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לעיר ואם בישראל ק״ק פרעסבורג המעטירה, ושם חלקת מחוקק ספון, זי״ע

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Phrase-by-Phrase English Translation
Explanations and Summaries
Indexes of Sources & Subjects

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A NOTE ON METHODOLOGY

The Nature of this Work

This volume presents an original English elucidation and commentary, prepared through a combination of advanced language and translation technology and human editorial oversight. The methods employed were carefully configured to adhere to Orthodox Jewish *hashkafa* and to preserve fidelity to the original Hebrew text. Even so, this edition does not carry the authority of a translation prepared and certified by a full team of rabbinic scholars.

Usage and Limitations

This translation is intended as a tool to help advanced learners access the depth of the original work. It is **not** intended to replace the original Hebrew source, nor to serve as a substitute for study under a qualified teacher.

Because the nuance of Torah study often transcends any single method of preparation, we ask the reader to keep two things in mind:

1. **Verification:** Any novel insight, ruling, or conclusion drawn from this translation should be checked against the original Hebrew.
2. **Consultation:** All practical questions or derived lessons should be discussed with and verified by a qualified rabbinic authority before being relied upon.

The goal of this edition is to make these teachings accessible to a wider audience, but the responsibility for accurate understanding and practical application remains with the reader.



Dedication

This volume is respectfully dedicated to the enduring legacy of Rabbi Moshe Sofer, the Chasam Sofer, whose Torah stands as a pillar of *mesorah*, illuminating the Jewish people with clarity, courage, and unwavering fidelity to *halachah*.



This Kornitzer Edition of the *Shailos u'Teshuvos Chasam Sofer*, presenting the original Hebrew text together with faithful annotation and elucidated English, is offered with humility and gratitude, to broaden access to his sacred teachings while preserving their integrity and sanctity.



It is sponsored by the Kornitzer family, direct descendants of the Chasam Sofer, as an expression of thanksgiving to Hashem for the privilege of transmitting his Torah and ensuring that his voice continues to be studied and lived in every generation.



May the merit of learning this *sefer* bring blessing to all who engage with it, and may we soon merit, with the coming of *Moshiach*, to hear new *chiddushim* in Torah from the Chasam Sofer himself. And may this work serve toward fulfilling the longing so often expressed by the Lubavitcher Rebbe—that through the spread of Torah we hasten the true and complete *Geulah*, and *Moshiach* will come speedily in our days, ממש.



תשובה 1

Permanent Knots in Tzitzis and Kilayim

Laws of Garments > Laws of Shatnez • *Laws of Garments > Laws of Tzitzit*

Summary

Correspondent and Context: The Chasam Sofer writes to his student, Rabbi Yosef Zalman. He answers three Torah questions and addresses the opening of shops on Chol HaMoed.

The Question (Sha'ila): The student asked why the Ramban calls the son an adult when our text of Berachos 20b mentions a minor. He also asked about the Magen Avraham, Siman 11, s.k. 13, on permanent knots, sewing, and tzitzis. A third question concerned the Magen Avraham's claim that the Itur's two-hole method conflicts with the laws of kilayim. He also asked about shops opening on Chol HaMoed.

The Ruling (Teshuvah): The Chasam Sofer says the student's first question is valid only for our text of Berachos. The Rishonim had a version that did not mention a minor. He explains that the Magen Avraham relies on the first principle: a permanent knot normally needs two knots. The Tosfos Yom Tov rejected only the second principle about the knot used in sewing. He then defends the Itur's two-hole method using the Rambam's half-white, half-techeiles thread. In a linen garment, the wool half passes through only one hole. This creates only one *techifa* of sha'atnez before the upper knot. On Chol HaMoed, he says not to rebuke people who will not listen. However, Rabbi Yosef Zalman should use his influence with his father-in-law if he can improve observance.

Shulchan Aruch Background: Orach Chaim 11 covers the making and attachment of tzitzis threads. The Magen Avraham's s.k. 13 discusses the knots used for tzitzis and the Shabbos rules for a permanent knot. Yoreh Deah 300 discusses what joins wool and linen into sha'atnez. These laws meet when wool techeiles is tied to a linen garment for tzitzis. The Torah permits that mixture for the mitzvah.

Key Disputes (Machlokes): The Ran, citing the Ra'am, gives two principles. A permanent knot normally requires two knots. A knot used to secure sewing need not itself create knotting liability. The Tosfos Yom Tov rejects only the second principle, so the Magen Avraham may rely on the first. The Magen Avraham also argues that the Itur's two-hole method creates two *techifos* of sha'atnez. The Chasam Sofer answers that the Rambam's mixed thread has one white half and one techeiles half. In a linen garment, only one hole contains wool, so there is only one *techifa* of sha'atnez before the upper knot.

