT IS NOT KNOWN WHICH WAS FIRST, THE WOMAN IS IN THE CONDITION KNOWN AS 'DIVORCED AND NOT DIVORCED'.<sup>13</sup>

GEMARA. A Tanna taught: 'Our Rabbis allowed her to marry'.<sup>14</sup> Who are meant by 'our Rabbis'? — Rab Judah said in the name of Samuel: The Beth din which permitted the oil [of heathens].<sup>15</sup> They concurred with R. Jose, who said that the date of the document is sufficient indication.<sup>16</sup>

R. Abba the son of R. Hiyya bar Abba said in the name of R. Johanan: R. Judah the Prince, the son of Rabban Gamaliel the son of Rabbi, gave this ruling, but none of his colleagues [saya'to] agreed with him, or, as others report, [his ruling did not find acceptance] during the whole of his life [sha'ato].

R. Eleazar asked a certain elder [who had been present there]: When you permitted her to marry, did you permit her to do so at once,<sup>17</sup> or after twelve months?<sup>18</sup> Did you permit it at once, since there is no chance of his coming again, or did you permit it only after twelve months, when his condition would be fulfilled? — But should not this question be attached to the Mishnah: [IF HE SAYS, THIS IS YOUR GET] FROM NOW IF I DO NOT COME WITHIN TWELVE MONTHS, AND HE DIED WITHIN TWELVE MONTHS, THIS IS A GET: would it be a Get at once, seeing that he will not come again, or only after twelve months when his condition will have been fulfilled? — Indeed it might have been, but it was put in this way because he [the old man] asked had been present on that occasion.<sup>19</sup>

Abaye said: All are agreed that if he Says, 'When the sun issues from its sheath'

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(1) The condition not having been broken, the Get is valid to the extent that she may not eat terumah. The condition having been broken, the Get is invalid and she cannot marry again on the strength of it.

(2) V. supra 7b.

(3) I.e., those who came from abroad to study were escorted by those of Palestine as far as Acre.

(4) Since it says, IF HE CAME AND WENT etc.

(5) A Get is called 'old' if after it was written the husband and wife were closeted together. Such a Get is invalid. V. infra 79b.

(6) And so after divorcing her he may bring a charge that he was closeted with her in this period.

(7) At the time of making the condition.

(8) Infra.

(9) For since we see him coming and going, the undertaking is all the more necessary.

(10) And therefore perhaps the undertaking is not necessary.

(11) And the levirate law still applies to her if the husband dies without issue.

(12) The reason is given in the Gemara.

(13) v. supra.

(14) Even though he did not say 'from now', since it is understood that he meant this.

(15) V. supra 72b.

(16) V. supra 72a.

(17) As soon as the death of the husband was announced.

(18) I.e., had she to wait twelve months to be free from the levirate obligation.

(19) [When the vote was taken to grant her permission to remarry; v. A.Z. 37a.]

## Talmud - Mas. Gittin 77a

he means that [the Get is to take effect only] when the sun does come out, and if he dies in the night it would be a Get after death.<sup>1</sup> If, again, he says, 'On condition that the sun issues from its sheath,' he means it to take effect as from now, since R. Huna has said in the name of Rabbi, The formula 'on condition' Is equivalent to 'as from now'. Where opinions differ is when he says 'if it shall issue', One authority<sup>2</sup> adopts the view of R. Jose who said that the date of the document is sufficient indication, so that his words are analogous to 'from to-day if I die, from now if I die,'<sup>3</sup> while the other<sup>4</sup> did not accept the view of R. Jose, and his words are analogous to the bare 'if I die'.<sup>5</sup>

WRITE A GET AND GIVE IT TO MY WIFE, IF I DO NOT COME WITHIN TWELVE MONTHS, IF THEY WROTE etc. Said R. Yemar to R. Ashi: May we conclude from this that in R. Jose's opinion, if one writes a Get subject to a certain condition [even if the condition is not fulfilled] the document is a valid one? — No; I may still hold that it is not valid, and R. Jose has a special reason here, because he ought to have said 'If I do not come, write and deliver', and he actually said, 'Write and deliver if I do not come', and [we presume him] therefore to have meant, Write from now and deliver if I do not come. The Rabbis, however, do not differentiate between the two forms.

Our Rabbis taught: [If he says, 'This is your Get if I do not return] till after the septennate,' we wait an extra year;<sup>6</sup> 'till after a year', we wait a month; 'till after a month', we wait a week. If he Says, 'till after the Sabbath',<sup>7</sup> what [do we do]? — When R. Zera was once sitting before R. Assi, or, as others report, when R. Assi was sitting before R. Johanan, he said: The first day of the week and the second and third are called 'after the Sabbath'; the fourth and fifth days and the eve of Sabbath are called 'before the Sabbath.'

It has been taught: [If he says] 'Till after the festival', we wait thirty days. R. Hiyya went forth and preached this in the name of Rabbi, and he was commended [for doing so].<sup>8</sup> He then preached it in the name of the majority and was not commended.<sup>9</sup> This shows that the law is not as laid down by him.<sup>10</sup>

## CHAPTER VIII

MISHNAH. IF A MAN THROWS A GET TO HIS WIFE WHILE SHE IS IN HER HOUSE OR IN HER COURTYARD,<sup>11</sup> SHE IS THEREBY DIVORCED. IF HE THROWS IT TO HER INTO HIS HOUSE OR INTO HIS COURTYARD, EVEN THOUGH HE IS WITH HER ON THE SAME BED, SHE IS NOT THEREBY DIVORCED. IF HE THROWS IT INTO HER LAP OR INTO HER WORK-BASKET,<sup>12</sup> SHE IS THEREBY DIVORCED.

GEMARA. What is the Scriptural warrant for this rule? — As our Rabbis taught: 'And give it in her hand:<sup>13</sup> this only tells me that [the Get may be placed] in 'her hand'. Whence do I learn that [it may also be placed] on her roof, or in her courtyard or enclosure? The text says significantly. 'And he shall give', which means, in any manner.<sup>14</sup> It has been taught in a similar manner regarding a thief: His hand:<sup>15</sup> this tells me only that [he is liable if the theft is found] in his hand. Whence do I learn that [he is equally liable if it is found] on his roof, or in his courtyard or his enclosure? From the significant words, 'If it be found at all', which means, under all circumstances.<sup>16</sup> And [both expositions are] necessary. For had I only the one regarding the Get, I should have said that the reason is because [she is divorced] against her will,<sup>17</sup> but [that this rule does] not apply to a thief who cannot become such against his will.<sup>18</sup> And had I been given the rule in regard to the thief only, I should have said [that it applied to him] because the All-Merciful imposed a fine upon him,<sup>19</sup> but not to a Get. Hence both were necessary.

It says]. HER COURTYARD. [How can this be, Seeing that] whatever a woman acquires belongs

to her husband? — R. Eleazar said: We presume him to have given her a written statement that he has no claim on her property. But suppose he did do so, what difference does it make, seeing that it has been taught.<sup>20</sup> 'If a man says to another [a partner.] I have no claim on this field, I have no concern in it, I entirely dissociate myself from it, his words are of no effect'?<sup>21</sup> — The school of R. Jannai explained: We suppose him to have given her this written statement while she was still betrothed, and we adopt [at the same time] the maxim of R. Kahana; for R. Kahana said that a man may stipulate beforehand that he will not take up a prospective inheritance from an outside source.<sup>22</sup> This too is based on a ruling of Raba, who said: If one says.

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- (1) And therefore of no effect.
  - (2) R. Judah the Prince.
  - (3) And therefore in the case of the Mishnah, where he said 'IF I DO NOT RETURN', if he died within the twelve months the Get takes effect retrospectively.
  - (4) The Tanna of our Mishnah.
  - (5) Where the Get is not valid (v. supra 72a), and similarly in the case of the Mishnah, the Get takes effect only after twelve months and should he die in the meantime the Get is no Get.
  - (6) To allow for the 'after'.
  - (7) Sabbath in Hebrew denotes either week or Sabbath.
  - (8) Lit., 'it was praised'. Because he reported this ruling as the opinion of one individual which need not be accepted.
  - (9) For reporting a non-recognised teaching in the name of many.
  - (10) Cf. supra p. 77 and notes.
  - (11) I.e., the so-called 'property of plucking' (v. Glos. s.v. mulug) of which the husband has the usufruct while the wife retains the ownership.
  - (12) GR. \*\*.
  - (13) Deut. XXIV, 1.
  - (14) For notes v. B.M. (Sonc. ed.) p. 58.
  - (15) Ex. XXII, 3.
  - (16) For notes v. op. cit. p. 56.
  - (17) And therefore her courtyard serves the purpose equally with her hand.
  - (18) Hence, if, for instance, an animal entered his courtyard and he locked it in without touching it, I might think that he would not be liable.
  - (19) To repay double. Ex. loc. cit. This would indicate that the law was in general more severe with him.
  - (20) Cf. B.B. 43a.
  - (21) [Unless and until he makes it over as a gift.]
  - (22) I.e., not his father, or next-of-kin according to the Torah.

## **Talmud - Mas. Gittin 77b**

I do not care to avail myself of the regulation of the Sages, in a case like this he is allowed to have his way. What did he mean by 'in a case like this'? — He was referring to the case mentioned by R. Huna in the name of Rab; for R. Huna said in the name of Rab, A woman is at liberty to say to her husband, You need not maintain me and I will not work for you.<sup>1</sup>

Raba said: Does not her hand also belong to her husband? The fact is that her hand and her Get become hers simultaneously. So also her courtyard and her Get become hers simultaneously. Said Rabina to R. Ashi: Can Raba have found any difficulty about the woman's hand?<sup>2</sup> Granted that the husband owns the labour of her hands, does he own the hand itself? — He replied: Raba's difficulty was [really] with the hand of a slave. For on the view of the authority who holds that a slave may acquire his freedom by means of a document which he receives himself,<sup>3</sup> [we may ask,] how can this be, seeing that the hand of the slave is like that of the master? Only we must suppose that his hand and his deed of emancipation become his simultaneously. So here, her Get and her courtyard become hers simultaneously.



A certain man who was lying very ill wrote a Get for his wife on the eve of the Sabbath and had not time to give it to her [before Sabbath]. On the next day his condition became critical.<sup>4</sup> Raba was consulted, and he said: Go and tell him to make over to her the place where the Get is, and let her go and close and open a door there and so take formal possession of it, as we have learnt:<sup>5</sup> 'If one does anything in the way of locking up or fencing or breaking open, this constitutes formal occupation.'<sup>6</sup> Said R. 'Ilish to Raba: But whatever a woman acquires belongs to her husband? — He was nonplussed. Eventually it transpired that she was only betrothed. Thereupon Raba said: If this rule was laid down for a married woman,<sup>7</sup> is it to apply to a betrothed woman? Later Raba corrected himself and said: No matter whether she is married or betrothed, her Get and her courtyard become hers simultaneously. But this is just what Raba said?<sup>8</sup> — When he did say it first, it was in connection with this incident.

WHILE SHE IS IN HER HOUSE. 'Ulla said: That is so, provided she is standing by the side of her house or by the side of her courtyard. R. Oshaia said: She may even be in Tiberias and her courtyard in Sepphoris or she may be in Sepphoris and her courtyard in Tiberias; she is still divorced. But it says. WHILE SHE IS IN HER HOUSE OR IN HER COURTYARD? — What it means is, While she is virtually in her own house or in her own courtyard on account of the fact that the courtyard is being kept [for her] with her knowledge and consent, and therefore she is divorced.

May we say that the point at issue between them<sup>9</sup> is this, that the one authority ['Ulla] holds that [the rule about] a courtyard is derived from 'her hand', and the other from its being regarded as analogous to her agent?<sup>10</sup> — No; both are agreed that the [rule about] a courtyard is derived from 'her hand'. One, however, interprets the analogy thus: just as her hand is close to her, so her courtyard must be close to her. And the other? — He will rejoin: Since her hand is attached to her, has her courtyard also to be attached to her? But [you must say] it is like her hand in this sense. Just as her hand is kept for her with her knowledge, so her courtyard must be kept for her with her knowledge, and what we exclude therefore is a courtyard which is kept for her [even] without her knowledge.<sup>11</sup>

A certain man threw a Get to his wife as she was standing in a courtyard and it went and fell on a block of wood. R. Joseph thereupon said: We have to see. If the block was four cubits by four, it forms a separate domain, but if not, it is one with the courtyard. What case are we dealing with? Are we to say that the courtyard is hers? If so, what does it matter if the block is four cubits by four?<sup>12</sup> Is the courtyard his? Then if it is not four by four what does it matter?<sup>13</sup> — [R. Joseph's ruling] applies where he lent her the place, since men will usually lend one place but not two places.<sup>14</sup> Further, we do not say [that it is one with the court] save only if it is not ten handbreadths high; but if it is ten handbreadths high, we do not say so, even if it is not four cubits by four. Nor even so do we say that it is included save only if it has no

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(1) The regulation having been made for her benefit, she is not bound to avail herself of it. So too in the case of an heir-at-law outside those mentioned in the Torah, v. B.K. 8b.

(2) That he had to give a special reason for legalising it.

(3) Kid. 22.

(4) Lit., 'the world was heavy for him'. And he was anxious to divorce her so that she should not become subject to the levirate law, but he could not give her the Get, as it was not allowed to be carried on Sabbath.

(5) B.B. 42a.

(6) [And by obtaining possession of the courtyard the Get automatically passes into her possession on the principle that movable property may be acquired along with immovable property; v. Kid. 26a (Rashi).]

(7) That to the husband belongs whatever the woman acquires.

(8) Why then was he nonplussed?

(9) 'Ulla and R. Oshaia.

(10) And therefore she may be at any distance from it; v. supra 21a and B.M. 10b.

(11) Which would include her slave. V. infra.

(12) In either case she is divorced.

(13) In either case she is not divorced.

(14) [Therefore where the block was four cubits by four it forms a separate domain and is not one with the courtyard lent to her.]

## **Talmud - Mas. Gittin 78a**

individual name,<sup>1</sup> but if it has a special name [it is not included] even though it is not ten handbreadths high and is not four cubits by four.

EVEN THOUGH HE IS WITH HER ON THE SAME BED. Raba said: This applies only if the bed is his, but if it is her bed, she is divorced. It has been taught to the same effect: R. Eliezer says: If it is on his bed she is not divorced, but if it is on her bed she is divorced. And if it is on her bed is she divorced? Is it not a case of the vessels of the purchaser in the domain of the vendor?<sup>2</sup> This shows [does it not] that if [the article purchased is placed in] the vessels of the purchaser standing in the domain of the vendor, the purchaser acquires possession?<sup>3</sup> — This, however, is not conclusive, as we may suppose the bed to be ten handbreadths high.<sup>4</sup> But there is the place of the legs?<sup>5</sup> — Men are not particular about the place of the legs.

IF HE THROWS IT INTO HER LAP OR INTO HER WORK-BASKET SHE IS THEREBY DIVORCED. Why so? This is a case of the vessels of the purchaser in the domain of the vendor? — Rab Judah said in the name of Samuel: We suppose, for instance, that her work-basket was hanging from her. So too R. Eleazar said in the name of R. Oshaia: We suppose, for instance, that her work-basket was hanging from her. R. Simeon b. Lakish said that [it would be sufficient] if it was tied to her even without hanging from her. R. Adda b. Ahabah said: If, [or instance, her work-basket was between her legs.<sup>6</sup> R. Mesharsheya son of R. Dimi said: If her husband was a seller of handbags.<sup>7</sup> R. Johanan said: The place occupied by the folds of her dress is acquired by her and the place occupied by her work-basket is acquired by her. Raba said: What is R. Johanan's reason? Because a man is not particular about the place occupied by the folds of her dress or the place occupied by her work-basket. It has also been taught to the same effect: 'If he threw her [the Get] into her lap or into her work-basket or into anything like her work basket, she is thereby divorced.' What is added by 'anything like her work-basket'? — It adds the dish from which she eats dates.

MISHNAH. IF HE SAID TO HER, TAKE THAT BOND, OR IF SHE FOUND IT BEHIND HIM AND READ IT AND IT TURNED OUT TO BE HER GET, IT IS NO GET, UNTIL HE SAYS TO HER, THERE IS YOUR GET. IF HE PUT IT INTO HER HAND WHILE SHE WAS ASLEEP AND WHEN SHE WOKE UP SHE READ IT AND FOUND IT WAS HER GET, IT IS NO GET UNTIL HE SAYS TO HER, THAT IS YOUR GET.

GEMARA. And suppose he says to her, That is your Get, what does it matter?<sup>8</sup> It is the same as if he said, Pick up your Get from the floor, and Raba has laid down that [if a man says,] Pick up your Get from the floor, his words are of no effect?<sup>9</sup> — We must suppose that she pulls it out from behind him.<sup>10</sup> And suppose even that she pulls it out, do we not require that 'he give it into her hand,'<sup>11</sup> and this condition is not fulfilled? — The rule would apply where he jerked his side towards her and she pulled it out.<sup>12</sup> It has been taught to the same effect: 'If he said to her, Take this bond [and she did so], or if she pulled it out from behind him<sup>13</sup> and on reading it found it was her Get, it is no Get until he says to her, That is your Get. This is the ruling of Rabbi. R. Simeon b. Eleazar Says: It does not become a Get until he takes it from her and gives it to her again, saying, That is your Get. If he puts it into her hand while she is asleep and when she wakes she reads it and finds it is her Get, it is no Get until he says to her, That is your Get. So Rabbi. R. Simeon b. Eleazar Says, [It is no Get] until he

takes it from her and gives it to her again saying, 'That is your Get.' [Both cases] required [to be stated]. For if only the former had been stated, I might say that Rabbi ruled [as he did there] because she was at the time capable of being divorced, but where he put it into her hand while she was asleep, seeing that she was not at the time capable of being divorced, I might think that he accepts the view of R. Simeon b. Eleazar. If again only the latter case had been stated, I might have thought that R. Simeon b. Eleazar meant his ruling to apply to that case only,<sup>14</sup> but in the other he accepts the view of Rabbi. Hence [both statements were] necessary.

Raba said: If he wrote a Get for her and put it in the hand of her slave while he was asleep and she was watching him, it is a Get,<sup>15</sup> but if he is awake it is no Get,<sup>16</sup> But why should this be, seeing that he is a 'moving courtyard', and a 'moving courtyard' does not confer ownership? And should you reply that the fact of his being asleep makes a difference, has not Raba said, That which does not confer ownership when moving about does not confer ownership when standing still or sitting? — [The law is as stated by Raba]<sup>17</sup> when the slave is bound.<sup>18</sup>

MISHNAH. IF SHE WAS STANDING ON PUBLIC GROUND AND HE THREW IT TO HER, IF IT LANDS NEARER TO HER SHE IS DIVORCED, BUT IF IT LANDS NEARER TO HIM SHE IS NOT DIVORCED. IF IT LANDS MIDWAY,<sup>19</sup> SHE IS DIVORCED AND NOT DIVORCED.<sup>20</sup> SIMILARLY WITH BETROTHALS AND SIMILARLY WITH A DEBT. IF A MAN SAYS TO HIS DEBTOR, THROW ME MY DEBT [IN PUBLIC GROUND] AND HE THROWS IT, IF IT LANDS NEARER TO THE LENDER, IT BECOMES THE PROPERTY OF THE LENDER; IF IT LANDS NEARER TO THE BORROWER, HE STILL OWES THE MONEY; IF IT LANDS MIDWAY, THEY DIVIDE.

GEMARA. How are we to understand NEARER TO HIM and how are we to understand NEARER TO HER? — Rab said: Within four cubits of her is nearer to her, within four cubits of him is nearer to him.<sup>21</sup> How are we to understand 'MIDWAY'? — R. Samuel son of R. Isaac replied: If, for instance, they were both within four cubits of the Get. In that case let us see which was there first?<sup>22</sup> And should you retort that perhaps both came together — it is impossible that they should come exactly at the same moment?<sup>23</sup> — R. Kahana therefore said: We suppose here that they are exactly eight cubits from each other,

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(1) Lit., 'an attached name', but is merely referred to as 'the block'.

(2) Concerning which there is a difference of opinion whether the purchaser acquires the article of purchase put therein; v. B.B. (Sonc ed.) 85b p. 348 q.v. for notes.

(3) I.e., we decide the question in B.B. From here.

(4) And so it forms a domain of its own and is not merely a vessel.

(5) The place occupied by the legs which belongs to the husband.

(6) In which case he would not be particular about the place occupied by it, even if it rested on the ground.

