

community it would be absurd to say that her husband's name is more sacred than those of the kinsmen whose names are already there.

To sum up: Once the gift has been received by the congregation (and especially here where it is a permanent part of the structure) the donor has no more rights over it. Secondly, the congregation is severely restricted in changing the gift when the name is still on it. Finally, whatever changes might be made would have to be for a more sacred religious purpose only. This is not the case here. It seems clear to me that the spirit of the law would require that her request not be granted, and that she be invited to memorialize her dear husband in some other way which would not destroy the memorial of others.

25

THE PREGNANT PROSELYTE

QUESTION:

A young mother, pregnant, is a candidate for conversion to Judaism. The question asked whether the child which will be born after she had been converted will be a Jewish child by birth, or whether he, too, needs to be converted. (From Rabbi Sherman Stein.)

ANSWER:

THE LEGAL STATUS of children of proselytes is discussed under the terms: "conceived in holiness" and "born in holiness." "Holiness" here means Judaism. The status of the child is, to a considerable extent, determined by both of these two tests: A child conceived before the mother is converted and born before the mother's conversion (i.e., neither conceived nor born in "holiness") is a Gentile child and needs separate conversion if it is to be Jewish. A child conceived and born after the mother had converted is completely Jewish and needs no conversion. The child about whom the question is asked here would be described legally as not conceived in holiness, but born in holiness.

The distinction between children conceived before conversion and born after conversion and children conceived after conversion becomes greatly complicated in the case of levirate marriage. If one brother dies childless, does the other brother (both being children of a convert) have to practice levirate marriage or its alternate, *chalitsah*? All this is discussed in the Mishnah (*m. Yevamot*, XI:2; the Talmud in *b. Yevamot* 97-98; Shulchan Aruch, *Even Ha'ezer* 137:3; and *Yoreh Deah*, 269:3). The fact that the law does not require levirate marriage (or *chalitsah*) in such cases is because the levirate marriage depends upon *paternal* relationship, yet even so the law admits that the children have a maternal relationship. In a recent volume of responsa, *Har Tsvi*, #223, by Tsvi Pesach Frank (Jerusalem,

1964), another question is raised, namely, whether the embryo of a woman being converted may eventually be heir to the property of the mother.

But our chief concern here is not levirate marriage nor inheritance; it is simply whether the child will be born Jewish. As to that question, another principle is involved, one that remains undecided in the literature, namely, whether an embryo is to be considered as merely part of the mother's body (*ubar yerech imo*) or whether it is an independent personality (cf., the discussion in Tosfot to *Sanhedrin* 80b., s.v., "Ubor"). The answer to this debated question touches many facets of the law. It applies, for example, to animals. If a pregnant animal is *trefah*, unfit for the altar or for food, is the unborn calf made unfit as part of the mother's body, or not? (See *Chulin* 58a) Or, for example, a priestess is not forbidden to go into a cemetery, but there is considerable opinion that a *pregnant* priestess may not go into the cemetery on the chance that her unborn baby may be a male; which, of course, would imply that the embryo in that case is considered to be an independent personality (see the summary of the discussion in *Kol Bo Al Avelut* by Greenwald, p. 76, note 27). This disputed basic question also affects the problem of abortion. If the embryo is actually an independent personality, then abortion would be murder; but if the general principle is upheld that it is merely part of the mother's body, then to save the mother there is no more crime in removing this part of the

body than operating on a leg or an arm.

The basic question of whether or not the embryo is merely part of the mother's body would apply specifically to the question asked about the unborn child of a woman being converted. If it is merely part of the mother's body, then with her conversion, all of her including the embryo, is converted. In fact, to some extent this is apparently the fact, because the generally accepted law is that while a man being converted required both circumcision and the ritual bath, this child, all agree, does not require the ritual bath (even if he did need separate conversion) because his mother's ritual bath is deemed to have been effective for him.

In *Nimuke Yosef* (Joseph ibn Chabib) to Chapter 4 of *Yevamot*, near the end of the chapter (bottom of 16a in Vilna edition) there is a discussion of the status of such an embryo, and the opinion of Nachmanides is cited that such an embryo does not require the ritual bath to be converted; and Aaron Halevi adds that when he is born, he is circumcised as any Jewish child is circumcised (i.e., not for the purpose of conversion) and the opinion of Rashi to *Yevamot* 78a is quoted to virtually the same effect.

In other words, the general tendency of the law is to hold that the child does not require ritual bathing and his circumcision is that of a Jewish child (cf. *Yoreh Deah* 268:6 and *Yad, Issure Biah* XIII, 7). In general, therefore, it is correct to say that he is converted through

the act of his mother's conversion. And, of course, this also applies to a girl child, who could not be circumcised anyhow. In fact, Aaron Halevi indicates that although all male converts require both the ritual bath and circumcision, the male embryo is considered to have had the ritual bath when his mother took it and his conversion is not incomplete on the ground that he is still uncircumcised since he cannot be circumcised at the time, and thus it is analogous to the conversion of a girl baby.

Tsvi Pesach Frank in the responsum mentioned cites the opinion of *Ma'aseh Chiyah* (Chiyah Rofe, Responsum #1, [Safed; died 1620]), which clearly is based on the idea that the mother's conversion completely converts the unborn child. Tsvi Pesach Frank in this responsum (#223, end of column 195) derives the conclusion from Rashi to *Yevamot* 78a that the unborn child of a pregnant proselyte is completely converted by his mother's conversion bath even before he is born. In the next responsum (#224, column 196 b) he gives as the opinion of Aaron Halevi and the Tosfot that the unborn child is completely a proselyte.

Thus with regard to children conceived as Gentiles and born after the mother is a Jewess (born in *kedusha*) Isserles says that the term "convert" is not to be applied to them (Darche Moshe to Tur, *Choshen Mishpat* 33) that they are not converts (but they are born Jews). This is cited by Shach *op. cit.* with approval as the established opinion. That is to say, that while

there will be some disagreement as to the child's relationship to previous children of its mother in a possible levirate situation, or whether or not it is too closely related to them to be permitted to be a witness in a Jewish court in cases affecting them (since relatives may not be witnesses) there is no question that the child (though not conceived "in holiness" but born "in holiness") is obligated to fulfill the commandments because it is fully Jewish.

26

CHANGING THE SURNAME OF A CONVERT

QUESTION:

A candidate for conversion is named William Christian. When the man is converted, should this surname be changed and a more Jewish-sounding name be substituted for it? (From Rabbi Fred Pomerantz, Pittsburgh, Pennsylvania.)

ANSWER:

THE PROCESS of conversion has been developed in great detail in the legal literature. All of these laws are to be