שָׁלוֹם וְיֶשַׁע רָב, יָבֹא וְיִקָּרֵב, לְתַלְמִידִי הַוָּתִיק וְצוֹרֵב, הַתּוֹרָנִי הַמֻּפְלָא וּמֻפְלָג בְּגַן שֶׁל קְדוֹשִׁים מָרֵה יוֹסֵף זַלְמָן נ"י:

מַה שֶּׁהִקְשָׁה מִדִּבְרֵי הָרַמְבַּ"ן שֶׁבָּרַ"ן מְגִלָּה שֶׁכָּתַב בֵּן מְבָרֵךְ לְאָבִיו הַיְנוּ בֵּן גָּדוֹל וְכָתַב תַּלְמִידִי שי' שֶׁהוּא נֶגֶד ש"ס בְּרָכוֹת כ' עַמּוּד ב' דַּאֲמַרִינַן וּלְטַעְמִיךְ קָטָן וְכוּ' יָפֶה כִּוֵּן לְפִי נֻסְחָא שֶׁלְּפָנֵינוּ אֲבָל לֹא הָיָה לְהָרַאשׁוֹנִים אוֹתָהּ גִּירְסָא בַּש"ס שָׁם אֶלָּא סְתָם הָכָא בְּמַאי עָסְקִינַן בְּשֶׁאָכַל שִׁיעוּרָא דְּרַבָּנָן וְכֵן נִרְאֶה מִתּוֹךְ דִּבְרֵי הָרַ"ן בְּסֻכָּה בַּגְּמָרָא דְּבֵן מְבָרֵךְ לְאָבִיו יְעוּץ שָׁם:

Peace and abundant salvation, may it come and draw near, to my esteemed student, a young Torah scholar, the distinguished and exceptional Torah scholar, in the garden of the holy ones, the esteemed R. Yosef Zalman, may his light shine.

Regarding what [my student] questioned from the words of the Ramban cited in the Ran on Megillah,[1] where he wrote that "a son who recites a berachah for his father" means an adult son. The Ramban refers to an adult son who was obligated to recite Birkas HaMazon only Rabbinically. **And my student wrote that this contradicts the Talmud, Berachos 20b,[2] where the Gemara states: "And according to your reasoning, a minor" etc.** Our text asks whether a minor is obligated. This seems to conflict with the Ramban, who speaks of an adult son. **He intended well, according to the textual version before us. However, the Rishonim did not have that version in the Talmud there. Rather, [their text] simply [stated]: "Here we are**

[1] Ramban, as cited in the Ran on Megillah — regarding the case of a son reciting Birkas HaMazon on behalf of his father, where the Ramban interprets the "son" as an adult.

[2] Berachos 20b. The Gemara there discusses women's obligations in various mitzvos. In our textual version, the Gemara poses: "וּלְטַעְמָיךְ קָטָן בַּר חִיּוּבָא הוּא" — "And according to your reasoning, is a minor subject to obligation?" This formulation implies the discussion concerns a minor, which would contradict the Ramban's interpretation that it refers to an adult. The Chasam Sofer explains that the Rishonim's version did not contain this phrase.

dealing with one who ate a Rabbinically-required amount." Their text did not mention a minor, so it fits the Ramban's reference to an adult son. **And so it appears from the words of the Ran on Sukkah,**[3] **in the Gemara's discussion of "a son who recites a berachah for his father" — see there.**

מַה שֶּׁכָּתַב בְּמָגֵן אַבְרָהָם סִימָן י"א סְעִיף קָטָן י"ג יָפֶה כַּוָּנָתְ וְגַם בְּעֵינַי יִפָּלֵא וּבְיוֹתֵר עַל הַגָּאוֹן מַחֲצִית הַשֶּׁקֶל זצ"ל שֶׁבָּא לְפָרֵשׁ וְסָתַם דְּבָרָיו אֲבָל הָאֱמֶת יוֹרֶה דַּרְכּוֹ כִּי הִנֵּה הָרַ"ן בְּשֵׁם הָרָא"ם בָּא לְחַדֵּשׁ ב' דְּבָרִים א' דְּאֵין קֶשֶׁר שֶׁל קַיָּמָא בְּלֹא ב' קְשָׁרִים וְזֶה עַל גַּבֵּי זֶה וְהַשֵּׁנִי שֶׁהַתּוֹפֵר שֶׁצָּרִיךְ שֶׁיְּקַשֵּׁר אֵינֶנּוּ בְּאוֹתוֹ קֶשֶׁר עַצְמוֹ שֶׁמְּחַיֵּב בּוֹ בְּלֹא תּוֹפֵר דְּאִי לֹא תֵּימָא הָכִי תִּיפּוֹק לֵיהּ מִשּׁוּם קוֹשֵׁר וְהִנֵּה הַדִּין הָרִאשׁוֹן הוּא מֻסְכָּם מֵהָרִאשׁוֹנִים בְּלִי רְאָיוֹת שֶׁל הָרַ"מ מִסְּבָרָא דְּבְלִי ב' קְשָׁרִים זֶה עַל גַּבֵּי זֶה לֹא יִתָּכֵן לְקָרְאוֹתוֹ קֶשֶׁר שֶׁל קַיָּמָא כִּי אֵינוֹ מִתְקַיֵּים אֶלָּא שֶׁכָּתַב שֶׁאִם הַמָּנָה תִּמָּצֵא קֶשֶׁר יָחִיד הַמִּתְקַיֵּים חַיָּבִים עָלָיו כְּגוֹן הַקּוֹשֵׁר בְּרֹאשׁוֹ שֶׁל חֶבֶל וְכַדּוֹמֶה. וְעִיקַּר מַה שֶּׁצָּרִיךְ רְאָיָה הוּא הַדִּין הַשֵּׁנִי שֶׁהַתּוֹפֵר מְחַיֵּב בְּקֶשֶׁר שֶׁאֵינוֹ מִתְחַיֵּב עָלָיו בְּלָאו הָכִי וְהַתּוֹסָפוֹת יוֹם טוֹב לֹא בָּא אֶלָּא לְדָחוֹת זֶה הַדִּין הָאַחֲרוֹן וְכֵן מְבֹאָר בִּלְשׁוֹנוֹ אֲבָל הַדִּין הָרִאשׁוֹן מִתְקַיֵּים מִסְּבָרָא וְאִם כֵּן יָפֶה כָּתַב מָגֵן אַבְרָהָם וְקַל וְעַיֵּין רַמְבַּ"ם פֶּרֶק י' מִשַּׁבָּת הֲלָכָה ט' דְּהַתּוֹפֵר יוֹתֵר מִשְּׁתֵּי תְּפִירוֹת אֵינוֹ צָרִיךְ לְקַשֵּׁר וְלֹא מָצְאוּ רְאָיָה לַדִּין וּלְפִי עֲנִיּוּת דַּעְתִּי דְּקַשְׁיָא לֵיהּ קוֹשְׁיָא תּוֹסָפוֹת הַנָּזְכָּר לְעֵיל וְנִיחָא לֵיהּ דְּבַחֲלָתָא הֲוָה טְפֵי מִשְּׁתֵּי תְּפִירוֹת וְלֹא הָיָה צָרִיךְ לְקַשֵּׁר