(7) In which case also he would not be particular about the place occupied by it.

(8) In the case where she found the Get behind him.

(9) V. supra 24a.

(10) From where it was stuck between his girdle and his robe.

(11) Deut. XXIV, 3.

(12) As this is also a kind of giving.

(13) Not merely 'found it' as our reading in the Mishnah has it.

(14) Because she was not at the time capable of being divorced.

(15) Because the slave is reckoned as her courtyard and it is being kept for her.

(16) Because the slave when awake is regarded as looking after himself.

(17) Var. lec., 'We must say that Raba means.'

(18) V. supra 212.

(19) Lit., 'half by half'.

(20) V. supra p. 350.

(21) On the principle that a man's four cubits in a public ground acquire possession, v. B.M. 102.

(22) And so established a prior right to the four cubits.

(23) Lit., 'to be exact'.

## Talmud - Mas. Gittin 78b

and the Get extends from the four cubit space nearer to him into the four cubit space nearer to her.<sup>1</sup> But then it is still [partly] attached to him?<sup>2</sup> — Therefore Rabbah and R. Joseph [gave a different reply], both saying that we are dealing here with a case where there are two groups of witnesses, one of which says that it was nearer to her and the other that it was nearer to him. R. Johanan said: The words of our text are NEARER TO HER [which can include] even a hundred cubits away, and NEARER TO HIM, [which can include] even a hundred cubits away.

How are we to understand MIDWAY? — R. Shaman b. Abba said: It was explained to me by R. Johanan that where he is able to look after it<sup>3</sup> but she is not able to look after it, this is NEARER TO HIM. Where she is able to look after it, but he is not, this is NEARER TO HER. If both of them are able to look after it, or neither of them is able [separately]<sup>4</sup> to look after it, this is MIDWAY. The Rabbis repeated this explanation before R. Johanan as having been given by R. Jonathan.<sup>5</sup> He thereupon remarked: Do our colleagues in Babylon also know how to give this explanation? It has been taught to the same effect: 'R. Eliezer says: Even though it is nearer to her than to him and a dog came and ran off with it, she is not divorced.' She is not divorced, you say? How long is she to go on keeping it?<sup>6</sup> No; what he means to say is this: If it is nearer to her than to him, yet so placed that if a dog came and tried to make off with it he could save it but she could not, she is not divorced. Samuel said to Rab Judah: Shinena,<sup>7</sup> it must be so near that she can stoop down and pick it up, but do you not actually [declare it valid] until it comes into her hand.<sup>8</sup> R. Mordecai said to R. Ashi: There was an actual case of this kind,<sup>9</sup> and she was compelled to give halizah.

SO TOO IN REGARD TO BETROTHALS. R. Assi said in the name of R. Johanan: This rule<sup>10</sup> was made with reference to bills of divorce and not to anything else. R. Abba thereupon pointed out to R. Assi the statement, SO TOO IN REGARD TO BETROTHALS. [He replied]: There is a special reason for that, because it is written, she may go forth and be [another man's wife].<sup>11</sup> He raised an objection: SIMILARLY WITH A DEBT. IF THE LENDER SAYS [TO THE BORROWER], THROW ME MY DEBT, AND HE THROWS IT, IF IT LANDS NEARER TO THE LENDER IT BECOMES THE PROPERTY OF THE LENDER; IF IT LANDS NEARER TO THE BORROWER, HE STILL OWES THE MONEY; IF IT LANDS MIDWAY, THEY DIVIDE? — The case we are dealing with here is when he says, Throw me what you owe me and be quit. If that is all [he rejoined], what need was there to state it? — It is necessary [to state it] when he says, Throw me my debt in the same way as a Get. Still, what need is there to state even this? — You might think that he can say to him, I was only making fun of you; therefore we are told [that this is no plea].

R. Hisda said: If the Get is in her hand and the string<sup>12</sup> in his hand, and he is able to pull it with a jerk to himself, she is not divorced, but if not, she is divorced. What is the reason? We require a 'cutting off', and this is not realised.<sup>13</sup> Rab Judah said: If she held her hand sloping<sup>14</sup> and he threw it to her, even if the Get reached her hand she is not divorced. Why so? When it falls to the ground it falls within four cubits of her? — We assume that it does not come to rest there. But should she not be divorced by dint of its having come into the air of the four cubits? [And since this is not so] may we decide from this the question raised by R. Eleazar, whether the four cubits spoken of include the air above them or not? May we decide that they do not include the air? — [No;] we suppose here that she is standing on the brink of a river, so that from the outset it is liable to be lost [if it falls from her hand].<sup>15</sup>

- (1) I.e., part of it is nearer to him and part nearer to her.
- (2) And it is requisite that the whole should be given to her.
- (3) E.g., to prevent a dog snatching it.
- (4) V. Tosaf., s.v.
- (5) R. Jonathan was a Babylonian, R. Johanan a Palestinian.
- (6) As much as to say, Surely from the moment it comes near her she is divorced.
- (7) Lit., 'sharp one', i.e., scholar with keen sharp mind. For other interpretations v. B.K. (Sonc. ed.) p. 60, n. 2.
- (8) Though it was near to her people might malign her by saying it was far away.
- (9) Where it landed nearer to her.
- (10) That it is sufficient for the document to land near the person to whom it is thrown.
- (11) Deut. XXIV, 2. Her 'being another man's wife' is put on the same footing as her 'going forth'.
- (12) Tied round the Get.
- (13) V. B.M. 7a.
- (14) Lit., 'like a gutter'. Gr. \*\*:.
- (15) And in such a case the air certainly does not confer possession.

### **Talmud - Mas. Gittin 79a**

MISHNAH. IF SHE WAS STANDING ON A ROOF AND HE THREW IT UP TO HER, AS SOON AS IT REACHES THE AIRSPACE OF THE ROOF, SHE IS DIVORCED. IF HE WAS ABOVE AND SHE BELOW AND HE THREW IT TO HER, ONCE IT HAS LEFT THE SPACE OF THE ROOF, EVEN THOUGH [IMMEDIATELY AFTERWARDS] THE WRITING WAS EFFACED<sup>1</sup> OR IT WAS BURNT,<sup>2</sup> SHE IS DIVORCED.

GEMARA. [AS SOON AS IT REACHES THE AIR-SPACE OF THE ROOF etc.] But it is not yet in safe keeping?<sup>3</sup> — Rab Judah said in the name of Samuel: We speak of a roof which has a parapet. 'Ulla b. Menashia said in the name of Abimi: The reference here is to [the air space] within three handbreadths of the roof, since any space less than three handbreadths from the roof is reckoned as the roof.

IF HE WAS ABOVE etc. But it is not yet in safe keeping?<sup>4</sup> — Rab Judah said in the name of Samuel: [The rule applies] if for instance the lower partitions<sup>5</sup> overtop the upper ones.<sup>6</sup> So too R. Eleazar said in the name of R. Oshaia, If, for instance the lower partitions overtop the upper ones; and so too 'Ulla said in the name of R. Johanan, If, for instance, the lower partitions overtop the upper ones. Said R. Abba to 'Ulla: With whose view does this accord? With that of Rabbi, who said that being embraced [by the air space] is equivalent to coming to rest [upon the ground]?<sup>7</sup> — He replied: You can even say that it has the authority of the Rabbis, since the Rabbis might differ from Rabbi only in the case of Sabbath, but here the deciding factor is whether it is in safe keeping, and in fact it is in safe keeping.<sup>8</sup> So too, when R. Assi said in the name of R. Johanan, For instance, if the lower partitions overtop the higher, R. Zera said to R. Assi, With whose view does this accord? With that of Rabbi, who said that being embraced by the air space is equivalent to coming to rest [on the ground,] and he replied, You can even say that it has the authority of the Rabbis, since the Rabbis might differ from Rabbi only in the case of the Sabbath, but here the deciding factor is whether it is in safe keeping, and in fact it is in safe keeping.

THOUGH THE WRITING WAS EFFACED. R. Nahman said in the name of Rabbah b. Abbuha: This applies only if it was effaced while [the Get was] falling,<sup>9</sup> but if it was effaced while [the Get was] ascending it is not so. Why? Because from the outset it was not destined to come to rest [in that way].<sup>10</sup>

OR IT WAS BURNT. R. Nahman said in the name of Rabbah b. Abbuha: This applies only if the Get was thrown before the fire was started, but if the fire was started first, it is not so. Why is this?

Because from the outset it was destined to be burnt.

R. Hisda said: Spaces marked off from one another<sup>11</sup> remain distinct for purposes of bills of divorce.<sup>12</sup> Said Rami b. Hama to Raba: Whence does the old man derive this idea? — He replied: It is from our Mishnah: IF SHE WAS STANDING ON THE ROOF AND HE THREW IT TO HER, AS SOON AS THE GET REACHES THE AIR SPACE OF THE ROOF SHE IS DIVORCED. Now with what circumstances are we dealing? Are we to say that the roof is hers and the courtyard is hers? If so, why do I require even the air space of the roof? What then? His roof and his courtyard? In that case, even if it reaches the air space of the roof, what of it? Obviously therefore we must suppose the roof to be hers and the courtyard to be his. Now let us look at the next clause: IF HE WAS ABOVE AND SHE BELOW AND HE THREW IT TO HER, SO SOON AS IT LEFT THE SPACE OF THE ROOF, EVEN THOUGH THE WRITING WAS EFFACED OR IT WAS BURNT SHE IS DIVORCED. Now if the roof is hers and the courtyard his, why is she divorced? It must be therefore that the roof is his and the courtyard hers. Now can it be that the first clause speaks of where the roof is hers and the courtyard his, and the second of where the roof is his and the courtyard hers? [Hardly so;] and it must be that he lends her a place,<sup>13</sup> [and this shows] that men will lend one place but not two places! — He replied: Is this conclusive? Perhaps each case stands on its own footing, the first clause speaking of where the roof is hers and the courtyard his, and the second of where the roof is his and the courtyard hers.<sup>14</sup>

Raba said: There are three cases in which a Get forms an exception to a general rule.<sup>15</sup> One is the rule laid down by Rabbi that being embraced [by the air space] is equivalent to coming to rest on the ground, regarding which the Rabbis joined issue with him. They only differed with regard to Sabbath, but here [in the case of a Get] the decisive factor is whether it is in safe keeping, and in fact it is in safe keeping. The second is the rule laid down by R. Hisda: If a man stuck in private ground a pole, on the top of which was a basket, and he threw up something<sup>16</sup> and it came to rest on it, even if it is a hundred cubits high he is liable, because private ground extends upwards to the sky. This applies only to Sabbath, but here<sup>17</sup> the decisive factor is whether it is in safe keeping, and in fact it is not in safe keeping.<sup>18</sup>

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(1) E.g., by rain.

(2) By a fire in the courtyard.

(3) Because it may be blown away by the wind before landing.

(4) Because it may be blown by the wind outside of the court.

(5) Those of the courtyard.

(6) Those of the roof. Hence even when the Get was thrown over the parapet of the roof, it was still within the enclosure of the courtyard.

(7) Shab. 97. The discussion there relates to an article thrown from one point to another in public ground across private ground, Rabbi holding that this constitutes a change of domain, v. also B.K. 70b.

(8) Being all the time surrounded by the partitions of the courtyard, and the question of change of domain does not arise.

(9) Over the parapet.

(10) And therefore so long as it was ascending it is not regarded as having been 'given'.

(11) E.g., a roof and a courtyard.

(12) I.e., if the outer one was lent to the wife for the purpose of receiving the Get therein, it does not follow that the inner one was lent with it.

(13) The roof or the courtyard as the case may be.

(14) But where it is not originally hers but lent to her by the husband it may be assumed that the loan of the one includes the other.

(15) Lit., 'three measures', 'norms', in regard to a Get.

(16) From a public domain.

(17) If the husband throws a Get into a basket on top of a high pole stuck in her ground.

(18) Because it may be blown by the wind outside the court.

## Talmud - Mas. Gittin 79b

The third is the rule laid down by Rab Judah in the name of Samuel; A man should not stand on one roof and gather rain water from his neighbour's roof, because just as dwellings are distinct below so they are distinct above. This applies to Sabbath, but in regard to a Get the decisive factor is whether the owner is particular, and to this extent men are not particular.<sup>1</sup>

Abaye said: If there are two courtyards one within the other, the inner one belonging to her and the outer one to him, and the outer partitions are higher than the inner ones, if he throws it to her, as soon as it reaches the air-space of the partitions of the outer one she is divorced, the reason being that the inner one itself is protected by the partitions of the outer one. The same, however, does not hold good with baskets; if there were two baskets one inside the other, the inner one belonging to her and the outer one to him and he threw the Get to her, even if it came into the air space of the inner one<sup>2</sup> she is not divorced, the reason being that it has not come to rest.<sup>3</sup> And supposing even that it comes to rest, what of it? It is a case of the vessels of the purchaser in the domain of the vendor?<sup>4</sup> — We are speaking here of a basket which has no bottom.<sup>5</sup>

MISHNAH. BETH SHAMMAI SAY THAT A MAN MAY DIVORCE HIS WIFE WITH AN OLD GET, BUT BETH HILLEL FORBID THIS. WHAT IS MEANT BY AN OLD GET? ONE AFTER THE WRITING OF WHICH HE WAS CLOSETED WITH HER. GEMARA. What is the ground of their difference? — Beth Shammai hold that we are not to prohibit her [to marry again] out of fear that people may [afterwards] say that her Get came before her child,<sup>6</sup> whereas Beth Hillel hold that we do prohibit her for fear people will say her Get came before her child. R. Abba said in the name of Samuel: If she married [on the strength of such a Get]<sup>7</sup> she need not leave [the second husband]. According to another report, R. Abba said in the name of Samuel, If she was divorced [with such a Get], she has full liberty to marry again.<sup>8</sup>

MISHNAH. IF THE GET WAS DATED BY A REIGN WHICH OUGHT NOT TO COUNT,<sup>9</sup> BY THE EMPIRE OF MEDIA,<sup>10</sup> BY THE EMPIRE OF GREECE,<sup>11</sup> BY THE BUILDING OF THE TEMPLE OR BY THE DESTRUCTION OF THE TEMPLE,<sup>12</sup> OR IF BEING IN THE EAST THE WRITER DATED IT FROM THE WEST, OR BEING IN THE WEST HE DATED IT FROM THE EAST, THE WOMAN [WHO MARRIES AGAIN ON THE STRENGTH OF IT] MUST LEAVE BOTH HUSBANDS<sup>13</sup> AND REQUIRES A GET FROM BOTH AND HAS NO CLAIM EITHER FOR A KETHUBAH OR FOR INCREMENT<sup>14</sup> OR FOR MAINTENANCE OR FOR WORN CLOTHES<sup>15</sup> FROM EITHER OF THEM: IF SHE TAKES THESE FROM EITHER OF THEM SHE MUST RETURN THEM. A CHILD BORN TO HER FROM EITHER OF THEM IS A MAMZER.<sup>16</sup> NEITHER OF THEM [IF A PRIEST] IS TO DEFILE HIMSELF FOR HER: NEITHER OF THEM HAS A RIGHT TO HER FUNDS OR TO THE PRODUCT OF HER LABOUR, AND NEITHER CAN ANNUL HER VOWS. IF SHE IS THE DAUGHTER OF A LAY ISRAELITE SHE IS DISQUALIFIED FOR MARRYING A PRIEST.<sup>17</sup>

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(1) And if he lends her one roof for receiving the Get, this is held to include the next adjoining to it.

(2) But was then destroyed before it came to rest at the bottom of the basket.

(3) And the sides of a basket do not afford safe keeping.

(4) V. supra 782.

(5) I.e., the outer basket has no bottom, so that the inner basket rests on the ground and is not in the husband's domain.

(6) Suppose he used the Get to divorce her a year or two after it was written and she had had a child from him in the meanwhile.

(7) Without the permission of the Beth din.

(8) I.e., the Beth din do not prevent her.

(9) [Lit., 'unworthy'; v. the Gemara infra. Mishnayoth texts read 'another'; i.e., he dated the Get by a Government not

corresponding to the country in which the Get was written.]

(10) I.e., by the Achemenid era.

(11) I.e., by the Seleucid era, beginning 311 B.C., v. A.Z. (Sonc. ed.) p. 42, n. 7.

(12) [The reference is, according to Blau Ehescheidung I, p. 66, to the First Temple, since documents were dated from the destruction of the Second, v. A.Z. 92].

(13) I.e., she must leave the second husband and cannot remarry the first.

(14) Her 'property of plucking' (v. Gloss. s.v. Mulug); she loses the right to be redeemed from captivity, which the Sages assigned to her in lieu of such increment.

(15) From what she brought in with her dowry.

(16) V. Glos.

(17) Being regarded as a 'loose woman'.

## **Talmud - Mas. Gittin 80a**

IF SHE IS THE DAUGHTER OF A LEVITE, SHE BECOMES DISQUALIFIED FOR EATING TITHE,<sup>1</sup> AND IF THE DAUGHTER OF A PRIEST FOR EATING TERUMAH.<sup>2</sup> THE HEIRS NEITHER OF THE ONE HUSBAND NOR THE OTHER INHERIT HER KETHUBAH,<sup>3</sup> AND IF THEY DIE BROTHERS OF BOTH ONE AND THE OTHER OF THEM [IF NECESSARY] TAKE HALIZAH BUT NEITHER CAN MARRY HER. IF HIS NAME OR HER NAME OR THE NAME OF HIS TOWN OR THE NAME OF HER TOWN WAS WRONGLY GIVEN, SHE MUST LEAVE BOTH HUSBANDS AND ALL THE ABOVE PENALTIES APPLY TO HER.

IF ANY OF THE NEAR RELATIVES CONCERNING WHOM IT IS LAID DOWN THAT THEIR RIVALS<sup>4</sup> ARE PERMITTED TO MARRY [WITHOUT GIVING HALIZAH] WENT AND MARRIED AND IT WAS THEN FOUND THAT THIS ONE<sup>5</sup> WAS INCAPABLE OF BEARING,<sup>6</sup> THE ONE WHO MARRIED MUST LEAVE BOTH HUSBANDS<sup>7</sup> AND ALL THESE PENALTIES APPLY TO HER. IF A MAN MARRIES HIS SISTER-IN-LAW AND HER RIVAL<sup>8</sup> THEN WENT AND MARRIED ANOTHER MAN AND IT WAS FOUND THAT THE FIRST ONE WAS INCAPABLE OF BEARING, THE OTHER MUST LEAVE BOTH HUSBANDS AND ALL THESE PENALTIES APPLY TO HER.<sup>9</sup>

IF A SCRIBE WROTE A GET FOR THE HUSBAND AND A RECEIPT FOR THE WIFE<sup>10</sup> AND BY MISTAKE GAVE THE GET TO THE WIFE AND THE RECEIPT TO THE HUSBAND AND THE TWO EXCHANGED THEM AND AFTER A TIME THE GET WAS PRODUCED BY THE MAN AND THE RECEIPT BY THE WOMAN, SHE MUST LEAVE BOTH HUSBANDS AND ALL THESE PENALTIES APPLY TO HER. R. ELEAZAR<sup>11</sup> SAID: IF [IT IS PRODUCED] AT ONCE,<sup>12</sup> IT IS NO GET, BUT IF [IT IS PRODUCED] AFTER A TIME, IT IS A GET; IT IS NOT IN THE POWER OF THE FIRST TO RENDER VOID THE RIGHT OF THE SECOND.<sup>13</sup>

GEMARA. What is meant by A REIGN WHICH OUGHT NOT TO COUNT? — The empire of the Romans.<sup>14</sup> Why is it called A REIGN WHICH OUGHT NOT TO COUNT? — Because it has neither a script nor a language [of its own].<sup>15</sup>

'Ulla said: Why was it laid down that [the year of] the reign should be stated in a Get? For the sake of keeping on good terms with the Government. And for the sake of keeping on good terms with the Government is the woman to leave her husband and the child to be a mamzer.? — Yes. R. Meir in this is quite consistent, since R. Hamnuna said in the name of 'Ulla: R. Meir used to say, If any alteration is made in the form which the Sages fixed for bills of divorce, the child is a mamzer.<sup>16</sup>

BY THE EMPIRE OF GREECE. All [these eras] had to be mentioned.<sup>17</sup> For if I had been told only the REIGN WHICH OUGHT NOT TO COUNT, I might have thought that the objection to it is that it bears sway now, but in regard to the Empire of Media and Greece I might think that what is



past is past.<sup>18</sup> And if I had been told the empires of Media and Greece, I might have thought that the objection is that they were once empires, but as regards the building of the Temple, what is past is past. And if I had been told the building of the Temple, I might have thought that the objection is because they might say that the Jews are recalling their former glory, but this does not apply to the mention of the destruction of the Temple, which recalls their sorrow.<sup>19</sup> Hence all were necessary.