Regarding what he wrote concerning the Magen Avraham, Siman 11, sub-section 13,[4] **he intended well.** The passage concerns permanent knots in tzitzis. **And I too find the matter astonishing. And even more so regarding the Gaon, [the author of] Machatzis HaShekel, of blessed memory,**[5] **who came to explain [the matter] and [instead] obscured his words. But the truth will show its way. For behold, the Ran in the name of the Ra'am**[6] **comes to innovate two things.** The two principles concern knotting and sewing on Shabbos. **First, that there is no permanent knot without two knots one on top of the other. And second, that the sewer who must tie [a knot to complete his sewing] [is liable for a knot that] is not the same knot itself for which one would be liable without sewing.** A knot that secures sewing need not itself be a permanent knot. **For if you would not say this, the liability should come from the knotting alone! Now, the first principle is agreed upon by the Rishonim without the [specific] proofs of the R"M, from logic alone. That without two knots one on top of the other, it is impossible to call it a permanent knot, for it does not endure. Except that he wrote that if one were to find a single knot that endures, one would be liable for it. Such as one who ties [a knot] at the end of a rope, and the like.** A knot at a rope's end can hold even without a second knot. **And the main point requiring proof is the second principle that the sewer is liable for a knot that he would not be liable for otherwise. And the Tosfos Yom Tov only came to reject this latter principle,**[7] **and this is clear from his language. But the first principle stands on the basis of logic. And therefore the Magen Avraham wrote correctly.**[8] The Magen Avraham relies only on the first principle, which the Tosfos Yom Tov did not reject. **And this is straightforward. And see the Rambam, Chapter 10 of Hilchos Shabbos, Halachah 9,**[9] **that one who sews more than two stitches does not need to tie a knot.** More than two stitches hold without a knot, so the sewer is liable for sewing alone. **And [the commentators] did not find a [Talmudic] proof for this ruling.** Commentators could not identify the Rambam's Talmudic

[3] Ran on Sukkah — regarding the Gemara's discussion of a son reciting a berachah for his father, which also reflects the variant textual reading that does not involve a minor.

[4] Magen Avraham, SA Orach Chaim 11, s.k. 13. The Shulchan Aruch (11:1) states: "הַחוּטִין צְרִיךְ שֶׁיִּהְיוּ טְווּיִין לְשֵׁמָן" — the tzitzis threads must be spun for the sake of the mitzvah. The Magen Avraham at s.k. 13 discusses the nature of the knots used in tzitzis in relation to the concept of *kesher shel kiyama* from Hilchos Shabbos.

[5] Machatzis HaShekel on Magen Avraham 11:13.

[6] Ran, in the name of the Ra'am, on the laws of knotting on Shabbos — establishing the principles that a permanent knot requires a double knot, and that the knot associated with sewing differs from the independently liable knot.

[7] Tosfos Yom Tov on Mishnah Shabbos 7:2. The Mishnah lists the 39 *avos melachos*, including: "הַקּוֹשֵׁר. וְהַמַּתִּיר. וְהַתּוֹפֵר שְׁתֵּי תְּפִירוֹת" — "Tying, untying, and sewing two stitches." The Tosfos Yom Tov discusses the relationship between the knotting and sewing melachos and challenges the Ra'am's second principle.

[8] See footnote 4 above.

[9] Rambam, Hilchos Shabbos 10:9 — "הַתּוֹפֵר שְׁתֵּי תְּפִירוֹת חַיָּב. וְהוּא שֶׁקָּשַׁר רֹאשֵׁי הַחוּט מִכָּאן וּמִכָּאן כְּדֵי שֶׁתַּעֲמֹד הַתְּפִירָה וְלֹא תִּשָּׁמֵט. אֲבָל אִם תָּפַר יֶתֶר עַל שְׁתֵּי תְּפִירוֹת אַף עַל פִּי שֶׁלֹּא קָשַׁר חַיָּב שֶׁהֲרֵי מִתְקַיֶּמֶת הַתְּפִירָה" — One who sews two stitches is liable, provided he tied the thread ends on both sides so the stitching holds and does not slip out. But if he sewed more than two stitches, he is liable even without tying, since the stitching endures on its own.

source for this ruling. **And in my humble opinion, the difficulty of the aforementioned Tosfos troubled him.**[10] The question concerns the relationship between liability for sewing and liability for knotting. **And he resolved it by saying that the basket involved more than two stitches. And [therefore] one did not need to tie a knot [for the sewing to hold]. And properly, one is liable for the knotting independently.** The knot was not needed for the sewing, so it creates separate liability. **And the end of the Tosfos Yom Tov is resolved.**[11] **And close to this interpretation I have now found in the Mishneh Chachamim.**[12]

וְשַׁפִּיר מְחַיֵּב עַל הַקְּשִׁירָה בִּפְנֵי עַצְמוֹ וּמְיֻשָּׁב סוֹף תּוֹסָפוֹת יוֹם טוֹב וְקָרוֹב לָזֶה מָצָאתִי עַתָּה בְּמִשְׁנָה חֲכָמִים:

And now, regarding the main question of the Magen Avraham against the Itur[13] (the Itur requires inserting the tzitzis threads through two holes in the garment) **where [the Magen Avraham] concluded that those who follow [the Itur] contradict themselves** The alleged contradiction concerns kilayim in tzitzis. **I wrote in the margin of the Shulchan Aruch to reconcile the practices of the scrupulous ones, based on what the Rambam wrote,**[14] **and [which] the Beis Yosef elaborated upon in Yoreh Deah, Siman 300,**[15] **that there is no [Torah] liability for kilayim for spinning alone without weaving.** The Rambam requires another form of connection, such as weaving or tying. **And the Beis Yosef was troubled from either direction: If all three [processes] are required — combing and also plying** (the three processes are **shua** [combing], **tavui** [spinning], and **nuz** [plying]) **why would one be liable for felt?** Felt (**levadin**) is combed but not spun or woven. Yet the Rambam rules that mixed wool and linen felt is kilayim.[16] **And furthermore, the Rambam himself brings proof that we do not require all three [processes], from the case of kilayim in tzitzis.**[17] Tzitzis join wool and linen only by tying. The Torah's explicit permission shows that such a connection can be Biblical kilayim. **And if one [process] alone suffices, then why is there no liability for spinning alone?** If tying alone is enough, spinning alone should also be enough. Yet the Rambam says it is not. **And in my humble opinion, from its very source the matter is resolved. From the very place where [the Rambam] brought proof from tzitzis that we do not require all three [processes] together, from there it is proven that there is no liability for spinning alone. For the Ram-**

וְהִנֵּה בְּעִיקַּר קוּשְׁיָא מָגֵן אַבְרָהָם עַל הָעִטּוּר שֶׁהֵעֱלָה שֶׁהַנּוֹהֲגִים כְּוָתֵיהּ סָתְרֵי אַהֲדָדֵי כָּתַבְתִּי בַּגִּלָּיוֹן שֶׁלָּחָן עָרוּךְ לְיַשֵּׁב מִנְהָגֵי הַוָּתִיקִין עַל פִּי מַה שֶּׁכָּתַב הָרַמְבַּ"ם וְהֶאֱרִיךְ בֵּית יוֹסֵף בְּיוֹרֶה דֵּעָה סִימָן שי"ן דְּאֵין מְחַיֵּב מִשּׁוּם כִּלְאַיִם בְּטָווּיָה לְחוּד בְּלֹא אֲרִיג וְנִדְחַק הַבֵּית יוֹסֵף מַה נַּפְשָׁךְ אִי בָּעֵי שְׁלָשְׁתָּן שׁוּעַ וְגַם נוּז אַמַּאי מְחַיֵּב י"ל לְבַדָּן וְעוֹד הָרַמְבַּ"ם מַיְיתִי בְּעִצְמוֹ רְאָיָה דְּלֹא בָּעֵינַן שְׁלָשְׁתָּן מִכִּלְאַיִם בְּצִיצִית וְאִי סָגֵי בְּחֲדָא מִינַּיְיהוּ אִם כֵּן אַמַּאי לֹא מְחַיֵּב אַטְווּיָה לְחוּד וּלְפִי עֲנִיּוּת דַּעְתִּי מִמְּקוֹמוֹ הוּא מְכֻרָּע מִמָּקוֹם שֶׁהֵבִיא רְאָיָה מִצִּיצִית דְּלֹא בָּעֵינַן שְׁלָשְׁתָּן בְּיַחַד מִשָּׁם מוּכָח דְּלֹא מְחַיֵּב אַטְווּיָה לְחוּד שֶׁהָרַמְבַּ"ם פָּסַק שֶׁעוֹשֶׂה ז' לָבָן וְאֶחָד תְּכֵלֶת וְעַיֵּין בֵּית יוֹסֵף אוֹרַח חַיִּים סִימָן י"א וְשָׁם הֶעָתִיק גַּם תְּשׁוּבָתוֹ לְחַכְמֵי לוּנִיל מַסְפְּרֵי וּמִקְרָא דְּעוֹשֶׂה חוּט אֶחָד חֻצְיָה לָבָן וְחֻצְיָה תְּכֵלֶת עַיֵּין שָׁם וְהִנֵּה בְּסָדִין שֶׁהַלָּבָן הוּא פִּשְׁתָּן מִין בֶּגֶד הֲרֵי הוּא טָווּי חוּט אֶחָד קְצֵיהּ פִּשְׁתָּן לָבָן וְחֻצְיָה צֶמֶר תְּכֵלֶת וְקָשֶׁה

[10] Tosfos on Shabbos, regarding the difficulty of distinguishing sewing and knotting liability. The Chasam Sofer identifies this as the same difficulty that motivated the Rambam's ruling.