IF BEING IN THE EAST THE WRITER DATED IT FROM THE WEST. Who is referred to? Is it the husband? Then this is the same as IF HIS NAME OR HER NAME OR THE NAME OF HIS TOWN OR OF HER TOWN WAS WRONGLY GIVEN! It must be then the scribe; and so Rab said to his scribe, and R. Huna also said to his scribe, When you are in Shili,<sup>20</sup> write 'at Shili', even though you were commissioned in Hini, and when you are in Hini, write 'at Hini', even though you were commissioned in Shili.<sup>21</sup>

Rab Judah said in the name of Samuel:

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(1) V. Yeb. 912.

(2) v. Sot. 28A.

(3) The kethubah referred to here is a stipulation made by her with her husband that, should she die in his lifetime, her sons should inherit her property over and above their share in their father's inheritance, v. Yeb. 91A.

(4) I.e., (potential) co-wives. Cf. 1. Sam. I, 6. The reference is to two women within the forbidden degrees of consanguinity who married two brothers, v. Yeb. 22.

(5) The wife of the brother still living.

(6) Her marriage consequently was void, and hence the sister-in-law could have married the deceased husband's brother and had no right to contract another marriage without giving halizah.

(7) I.e., she must leave her husband and cannot marry the brother-in-law.

(8) I.e., another wife of the dead brother. Where there are two wives, only one may contract the levirate marriage.

(9) V. Yeb. 94b.

(10) To hand over to the husband on payment of her kethubah.

(11) [Var. lec. 'R. Eliezer'.]

(12) Explained in the Gemara.

(13) Because we suspect collusion between the wife and the first husband.

(14) [The reference is to the Eastern Roman Empire; v. next note].

(15) V. A.Z. (Sonc. ed.) p. 50, n. 2.

(16) Cf. supra, 5b.

(17) To make it clear that the Get should be dated according to the era of the State where it is made out.

(18) And therefore dating by it would cause no jealousy on the part of the Government.

(19) On the eras mentioned in this passage v. A.Z. (Sonc. ed.) p. 42, n. 7, and p. 47, n. 2.

(20) Shili and Hini were two places within walking distance of each other. V. B.B. (Sonc. ed.) p. 753, n. 6.

(21) The local of the deed is the place where the deed is written and this must be entered in the deed, not the place where the transaction recorded took place.

## Talmud - Mas. Gittin 80b

This<sup>1</sup> is the ruling of R. Meir, but the Sages say that even though he dated it only by the term of office of the Santer<sup>2</sup> in the town, she is divorced. A certain Get was dated by the term of office of the prefect<sup>3</sup> of Bashcar.<sup>4</sup> R. Nahman son of R. Hisda sent to Rabbah to inquire how to deal with it. He sent him back reply: Such a one even R. Meir would accept. What is the reason? Because he is an official of the proper Government. But why should he be different from the Santer in the town? — To date it that way is an insult to them,<sup>5</sup> but to date it this way is a compliment to them.

R. Abba said in the name of R. Huna who had it from Rab: This is the ruling of R. Meir, but the Sages say that the child is legitimate. The Sages, however, agree with R. Meir that if his name or her

name or the name of his town or her town was wrongly given, the child is a mamzer. R. Ashi said: We find this also implied in our Mishnah: IF HIS NAME OR HER NAME OR THE NAME OF HIS TOWN OR HER TOWN WAS WRONGLY GIVEN, SHE MUST LEAVE BOTH HUSBANDS AND ALL THESE PENALTIES APPLY TO HER. Now who is the authority for this statement? Shall I say R. Meir? If so, the two rulings<sup>6</sup> might have been run into one? We conclude therefore that it was the Rabbis.

IF ANY OF THE NEAR RELATIVES CONCERNING WHOM etc. [They are penalised] if they MARRY, which implies, 'but not if they misconduct themselves'.<sup>7</sup> May we take this as a refutation of R. Hammuna, who said that if a woman while waiting for her brother-in-law misconducted herself, she is forbidden to her brother-in-law?<sup>8</sup> — No; [it means,] if they marry, and the same is the rule if they misconduct themselves; and the reason why the word MARRY was used was as a polite expression. Some report the discussion thus: [They are penalised] if they marry, and the same rule [we should say,] applies if they misconduct themselves. May we presume then that the Mishnah supports R. Hammuna, who said that if a woman while waiting for her brother-in-law misconducted herself she is forbidden to her brother-in-law? — No; the rule applies only where they actually married, because in that case they may be confused with a woman whose husband went abroad.<sup>9</sup>

IF A MAN MARRIES HIS SISTER-IN-LAW etc. Both cases<sup>10</sup> required to be stated. For had I only the first one, I might say the reason [why she is penalised]<sup>11</sup> is because the precept of levirate marriage has not been carried out, but here where this precept has been carried out I might say that the rule does not apply. If again I had been told only in this case, I might have said that the reason is because she was put at his disposal,<sup>12</sup> but in the other case where she is not put at his disposal<sup>13</sup> I might say that she should not be penalised. Hence [both statements were] necessary.

IF THE SCRIBE WROTE AND BY MISTAKE GAVE THE GET TO THE WIFE AND THE RECEIPT TO THE HUSBAND . . . R. ELEAZAR SAYS, IF [IT WAS PRODUCED] AT ONCE etc. How do we define AT ONCE and how do we define AFTER A TIME? — Rab Judah said in the name of Samuel: The whole of the time during which they are sitting and dealing with that matter is called AT ONCE; once they have risen it is called AFTER A TIME. R. Adda b. Ahabah, however, said: So long as she has not married, it is called AT ONCE, but once she has married, it is called AFTER A TIME. We have learnt: IT IS NOT IN THE POWER OF THE FIRST TO RENDER VOID THE RIGHT OF THE SECOND. Now if we take the view of R. Adda b. Ahabah, it is quite correct to mention here the SECOND; but on Samuel's view, what are we to make of SECOND? —

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(1) That the year of the current reign must be mentioned.

(2) Probably = Senator: an elder whose office it was to decide questions regarding boundaries between fields, v. B.B. (Sonc. ed.) p. 270, n. 10.

(3) [Pers. Astandar, a district (astan) deputy (dar) of the king. Obermeyer op. cit. p. 92.]

(4) More correctly Kashkar (Jastrow). [According to Obermeyer loc. cit. Kashkar was the name given to the whole of the Mesene district (S. E. Babylon) of which it was the capital during the Sassanian period.]

(5) Viz., to the Government, the Santer being a minor official.

(6) This and the one regarding the year of the reign.

(7) [In which case she is forbidden to her brother-in-law for fear people will say that he had already given her halizah before she remarried and is now taking her unto himself as a wife, which is not allowed.]

(8) V. Yeb. 81a.

(9) [If such a woman was informed on good authority that her husband had died and she married again and then her husband returned, she is forbidden to go back to him, for fear people might say that the husband had in reality divorced her before she remarried and that now he is taking her back, which is forbidden (v. Deut. XXIV, 4). If the sister-in-law in this case were allowed to marry the brother-in-law after marrying another, this might create a precedent (cf. n. 2), but not if she misconducted herself.]

(10) This and the one about the forbidden degrees.

(11) And forbidden to the brother-in-law.

(12) Lit., 'thrown before him', after the death of her husband, and therefore should not have remarried till she made sure that the levirate marriage of her rival was in order.

(13) [Her potential rival exempts her forthwith on the death of her husband from levirate marriage and halizah.]

## **Talmud - Mas. Gittin 81a**

It means, the prospective right of the second.

MISHNAH. IF A MAN WROTE A GET WITH WHICH TO DIVORCE HIS WIFE AND THEN CHANGED HIS MIND, BETH SHAMMAI SAY THAT HE HAS THEREBY DISQUALIFIED HER FOR MARRYING A PRIEST.<sup>1</sup> BETH HILLEL, HOWEVER, SAY THAT EVEN THOUGH HE GAVE IT TO HER ON A CERTAIN CONDITION, IF THE CONDITION WAS NOT FULFILLED, HE HAS NOT DISQUALIFIED HER FOR MARRYING A PRIEST.

GEMARA. R. Joseph the son of R. Manasseh of Dewil sent an inquiry to Samuel saying: Would our Master instruct us with regard to the following problem. If a rumour spread that So-and-so, a priest, has written a Get for his wife, but she still lives with him and looks after him, what are we to do?<sup>2</sup> — He sent back a reply: She must leave him, but [first] the case must be examined. What are we to understand by this? Shall we say that we examine whether we can put a stop to the rumour or not? [This cannot be] because Samuel lived in Nehardea, and in Nehardea it was not the rule [of the Beth din] to put a stop to rumours.<sup>3</sup> But we do examine whether people speak of 'giving' also as 'writing'.<sup>4</sup> But granted that they call 'giving' 'writing', do they not also call 'writing' itself 'writing'? — That is so; and [the reason why she has to leave him is] because if it is found that 'giving' is called 'writing', perhaps the people [when they say he has 'written'] mean that he has 'given' [her the Get].<sup>5</sup> And still must she leave him? Has not R. Ashi said: We pay no regard to any rumour [that is spread] after the marriage? — When it says 'she must leave', it means 'she must leave the second husband'.<sup>6</sup> If that is so, you cast a slur on the children of the first?<sup>7</sup> — Since it is from the second that we separate her and we do not separate her from the first, people will say that he divorced her just before his death.<sup>8</sup>

Rabbah b. Bar Hanah reported R. Johanan as saying in the name of Rabbi Judah b. Ila'i: What a difference we can observe between the earlier generations and the later! (By the earlier generations he means Beth Shammai, and by the later R. Dosa). For it has been taught: 'A woman who has been carried away captive may still eat terumah,<sup>9</sup> according to the ruling of R. Dosa. Said R. Dosa: What after all has this Arab done to her? Because he squeezed her breasts, has he disqualified her for marrying a priest?'<sup>10</sup> Rabbah b. Bar Hanah further quoted R. Johanan as saying in the name of Rabbi Judah b. Ila'i: What a difference we can observe between the earlier generations and the later! The earlier generations used to bring in their produce by way of the kitchen garden<sup>11</sup> so as to make it liable to tithe, whereas the later generations bring in their produce over roofs and through enclosures so as not to make it liable for tithe, R. Jannai laid down that *tebel*<sup>12</sup> is not liable for tithe<sup>13</sup> until it has come in front of the house, since it says, I have put away the hallowed things out of mine house.<sup>14</sup> R. Johanan, however, says that even a courtyard<sup>15</sup> imposes the liability, as it says, That they may eat within thy gates and be filled.<sup>16</sup>

MISHNAH. IF A MAN HAS DIVORCED HIS WIFE AND THEN STAYS WITH HER OVER NIGHT IN AN INN, BETH SHAMMAI SAY THAT SHE DOES NOT REQUIRE FROM HIM A SECOND GET, BUT BETH HILLEL SAY THAT SHE DOES REQUIRE A SECOND GET FROM HIM. THIS, HOWEVER, IS ONLY WHEN THE DIVORCE IS ONE AFTER MARRIAGE; [FOR BETH HILLEL] AGREE THAT IF THE DIVORCE IS ONE AFTER BETROTHAL,<sup>17</sup> SHE DOES NOT REQUIRE A SECOND GET FROM HIM, BECAUSE HE WOULD NOT [YET] TAKE LIBERTIES WITH HER.

GEMARA. Rabbah b. Bar Hanah said in the name of R. Johanan: The difference of opinion [recorded here] relates only to the case where she was seen to have intercourse,

- (1) A priest being forbidden to marry a divorced woman.
- (2) Shall we make her leave him so that people should not say that a priest has been allowed to divorce his wife and take her back?
- (3) V. infra 89.
- (4) In which case the rumour is a serious one.
- (5) And we adopt the more rigorous construction.
- (6) Supposing the first husband died and she afterwards married a priest, which, if she was really divorced, she may not do.
- (7) If they were born after the alleged divorce.
- (8) And there can be no question about the qualifications of his children.
- (9) V. Glos.
- (10) Whereas Beth Shammai disqualified her merely because her husband had written a Get, even if he did not give it.
- (11) Where it would come in sight of the house.
- (12) Produce from which the sacred dues have not yet been separated. V. Glos.
- (13) I.e., it may be consumed casually, but not for a fixed meal. V. Tosaf. s.v. **ךך**.
- (14) Deut. XXVI, 12.
- (15) As soon as it comes in the courtyard.
- (16) Ibid. 12.
- (17) V. Glos. s.v. Erusin.

### **Talmud - Mas. Gittin 81b**

Beth Shammai holding that a man [in such a case] will not scruple to commit fornication, whereas Beth Hillel hold that a man will scruple to commit fornication.<sup>1</sup> Where, however, she was not seen to have intercourse, both agree that she does not require a second Get from him.

We learn: [BETH HILLEL] AGREE THAT IF THE DIVORCE IS ONE AFTER BETROTHAL, SHE DOES NOT REQUIRE A SECOND GET FROM HIM, BECAUSE HE WOULD NOT TAKE LIBERTIES WITH HER. Now [if a second Get is required] where she was seen to have intercourse, what difference does it make whether it was after betrothal or after marriage?<sup>2</sup> — We must suppose therefore that the Mishnah speaks of a case where she was not seen to have intercourse, and that R. Johanan was giving the view of the following Tanna, as it has been taught: ‘R. Simeon b. Eleazar said: Beth Shammai and Beth Hillel were of accord that where she was not seen to have intercourse she does not require from him a second Get. Where they differed was when she was seen to have intercourse, Beth Shammai holding that a man would not scruple [in such a case] to commit fornication, and Beth Hillel holding that a man would scruple to commit fornication’. But according to the Mishnah, which we have explained to refer to the case where she was not seen to have intercourse, what are we to say is the [ground of] difference [between Beth Shammai and Beth Hillel]? — We must suppose there were witnesses to their being alone together but no witnesses to the intercourse, in which case Beth Shammai hold that we do not regard the witnesses to their being alone together as being ipso facto witnesses to their intercourse, whereas Beth Hillel hold that we do regard the witnesses to their being alone together as being ipso facto witnesses to their intercourse.<sup>3</sup> Beth Hillel admit, however, that if the divorce is one after betrothal she does not require a second Get from him, because since he would not take liberties with her we do not regard them as being ipso facto witnesses to intercourse.<sup>4</sup> But did R. Johanan say this?<sup>5</sup> Did not R. Johanan say that the halachah follows the anonymous Mishnah,<sup>6</sup> and we have explained the Mishnah to be referring to the case where she was not seen to have intercourse? — Different Amoraim report R. Johanan's opinion differently.

MISHNAH. IF A MAN MARRIES A [DIVORCED] WOMAN ON THE STRENGTH OF A 'BALD' GET,<sup>7</sup> SHE MUST LEAVE BOTH HUSBANDS AND ALL THE ABOVE-MENTIONED PENALTIES APPLY TO HER. A 'BALD' GET MAY BE COMPLETED BY ANYONE'S SIGNATURE.<sup>8</sup> THIS IS THE VIEW OF BEN NANNOS, BUT R. AKIBA SAYS THAT IT MAY BE COMPLETED ONLY BY RELATIVES WHO ARE QUALIFIED TO TESTIFY ELSEWHERE.<sup>9</sup> WHAT IS A 'BALD' GET? ONE WHICH HAS MORE FOLDS THAN SIGNATURES.<sup>10</sup>

GEMARA. What is the reason for [invalidating] A 'BALD' GET? — As a precaution, in case he said 'All of you [write]'.<sup>11</sup>

A 'BALD' GET MAY BE COMPLETED BY ANYONE'S SIGNATURE. Why does R. Akiba not permit a slave [to sign]? — Because this might lead people to say that he is competent to bear witness [in general]. But in the same way they might be led to say that a near relative is competent to bear witness? — The fact is that the reason why he does not allow a slave is because people might be led to think him of Israelite parentage.<sup>12</sup> According to this a robber who could prove his Israelitish descent<sup>13</sup> should be competent. Why then do we learn here: R. AKIBA SAYS, IT MAY BE COMPLETED ONLY BY RELATIVES WHO ARE QUALIFIED TO TESTIFY ELSEWHERE, which would imply that a relative may testify but not a robber? — We must say therefore that the reason in the case of a slave is that people might be led to say that he has been emancipated; and similarly in the case of a robber people might be led to say that he has reformed himself. But as to a relative what objections can be raised? Everyone knows that a relative is a relative.

R. Zera said in the name of Rabbah b. She'ilta who had it from R. Hamnuna the elder who had it from R. Adda b. Ahabah: If a 'bald' Get has seven folds and six witnesses, or six folds and five witnesses, or five folds and four witnesses, or four folds and three witnesses, then Ben Nannos and R. Akiba differ [as to how it is to be completed]. But if it has three folds and two witnesses both agree that only a relative may complete it. Said R. Zera to Rabbah b. She'ilta: Let us see now. Three in a folded Get correspond to two in a plain Get.<sup>14</sup> Seeing then that a relative is forbidden to sign the latter, should he not be forbidden to sign the former also? — He replied: I was also perplexed by this, and I asked R. Hamnuna, who in turn asked R. Adda b. Ahabah, who replied, Don't bother about three on a folded Get, since these are not required by the Torah.<sup>15</sup> It has been taught to the same effect: A 'bald' Get which has seven folds but six witnesses, six folds and five witnesses, five folds and four witnesses, or four folds and three witnesses is judged differently by Ben Nannos and R. Akiba, to the extent that if it was completed by a slave Ben Nannos says that the child [born from a marriage contracted on the strength of such a Get] is legitimate while R. Akiba says that it is a mamzer. If, however, it has three folds and two witnesses, both agree that only a relative may complete it.

R. Joseph read [in the statement of R. Zera] 'a competent witness' [instead of 'relative']. But in the Baraitha it says 'relative'? — R. Papa said: Read, 'a competent witness'.

R. Johanan said: Only one relative has been declared eligible to sign as witness on it but not two, for fear lest it should be confirmed on the strength of the signatures of two relatives and one competent witness.<sup>16</sup> Said R. Ashi: This is indicated in the Baraitha also

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(1) And therefore he meant the intercourse to be a method of betrothal, and since he has married her again he must give her a second Get.

(2) In either case according to Beth Hillel he has married her again.

(3) And we take the mere fact of their having been alone together as sufficient proof that they have married again.

(4) And therefore do not presume that they have married again.

- (5) That where she was not seen to have intercourse she does not require a second Get even according to Beth Hillel.
- (6) I.e., not stated in the name of any particular authority, so that it may be regarded as the view of the majority and therefore authoritative.
- (7) V. note 7.
- (8) I.e., even of persons who ordinarily are not eligible to give evidence.
- (9) I.e., who are not disqualified on other grounds, such as being a robber etc.
- (10) If the husband did not wish to act too impetuously, he could have the Get written in folds, the scribe folding the paper over after every two or three lines and a witness signing on the back. If any fold was left without a signature. the Get was called 'bald' and was not valid, v. B.B. (Sonc. ed.) p. 699 nn. 1-3 and 6 and diagram p. 704.
- (11) In which case we presume that the number of folds corresponds to the number of persons who were present at the time, and that one of these neglected to sign. As stated supra 66b, this would invalidate the Get.
- (12) Lit., 'raise him in regard to the pedigree'.
- (13) Lit., 'who has a pedigree'.
- (14) Three being the minimum for a folded Get as two for a plain one, in order to protract the proceedings for the reason stated supra p. 391. n. 7.
- (15) And therefore a concession was made in this case.
- (16) If doubt is thrown on the validity of the Get, it can be established by proving the genuineness of three of the signatures on it, provided at least two of these are not relatives. If two relatives had signed, it might happen that these were the two whose signatures were confirmed

## Talmud - Mas. Gittin 82a

by the fact that it goes by steps from one number to the next,<sup>1</sup> which shows [that it is as R. Johanan said]. Abaye said: It also shows that the relative may sign where he pleases, at the beginning or in the middle or at the end; we gather this from the fact that no fixed place is assigned to him. It also shows that the Get can be confirmed on the strength of any three signatures and we do not require three next to one another, for if you should suppose that we do require them to be together, a place could be assigned to the relative before or between or after every two competent ones,<sup>2</sup> and several [relatives] should be allowed.<sup>3</sup>

When a party came before R. Ammi,<sup>4</sup> she said, Go and complete it with the signature of a slave from the street.<sup>5</sup>

## CHAPTER IX

MISHNAH. IF A MAN ON DIVORCING HIS WIFE SAYS TO HER, YOU ARE HEREBY FREE TO MARRY ANY MAN BUT SO-AND-SO, R. ELIEZER PERMITS HER [TO MARRY ON THE STRENGTH OF THIS GET], BUT THE RABBIS FORBID HER. WHAT MUST HE DO? HE MUST TAKE IT BACK FROM HER AND GIVE IT TO HER AGAIN SAYING, YOU ARE HEREBY FREE TO MARRY ANY MAN. IF HE WROTE IT<sup>6</sup> IN THE GET, EVEN THOUGH HE SUBSEQUENTLY ERASED IT, IT IS INVALID.

GEMARA. The question was raised: Has the word BUT here the force of 'except' or of 'on condition'? Shall we say it means 'except', and it is where he said 'except [So-and-so]' that the Rabbis differ from R. Eliezer, on the ground that he has left an omission in the Get,<sup>7</sup> but that where he says 'on condition [that you do not marry So-and-so]' they agree with R. Eliezer, placing this condition on a par with any other?<sup>8</sup> Or should we say perhaps that [BUT here] means 'on condition', and it is where he says 'on condition' that R. Eliezer differs from the Rabbis,<sup>9</sup> but where he says 'except' he agrees with them, on the ground that he has left an omission in the Get? — Rabina replied: Come and hear: 'All houses are defiled by strokes of leprosy but those of heathen'.<sup>10</sup> Now if you say that it means 'on condition', are we to understand that it is only on condition that the houses of heathens are not defiled that the houses of Israelites are defiled, which would imply that if the

houses of heathens are defiled the houses of Israelites are not defiled? And besides, can the houses of heathens be defiled, seeing that it has been taught: 'And I put the plague of leprosy. in a house of the land of your possession:<sup>11</sup> [this implies] that the land of your possession is defiled by plague of leprosy, but houses of heathens are not defiled by plague of leprosy' ? — We must understand therefore that 'but' means 'except'; and this may be taken as proved.

The Mishnah is not in agreement with the Tanna of the following [passage]. where it is taught: R. Jose said in the name of R. Judah: R. Eliezer and the Rabbis were agreed that if a man on divorcing his wife said to her, You are hereby permitted to any man except So-and-so, she is not divorced. Where they differed was if a man on divorcing his wife said to her, You are hereby permitted to marry any man on condition that you do not marry So-and-so

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- (1) The Baraitha does not instance the case where the folds are more in number than the witnesses by two.
  - (2) I.e., in such a way that two competent ones should always be together.
  - (3) Because there would now be no danger that out of any three signatures two might be those of relatives.
  - (4) With a 'bald' Get, all the witnesses who had signed still being present.
  - (5) Thus showing that the halachah followed Ben Nannos.
  - (6) This reservation is discussed infra.
  - (7) In not making her free to marry any man.
  - (8) And the Get is effective at once, while the condition has to be fulfilled later. V. supra 74a.
  - (9) Because this condition is held to be on a par with other conditions.
  - (10) Neg. XII, 1.
  - (11) Lev. XIV, 34.

### **Talmud - Mas. Gittin 82b**

. in which case R. Eliezer allowed her to marry anyone except that man and the Rabbis forbade her [to marry at all on the strength of that Get]. What is R. Eliezer's reason? — He puts the condition on the same footing as any other condition. And the Rabbis? — They say that any other condition does not involve an omission in the Get, but this one involves an omission in the Get.

And in the Mishnah, where, as we have decided, he means 'except', what is the reason of R. Eliezer? — R. Jannai answered in the name of a certain elder: Because the text says. She shall depart from his house and go and be another man's wife,<sup>1</sup> which implies that if he permitted her to marry only one other man she is divorced. And the Rabbis? — The word 'man' here means any other man. R. Johanan, however, says that R. Eliezer derived his reason from this verse: Neither shall they [the priests] take a woman put away from her husband.<sup>2</sup> This shows that even though she is only divorced from her husband [without being permitted to any other man], she is disqualified from the privileges of priesthood, which shows that the Get is valid.<sup>3</sup> And the Rabbis? — The prohibition of priestly privileges is on a different footing.<sup>4</sup>

R. Abba raised the question: What is the rule [if a man uses these words] in betrothing?<sup>5</sup> The answer is not self-evident whether we adopt the view of R. Eliezer or that of the Rabbis. If we adopt R. Eliezer's view, are we to say that R. Eliezer ruled as he did here [in the case of divorce] only because this is indicated in the Scripture, but in the case of betrothal we require an effective acquisition?<sup>6</sup> Or shall we say that R. Eliezer applies the principle of she shall depart and be [married]?<sup>7</sup> Again, if we adopt the view of the Rabbis, are we to say that the Rabbis ruled as they did here [in the case of divorce] only because we require a 'cutting off',<sup>8</sup> but in the other case any kind of acquisition is sufficient, or shall we say that they apply the analogy of 'she shall depart and be'? — After stating the problem he himself solved it, saying: Whether we adopt the view of R. Eliezer or that of the Rabbis, we require that the analogy of 'she shall depart and be' should hold good.

Abaye said: If we can assume that the answer of R. Abba was sound, then if Reuben came and betrothed a woman with a reservation in favour of [his brother] Simeon, and then Simeon came and betrothed her with a reservation in favour of Reuben, and both of them died, she contracts a levirate marriage with Levi, [the third brother] and I do not call her 'the wife of two dead',<sup>9</sup> the reason being that the betrothal of Reuben was effective but the betrothal of Simeon was not effective.<sup>10</sup> And in what circumstances would she be the wife of two dead?<sup>11</sup> — If, for instance, Reuben came and betrothed her with a reservation in favour of Simeon and then Simeon came and betrothed her without any reservation, in which case the betrothal of Reuben availed to make her forbidden to all other men and the betrothal of Simeon to make her forbidden to Reuben.<sup>12</sup>

Abaye raised the question: If he said to her, 'You are hereby permitted to any man except Reuben and Simeon', and then said 'to Reuben and Simeon' what is to be done? Do we say that [by these words] he permits what he had forbidden,<sup>13</sup> or are we to say that he both permits what he had forbidden and forbids what he had permitted?<sup>14</sup> And assuming the answer to be

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(1) Deut. XXIV, 2.

(2) Lev. XXI, 7.

(3) Hence if he permits her to one man only, she is divorced.

(4) Being subject to numerous regulations, and therefore we cannot argue from it to a Get in general.

(5) I.e., 'Be betrothed to me so as to be forbidden to any man except So-and-so.'

(6) In the phraseology of the Mishnah, a woman is 'acquired' by means of betrothal. Kid. ad. init.

(7) Deut. XXIV, 2. On the strength of this analogy, whatever applies to divorce applies also to betrothal.

(8) V. Deut. l.c. and supra p. 83.

(9) If a man makes the formal declaration to marry his deceased childless brother's wife, and dies before doing so, she is called 'the wife of two dead', and must not marry a second brother but must give him halizah. v. Yeb. 31b.

(10) Because when he forbade her to all the world except Reuben, the condition was null, as she was already forbidden to all the world by her betrothal with Reuben.

(11) In similar circumstances.

(12) And so whichever of them has died first, the other has promised to marry her.

(13) I.e., he means, You are permitted to Reuben and Simeon also.

(14) I.e., he means now, You are permitted only to Reuben and Simeon.

## Talmud - Mas. Gittin 83a

that he permits what he had forbidden, if he says only 'To Reuben',<sup>1</sup> what is to be done? Do we take the words 'To Reuben' to apply also to Simeon, presuming that why he now says Reuben is because he had been mentioned first, or does he mean Reuben and Reuben only? And assuming that he means Reuben only, if he says 'To Simeon' what is to be done? Do we take the words 'To Simeon' to apply to Reuben also, presuming that why he now says Simeon is because he had just mentioned him, or does he mean Simeon and Simeon only? R. Ashi asked,<sup>2</sup> If he said, Also to Simeon, what are we to do? Do we take 'also' to mean 'besides Reuben', or 'besides everyone else' [but not Reuben]? — These questions are left undecided.

Our Rabbis taught: After the demise of R. Eliezer, four elders came together to confute his opinion. They were R. Jose the Galilean, R. Tarfon, R. Eleazar b. Azariah, and R. Akiba. R. Tarfon argued as follows:<sup>3</sup> Suppose this woman went and married the brother of the man to whom she had been forbidden and he died without children, would not the first be found to have uprooted an injunction from the Torah?<sup>4</sup> Hence you may conclude that this is no 'cutting off'.<sup>5</sup> R. Jose the Galilean then argued as follows: Where do we find the same thing should be forbidden to one and permitted to another? What is forbidden is forbidden to all alike and what is permitted is permitted to all alike. Hence we may conclude that this is no 'cutting off'. R. Eleazar b. Azariah then argued as follows: 'Cutting off' means something which completely cuts him off from her. Hence you may



conclude that this is no cutting off'. R. Akiba then argued as follows: Suppose this woman went and married some other man and had children from him and was then widowed or divorced from him, and she afterwards went and married this man to whom she had been forbidden, would not her original Get have to be declared void and [consequently] her children bastards? From this we conclude that this is no cutting off'. Or alternatively I may argue: Suppose the man to whom she was forbidden was a priest and the man who divorced her died, then in respect of the priest she would be a widow<sup>6</sup> and in respect of all other men a divorcee.<sup>7</sup> There then follows an argument a fortiori: Seeing that she would have been forbidden to the priest qua divorcee, though this involves but a minor [transgression],<sup>8</sup> should she not all the more as a married woman, which is a much more serious affair,<sup>9</sup> be forbidden to all men?<sup>10</sup> From this we may conclude that this is no 'cutting off'. R. Joshua said to them: You should not seek to confute the lion after he is dead.<sup>11</sup> Raba said: All these objections can be countered except that of R. Eleazar b. Azariah, in which there is no flaw. It has been taught to the same effect: R. Jose said: I consider the argument of R. Eleazar b. Azariah superior to all the others.

The<sup>12</sup> Master said above: R. Tarfon argued thus: Suppose she went and married the brother of the man to whom she was forbidden and he died without children, would not the first be found to have uprooted an injunction from the Torah? Uprooting, [you say]? He uprooted?<sup>13</sup> — You should read, He stipulates to uproot an injunction from the Torah. He stipulates? Is there any word about it? Can she not do without marrying the brother of that man? — You should read, He may possibly cause an injunction to be uprooted from the Torah. But in that case a man should be forbidden to marry his brother's daughter, since perhaps he will die without children and he will thus cause an injunction to be uprooted from the Torah?<sup>14</sup> — This is the flaw in the argument. In what case then [does R. Tarfon assume R. Eliezer to differ from the Rabbis]? Is it where the husband says 'except'? In that case R. Eliezer would allow her to marry him,<sup>15</sup> as it has been taught: 'R. Eliezer agreed that if a man divorced his wife saying to her, You are hereby permitted to any man except So-and-so, and she went and married some other man and was widowed or divorced, she is permitted to marry the man to whom she had been forbidden.' It must be therefore where he says 'on condition'.<sup>16</sup>

'R. Jose the Galilean argued as follows: Where do we find that the same thing should be forbidden to one and permitted to another? What is forbidden is forbidden to all and what is permitted is permitted to all'. Is that so? What of terumah and holy meats which are forbidden to one class<sup>17</sup> and permitted to another?<sup>18</sup> — We are speaking of sexual prohibitions. But what of forbidden degrees of consanguinity? — We speak of marriage. But there is the case of a married woman?<sup>19</sup> — This is the flaw in the argument. In what case then [does R. Jose assume R. Eliezer to differ from the Rabbis]? Is it where he says 'on condition' [that you do not marry So-and-so]? She is permitted to him in the way of fornication!<sup>20</sup> — It must be then where he says 'except'.<sup>21</sup>

'R. Akiba argued as follows: Suppose she went and married some other man and had children from him and was then widowed or divorced and she went and married the man to whom she had been forbidden, would not her original Get have to be declared void and her children bastards?' If that is so, then wherever there is a condition in the Get she should not marry, for fear lest she should not fulfil the condition and the Get would prove to be void and her children bastards. This is the flaw in the argument. In what case then [does R. Akiba suppose R. Eliezer to differ from the Rabbis]? It cannot be where he says 'except', because there R. Eliezer permits her, as it has been taught, 'R. Eliezer agrees that if a man divorced his wife saying to her, You are hereby permitted to any man except So-and-so, and she went and married some other man and became widowed or divorced, she is permitted to the man to whom she was originally forbidden'?<sup>22</sup> — It must be therefore if he says 'on condition'. 'Alternatively [R. Akiba argued]: Suppose the man to whom she was forbidden was a priest and the man who divorced her died, then she would be a widow in respect of the priest and a divorcee in respect of all other men. There thus follows an argument a fortiori. Seeing then that she would be forbidden to the priest qua divorcee, though this involves but a minor [transgression],

should she not all the more as a married woman, which is a much more serious affair, be forbidden to all men'. In what case then [does R. Akiba assume R. Eliezer to have differed from the Rabbis]? Is it where he says 'on condition'?

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- (1) To supplement his first statement.
  - (2) On the assumption that in the last case he means 'to Simeon only'.
  - (3) Lit., 'answered and said'.
  - (4) Because now she cannot fulfil the law of the levirate marriage.
  - (5) V. supra p. 83.
  - (6) Because as far as he went she had never been divorced.
  - (7) And consequently still forbidden to the priest, since she had at any rate been divorced from her husband. V. supra.
  - (8) The marriage of a divorcee to a priest involves the breach of an ordinary prohibition which carries with it no death penalty.
  - (9) Involving, as it does, the penalty of death.
  - (10) In virtue of this peculiar divorce, she becomes at the time of divorce on one side a divorcee in respect of men in general, while on the other side she remains a married woman in respect of the priest. Seeing that the divorced side was sufficient to prohibit her to the priest, should not the married side be sufficient to prohibit her to all other men?
  - (11) As much as to say, If R. Eliezer had been alive, he could have found answers to your objections.
  - (12) The flaws in the objections are now pointed out.
  - (13) That is to say, he has done nothing positive to this effect.
  - (14) Because the widow cannot possibly marry the husband's brother.
  - (15) Viz., the divorcee to marry the brother of the second husband, in the case put by R. Tarfon, so that there would be no point in his objection.
  - (16) Where failure to fulfill the condition renders the Get void.
  - (17) Laymen.
  - (18) Priests.
  - (19) Who is permitted to her husband and forbidden to others.
  - (20) And therefore there is no point in his objection.
  - (21) Which forbids her to the said man also in the way of fornication.
  - (22) And so there is no point in R. Akiba's objection.

### **Talmud - Mas. Gittin 83b**

In that case she is for purposes of fornication a divorcee in respect of him?<sup>1</sup> — It must be therefore where he says 'except'. Now if R. Akiba [thought that the difference is where he says] 'except', why did he not bring [merely] the objection which applied to that case,<sup>2</sup> and if [he thought that it was where he says] 'on condition', why does he not bring [merely] the objection applying to that case?<sup>3</sup> — R. Akiba had heard one report according to which R. Eliezer said 'except', and another according to which he said 'on condition'. For the version which gave 'except' he had one objection, and for the version which gave 'on condition' he had another objection. And what is the flaw [in the second objection of R. Akiba]? We cannot say it is that the prohibition of her marrying a priest is on a special footing,<sup>4</sup> because R. Eliezer also bases his ruling<sup>5</sup> on the priestly prohibition?<sup>6</sup> — Raba follows the version which R. Jannai gave in the name of a certain elder.<sup>7</sup>

'R. Joshua said to them, You should not seek to confute the lion after he is dead.' This would imply that R. Joshua concurred with him. But how can this be, seeing that he himself also brought an objection against him?<sup>8</sup> — What he meant was this: I also have objections to bring, but whether for me or for you, it is not fitting to seek to confute the lion after he is dead. What was the objection of R. Joshua? — As it has been taught: R. Joshua said: Scripture compares her status before the second marriage to the one before the first marriage.<sup>9</sup> Just as before the first marriage she must not be tied to any other man, so before the second marriage she must not be tied to any other man.

[To revert to] the above text: 'R. Eliezer agreed that if a man divorced his wife saying to her, You are permitted any man except So-and-so, and she went and married some other man and became widowed or divorced, she is then permitted to marry the man to whom she was at first forbidden.' R. Simeon b. Eleazar argued against R. Eliezer's view, saying, Where do we find that what one man renders forbidden can be made permissible by another?<sup>10</sup> But are there no such cases? Is there not that of the sister-in-law who is rendered forbidden<sup>11</sup> by the husband and permissible by the brother-in-law?<sup>12</sup> — In that case it is really the brother-in-law who makes her forbidden, since as far as the husband is concerned she is permitted.<sup>13</sup> But what of vows, where the one who makes the vow forbids and the wise man permits?<sup>14</sup> — [This is not really so], as R. Johanan has said that the wise man does not release except where there is a change of mind.<sup>15</sup> But there is the husband's power of disallowing, since the wife vows but the husband disallows?<sup>16</sup> — The answer to that is provided by what R. Phineas said in the name of Raba; for R. Phineas said in the name of Raba: A woman who makes a vow always does so subject to the consent of her husband.

'R. Eleazar b. Azariah argued as follows: "Cutting off"<sup>17</sup> means something that cuts him off from her. From this we conclude that this is not "cutting off".' What do the [other] Rabbis<sup>18</sup> make of this 'cutting off'? — They require it for the ruling contained in the following, as had been taught: '[If a man says], This is your Get on condition that you never drink wine, on condition that you never go to your father's house, this is not "cutting off".<sup>19</sup> [If he says], For thirty days, this is "cutting off".' And the other [R. Eleazar]? — We can learn this, [he says,] from the use of the form kerithuth in place of kareth.<sup>20</sup> And the Rabbis? — They do not stress the difference between kareth and kerithuth.<sup>21</sup>

Raba said: [If a man said,] This is your Get on condition that you do not drink wine all the days of my life, this is no 'cutting off', but if he said, All the days of So-and-so's life, this is 'cutting off'. Why this difference? [If you say that where he says] 'the life of So-and-so', it is possible that he may die and she may fulfil the condition, [I may rejoin that where he says] 'my life', there is also a possibility that he may die and she may fulfil the condition? — We should read therefore, [If he says,] All the days of your life,<sup>22</sup> this is no 'cutting off', but if he says, All the days of my life or of So-and-so's life, this is cutting off'.

Raba put the following question to R. Nahman: [If he says], To-day you are not my wife, but to-morrow you will be my wife, what is to be done? The answer is not clear whether we accept the view of R. Eliezer<sup>23</sup> or that of the Rabbis. We ask: If we adopt the view of R. Eliezer, are we to say that in that case R. Eliezer ruled as he did, because as he permitted her she is permitted in perpetuity, but here<sup>24</sup> he would not do so, or are we to say that he makes no difference? And we ask, if we adopt the view of the Rabbis, are we to say that in that case the Rabbis ruled as they did because she is not entirely separated from him, but here they would say that once she is separated she is separated?<sup>25</sup> Having asked the question he himself answered it:

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(1) As in respect of all other men, and therefore the a fortiori argument adduced above does not apply.

(2) Viz., the first of his objections.

(3) Viz., the second of his objections.

(4) And therefore we cannot argue from the case where the man to whom she is forbidden is a priest to cases in general.

(5) In our Mishnah that the Get is valid as it stands.

(6) V. supra, 82b.

(7) That R. Eliezer bases his ruling on the text 'and she marry another man', v. supra.

(8) V. infra.

(9) Because it is written, When a man taketh a wife (Deut. XXIV, 1), referring to the first marriage, and afterwards, and she be another man's wife (ibid. 2), referring to the second marriage.

(10) As here, where the first man makes her forbidden to a certain man, and the second renders her permissible, v. Tosef. Git. VII.

- (11) To all other men.
- (12) By means of halizah (v. Glos.).
- (13) As soon as he is dead.
- (14) By remitting the vow, v. supra 36b.
- (15) By pointing out the consequences of the vow, so that the one who made it can say, Had I known this I would not have vowed, and the revision renders the vow void retrospectively.
- (16) The vow, that is to say, is not rendered void, only the husband disallows her observing it; v. Ned, 68a.
- (17) Deut. XXIV, 1.
- (18) Viz., R. Tarfon, R. Jose the Galilean and R. Akiba.
- (19) Because she is tied to him till her death.
- (20) I.e., the use of the double form where the single would have sufficed implies that another lesson may be learnt in addition to this.
- (21) V. supra p. 83.
- (22) V. note 10.
- (23) Who says in our Mishnah that a substantive reservation in the Get does not necessarily invalidate it.
- (24) Where the divorce is only for one day.
- (25) And the condition is worthless.