[11] See footnote 7 above.

[12] Mishneh Chachamim — a commentary on the Rambam.

[13] The Itur, by R. Yitzchak ben Abba Mari — who holds that tzitzis threads are inserted through two holes in the corner of the garment rather than one.

[14] Rambam, Hilchos Kilayim 10:2 — "צֶמֶר וּפִשְׁתִּים שֶׁטָּרְפָן זֶה עִם זֶה וְשָׁע אוֹתָן וְעָשָׂה מֵהֶן לְבָדִין חֲרִי אֵלּוּ כִּלְאַיִם. טָרְפָן וְטָווָה אוֹתָן כְּאֶחָד וְאָרַג בֶּגֶד מִטְווּי זֶה חֲרִי זֶה כִּלְאַיִם" — Wool and linen that were mixed and combed and made into felt — these are kilayim. Mixed, spun together, and woven into a garment from that spinning — this is kilayim. The Rambam here demonstrates that various types of connection suffice for kilayim, but notably does not list spinning alone.

[15] Beis Yosef, Yoreh Deah, Siman 300 — where the Beis Yosef elaborates on the Rambam's rulings regarding the types of connections that constitute kilayim.

[16] See footnote 14 above. The Rambam rules felt (*levadin*) is kilayim despite not involving spinning or weaving — one horn of the Beis Yosef's dilemma.

[17] Rambam, Hilchos Kilayim 10:4 — "וּמִנַּיִן שֶׁכָּל אִסּוּרִין אֵלּוּ שֶׁל תּוֹרָה שֶׁהֲרֵי הִצְרִיךְ הַכָּתוּב לְהַתִּיר כִּלְאַיִם בְּצִיצִית... וְהַצִּיצִית חוּטִין קְשׁוּרִין בִּלְבַד הֵן. מִכְּלָל שֶׁחִבּוּר כָּזֶה שֶׁלֹּא בְּמָקוֹם מִצְוָה אָסוּר מִן הַתּוֹרָה" — How do we know all these prohibitions are Biblical? Because the Torah had to permit kilayim in tzitzis. And tzitzis consist of merely tied threads. This implies that such a connection — when not for a mitzvah — is Biblically prohibited.

מָנָא לֵיהּ דְּקָשֶׁר עֶלְיוֹן דְּאוֹרַיְיתָא דִּלְמָא לָאו דְּאוֹרַיְיתָא וְכִלְאַיִם בְּצִיצִית לָאו מִשּׁוּם תַּלְיָא בַּבֶּגֶד הוּא אֶלָּא מִשּׁוּם טָוְיָה הַחוּט הוּא אֶלָּא עַל כָּרְחָךְ מוּכָח מִמֶּה דְּפָשִׁיטָא לֵיהּ לְרָבָא דִּבְטָוְיָה לְחוּד לֵיכָא מִשּׁוּם כִּלְאַיִם עַד שֶׁיֵּאָרֵג אוֹ עַד שֶׁיִּקְשֹׁר גַּם כֵּן וּמוּכָח דִּינוֹ שֶׁל הָרַמְבַּ"ם וְאוּלַי יֵשׁ לְפַקְפֵּק קְצָת וְלוֹמַר דִּלְמָא בְּעָלְמָא יֵשׁ בִּטְוָיָה מִשּׁוּם כִּלְאַיִם וְהָכָא הַיְנוּ טַעְמָא מִשּׁוּם שֶׁהַחוּטִין הַלָּלוּ אֵינָם מְעִיקַּר הַלְּבִישָׁה וְאִי לָאו שֶׁהַקְּשָׁרָה בְּגוּף הַטַּלִּית הֵיא שַׁעֲטָנֵז לֹא הָיָה לְמֵיחַשׁ מִשּׁוּם כִּלְאַיִם וּלְדַעְתִּי הֵיא סְבָרַת עִיקֵּשׁ:

bam ruled that one makes seven [threads] white and one [thread] techeiles.[18] **And see the Beis Yosef, Orach Chaim, Siman 11,**[19] **and there he also copied [the Rambam's] response to the sages of Lunel**[20] **from the Sifri and from Scripture,**[21] **that one makes a single thread, half of which is white and half of which is techeiles. See there. And behold, in a linen garment (sadin), where the white is linen — the same species as the garment — one is [effectively] spinning a single thread half of which is white linen and half of which is wool techeiles.** At first glance, spinning such a mixed thread creates a kilayim problem. **And it is difficult: from where does [Rava] derive that the upper knot is Biblical?** Rava's proof assumes that the Torah permits tying wool tzitzis to a linen garment. **Perhaps it is not Biblical, and the kilayim in tzitzis is not because of the attachment to the garment but rather because of the spinning of the thread itself!** If spinning already creates kilayim, its permission would not prove that tying is Biblical. **Rather, we must conclude from this that it was obvious to Rava that spinning alone does not create kilayim liability, until one also weaves or ties [the thread to the garment].** The Torah's permission must therefore refer to tying. This proves that the upper knot is Biblical. **And the Rambam's ruling is thereby proven. And perhaps one could quibble somewhat and say that perhaps generally, spinning does create kilayim liability, but here the reason [it does not] is because these threads [of the tzitzis] are not part of the main wearing of the garment. And if not for the tying to the body of the tallis, which is sha'atnez, there would be no concern for kilayim. But in my opinion, this is a crooked reasoning.**