### **Talmud - Mas. Gittin 84a**

It is reasonable to suppose that whether [we adopt the view of] R. Eliezer or of the Rabbis, [we should decide that] once she is separated from him she is separated.

Our Rabbis taught: [If a man says.] This is your Get on condition that you marry So-and-so, she should not marry, but if she does marry she need not leave the second husband. What does this mean? — R. Nahman said: What it means is this: She must not marry that man, for fear that people should say that men may make presents of their wives. If, however, she marries anyone else, she need not leave him. And do we not as a precaution make her part from him, and [are we not afraid that] we may be permitting a married woman to another?<sup>1</sup> R. Nahman thereupon said: What is meant is this: She must not marry that man, for fear people should say that men can make presents of their wives, but if she does marry him she need not part from him since we do not separate them merely as a precaution.<sup>2</sup> Said Raba to him: [According to you] it is that man whom she must not marry, which implies that she may marry another. But [how can this be] seeing that she has to carry out his condition? And should you say that it is possible for her to marry [another] to-day and be divorced to-morrow,<sup>3</sup> and so fulfil the condition, comparing this case to that in regard to which you joined issue with Rab Judah, as it has been stated: If a man says, I forbid myself to sleep to-day if I shall sleep to-morrow, Rab Judah says that he should not sleep to-day lest perhaps he should sleep to-morrow, whereas R. Nahman says that he may sleep today and we disregard the possibility of his sleeping to-morrow?<sup>4</sup> But how can you compare the two cases? In that case [of the sleeper] the matter lies in the man's own hands, since if he likes he can keep himself from sleeping by pricking himself with thorns, but in this case does it lie with her whether she is divorced or not?<sup>5</sup> — No, said Raba; [what we must say is] that she must not marry either that man or any other; she must not marry him for fear people should say that men may make presents of their wives, nor must she marry another since she has to fulfil the condition. If, however, she marries that man, she need not part from him since we do not separate them merely out of precaution, whereas if she marries another she must leave him since she is required to fulfil the condition. It has been taught in accordance with Raba: This woman must not marry either that man or any other. If, however, she has married him she need not part from him, but if she marries another she must part from him.

Our Rabbis taught: [If a man says.] ‘This is your Get on condition that you go up to the sky’, ‘on condition that you go down to the abyss’, ‘on condition that you swallow a reed four cubits long’ ‘on condition that you bring me a reed of a hundred cubits’, on condition that you cross the great sea on

foot,' this is no Get. R. Judah b. Tema, however, says that one like this is a Get. And R. Judah b. Tema laid it down as a general principle that if any condition impossible at any time of fulfilment was laid down by him at the outset, he must be regarded as merely trying to put her off,<sup>6</sup> and [the Get] is valid.

R. Nahman said in the name of Rab that the halachah follows the view of R. Judah b. Tema. R. Nahman b. Isaac said: This is indicated by [the language of] the Mishnah,<sup>7</sup> since it says, 'Wherever a condition possible at any time of fulfilment is laid down at the outset, it is a valid condition.' This implies that if it is impossible of fulfilment it is void,<sup>8</sup> and so we may conclude.

The question was raised: [If a man says,] 'Here is your Get on condition that you eat swine's flesh,' what is the law? — Abaye replied: That is exactly a case in point.<sup>9</sup> Raba, however, replied: It is possible for her to eat and be scourged.<sup>10</sup> Abaye stresses the words 'general principle' [used by R. Judah b. Tema], so as to cover [the eating of] swine's flesh; Raba stresses the words 'one like this is a Get' to exclude [the eating of] swine's flesh.

Objection was raised [against Raba] from the following: [If a man says,] 'Here is your Get on condition that you have intercourse with So-and-so', if the condition has been fulfilled this is a Get, otherwise not. [If he says,] 'On condition that you do not have intercourse with my father or your father', we disregard the possibility of her having intercourse with them.<sup>11</sup> Now this ruling does not contain the words 'On condition that you have intercourse with my father or your father',<sup>12</sup> This is intelligible from the standpoint of Abaye,<sup>13</sup> but creates a difficulty from the standpoint of Raba?<sup>14</sup> — Raba may reply to you: There is a reason why [the eating of] swine's flesh should be a valid condition, because it is possible for her to eat it and be scourged. 'So-and-so' also it is possible for her to persuade by a money present [to marry her]. But does it lie with her to have intercourse with his father or her father? Even supposing that she would commit the offence, would his father or her father commit the offence? We must therefore say that according to Raba the words 'general principle' [in the statement of R. Judah b. Tema] are meant to cover the case of his father and her father,<sup>15</sup> and the words 'one like this is a Get', to exclude the case of swine's flesh,<sup>16</sup>

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(1) Seeing that she has not carried out the condition, the Get may be void and she may still be the wife of the first husband.

(2) I.e., out of fear that people will say this.

(3) And then marry the man mentioned in the Get.

(4) V. Ned. 14b. And so here we disregard the possibility that she will after all not be divorced and not carry out her condition.

(5) By the second man. So as to be able to marry the man mentioned in the Get.

(6) I.e., to annoy her.

(7) In B.M. 94a.

(8) And therefore its non-fulfilment does not affect the validity of the document.

(9) Of a condition which R. Judah b. Tema would declare void.

(10) And R. Judah would not declare the condition void, and the Get would not be valid till it had been fulfilled.

(11) And the Get is valid at once.

(12) Which is prohibited.

(13) Since in this case the condition would be void.

(14) For in his view R. Judah b. Tema would still make the validity of the Get depend on the fulfilment of the condition.

(15) Which is also considered a condition that cannot be fulfilled.

(16) Which is considered one capable of fulfilment,

## **Talmud - Mas. Gittin 84b**

while according to Abaye 'general principle' covers swine's flesh and 'one like this' excludes

‘So-and-so’.<sup>1</sup>

An objection was brought [from the following]: [If he says], ‘Here is your Get on condition that you eat swine's flesh’, or, supposing she was a lay woman, ‘on condition that you eat terumah’, or, supposing she was a nazirite, ‘on condition that you drink wine’, then if the condition has been fulfilled this is a Get, and if not it is not a Get.<sup>2</sup> This is consistent with the view of Raba but conflicts with that of Abaye, [does it not]? — Abaye may reply to you: Do you imagine that this ruling represents a unanimous opinion? This represents the view of the Rabbis. But could he [Abaye] not base his view on the ground that [such a Get contains] a stipulation to break an injunction laid down in the Torah, and wherever a stipulation is made to break an injunction laid down in the Torah, the condition is void?<sup>3</sup> — R. Adda the son of R. Ika replied: When we say that where a stipulation is made to break an injunction laid down in the Torah the condition is void, we refer for instance to a stipulation to withhold the food, raiment and marriage duty [of a married woman], where it is the man who nullifies the injunction, but here it is she who nullifies it, Rabina strongly demurred to this [saying], Is not her whole purpose in nullifying only to carry out his condition, so that in point of fact it is he who nullifies? No, said Rabina. When we say that wherever a stipulation is made to break an injunction laid down in the Torah the condition is void, we mean, for instance, [a stipulation] to withhold her food, raiment and marriage duty, where he is unquestionably nullifying [the injunction]. But in this case [will anyone tell her that] she is absolutely bound to eat? She need not eat and will not be divorced.

WHAT MUST HE DO? HE MUST TAKE IT FROM HER, etc. Who is the authority for this ruling?-Hezekiah said: It is R. Simeon b. Eleazar, as it has been taught: R. Simeon b. Eleazar says, [It is no Get] until he takes it from her and again gives it to her saying, Here is your Get.<sup>4</sup> R. Johanan said, You may even hold that it is Rabbi;<sup>5</sup> your colleague<sup>6</sup> has suggested that there is a special reason here, since she has already become possessed of it<sup>7</sup> to the extent of being disqualified in regard to the priesthood.<sup>8</sup>

IF HE WROTE IT IN THE GET. R. Safra said: The words here are<sup>9</sup> IF HE WROTE IT IN THE GET. Surely this is self-evident? It says, IF HE WROTE IT IN THE GET?-You might think that this is the case<sup>10</sup> only [if he inserts them] after the substantive part of the Get<sup>11</sup> [has been written],<sup>12</sup> but where [he made the reservation] before the substantive part [has been written], then even [if he made it] orally [the Get] should be invalid. Therefore [R. Safra] tells us [that this is not so]. Raba on the other hand held that the rule<sup>13</sup> applies only if [he made the reservation] after the substantive part [was written], but if before the substantive part was written then even if made orally [the Get] is invalid. Raba was quite consistent in this, as he used to say to the scribes who wrote bills of divorce, Silence the husband till you have written the substantive part [of the Get].<sup>14</sup>

Our Rabbis taught: All conditions [written] in a Get make it invalid. This is the view of Rabbi. The Sages, however, say that a condition which would render it invalid if stated orally makes it invalid if written, but one which does not invalidate it if stated orally does not invalidate it if written. [Hence] the word ‘except’<sup>15</sup> which invalidates it [if expressed] orally also invalidates it [if inserted] in writing, whereas [‘on condition’] which does not invalidate it [if expressed] orally does not invalidate it [if inserted] in writing.

R. Zera said: They disagree only where [the reservation is inserted] after the substantive part [was written], Rabbi holding that we disallow ‘on condition’ in virtue of having disallowed ‘except’,<sup>16</sup> while the Rabbis considered that we need not disallow ‘on condition’ in virtue of having disallowed ‘except’. If, however, [the reservation is inserted] after the substantive part [has been written].

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(1) Since she may be able to persuade him with money to marry her, the condition is considered capable of fulfilment.

(2) Though the condition cannot be fulfilled without incurring the liability of a flogging.

- (3) V. B.M. 51a; 94a.
- (4) Supra 78a.
- (5) Who in that case held that he need not actually give it to her again.
- (6) R. Kahana, R. Johanan was apparently speaking to some disciples of his from Babylon, whence R. Kahana also came; V. B.K. 117a. V, also Tosaf. s.v,
- (7) By his first delivery of it,
- (8) Even though she is not yet divorced, she is treated as a divorcee and must not marry a priest should the husband die without giving her the Get a second time as required.
- (9) Lit., 'we learn here'.
- (10) Viz., that merely speaking them does not invalidate the Get,
- (11) His name and her name, the name of his town and her town. V. supra.
- (12) And a fortiori if before.
- (13) That words which invalidate when written do not invalidate if only spoken.
- (14) Lest he should say something which might invalidate it.
- (15) V. supra.
- (16) I.e., for fear one might be confused with the other.

### **Talmud - Mas. Gittin 85a**

, both sides agree that [the Get is still] valid. As for the Mishnah which says. IF HE HAS WRITTEN IT, and which we have explained as referring to 'except', so that 'on condition' would not invalidate [the Get], if you like I can say that it is assuming it [to be inserted] before the substantive part [has been written], so that it concurs with the Rabbis, or if you like I can say that it is assuming it [to be inserted] after the substantive part [has been written], so that it concurs with both authorities. Raba, however, said that they [Rabbi and the Rabbis] disagree in the case where [the reservation is inserted] after the substantive part has been written, Rabbi holding that we disallow the insertion in this case in virtue of having disallowed it before the substantive part [has been written], while the Rabbis considered that we need not disallow one in virtue of the other; but if [it is inserted] before the writing of the substantive part, both sides agree that [the Get is] invalid. As for the Mishnah which says. IF HE HAS WRITTEN IT. and which we have explained as referring to 'except', so that 'on condition' would not invalidate [the Get], it is assuming it to be inserted after [the writing] of the substantive part, and it follows the Rabbis.

The father of R. Abin recited before R. Zera: 'If he wrote the Get with [the insertion of] a condition, the unanimous ruling is that it is invalid,' [He said to him:] The unanimous ruling is that it is invalid? [How can this be] seeing that there is a dispute on the subject? What you must say is, The unanimous ruling is that it is valid. And in what circumstances? If the words are inserted after the writing of the substantive part. Why did not R. Zera say to him, [Say,] This is invalid, [the ruling then being] according to Rabbi? — [R. Zera reasoned] that the tanna<sup>1</sup> had been taught to say 'The unanimous ruling is', and that he might confuse 'valid' and 'invalid', but that he would not confuse 'this is' with 'the unanimous ruling is'.<sup>2</sup>

MISHNAH. [IF HE SAID,] YOU ARE HEREBY PERMITTED TO ANY MAN RUT MY FATHER AND YOUR FATHER, MY BROTHER AND YOUR BROTHER, A SLAVE. A HEATHEN, OR ANYONE TO WHOM SHE IS INCAPABLE OF BEING BETROTHED, THE GET IS VALID.<sup>3</sup> [IF HE SAYS.] YOU ARE HEREBY PERMITTED TO ANYONE BUT A HIGH PRIEST (SUPPOSING SHE WAS A WIDOW) OR, (SUPPOSING SHE WAS A DIVORCEE OR A HALUZAH),<sup>4</sup> AN ORDINARY PRIEST, OR, (SUPPOSING SHE WAS A BASTARD OR A NETHINAH),<sup>5</sup> A LAY ISRAELITE, OR, (SUPPOSING SHE WAS OF ISRAELITISH BIRTH). A BASTARD OR A NATHIN, OR ANYONE WHO IS CAPABLE OF BETROTHING HER ALBEIT IN TRANSGRESSION OF THE LAW,<sup>6</sup> THE GET IS INVALID.

GEMARA. The general statement in the first clause brings under the rule all other persons who become liable to kareth<sup>7</sup> [by having intercourse with her]; the general statement in the second clause brings under the rule all other persons who are forbidden [to marry her] only in virtue of a negative command,<sup>8</sup> (such as, for instance, an Ammonite, a Moabite,<sup>9</sup> a Nathin, an Egyptian and an Edomite).<sup>10</sup> Raba inquired of R. Nahman: [If he says, you may marry anyone] except [that you may not] be betrothed to a minor, what is the law?<sup>11</sup> Do we emphasise the fact that at the present at any rate he is not capable of betrothing her<sup>12</sup> or rather the fact that he will one day be capable? — He replied: [We have a teaching:] ‘A girl under age can be divorced [after her father's death] even though her betrothal was contracted by her father.’<sup>13</sup> Now why should this be, seeing that we require that her separation should be on the same footing as her union?<sup>14</sup> The reason must be, because she will one day be capable of betrothal; so here we say that he will one day be capable of betrothal.<sup>15</sup>

[Suppose he says, You may marry anyone] except those still to be born, what is the law? Do we lay stress on the fact that as yet at any rate they are not born, or on the fact that one day they will be born? — He replied: We have the answer in our Mishnah: [IF HE SAID, ANY MAN BUT] A SLAVE, A HEATHEN, [IT IS VALID]. Now if we suppose [that this constitutes a reservation in the Get], then [the excepting of] a slave and a heathen also [should constitute a reservation in the Get], since it is possible for them to become proselytes?-[To this Raba rejoined:] Those are not bound to become proselytes in the ordinary course of things, these will be born in the ordinary course of things. [If he said she may marry anyone] except the husband of her sister, what is the law? Do we lay stress on the fact that now at any rate she is not eligible for him, or rather perhaps on the fact that possibly her sister will die and she will become eligible for him? — He replied: We have [the answer] in our Mishnah: [ANY MAN BUT] A SLAVE, A HEATHEN. Now [the excepting] of a slave and heathen also [should constitute a reservation] since they can become proselytes? — [He rejoined]: Conversion is not a usual occurrence, death is.

[If he said, you may marry] excepting you commit fornication, what is the law? Do we lay stress on the fact that he left no reservation in the sphere of marriage, or on the fact that he did leave a reservation in the sphere of intercourse? — He replied: We have [the answer] in our Mishnah: [ANY MAN BUT] MY FATHER AND YOUR FATHER. Now to what [does the exception apply]? Shall I say to marriage? But are his father and her father capable of marrying her? It must be then to fornication, and when he excepts his father and her father this is no reservation,<sup>16</sup> which shows that when he excepts anyone else, it is counted as a reservation? — [He rejoined:] perhaps the exception refers after all to marriage, since he may transgress the law and marry her.

[If he says], Excepting unnatural intercourse, what is the law? Do we lay stress on the fact that he made no reservation in the sphere of natural intercourse, or on the fact that the text says, as with a woman?<sup>17</sup> [If he says], Except [that I reserve to myself] the right of annulling your vows, what is the law? Do we lay stress on the fact that he has left no reservation in the sphere of marriage, or rather perhaps on the text, her husband may establish it or her husband may make it void?<sup>18</sup> [If he says], Except that you may not eat terumah,<sup>19</sup> what is the law? Do we lay stress on the fact that he has left no reservation in the sphere of marriage, or on the fact that it is written the purchase of his money [shall eat of it]?<sup>20</sup> Suppose he said, Excepting that I shall inherit you, what is the law? Do we lay stress on the fact that he has left no reservation in the sphere of marriage or that the text says, to his kinsman and he shall inherit it?<sup>21</sup> [If he says,] Except for your being betrothed by a document, what is the law? Do we say that it is possible for one to betroth her by a money present or by intercourse,<sup>22</sup> or rather perhaps do we go by the text and she shall depart and marry,<sup>23</sup> which indicates that all kinds of marrying are on the same footing? — These questions are left undecided.

MISHNAH. THE ESSENCE OF THE GET IS THE WORDS, BEHOLD YOU ARE HEREBY PERMITTED TO ANY MAN.

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- (1) The father of R. Abin.
- (2) Hence he emended the word 'invalid' into 'valid', but not 'the unanimous ruling is' into 'this is', although the latter in itself would have been preferable.
- (3) Because the expression 'you are permitted to any man' still covers all possible cases and there is no reservation.
- (4) V. Glos.
- (5) Fem. of Nathin. A descendant of the Gibeonites who were accepted into the community of Joshua, but who were forbidden to intermarry with the Israelites. V. Josh. X, and Sanh. (Sonc. ed.) p. 340. n. 12.
- (6) [The act of betrothal, that is to say, is valid, though they are not allowed to marry. Whereas with those enumerated in the first part of the Mishnah the betrothal is of no effect and no divorce is necessary to separate them.]
- (7) I.e., those mentioned in Lev. XX. For kareth, v. Glos.
- (8) Which carries with it only flogging but no death penalty nor kareth.
- (9) V. Deut. XXIII,4.
- (10) Ibid, 8. The words in brackets are omitted in some texts.
- (11) I.e., does this constitute a reservation invalidating the Get or not.
- (12) And therefore that it is no reservation.
- (13) I.e., even though her marriage was a binding one.
- (14) Lit., '[the rule of] she shall go forth and be'. And therefore only her father should have power to receive her Get for her.
- (15) And the Get is invalid, owing to the reservation it contains.
- (16) Since she is in any case forbidden to them.
- (17) Lev. XX,13. The Hebrew is **משכב**, lit., 'lyings', the plural form being taken to indicate both natural and unnatural intercourse.
- (18) Num. XXX, 13.
- (19) If she marries a priest. V. Glos.
- (20) Lev, XXII, 11. And since she may not eat of it she is not the 'purchase of his money', and therefore is not fully permitted to marry 'any man'.
- (21) Num. XXVII, 11. Since he is to inherit her, she thus remains in a sense his wife.
- (22) V. Kid. 2a.
- (23) Deut. XXIV, 2.

## **Talmud - Mas. Gittin 85b**

. R. JUDAH SAYS: [HE MUST ADD,] AND THIS SHALL BE TO YOU FROM ME A WRIT OF DIVORCE AND A LETTER OF RELEASE AND A BILL OF DISMISSAL. WHEREWITH YOU MAY GO AND MARRY ANY MAN THAT YOU PLEASE. THE ESSENCE OF A DEED OF EMANCIPATION IS THE WORDS, BEHOLD YOU ARE HEREBY A FREE WOMAN, BEHOLD YOU BELONG TO YOURSELF.

GEMARA. There is no question that if a man says to his wife, Behold you are hereby a free woman, his words are of no effect,<sup>1</sup> and if he says to his bondwoman, Behold you are hereby permitted to any man, his words are of no effect.<sup>2</sup> If he said to his wife, Behold you belong to yourself, what are we to say? Does he mean, you belong to yourself entirely, or only as far as your work is concerned? — Rabina said to R. Ashi: Come and hear: Since we have learnt: THE ESSENCE OF A DEED OF EMANCIPATION IS THE WORDS, BEHOLD YOU ARE HEREBY A FREE WOMAN, BEHOLD YOU BELONG TO YOURSELF. Now seeing that a slave whose body belongs [to his master] becomes his own owner when he says to him, Behold you belong to yourself, how much more so with a wife whose body does not belong to him?

Rabina asked R. Ashi: If a man said to his slave, I have no concern with you, what [are we to say]? — R. Hanin said to R. Ashi, or, according to another report, R. Hanin of Huzna'ah<sup>3</sup> said to R. Ashi: Come and hear, as it has been taught:<sup>4</sup> If a man sells his slave to a heathen, he thereby becomes emancipated, but he requires a deed of emancipation from his first master. Rabban Simeon

b. Gamaliel said: This is the case only if he did not write out an oni for him, but if he wrote out an oni for him, this is his deed of emancipation. What is an oni? — R. Shesheth said: If he gave him a written statement saying. If you escape from him, I have no concern with you.<sup>5</sup>

RABBI JUDAH SAYS. [HE MUST ADD], AND THIS SHALL BE TO YOU FROM ME A WRIT OF DIVORCE AND A LETTER OF RELEASE. What is the ground of the difference [between the Rabbis and R. Judah]? — The Rabbis held that an indication<sup>6</sup> which is not definite can still count as an indication,<sup>7</sup> and so though he did not insert the words ‘and this’, the circumstances show that he was divorcing her with this Get. R. Judah on the other hand held that an indication not definite does not count as an indication, and the reason why the Get is valid is because he has inserted the words ‘and this’, which show that he was divorcing her with this Get, but if he did not insert these words, people will say that he divorced her by word of mouth, and the document is merely a corroboration.

Abaye said: The one who writes out the Get should not spell ודין which might be read we-din [and it is just], but ודן.<sup>8</sup> He should not spell איגרת which might be read igarath [a roof], but אגרת.<sup>9</sup> He should not write לימהך<sup>10</sup> which might be read li-mehak [to me from this], nor should he spell למהך<sup>11</sup> which might be understood ‘as a joke’. The words and דיתהויין, and דיתיציבין<sup>12</sup> should have each three yods [at the end], as two might be read di-tehewjan<sup>13</sup> [that they may be] and de-tezibjan<sup>13</sup> [whom they may like]. The waw of the words תירוכין<sup>14</sup> and שבוקין<sup>15</sup> should be lengthened<sup>16</sup> as otherwise the words might be read terikin [those who are divorced] and shebikin [those that are released].<sup>17</sup> The waw of כדו<sup>18</sup> should also be lengthened so as not to read כדי which means ‘in vain’. He should not write לאיתנסבא which might be read la-yithnesseba [she shall not be married], but להתנסבא.<sup>19</sup>

The question was raised: Are the words ‘and this’ required or not? — Come and hear: Raba laid down the formula of the Get thus: ‘[We are witnesses] how So-and-so son of So-and-so dismissed and divorced his wife from this day and for all time’. We see that he does not mention ‘and this’. But if we are to go by this, we might ask, did he mention all the rest of the Get? Nevertheless we require the rest, and so we require [this also].

The words ‘from this day’ are to rule out the view of R. Jose who said that the date of the document is sufficient indication.<sup>20</sup> The words ‘for all time’,

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(1) Because she is already free.

(2) Because not having been emancipated as far as work is concerned, she cannot marry an Israelite.

(3) [Or Hozae, the modern Khuzistan, S.W. Persia. V. Kid. 6b.]

(4) Supra 43b, q.v.

(5) Which shows that these words confer emancipation.

(6) Heb. ‘yadayim’, ‘hands’.

(7) Lit., ‘hands which do not prove are still counted hands’, v. Kid. 5b.

(8) We-den, ‘and this’.

(9) Iggereth, ‘a letter’.

(10) In place of li-mehak למהך ‘to go’. [In other words, Abaye rules out the *matres lectionis* in these three words, in view of the ambiguity they may give rise to.]

(11) [The ו and װ are interchangeable letters in Semitic languages.]

(12) Di-tehewjen, di-tezbijen, ‘that you may marry’, ‘whom you please’.

(13) Third pers. plur. fem.

(14) Terukin, ‘release’,

(15) Shebukin, ‘divorce’,

(16) So as not to look like a yod.

(17) I.e., not an abstract noun but a participle passive.

(18) Kedu, 'accordingly'.

(19) Le-hithnasseba, 'to be married',

(20) Supra 72a.

## Talmud - Mas. Gittin 86a

are to rule out the formula about which Raba questioned R. Nahman, viz., if he said, 'To-day you are not my wife but to-morrow you will be my wife'.<sup>1</sup>

THE ESSENCE OF A DEED OF EMANCIPATION IS THE WORDS, BEHOLD YOU ARE HEREBY A FREE WOMAN, BEHOLD YOU BELONG TO YOURSELF. Rab Judah laid down the following formula for the deed of sale of a slave: 'This slave is legally adjudicated to bondage, and is absolved and dissociated from all freedom and claims and demands of the King and the Queen,<sup>2</sup> and there is no mark of any [other] man upon him, and he is clear of all blemishes and from any boil that may come out within two years,<sup>3</sup> whether new or old.' What is the remedy for such a boil? — Abaye said: [A mixture of] ginger and silver dross and sulphur and vinegar of wine and olive oil and white naphtha laid on with a goose's quill.

MISHNAH. THE FOLLOWING THREE BILLS OF DIVORCE ARE INVALID BUT IF A WOMAN MARRIES ON THE STRENGTH OF THEM THE CHILD [BORN OF SUCH MARRIAGE] IS LEGITIMATE: [ONE.] IF THE HUSBAND WROTE IT WITH HIS OWN HAND BUT IT WAS ATTESTED BY NO WITNESSES; [A SECOND]. IF THERE ARE WITNESSES TO IT BUT NO DATE; [A THIRD,] IF IT HAS A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS. THESE THREE BILLS OF DIVORCE ARE INVALID, BUT IF SHE MARRIES THE CHILD IS LEGITIMATE. R. ELEAZAR, HOWEVER, SAYS THAT EVEN THOUGH IT WAS NOT ATTESTED BY WITNESSES AT ALL, SO LONG AS HE GAVE IT TO HER IN THE PRESENCE OF WITNESSES IT IS VALID,<sup>4</sup> AND ON THE STRENGTH OF IT SHE MAY RECOVER HER KETHUBAH FROM MORTGAGED PROPERTY, SINCE SIGNATURES OF WITNESSES ARE REQUIRED ON THE GET ONLY AS A SAFEGUARD.<sup>5</sup>

GEMARA. Are these all?<sup>6</sup> Is there not also the 'old' Get?<sup>7</sup> — With an 'old' Get she need not part [from her second husband], with one of these she must. This is a good answer for one who holds that with one of these she must part, but to one who holds that she need not part,<sup>8</sup> what can we reply? — With an 'old' Get her marriage is permitted in the first instance,<sup>9</sup> with one of these only retrospectively. But there is a 'bald' Get?<sup>10</sup> — With such a Get the child born is a bastard, but here the child is legitimate. This answer is satisfactory if we adopt the view of R. Meir, (who said that wherever any alteration is made in the form prescribed by the Sages for bills of divorce, the child is a bastard).<sup>11</sup> but if we accept the view of the Rabbis what reply can be made? — With a 'bald' Get she must part [from the second husband], here she need not. This is a satisfactory answer if we accept the view that here she need not part, but if we adopt the view that here also she must part, what reply can be given? — The Mishnah is not dealing with a folded Get.<sup>12</sup> But there is the Get with an improper reign inserted?<sup>13</sup> — There she must leave the husband, here she need not leave him. This is a good enough reason for one who holds that here she need not part, but to one who holds that she must part what answer can be made? — (There the child is a bastard, here the child is legitimate. This accords well enough with the view of R. Meir, but if we adopt the view of the Rabbis what can be said?)<sup>14</sup> — We must suppose that the Mishnah follows R. Meir, so that there the child is a bastard but here it is legitimate.

[Which kinds of Get] are excluded by the specific number mentioned at the beginning of the ruling, and which by the specific number mentioned at the end? — The first number excludes those we have mentioned.<sup>15</sup> The second number excludes the one regarding which it has been taught: 'If a man brings a Get from abroad and gives it to the wife without saying, In my presence it was written

and in my presence it was signed'. [the second husband] must put her away and the child is a bastard. This is the opinion of R. Meir.<sup>16</sup> The Sages, however, say that the child is not a bastard.<sup>17</sup> What should the man do? He should take it from her and give it to her again in the presence of two witnesses and say, In my presence it was written and in my presence it was signed.<sup>18</sup>

IF THE HUSBAND WROTE WITH HIS OWN HAND BUT IT WAS ATTESTED BY NO WITNESSES. Rab said: It is definitely stated here, WITH HIS OWN HAND. To what [was Rab referring]? Shall I say to the first clause of the ruling?<sup>19</sup> Then what has he told us? It says distinctly, WITH HIS OWN HAND? [Shall I say] to the middle clause?<sup>20</sup> [In this case it can hardly matter],<sup>21</sup> since it is attested by witnesses? — He must refer then to the last clause, IF IT HAS A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS.

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(1) Supra 83b.

(2) As an offender against the law, v. B.M. 80a.

(3) So Rashi; others; four years. Jastrow, however, translates 'any boil, even up to a white spot'.

(4) R. Eleazar holding that the witnesses to delivery make the Get effective. V. supra 17b.

(5) Lit., 'for the good order of the world', In case the witnesses die and the husband challenges the validity of the Get.

(6) Bills of divorce which are invalid without however rendering the offspring of the subsequent marriage illegitimate.

(7) V. supra 79b.

(8) V. the discussion infra.

(9) V. supra.

(10) V. supra 81b.

(11) The words in brackets are omitted in some texts, but they seem to be requisite for the argument.

(12) V. supra 81b.

(13) Lit, 'the rule regarding the peace of the government'. V. supra 79b.

(14) The words in brackets are omitted in some texts, and appear to be superfluous.

(15) The Mishnah adopting the view of R. Meir that in these cases the child is a bastard.

(16) The Mishnah here too adopting the view of R. Meir.

(17) Although the Get is up to this point ineffective.

(18) V. supra. 5b.

(19) I.e., to the case where there are no witnesses.

(20) Where there is no date.

(21) Whether he wrote it with his own hand or not.

## Talmud - Mas. Gittin 86b

[Rab tells us that in this case the child is legitimate only] if [the Get is] written with his own hand, but if the scribe has written it and there is only one witness, the child is not [legitimate]. Samuel, however, said that even if the scribe had written it and there was [the signature of only] one witness, [the child is] legitimate, since we have learnt, If the scribe wrote and there was the signature of a witness, the Get is valid.<sup>1</sup> And Rab? — [He might rejoin:] Is there any comparison? There her marriage is permitted in the first instance,<sup>2</sup> but here only retrospectively.<sup>3</sup> And Samuel? — [He can rejoin:] There is no difficulty;<sup>4</sup> there we assume that the scribe is fully competent,<sup>5</sup> here that he is not so competent.<sup>6</sup> So too R. Johanan said: The Mishnah definitely stated, WITH HIS OWN HAND. Said R. Eleazar to him, But it is attested by the signature of witnesses?<sup>7</sup> — He replied: [I refer] to the last clause.

Rab sometimes ruled [in such cases] that [the woman] should leave [the second husband] and sometimes that she need not leave him. How was this? If she had children [he ruled that] she need not leave,<sup>8</sup> if she had no children she must leave. Mar Zutra b. Tobia raised an objection [from the following]: 'If any of these<sup>9</sup> had been doubtfully betrothed or doubtfully divorced, they must give halizah but cannot marry the brother-in-law'. What is meant by 'doubtfully' betrothed? If, for

instance, he had thrown to her the betrothal token, and it was doubtful whether it landed nearer to him or nearer to her, this is a doubtful betrothal. A doubtful divorce is where he wrote [the Get] with his own hand but it was not attested with the signature of witnesses, or if it was attested but had no date, or if it had a date but the signature of only one witness; this is a doubtful divorce. Now if you say that [a woman so divorced] should not leave [her second husband],<sup>10</sup> then her co-wife<sup>11</sup> on the strength of such a one might come to marry the brother-in-law?<sup>12</sup> — [He replied]: Let her marry him; it is of no consequence, since the only danger is of breaking a rule of the Rabbis.<sup>13</sup> Levi said: In neither case need she leave [the second husband]. So too said R. Johanan: In neither case need she leave the second husband. So too R. Johanan said to the sons of R. Halafta of Huna:<sup>14</sup> Thus said your father, In neither case need she leave, and the karzith in the stacked corn does not spoil the water of purification.<sup>15</sup> What is a karzith? — Abaye explained: The large fly found among the stacks,<sup>16</sup> R. Daniel the son of R. Kattina raised an objection against this [from the following]: ‘All birds spoil the water of purification [by drinking of it] except the pigeon, because it swallows the water completely.’<sup>17</sup> Now if what has been said is correct, it should say, ‘except the pigeon and the karzith?’ — The authority could not speak definitely, as the big one does not spoil but the small one does spoil. Up to what size [is it reckoned small]? — R. Jeremiah (or it may have been R. Ammi) said, Up to the size of an olive.

R. ELEAZAR SAYS THAT EVEN THOUGH etc. Rab Judah said in the name of Rab: The halachah follows R. Eleazar in the matter of bills of divorce.<sup>18</sup> When [he continued] I stated this in the presence of Samuel, he said, In the matter of [commercial] documents also. Rab however, said, Not in the matter of documents. But it is stated [in the Mishnah]: SHE MAY RECOVER HER KETHUBAH FROM MORTGAGED PROPERTY?<sup>19</sup> — R. Eleazar gave two rulings. and Rab concurred with him in one but differed from him in regard to the other. So too R. Jacob b. Idi said in the name of R. Joshua b. Levi: The halachah follows R. Eleazar in bills of divorce. R. Jannai, however, said that such a document has not even a tincture of a Get in it.<sup>20</sup> Does not R. Jannai accept the ruling of R. Eleazar? — What he meant was, According to the Rabbis, such a document has not even a tincture of a Get. So too R. Jose son of R. Haninah said in the name of Resh Lakish: The halachah follows R. Eleazar in the matter of bills of divorce. R. Johanan, however, said that such a document has not even a tincture of a Get. Are we to say that R. Johanan does not accept the ruling of R. Eleazar? — What he meant was, According to the Rabbis such a document has not even the tincture of a Get.

R. Abba b. Zabda sent to Mari b. Mar saying, Inquire of R. Huna whether the halachah follows R. Eleazar in the matter of bills of divorce or not. Before he could do so, R. Huna died, but Rabbah his son said to him, Thus said my father in the name of Rab: The halachah follows R. Eleazar in the matter of bills of divorce. Moreover our teachers who are well versed in the halachah said in the name of our Master,<sup>21</sup> The halachah follows R. Eleazar in the matter of bills of divorce, since R. Hama b. Guria said in the name of Rab, The halachah follows R. Eleazar in the matter of bills of divorce. According to another version: And our Colleagues<sup>22</sup> that are well versed in the halachah and the disciples of our Teacher [Rab] said that the halachah follows R. Eleazar in the matter of bills of divorce. For R. Hisda said in the name of R. Hama b. Guria in the name of Rab that the halachah follows R. Eleazar in the matter of bills of divorce. So too when Rabin came [from Palestine] he said, R. Eleazar<sup>23</sup> says that the halachah follows R. Eleazar in the matter of bills of divorce.

MISHNAH. IF TWO MEN SENT [TO THEIR WIVES] TWO BILLS OF DIVORCE WITH THE SAME NAMES AND THEY BECAME MIXED UP [THE BEARER] MUST GIVE BOTH OF THEM TO EACH OF THE WOMEN. CONSEQUENTLY, IF ONE OF THEM WAS LOST THE OTHER BECOMES VOID.<sup>24</sup> IF FIVE MEN WROTE JOINTLY IN THE SAME DOCUMENT, SO-AND-SO DIVORCES SO-AND-SO AND SO-AND-SO SO-AND-SO, AND IF THE WITNESSES DULY SIGNED BELOW, ALL ARE VALID AND THE GET IS TO BE GIVEN TO EACH OF THE WOMEN. IF THE SCRIBE WROTE OUT THE FORMULA<sup>25</sup> FOR EACH ONE

AND THE WITNESSES SIGNED BELOW, THE ONE TO WHICH THE SIGNATURES ARE ATTACHED<sup>26</sup> IS [ALONE] VALID.

GEMARA. Who is the authority [for this rule]?<sup>27</sup> — R. Jeremiah said: It is not R. Eleazar. For if we were to follow R. Eleazar, since he holds that it is the witnesses to delivery<sup>28</sup> that make [the Get] effective, [they could not do so in this case] since they do not know with which [Get] either of the women is divorced. Abaye said: It is possible to ascribe this ruling to R. Eleazar also, since I may say, Granting that R. Eleazar requires the Get to be written in the name of that particular woman, does he also require it to be given in the name of that particular woman?<sup>29</sup>

IF FIVE WROTE JOINTLY etc, What is meant by JOINTLY and what is meant by FORMULA? — R. Johanan said: If there is one date for all it is a ‘joint’ [Get], if there is a separate date for each it is a formula [Get]. Resh Lakish, however, said

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- (1) V. supra 66b.
  - (2) And so we suppose that the scribe not only wrote but also signed.
  - (3) If he wrote himself, and therefore if the scribe wrote without signing, the child is not legitimate.
  - (4) Even if we assume in each case that the scribe wrote without signing.
  - (5) And knows that he is not to write save on definite instruction from the husband. V. supra. 71b-72a.
  - (6) And he might have written on the instruction of a third party, in which case the Get is invalid. V. supra ibid.
  - (7) R. Eleazar thought he referred to the middle clause.
  - (8) So as not to cast a slur on the children.
  - (9) Women within the fifteen forbidden degrees of consanguinity to the deceased husband's brother, v. Yeb. 30b and supra p. 383. n. 5.
  - (10) Because the divorce is regarded as valid.
  - (11) I.e., the co-wife of one of those women of forbidden degrees of consanguinity who was divorced with such a Get.
  - (12) Since she is no longer regarded as a co-wife of a woman forbidden to the brother-in-law.
  - (13) Biblically the Get is valid,
  - (14) [Read with var. lec. Haifa.]
  - (15) By drinking from it; v. Num. XIX. For explanation, v. infra.
  - (16) [So Rashi. It is not clear what species of insect is referred to; v. Lewysohn, Zoologie p. 315.]
  - (17) Whereas others let some drip back from their beaks, and so spoil the water.
  - (18) That the witnesses to delivery render them effective.
  - (19) Which would seem to show that the rule applies to commercial documents also.
  - (20) And does not disqualify the woman from marrying a priest on her husband's death, much less does it enable her to marry again.
  - (21) Rab.
  - (22) R. Hisda being one of them.
  - (23) The Amora of that name.
  - (24) Since we do not know for which it was meant.
  - (25) \*\*, V. infra in the Gemara.
  - (26) Lit., ‘with which the witnesses are read’.
  - (27) That the matter may be rectified by giving both documents to each woman.
  - (28) I.e., the delivery by the bearer to the woman.
  - (29) [Once the Get has been written in the name of the woman there is no need for such a special intention to accompany the delivery of the Get.]