מִכָּל מָקוֹם הִרְוַחְנוּ דְּעַל כָּל פָּנִים אֱמֶת הוּא דְּלָרַמְבַּ"ם טָוֶה חוּט אֶחָד חֶצְיָהּ צֶמֶר וְחֶצְיָהּ פִּשְׁתָּן וְאֵין בָּזֶה מִשּׁוּם כִּלְאַיִם יִהְיֶה מֵאֵיזֶה טַעַם שֶׁיִּהְיֶה וְלֵיכָא רַק מִשּׁוּם תַּלְיָא בְּבֶגֶד הַסָּדִין וּמַעַתָּה כְּשֶׁמַּכְנִיסִין לְתוֹךְ נְקָבֵי הַבֶּגֶד אֲפִלּוּ יִהְיוּ ב' נְקָבִים כְּדַעַת הָעִיטּוּר מִכָּל מָקוֹם לֵיכָא ב' תְּכִיפוֹת שַׁעֲטָנֵז שֶׁהֲרֵי הַתְּכֵלֶת אֵינוֹ נִכְנָס אֶלָּא לְתוֹךְ חוֹר אֶחָד וְחֶצְיוֹ הַלָּבָן לְתוֹךְ חוֹר הַשֵּׁנִי וְאֵין כָּאן אֶלָּא תְּכִיפָה אַחַת וְשַׁפִּיר הוֹכִיחַ רָבָא דְּצָרִיךְ לִקְשׁוֹר וְהִנֵּה לֹא רָאִיתִי בִּפְנִים בָּעִיטּוּר אִי סְבִירָא לֵיהּ בְּהָא כְּהָרַמְבַּ"ם אִי לֹא מִכָּל מָקוֹם הִרְוַחְנוּ דַּאֲנָשִׁי מַעֲשֶׂה הַחוֹשְׁשִׁים לְהָעִיטּוּר נִמְלְטוּ מִמַּה שֶּׁהִשִּׂיג עֲלֵיהֶם מָגֵן אַבְרָהָם דַּהֲוָה תַּרְתֵּי דְּסָתְרֵי דְּלֵיתָא דְּאֶפְשָׁר שֶׁהֵם חוֹשְׁשִׁין לְדַעַת רַמְבַּ"ם הַנִּזְכָּר לְעֵיל:

Nevertheless, we have gained that at any rate it is true that according to the Rambam, one spins a single thread that is half wool and half linen, and there is no kilayim [liability] in this, whatever the reason may be. Under either explanation, the mixed thread itself does not create kilayim. **And the only [concern] is because of the attachment to the linen garment. And now, when one inserts [the threads] into the holes of the garment, even if there are two holes according to the opinion of the Itur, nevertheless there are not two stitches of sha'atnez.** The Magen Avraham argued that two holes create two **techifos** of sha'atnez. **For the techeiles [wool] only enters through one hole,** Because the mixed thread is folded, its wool half passes through only one hole. **And its white [linen] half [enters] into the second hole.** The other hole joins linen to linen, so it creates no sha'atnez. **And there is here only one stitch [of sha'atnez]. And properly Rava proved that one needs to tie [the upper knot].** One **techifa** is not enough for kilayim. The upper knot completes the connection and must therefore be Biblical. **And behold, I have not seen in the actual text of the Itur whether he holds in this [matter] like the Rambam or not.** He did not verify whether the Itur accepts the

[18] Rambam, Hilchos Tzitzis 1:6 — "מַכְנִיס שָׁם אַרְבָּעָה חוּטִין וְכוֹפְלָן בָּאֶמְצַע" — One inserts four threads and folds them in half, resulting in eight hanging threads, of which one should be techeiles. This yields seven white threads and one techeiles thread per corner.

[19] Beis Yosef, Orach Chaim, Siman 11 — where the Rambam's response to the sages of Lunel is cited.

[20] Rambam's Teshuvah to the Sages of Lunel — the Rambam's responsum to the Torah scholars of Lunel (southern France), in which he explains his method for making tzitzis threads.

[21] Sifri — the halachic midrash from which the Rambam derives that one makes a single thread half white and half techeiles.

Rambam's half-white, half-techeiles thread. **Nevertheless, we have gained that men of action** (these are scrupulous people who are careful in their halachic practice) **who are concerned for [the opinion of] the Itur have escaped from the Magen Avraham's challenge against them that it constitutes a contradiction.** The alleged contradiction is between the Itur's two-hole method and a Biblical upper knot. **For this is not so. For it is possible that they are following the opinion of the Rambam mentioned above.** They may also accept the Rambam's view, which avoids the contradiction.