### **Talmud - Mas. Gittin 87a**

: Even if there is one date for all it is still called a formula [Get],<sup>1</sup> and a ‘joint’ [Get] is where he writes ‘We, So-and-so and So-and-so have divorced our wives So-and-so and So-and-so’<sup>2</sup> R. Abba strongly demurred to this. If we accept the view of R. Johanan, he said, that a ‘joint’ [Get] is one

where there is the same date for all, have we not to consider the possibility that when the witnesses sign they are attesting only the last? Has it not been taught: 'If witnesses subscribe to an expression of kind regards in a Get, [the Get] is invalid, since we apprehend that they may have attested the expression of kind regards'?<sup>3</sup> — Has it not been stated in connection with this: R. Abbahu said: It was explained to me by R. Johanan that if it is written 'they gave him greeting,'<sup>4</sup> it is invalid, but if 'and they gave', it is valid? So here we suppose that what is written is, 'So-and-so and So-and-so and So-and-so'.<sup>5</sup> Moreover, if we accept the view of R. Johanan that a 'formula' [Get] is one where there is a separate date for each, why [should it be invalidated]<sup>6</sup> as being a 'formula' [Get]? Why not rather as being one which is 'written by day and signed by night'?<sup>7</sup> — Mar Kashisha the son of R. Hisda said to R. Ashi: We state as follows in the name of R. Johanan, that [this rule applies] where it is written with each one, On the first day of the week, on the first day of the week.<sup>8</sup>

Rabina said to R. Ashi: On the view of Resh Lakish — that a 'formula' [Get] is also one in which there is one date for all, and that a 'joint' [Get] is one in which it is written thus: 'We, So-and-so and So-and-so have divorced our wives So-and-so and So-and-so, it follows that two women would be divorced with the same Get, and the Torah has laid down that he must write 'for her', [which implies, for her] and not for her and her neighbour? — [We must suppose] that he further writes, So-and-so divorced So-and-so and So-and-so divorced So-and-so. Rabina thereupon said to R. Ashi: How does this differ from the case regarding which it has been taught: 'If a man makes over all his property in writing to two of his slaves, they acquire possession and emancipate one another'?<sup>9</sup> — [He replied]: Have we not explained this to apply only where he writes two deeds.<sup>10</sup>

It has been taught in agreement with R. Johanan and it has been taught in agreement with Resh Lakish. It has been taught in agreement with R. Johanan: 'If five men wrote in the same Get, So-and-so divorces So-and-so and So-and-so So-and-so and So-and-so So-and-so, and one date [is written] for all of them and the witnesses are subscribed below, all are valid and the document must be given to each woman. If there is a [separate] date for each one and the witnesses are subscribed at the bottom, the one to which the signatures are attached is [alone] valid. R. Judah b. Bathyra says that if there is a space between them it is invalid but if not it is valid, since the date does not constitute a division'. It has been taught in agreement with Resh Lakish: 'If five persons wrote jointly in the same Get, We, So-and-so and So-and-so have divorced our wives So-and-so and So-and-so, So-and-so divorcing So-and-so and So-and-so divorcing So-and-so, and there is one date for all and the witnesses are signed below, all are valid and the document must be given to each one. If there is a [separate] date for each one or space between one and another and the witnesses are signed at the bottom, the one to which the signatures are attached is valid. R. Meir says that even if there is no space between them it is invalid since the date makes a division,' But on the view of Resh Lakish why is it required here that there be a [separate] date for each one,<sup>11</sup> seeing that he has said that even if there is one date for all it is still a 'formula' [Get]? — That is the case only where they were not lumped together at the beginning,<sup>12</sup> but here where they were lumped together at the beginning, if the various parts are separated by dates, there is a division, but otherwise not.

**MISHNAH, IF TWO BILLS OF DIVORCE ARE WRITTEN [ON THE SAME SHEET] SIDE BY SIDE AND THE SIGNATURES OF TWO WITNESSES IN HEBREW<sup>13</sup> RUN FROM UNDER ONE TO UNDER THE OTHER AND THE SIGNATURES OF TWO WITNESSES IN GREEK<sup>14</sup> RUN FROM UNDER ONE TO UNDER THE OTHER,<sup>15</sup> THE ONE TO WHICH THE TWO FIRST SIGNATURES ARE ATTACHED IS [ALONE] VALID.<sup>16</sup> IF THERE IS ONE SIGNATURE IN HEBREW AND ONE IN GREEK AND THEN AGAIN ONE IN HEBREW AND ONE IN GREEK RUNNING FROM UNDER ONE [GET] TO UNDER THE OTHER,<sup>17</sup> BOTH ARE INVALID.**

**GEMARA.** Why should not one be rendered valid by the signature Reuben [under it] and the other by the signature 'son of Jacob witness'<sup>18</sup> [under it] seeing that we have learnt, 'The signature "son of So-and-so, witness" [renders a document] valid'? — We suppose that he writes 'Reuben son of'

under the first Get and 'Jacob witness' under the second. But cannot the first be rendered valid by 'Reuben son of' and the second by 'Jacob witness', since we have learnt, 'The subscription, "So-and-so witness" [renders the document] valid'? — We suppose he did not add 'witness'. Or alternatively I may say that he does add 'witness', but we know that this is not the signature of Jacob.<sup>19</sup>

- (1) And only the last one is valid, because this separates all the others from the signatures.
- (2) In this case the signatures can apply to all.
- (3) And not to the Get itself, v, B. B. 176a.
- (4) Lit., 'they inquired (of his welfare)'.
- (5) Hence there is no separation.
- (6) As far as the upper names are concerned.
- (7) Which is invalid. V. supra, 17a. The questioner presumes that the various divorces bear different dates, with the result that all the divorces except the last have not been signed on the same day as written.
- (8) I.e., they are all written and signed on the same day.
- (9) Supra 42a. Here too the two slaves are emancipated with the one document; and it is a principle that the emancipation of slaves is regulated by the same laws as those of divorce.]
- (10) Ibid.
- (11) In order to make it a 'formula' Get, with only the last one being valid.
- (12) With the formula 'we, So-and-so'.
- (13) Lit., 'Hebrew witnesses'.
- (14) Lit., 'Greek witnesses'.
- (15) All the signatures being under one another.
- (16) The Gemara discusses why the other is not also valid.
- (17) As neither has two names attached immediately beneath it.
- (18) I.e., supposing the signature is 'Reuben son of Jacob' and 'Reuben' comes under the first Get on the right and son of Jacob' under the second on the left. We can then suppose that we have two distinct signatures, one for each Get.
- (19) But of his son.

## **Talmud - Mas. Gittin 87b**

But perhaps he signed the name of his father? — A man would not omit his own name and sign the name of his father. But perhaps he uses it as a mark?<sup>1</sup> Did not Rab [for his signature] draw a fish, R. Hanina a palm branch, R. Hisda a samek, R. Hoshaya an ayin, and Rabbah son of R. Hanah a mast?<sup>2</sup> — A man would not take the liberty of using his father's name as a mark. But cannot the one Get be rendered valid by two Hebrew signatures and the other by two Greek signatures,<sup>3</sup> since we have learnt, 'A Get written in Hebrew and signed in Greek or written in Greek and signed in Hebrew is valid'? And should you object that since [the second Get] is separated [from its signatures] by two lines<sup>4</sup> it is not valid, has not Hezekiah said: If he filled up the space<sup>5</sup> [with the signatures of] relatives,<sup>6</sup> it is still valid? — Ze'iri has in fact taught that both of them are valid. What then [is the reason of] our Tanna? — [He thinks perhaps] the [Greek] signatures are reversed,<sup>7</sup> so that all are subscribed to the one Get.

ONE SIGNATURE IN HEBREW AND ONE IN GREEK. But cannot one Get be rendered valid by one Hebrew signature and one Greek and the other also by one Hebrew signature and one Greek, since we have learnt that if there is one Hebrew signature and one Greek the document is valid? — Ze'iri has in fact taught that both are valid. What then [is the reason of] our Tanna? — He thinks that perhaps one of the signatures is reversed,<sup>8</sup> so that there are three signatures to one Get and only one to the other.

MISHNAH. IF SOME OF THE GET WAS LEFT OVER [FROM THE FIRST SHEET] AND IS WRITTEN ON THE NEXT SHEET<sup>9</sup> AND THE WITNESSES [SIGN] BELOW, [THE GET IS]



VALID. IF THE WITNESSES HAVE SIGNED AT THE TOP OF THE SHEET OR AT THE SIDE OR ON THE BACK OF AN UNFOLDED GET,<sup>10</sup> IT IS INVALID. IF THE TOP OF ONE GET IS FASTENED TO THE TOP OF ANOTHER AND THE WITNESSES' SIGNATURES ARE BETWEEN THE TWO, BOTH OF THEM ARE INVALID.<sup>11</sup> IF THE TWO ARE ATTACHED END TO END AND THE WITNESSES' SIGNATURES ARE BETWEEN, THE ONE ON WHICH THE WITNESSES SIGNATURES FOLLOW DIRECTLY<sup>12</sup> IS VALID. IF THE TOP OF ONE IS ATTACHED TO THE BOTTOM OF THE OTHER AND THE WITNESSES SIGNATURES ARE IN THE MIDDLE, THE ONE IN WHICH THE SIGNATURES COME AT THE END IS VALID. A GET OF WHICH THE TEXT IS IN HEBREW AND THE SIGNATURES IN GREEK, OR THE TEXT IN GREEK AND THE SIGNATURES IN HEBREW, OR WHICH HAS ONE HEBREW SIGNATURE AND ONE GREEK, OR WHICH WAS WRITTEN BY A SCRIBE AND SIGNED BY ONE WITNESS, IS VALID. IF A MAN SIGNS, 'SO-AND SO, WITNESS,' IT IS VALID. IF HE SIGNS, 'SON OF SO-AND-SO, WITNESS, IT IS VALID, IF HE SIGNS, 'SO-AND-SO SON OF SO-AND-SO WITHOUT ADDING 'WITNESS', IT IS VALID. THIS WAS THE CUSTOM OF THE MORE ELEGANT CIRCLES<sup>13</sup> IN JERUSALEM.<sup>14</sup> IF HE WROTE HIS OWN FAMILY NAME AND HERS,<sup>15</sup> THE GET IS VALID.

GEMARA. [IF SOME OF THE GET IS WRITTEN ON THE NEXT SHEET.] But is there not a danger that these were originally two distinct bills, and he has kept the date of the first and the witnesses of the last and cut off the date of the second and the signatures of the first?<sup>16</sup> — R. Abba said in the name of Rab: We suppose there is a space at the bottom.<sup>17</sup> But is there not a danger that he has cut off the date of the second?<sup>18</sup> — As R. Abba in the name of Rab answered in the previous instance, that we suppose there is a space at the bottom,

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(1) As special signature for the left hand text.

(2) V. supra 36a.

(3) Rashi says that a 'Greek' signature means one in which the name of the father comes before the name of the son, but it is more natural to suppose that it means simply one written in the Greek way, i.e., from left to right, so that the substantive signature would come under the left-hand Get and he separated from it by two lines containing the names of the fathers of the Hebrew signatories.

(4) Since the signatures to the first would come partly under this Get. V. previous note.

(5) Between the text and the signatures.

(6) Who are not eligible as witnesses.

(7) I.e., that they may have written from right to left, so as to correspond with the Hebrew signatures.

(8) One of the witnesses either Greek or Hebrew might have, under the influence of the preceding signatures, signed in a reverse manner respectively either to the left or to the right, with the result that three of the signatures belong to one document only.

(9) I.e., the next column of the roll.

(10) V. supra.

(11) Because the signatures do not follow immediately on either document.

(12) I.e., without turning the document upside down.

(13) נקיי תדעת v. Sanh. (Sonc. ed.) p. 131, n. 2.

(14) I.e., to sign only 'So-and-so son of So-and-so'. According to another reading, this sentence is placed after the next, and the custom referred to will then be that of writing the family name. V. Tosaf. 88a s.v. וּכְךָ.

(15) Or any other descriptive name instead of his father and her father.

(16) I.e., the bottom of the first sheet and the top of the second, taking care that the text shall still be continuous.

(17) Which shows that it has not been cut off.

(18) By 'date' we must understand all that part which is already found on the first sheet.

## Talmud - Mas. Gittin 88a

so here we suppose that there is a space at the top. But perhaps he changed his mind [before

completing it] and then after all wrote [the rest subsequently]?<sup>1</sup> — We suppose that ‘You are hereby’ comes at the end of one sheet and ‘permitted’ at the top of the next. But perhaps he just happened [to change his mind at that point]? — Such a possibility<sup>2</sup> we do not apprehend. R. Ashi said: We assume that we can tell from the bottom of the roll.<sup>3</sup>

IF THE WITNESSES HAVE SIGNED AT THE TOP OF THE SHEET etc. Is that so? Did not Rab sign at the side? — It is all right if the top of the signature is towards the text.<sup>4</sup> In that case why does it state IF THE TOP OF ONE IS FASTENED TO THE TOP OF THE OTHER AND THE SIGNATURES ARE BETWEEN, BOTH OF THEM ARE INVALID? Cannot we see which signature is turned towards the text,<sup>5</sup> and declare that Get valid? We suppose there that the signatures run from one to the other like a cross bar.<sup>6</sup> Then what about the next clause: IF THE TOP OF ONE IS ATTACHED TO THE BOTTOM OF THE OTHER AND THE WITNESSES’ SIGNATURES ARE IN THE MIDDLE, THE ONE IN WHICH THE SIGNATURES COME AT THE END IS VALID? If they run from one to the other like a bar, they are read neither with one nor with the other? — The fact is that Rab only signed thus on letters.<sup>7</sup>

A GET OF WHICH THE TEXT IS IN HEBREW AND THE SIGNATURES IN GREEK . . . OR WHICH WAS WRITTEN BY A SCRIBE AND SIGNED BY ONE WITNESS IS VALID. R. Jeremiah said: What we have learnt [in explanation of this] is, if the scribe signed.<sup>8</sup> R. Hisda said: Who is the authority for this ruling? R. Jose. A certain marriage kethubah was brought before R. Abbahu in which the handwriting of the text and the signature of one witness could be identified. He thought of declaring it valid, but R. Jeremiah said to him, What we have learnt is that the scribe signed.<sup>9</sup>

IF HE WROTE HIS FAMILY NAME AND HER FAMILY NAME, IT IS VALID. Our Rabbis taught: The family name of ancestors allowed in bills of divorce is one which has been in use at any time in the past ten generations. R. Simeon b. Eleazar says: If it has been in use within three generations, it is valid, but if only beyond that, [the Get is] invalid. Whose authority is followed in the dictum of R. Hanina: ‘An ancestral family name which has been in use within three generations may be inserted in bills of divorce’? — The authority of R. Simeon b. Eleazar. R. Huna said: Where do we find this in the Scripture? [In the verse], When thou shalt beget children and children's children, and ye shall have been long in the land.<sup>10</sup>

R. Joshua b. Levi said: The land of Israel was not laid waste until seven Courts of Justice had sanctioned idolatry, namely, [those of] Jeroboam son of Nebat, Baasha son of Ahiah, Ahab son of Omri,<sup>11</sup> Jehu son of Nimshi, Pekah son of Remaliah,<sup>12</sup> Menahem son of Gadi, and Hoshea son of Elah, as it says, She that hath borne seven languisheth, she hath given up the ghost, her sun is gone down while it was yet day, she hath been ashamed and confounded.<sup>13</sup> R. Ammi said: Where is this intimated in the Torah? — [In the verse], When thou shalt beget children and children's children.<sup>14</sup>

R. Kahana and R. Assi said to Rab: It is written of Hoshea son of Elah: And he did that which was evil in the sight of the Lord yet not as the kings of Israel,<sup>15</sup> and it is also written, Against him came up Shalmaneser king of Assyria<sup>16</sup> etc.? — He replied to them: Jeroboam had stationed guards on the roads<sup>17</sup> to prevent the Israelites from going up [to Jerusalem] for the festivals, and Hoshea disbanded them, and for all that the Israelites did not go up to the festivals. Thereupon God decreed that for those years during which the Israelites had not gone up to the festival they should go a corresponding number into captivity.

R. Hisda said in the name of Mar ‘Ukba, or, according to others, R. Hisda said in the name of R. Jeremiah: Meremar discoursed as follows. What is the point of the words, Therefore hath the Lord watched over the evil and brought it upon us: for the Lord our God is zaddick [righteous].<sup>18</sup> Because the Lord is righteous, does He therefore watch over the evil and bring it upon us? The truth is that

God did a kindness [zedakah] with Israel by driving forth the captivity of Zedekiah while the captivity of Jeconiah was still intact — For it is written of the captivity of Jeconiah, And the harsh [craftsmen] and the masger [smiths] a thousand.<sup>19</sup> [They were called] harsh [dumb] because when they opened their mouths all became as it were dumb, [and they were called] masger [closer] because if they once closed [a discussion], no-one would re-open it. How many were they? — A thousand. ‘Ulla said: [The righteousness consisted] in anticipating by two years [the numerical value of] we-noshantem [‘and ye grow old’].<sup>20</sup>

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(1) In which case it is as if he annulled the first part so rendering the Get invalid, v. supra, 32b. But v. Tosaf. s.v. **סמך**.

(2) That he would break off in the middle of a sentence.

(3) That it has not been cut.

(4) [Because then it cannot be the signature of another document at right angles to the first, whereas our Mishnah speaks of a case where the foot of the signature is towards the text which may indicate that it belongs to another document which has been removed.]

(5) Presuming that, the signatures are written parallel to the text.

(6) And therefore there is no sure clue to which they belong.

(7) V. supra 66b.

(8) For notes v. supra 66b, 71b.

(9) With the witness.

(10) Deut. IV, 25. As much as to say, beyond three generations it is reckoned as antiquated.

(11) Ahab is made responsible rather than Omri as being more prominent.

(12) Shallum, Zechariah and Zimri are not reckoned as they reigned less than a year.

(13) Jer. XV, 9.

(14) [‘When thou shalt beget’ indicating one generation, and ‘children’, ‘children’s’ and ‘children’ two each, (Tosaf.)].

(15) II Kings XVII, 2.

(16) Ibid. 4.

(17) V. B.B. 121b, Ta’an. 28a.

(18) Dan. IX, 14.

(19) II Kings XXIV, 16. The Rabbis take this to refer to the men of learning.

(20) In Deut. IV, 25. The numerical value of the letters of this word is 852. For the sake of these two years, the curse of ‘Ye shall soon utterly perish’ (Ibid. 26) was not fulfilled in them.

## **Talmud - Mas. Gittin 88b**

R. Aha b. Jacob said: This shows [that the word] soon’ [used] by the Master of the Universe means eight hundred and fifty-two years.<sup>1</sup>

MISHNAH. A GET GIVEN UNDER COMPULSION [EXERCISED] BY AN ISRAELITE COURT IS VALID, BUT BY A HEATHEN COURT IS INVALID. A HEATHEN COURT, HOWEVER, MAY FLOG A MAN AND SAY TO HIM, DO WHAT THE ISRAELITE [AUTHORITIES] COMMAND YOU, (AND IT IS VALID).<sup>2</sup>

GEMARA. R. Nahman said in the name of Samuel: A Get given under compulsion [exercised] by an Israelite court with good legal ground<sup>3</sup> is valid, but if without sufficient legal ground, it is invalid,<sup>4</sup> but it still disqualifies [the woman for a priest].<sup>5</sup> If enforced by a heathen court on good legal grounds, it is invalid, but disqualifies; if without sufficient legal ground, there is no tincture of a Get about it. How can you have it [both ways]? If the [heathens are] competent to apply compulsion, then it should actually be valid. If they are not competent to apply compulsion, it should not disqualify! — R. Mesharsheya explained: According to the strict rule of the Torah, a Get enforced by a heathen court is valid, and the reason why [the Rabbis] declared it invalid was to prevent any [Jewish woman] from attaching herself to a heathen and so releasing herself from her

husband.<sup>6</sup> If that is so, [why did Samuel say that] if it is enforced [by a heathen court] without sufficient legal ground, it has not even the tincture of a Get? Let it at least be on a par with the similar Get exacted by an Israelite court, and disqualify the woman [for] a priest? — The truth is that R. Mesharsheya's [explanation] is erroneous.<sup>7</sup> And what is the reason? — [A Get enforced by a heathen court] on legal grounds is liable to be confused with [a Get enforced by] an Israelite court on legal grounds,<sup>8</sup> but [a Get enforced by a heathen court] without proper grounds will not be confused with [a Get enforced by] a Jewish court with legal grounds.