אוּדוֹת פְּתִיחוֹת הַחֲנוּת בְּחוֹל הַמּוֹעֵד נִתְקַלְקְלָה הַשּׁוּרָה בְּכָל הַמְּקוֹמוֹת בַּעֲוֹנוֹתֵינוּ הָרַבִּים וְנִתְפַּשְׁטָה הַמִּסְפַּחַת מִיָּמִים יָמִימָה וְלֹא יִשְׁמָעוּ עַל כֵּן מוּטָב שֶׁיִּהְיוּ שׁוֹגְגִים וכו' אֲבָל אִם יֵשׁ בְּיָד מַעֲלָתְךָ לַעֲמֹד בַּפֶּרֶצָה בְּבֵית חֲמִיךָ הַקָּצִין שי' אַשְׁרֶיךָ וְאַשְׁרָיו אִם יִשְׁמַע יְבָרְכֵהוּ ה' וְיַעַל עַל בָּמָתֵי הַצְלָחָה. וְעַתָּה אַתָּה בָּרוּךְ ה' צָלַח וּרְכַב עַל דְּבַר אֱמֶת וְעַנְוַת צֶדֶק תּוֹרֶכָה לְחַזֵּק כָּל בֶּדֶק וּבָנוּ מִמְּךָ חָרְבוֹת עוֹלָם מוֹסְדֵי דּוֹר וָדוֹר תְּקוֹמֵם. הַכּוֹתֵב דְּבָרָיו הַחוֹתֵם בְּכָל חוֹתְמֵי בְרָכוֹת פֹּה פְּרֶעשְׁבּוּרְג יוֹם ד' ח"י תַּמּוּז תקע"א לִפְרָט קָטָן מֹשֶׁה הַקָּטָן סוֹפֵר:

Regarding the opening of shops on Chol HaMoed, the standard has deteriorated in all places due to our many sins. And the malady has spread from long ago. And they will not listen. Therefore, it is better that they remain unwitting, etc. If people will ignore rebuke, it is better that they remain inadvertent (**shogeg**) rather than deliberate (**meizid**). **But if it is in your power to stand in the breach in the house of your father-in-law, the communal leader, may he live, fortunate are you and fortunate is he. If he listens, may God bless him, and may he rise to the heights of success. And now, you who are blessed by God, ride prosperously upon the word of truth and righteous humility.** An allusion to Tehillim 45:5. **May you merit to strengthen every breach. And through you may eternal ruins be rebuilt. The foundations of generation after generation you shall raise up.** An allusion to Yeshayahu 58:12. **These are the words of the one who signs with all seals of blessing. Here in Pressburg, Wednesday the 18th of Tammuz, 571 by the minor count** [= July 10, 1811 CE]. **Moshe the humble, Sofer.**

תשובה 2

Scope of Nicha Lei for Mitzvos with Another's Money

Laws of Kindness > Laws of Charity

Summary

Correspondent and Context: This teshuvah is addressed to the Chasam Sofer's student, the young Aharon Hersh. He cautions that a student should normally ask his local rabbi practical questions, especially about money. Still, he answers the topic raised at the end of the letter.

The Question (Sha'ila): Aharon Hersh asks about the limits of *nicha lei l'inish d'lis'avid mitzvah b'mamoneih*: "a person is pleased to have a mitzvah performed with his money." His grandfather, the late Rabbi Moshe, Av Beis Din of Piesing, challenged the Kesef Mishneh's explanation of the Rambam. The Rambam allows tzedakah to be given from the assets of a person who became insane. How can *nicha lei* apply when the loss is large and the person did not consent?

The Ruling (Teshuvah): The Chasam Sofer first shows from Bechoros 58a that the classic *nicha lei* case has no real financial loss. He then discusses whether the rule can cover an actual expense. The Ramban says the renter may deduct the cost of checking for chametz from his rent, while the Ran says he may not. The Tommas Yesharim and Magen Avraham give narrower distinctions to resolve cases involving a tallis and Sefer Torah. The Chasam Sofer explains that the Mordechai's two answers form one argument. He then uses the Ritva's broader rule: when an owner loses the chance to use his own mitzvah item, *yatza secharo b'hefsedo*—his reward is offset by his loss—and *nicha lei* does not apply. He explains that tzedakah for a person who became insane is like buying life-saving medicine, because tzedakah protects from death. Finally, he explains that one may read a deposited

sefer because the owner accepted that use, while copying is allowed under *lo yavuzu laganav* because it only lowers the book's sale value and leaves the owner's use intact.

Shulchan Aruch Background: Shulchan Aruch, Orach Chaim 437:3, rules that an unchecked rented house is not a mistaken transaction, even where checking costs money, because the renter performs a mitzvah. The Rema cites a view that the landlord must repay the cost. The Magen Avraham and Darkei Moshe discuss whether *nicha lei* can justify that expense. Shulchan Aruch, Orach Chaim 14, and the Magen Avraham there discuss the rule's limits when using a borrowed tallis or Sefer Torah causes loss.

Key Disputes (Machlokes): The main dispute concerns who bears the cost of checking for chametz. The Ramban says the renter deducts it from the rent, so there is no net loss. The Ran says the renter bears the cost, which extends *nicha lei* to a real expense. The Darkei Moshe challenges the Ran from the tallis case. The Tommas Yesharim distinguishes loss during a mitzvah from later loss. The Magen Avraham distinguishes a small loss from a large one. The Chasam Sofer also explains that the Mordechai's two answers form one argument. The Ritva gives a broader rule: *nicha lei* does not apply when the owner loses his own chance to use a mitzvah item. The Chasam Sofer applies these approaches to tzedakah from the assets of a person who became insane, to deposited sefarim, and to forced lending.

שָׁלוֹם וְכָל טוּב לְתַלְמִידִי הַבָּחוּר הַמֻּפְלָג הֶחָרוּץ וְשַׁנּוּן כ"ה אַהֲרֹן הֶחָרֵשׁ נֵרוֹ יָאִיר:

Peace and all good to my student, the distinguished young man, the sharp and keen, the honored Aharon Hersh, may his light shine.