Abaye once found R. Joseph sitting in court and compelling certain men to give a bill of divorce. He said to him: Surely we<sup>9</sup> are only laymen,<sup>10</sup> and it has been taught: R. Tarfon used to say: In any place where you find heathen law courts,<sup>11</sup> even though their law is the same as the Israelite law, you must not resort to them since it says, 'These are the judgments which thou shalt set before them,'<sup>12</sup> that is to say, 'before them' and not before heathens. Another explanation, however, is that it means 'before them' and not before laymen? — He replied: We are carrying out their commission,<sup>13</sup> just as in the case of admissions and transaction of loans.<sup>14</sup> If that is the case [he rejoined], we should do the same with robberies and injuries?<sup>15</sup> — We carry out their commission in matters which are of frequent occurrence, but not in matters which occur infrequently.<sup>16</sup>

MISHNAH. IF COMMON REPORT IN THE TOWN DECLARES A WOMAN TO BE BETROTHED, SHE IS REGARDED [BY THE BETH DIN] AS BETROTHED;<sup>17</sup> IF TO BE DIVORCED, SHE IS REGARDED AS DIVORCED.<sup>18</sup> [THIS, HOWEVER, IS ONLY THE CASE] PROVIDED THE REPORT HAS NO QUALIFICATION.<sup>19</sup> WHAT IS MEANT BY A QUALIFICATION? [IF THE REPORT IS,] SO-AND-SO DIVORCED HIS WIFE CONDITIONALLY, HE THREW HER THE BETROTHAL MONEY, BUT IT IS UNCERTAIN WHETHER IT LANDED NEARER TO HER OR NEARER TO HIM — THIS IS A QUALIFICATION.<sup>20</sup>

GEMARA. And do we [on the strength of such a report] declare her<sup>21</sup> prohibited to her husband? Has not R. Ashi said that we take no notice of reports spread after marriage? — What [the Mishnah] means is this: 'If common report declares her to be betrothed, we regard her as betrothed; if it declares her to have been betrothed and then divorced,

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(1) For fuller notes on this passage v. Sanh. (Sonc. ed.) p. 239.

(2) [The bracketed words are left out in some texts without however affecting the meaning.]

(3) Cf. Keth. 77a.

(4) And she cannot marry again on the strength of it.

(5) She must not marry a priest if her husband dies before giving her another Get, or if her husband is a priest she must leave him.

(6) By inducing the non-Jew to go and extort a Get from him; v. B.B. 48a.

(7) **בדוּתָא** v. B.M., (Sonc. ed.) p. 47, n. 1. And the heathen court is in fact not competent to enforce the giving of a Get.

(8) And if we allowed the woman after receiving such a Get to live with a priest, it might be thought that she is allowed also after receiving a similar Get enforced by a Jewish court.

(9) In Babylonia.

(10) I.e., not fully ordained, v. Glos. s.v., Hedyot, this being impossible outside the Land of Israel. V. Sanh. 14a.

(11) **אגוריאות** cf. Gr. \*\*, 'market-place'.

(12) Ex. XXI, 1.

(13) Of the Sanhedrin in Palestine.

(14) Claims supported by witnesses attesting the defendant's former admission of his liability, or who were actually present at the time of the transaction. V. Sanh. 2b.

(15) Whereas the law is that for them ordained judges are necessary. V. *ibid.*

(16) V. B.K. 84b.

(17) And she must not marry another man without receiving a Get from the first.

(18) Apparently this means that if the husband is a priest, she can no longer continue to live with him. But v. the Gemara infra.

(19) **אמתלא**, a reason for correcting the report.

(20) And no attention is paid to the report.

(21) The one reported to have been divorced.

## Talmud - Mas. Gittin 89a

, she is regarded as divorced.<sup>1</sup> On what ground? Because the report<sup>2</sup> is accompanied by its own neutralisation.

Raba said: If she was reported in the town to have misconducted herself,<sup>3</sup> we take no notice, as we can put it down to mere looseness of behaviour which has been observed in her. [The same difference of opinion is found] between Tannaim: 'If she ate in the street, if she quaffed<sup>4</sup> in the street, if she suckled in the street,<sup>5</sup> in every case R. Meir says that she must leave her husband. R. Akiba says she must do so as soon as gossips who spin in the moon begin to talk about her. R. Johanan b. Nuri thereupon said to him: If you go so far, you will not leave our father Abraham a single daughter who can stay with her husband,<sup>6</sup> whereas the Torah says, If he find in her some unseemly thing,<sup>7</sup> and it further says, At the mouth of two witnesses or at the mouth of three witnesses shall a thing be established;<sup>8</sup> and just as there the 'thing'<sup>9</sup> must be clearly ascertained, so here it must be clearly ascertained.

Our Rabbis taught: [If the report is] that she was lain with we take no notice of it;<sup>10</sup> [if that she is] a married woman, we take no notice; [if that she is] a betrothed woman, we take no notice; [if the name of] the man is not mentioned, we take no notice of it; [if the report is that she has been betrothed] in another town, we take no notice; [if that] she is a bastard, we take no notice; [if that] she is a bondwoman, we take no notice. [If there is report that] So-and-so sanctified his possessions or declared them common property, we take no notice. 'Ulla said: It is not sufficient that a mere rumour should have been heard; [we take notice] only if lights have been seen burning and couches spread and people entering and leaving, and then they said, So-and-so is being betrothed to-day. 'Being betrothed' 'you say? Perhaps even so she was not betrothed?'<sup>11</sup> — You should say: [People say that] So-and-so was betrothed to-day. So Levi also taught: 'It is not enough that a mere rumour should be spread; [we only take notice] if lights have been seen burning and couches spread and women spinning by lamplight and congratulating her and saying [to one another], So-and-so is being betrothed to-day.' 'Being betrothed' do you say? Perhaps after all she was not betrothed? — R. Papa said: You must say, [and what they say is] , 'So-and-so has been betrothed to-day'. Rabbah b. Bar Hanah said in the name of R. Johanan: It is not enough that there should be a mere rumour. If, however, lights have been seen burning and couches spread and people entering and leaving, then if they say something<sup>12</sup> this is a report', but if they do not say something this is a qualification.<sup>13</sup> How can this be, seeing that they have not said anything? — [The object of this statement is] to repudiate the view of Rabbah b. R. Huna who said that the 'qualification' referred to can be something said ten days later. [R. Johanan here] tells us that if [in such conditions] people said nothing at the time, this is a qualification of the report, but if they said something [of a qualifying nature] after ten days, this is no qualification. R. Abba said in the name of R. Huna: It is not sufficient to hear a mere rumour; we take notice only if on asking, Who told So-and-so, we are informed, So-and-so, and he again heard from So-and-so, and so on until our inquiries bring us to a reliable statement. But a reliable statement is valid evidence?'<sup>14</sup> — The fact is that when R. Samuel b. Judah came, he said in the name of R. Abba who had it from R. Huna who had it from Rab: It is not enough that they should have merely heard a rumour; it is requisite that they should inquire, Where did So-and-so learn this, and they should be told, He heard it from So-and-so who heard it from So-and-so, and they have gone abroad.

Abaye said to R. Joseph: Do we suppress a report<sup>15</sup> or not? — He replied: Since R. Hisda has said that [the Beth din takes no notice] till they hear it from reliable persons, we may infer that we do suppress a report.<sup>16</sup> On the contrary, he rejoined; since R. Shesheth has said that even if spread only by women it is a report to be considered, we may infer that we do not suppress a report. He replied: It depends on the place. In Sura they suppress a report, in Nehardea they do not suppress a report.

A certain woman was reported to have become engaged to a Rabbinical student. R. Hama sent for her father and said to him, Tell me the facts of the case. He replied: He affianced her conditionally, [on condition, that is,] that he would not go to Be Hozai,<sup>17</sup> and he went there. He thereupon said: Since at the time when the report was first spread there was no qualification, it is not in your power to add one now.<sup>18</sup> A certain woman was reported to have been affianced with the flesh sticking to date stones by the well of Be Shifi. R. Idi b. Abin sent to inquire of Abaye what was to be done in such a case. He replied: Even those authorities who say that as a rule we should not suppress a report would here advise that it should be suppressed, because people will then say that the Rabbis examined her engagement gift and found that it did not contain the value of a perutah.<sup>19</sup>

A certain woman was reported to have become engaged

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- (1) And may marry anyone without a Get from the fiance.
  - (2) That she was betrothed.
  - (3) With a heathen or a slave, and so disqualified herself for marrying a priest.
  - (4) So Jast. Rashi: walks with outstretched neck.
  - (5) I.e. if she was reported to have done so before marrying a priest (Tosaf.).
  - (6) Because enemies may always spread false reports about her.
  - (7) Deut. XXIV, 1.
  - (8) Ibid. XIX, 15.
  - (9) The matter testified to.
  - (10) To prohibit her to marry a high priest.
  - (11) I.e., the report does not definitely say that she was betrothed.
  - (12) I.e., that she has been betrothed.
  - (13) Which deprives the report of its force.
  - (14) And more than a mere report.
  - (15) If after investigation we cannot confirm it.
  - (16) If there is a prima facie ground for considering it wrong.
  - (17) V. supra p. 413, n. 1.
  - (18) And she cannot become engaged again till she is divorced from the first.
  - (19) V. Kid. 2a. So that she never was really engaged to the first. Hence no harm can ensue from the suppression of the report.

### **Talmud - Mas. Gittin 89b**

to one of the sons of a certain man. Raba thereupon said: Even those authorities who hold that we should not as a rule suppress a report would advise that here we should suppress it, as people will only say that the Rabbis examined her engagement and found that it was contracted by a minor.

A certain woman was reported to have become engaged to a minor who looked like an adult. In connection with this R. Mordecai said to R. Ashi: In a similar case which occurred, they said that he had not yet attained to 'the divisions of Reuben',<sup>1</sup> referring to the verse, Among the divisions of Reuben there were great searchings of heart.<sup>2</sup>

PROVIDED THE REPORT HAS NO QUALIFICATION. Rabbah b. R. Huna said: The

'qualification' they had in mind might be made ten days later. R. Zebid said: If there is room for a qualification,<sup>3</sup> we suspect a qualification. R. Papa raised to R. Zebid an objection from the following: PROVIDED THE REPORT HAS NO QUALIFICATION? — He replied: It means, provided there is no room for a qualification. Said R. Kahana to R. Papa: Do you not concur with this, seeing that we have learnt,<sup>4</sup> 'If a woman [who heard from one witness that her husband had died] became betrothed and then her husband turned up, she is allowed to return to him'.<sup>5</sup> Now is not the reason [for disregarding the report] because we say that the second betrothed her conditionally?<sup>6</sup> — There is a special reason there, namely that the husband challenges the betrothal.<sup>7</sup> If that is the case, then why cannot she return to him even if she married the second? — By marrying she committed an offence<sup>8</sup> and therefore the Rabbis penalised her, but in becoming betrothed she committed no offence and therefore the Rabbis did not penalise her.

R. Ashi said: A report which has not been confirmed in the Beth din<sup>9</sup> is no report. R. Ashi further said: We pay no heed to reports spread after marriage. This implies that we do pay heed to reports spread after betrothal? — R. Habiba said: We pay no attention to reports spread after betrothal either. The law is that we pay no heed to such reports.

R. Jeremiah b. Abba said: The disciples of Rab sent to Samuel saying: Would our Master be so good as to instruct us. If a woman was reported to have been engaged to one man, and then another came and betrothed her with full formality,<sup>10</sup> what is to be done? He sent back reply: She must leave him, but I want you to ascertain the facts and inform me. What did he mean by saying, 'I want you to ascertain the facts'? Shall I say his object was that if it turned out that the first betrothal was not a valid one the report should be suppressed? How can this be seeing that Samuel was located in Nehardea, and in Nehardea it was not the custom to suppress a report?<sup>11</sup> — His object must therefore have been that if it turned out that the first betrothal was a valid one she would not require a Get from the second. In this he joined issue with R. Huna, who said that if a married woman put out her hand and took the betrothal money from another, she thereby became engaged. [This again is based] on the dictum of R. Hamnuna who said: If a woman says to her husband, You have divorced me, her word is to be accepted, since the presumption is that a woman would not be so brazen as to say this in front of her husband [if it was not true].<sup>12</sup> And the other [Samuel]?- [He can reply:] R. Hamnuna would maintain this only where she speaks in the presence of the husband, but if he is not present she would certainly be impudent enough to say this. Suppose they could not ascertain the truth of the matter, what [was to happen]? — R. Huna said: The first would have to divorce her and the second could then marry her; but it would not be right for the second to divorce her and the first to marry her. What is the reason? Because people might say that here is a man who is taking back a woman who has been betrothed to him and divorced.<sup>13</sup> R. Shinnena<sup>14</sup> the son of R. Idi, however, said that it is allowable also for the second to divorce her and the first to marry her, because people would merely say that the Rabbis had examined the betrothal [of the second] and found it invalid.<sup>15</sup>

Suppose she was reported [to have become betrothed] to both one<sup>16</sup> and the other, what is to be done? — R. Papa said: In this case also the first must divorce her and the second can then marry her. Amemar, however, said that she is allowed to marry either,

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(1) I.e., to years of discretion. People would conclude that in spite of his appearance he was not yet grown-up, and therefore the suppression of the report would do no harm.

(2) Jud. V, 15. The verse is rendered thus: 'Among the divisions of Reuben it is only the grownups who are rational'.

(3) I.e., if the circumstances were such that the report might have been qualified, though it actually was not.

(4) Yeb. 92a.

(5) Here apparently is a case of a report without qualification that a woman is engaged being disregarded.

(6) Viz., on condition that her husband had divorced her, and although this qualification was not actually added to the report, there was room for it, and therefore we allow it to neutralise the report.

(7) He is there to say that he never divorced his wife in the first instance, and therefore the betrothal to the second was

invalid.

(8) Although in such a case the Rabbis permitted her to marry, yet they expected her to make further inquiries, and if after she married the first husband turned up, they penalised her, v. Yeb. 87b.

(9) And found to have some substance.

(10) Lit., 'betrothed according to the Torah'. I.e., in the presence of witnesses.

(11) And though in Sura, the place of Rab, it was the custom, Samuel would naturally rule according to the custom of his own place.

(12) V. supra 64b.

(13) After having become the wife of another man, in violation of Deut. XXIV, 2.

(14) Al. Shisha.

(15) And so no scandal would arise,

(16) The betrothal to the second was also based on mere report.

## Talmud - Mas. Gittin 90a

and the law is that she is allowed to marry either.

MISHNAH. BETH SHAMMAI SAY: A MAN SHOULD NOT DIVORCE HIS WIFE UNLESS HE HAS FOUND HER GUILTY OF SOME UNSEEMLY CONDUCT, AS IT SAYS, BECAUSE HE HATH FOUND SOME UNSEEMLY THING<sup>1</sup> IN HER.<sup>2</sup> BETH HILLEL, HOWEVER, SAY [THAT HE MAY DIVORCE HER] EVEN IF SHE HAS MERELY SPOILT HIS FOOD,<sup>3</sup> SINCE IT SAYS,<sup>4</sup> BECAUSE HE HATH FOUND SOME UNSEEMLY THING IN HER.<sup>5</sup> R. AKIBA SAYS, [HE MAY DIVORCE HER] EVEN IF HE FINDS ANOTHER WOMAN MORE BEAUTIFUL THAN SHE IS, AS IT SAYS, IT COMETH TO PASS, IF SHE FIND NO FAVOUR IN HIS EYES.<sup>6</sup>

GEMARA. It has been taught: Beth Hillel said to Beth Shammai: Does not the text distinctly say 'thing'?<sup>7</sup> Beth Shammai rejoined: And does it not distinctly say 'unseemliness'? Beth Hillel replied: Had it said only 'unseemliness' without 'thing', I should have concluded that she should be sent away on account of unseemliness, but not of any [lesser] 'thing'. Therefore 'thing' is specified. Again, had it said only 'thing' without 'unseemliness', I should have concluded that [if divorced] on account of a 'thing' she should be permitted to marry again, but if on account of 'unseemliness', she should not be permitted to remarry. Therefore 'unseemliness' is also specified. And what do Beth Shammai make of this word 'thing'?<sup>8</sup> — [They use it for the following lesson.] It says here 'thing', and it says in another place 'thing', viz. in the text, 'By the mouth of two witnesses or by the mouth of three witnesses a thing shall be established':<sup>9</sup> just as there two witnesses are required, so here two witnesses are required. And Beth Hillel? — [They can retort:] Is it written 'unseemliness in a thing'? And Beth Shammai? — Is it written, 'either unseemliness or a thing'? And Beth Hillel? — For this reason it is written 'unseemliness of a thing', which can be taken either way.<sup>10</sup>

R. AKIBA SAYS, EVEN IF HE FOUND ANOTHER. What is the ground of the difference here [between the various rulings]? — It is indicated in the dictum of Resh Lakish, who said that ki<sup>11</sup> has four meanings- 'if', 'perhaps', 'but', 'because'. Beth Shammai held that we translate here: 'It cometh to pass that she find no favour In his eyes, because he hath found some unseemly thing in her,' while R. Akiba held that we translate, 'Or if again he hath found some unseemly thing in her'.<sup>12</sup> R. Papa asked Raba: If he has found in her neither unseemliness nor any [lesser] thing, [and still divorces her], what are we to do [according to Beth Hillel]? — He replied: Since in the case of a man who has committed a rape the All-Merciful has specifically laid down that 'he may not put her away all his days',<sup>13</sup> which implies that [if he does so] all his days he is under obligation to take her back, in that case only has the All-Merciful made this the rule, but here, what is done is done.<sup>14</sup> R. Mesharsheya said to Raba: If a man has made up his mind to divorce his wife, but she still lives with him and waits on him, what are we to do with him? — [He replied:] We apply to him the verse, Devise not evil



against thy neighbour, seeing he dwelleth securely by thee.<sup>15</sup>

It has been taught: R. Meir used to say: As men differ in their treatment of their food, so they differ in their treatment of their wives. Some men, if a fly falls into their cup, will put it aside and not drink it. This corresponds to the way of Papus b. Judah who used, when he went out, to lock his wife indoors. Another man, if a fly falls into his cup, will throw away the fly and then drink the cup. This corresponds to the way of most men who do not mind their wives talking with their brothers and relatives. Another man, again, if a fly falls into his soup, will squash it and eat it. This corresponds to the way of a bad man who sees his wife go out with her hair unfastened and spin cloth in the street

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(1) Lit., 'unseemliness of a thing'.

(2) Deut. XXIV, 1. [The emphasis is on 'unseemliness', (cf. Mishnah ed. Lowe), 'as it says "unseemliness"', and ערות דבר is taken to mean, דבר ערוה 'a thing of unseemliness'].

(3) ['Bad cooking is a more serious ground for divorce than some modern ones' (Moore, Judaism II, 124, 4, 1.) It has been suggested that the expression is merely figurative pointing to some indecent conduct].

(4) [The emphasis is on 'thing'. (cf. loc. cit. 'as it says "thing"'), and the phrase is taken literally, 'the unseemliness of a thing'.]

(5) V. the discussion in the Gemara infra.

(6) Ibid.

(7) Which implies that he may divorce her for any cause.

(8) Which on their view is apparently superfluous.

(9) Deut. XIX, 15.

(10) To imply both that a 'thing' is sufficient warrant for divorcing, and that he cannot be compelled to divorce unless there is sufficient evidence of misconduct.

(11) Translated here 'if' (he find), 'because' (he hath found etc.).

(12) This being an alternative reason to her not finding favour in his eyes.

(13) Deut. XXII, 19.

(14) And he is not forced to take her back.

(15) Prov. III, 29.

## Talmud - Mas. Gittin 90b

with her armpits uncovered and bathe with the men. Bathe with the men, you say? — It should be, bathe in the same place as the men. Such a one it is a religious duty to divorce, as it says, because he hath found some unseemly thing in her . . . and he sendeth her out of his house and she goeth and becometh another man's wife.<sup>1</sup> The text calls him 'another', implying that he is not the fellow of the first; the one expelled a bad woman from his house, and the other took a bad woman into his house. If the second is lucky,<sup>2</sup> he will also send her away, as it says, and the latter husband hateth her,<sup>3</sup> and if not she will bury him, as it says, or if the latter husband die;<sup>4</sup> he deserves to die since the one expelled a wicked woman from his house and the other took her into his house.

For a hateful one put away:<sup>5</sup> R. Judah said: [This means that] if you hate her you should put her away. R. Johanan says: It means, He that sends his wife away is hated. There is really no conflict between the two, since the one speaks of the first marriage and the other of the second, as R. Eleazar said: If a man divorces his first wife, even the altar sheds tears, as it says,<sup>6</sup> And this further ye do, ye cover the altar of the Lord with tears, with weeping and with sighing, insomuch that he regardeth not the offering any more, neither receiveth it with good will at your hand. Yet ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously, though she is thy companion and the wife of thy covenant.<sup>7</sup>

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(1) Deut. XXIV, 1, 2.

(2) Lit., 'has merit'.

(3) Ibid. 2.

(4) Ibid.

(5) Mal. II, 16.

(6) Ibid. 13, 14.

(7) [On the subject of Jewish divorce discussed in the closing section of this tractate v. Abrahams, I. Studies in Pharisaism and the Gospels, First Series, pp. 66ff.]