גְּלִילֵי יָדוֹ הַטְּהוֹרָה הִגִּיעַנִי וְאִם כִּי אֵין מַהֲרָאוּי' לְהָשִׁיב עַל שְׁאֵלָה הֲלָכָה לְמַעֲשֶׂה לְתַלְמִיד יְחִידִי בְּמָקוֹם שֶׁיֵּשׁ לוֹ רַב וּמָרֵיהּ דְּאַתְרֵיהּ מִכָּל שֶׁכֵּן בְּדִינֵי מָמוֹנוֹת אַךְ מִכָּל מָקוֹם אֲשִׁיבֶהוּ עַל מַה שֶּׁכָּתַב בְּשִׁילְהֵי אִגֶּרֶת בָּעִנְיַן נִיחָא לֵיהּ לְאִינָשֵׁי דְּלִיתְעֲבֵד מִצְוָה בְּמָמוֹנָא וַאֲבָרֵר לוֹ הֲלָכָה זוֹ בְּעֶזְרַת הַשֵּׁם יִתְבָּרַךְ:

I received his handwritten letter. And although it is not proper to respond to a practical halachic question directed to an individual student in a place where he has his own rabbi and the local halachic authority, all the more so in monetary matters, nevertheless, I will respond to him regarding what he wrote at the end of his letter on the topic of "a person is pleased to have a mitzvah performed with his money," and I will clarify this halachah for him, with God's help.

גָּרְסִינַן בִּבְכוֹרוֹת נ"ח עַמּוּד א' דִּלְהָכִי קָבָעוּ חז"ל ג' גָּרְנוֹ' לְמַעֲשַׂר בְּהֵמָה שֶׁתְּהֵא בְּהֵמָה מְצוּיָה לְעוֹלֵי רְגָלִים אַף עַל גַּב עַד שֶׁלֹּא הִגִּיעַ הַגֹּרֶן מָתָר לִמְכֹּר מִכָּל מָקוֹם נִיחָא לֵיהּ לְאִינִישׁ דְּלִיתְעֲבֵד מִצְוָה בְּמָמוֹנֵיהּ פֵּירוּשׁ דְּאִלּוּ לֹא קָבָעוּ זְמַן הָיָה כָּל אֶחָד מוֹכֵר בְּהֵמוֹתָיו מִיָּד לְכְשֶׁיִּוָּלֵד וּכְשֶׁבָּא הָרֶגֶל לֹא הָיָה בְּהֵמָה מְצוּיָה וְלֹא רָצוּ חֲכָמִים לֶאֱסוֹר מְכִירַת הַבְּהֵמָה מִזֶּה הַטַּעַם אֶבָל הִמְצִיאוּ לִקְבֹּעַ יוֹם מְיֻחָד סָמוּךְ לְכָל רֶגֶל שֶׁבּוֹ יִתְעַשְּׂרוּ כָּל הַבְּהֵמוֹת וְנֶהְיוּ שֶׁלֹּא אָסְרוּ לְעַשֵּׂר קֹדֶם מִכָּל מָקוֹם מִסְתָּמָא כָּל אָדָם יַמְתִּין עַד יוֹם הַמֻּגְבָּל נִמְצָא כֵּיוָן שֶׁאֵין בְּהֵמוֹתָיו מְעֻשָּׂרִין לֹא יִמְכֹּר קֹדֶם וְאַף עַל גַּב שֶׁמֻּתָּר לִמְכֹּר קֹדֶם מַעֲשַׂר שֶׁאֵין הָעֵדֶר טֵבֶל וְאָז לָקוּחַ פָּטוּר מִמַּעֲשֵׂר מִכָּל מָקוֹם יָדוּעַ לַחֲכָמִים וְסָתָם שֶׁל יִשְׂרָאֵל דְּנִיחָא לְהוּ לְיִתְעֲבֵד מִצְוָה

We learn in the Gemara, Bechoros 58a,[1] **that this is why the Sages established three "threshing floor" dates for the animal tithe (ma'aser beheimah) so that animals would be readily available for the pilgrims ascending [to Jerusalem for the festivals].** The Sages set three annual dates for tithing animals, before the three pilgrimage festivals. **Even though before the "threshing floor" date arrives it is permitted to sell [the animals], nevertheless, a person is pleased to have a mitzvah performed with his money. This means: had they not established a fixed date, everyone would sell his animals immediately upon birth, and when the festival arrived there would be no animals available. The Sages did not wish to prohibit the sale of animals for this reason, but rather they devised the establishment of a special day close to each festival on which all the animals would be tithed. And although they did not prohibit tithing beforehand, presumably every person would wait until the designated day. It follows that since his animals are not yet tithed, he will not sell beforehand. And even though it is permitted to sell before tithing — since the flock does not have the status of tevel (untithed produce),** (Unlike untithed produce, animals in a flock may be sold before animal tithing) **and in that case the purchaser is exempt from [the**

[1] Bechoros 58a — The Gemara states: כְּדֵי שֶׁתְּהֵא בְּהֵמָה מְצוּיָה לְעוֹלֵי רְגָלִים. וְאַף עַל גַּב דְּתָנֵן: עַד שֶׁלֹּא הִגִּיעַ הַגּוֹרֶן מוּתָּר לִמְכּוֹר וְלִשְׁחוֹט — נִיחָא לֵיהּ דְּלִיתְעֲבֵיד מִצְוָה בְּמָמוֹנֵיהּ — "So that animals would be available for pilgrims. And even though the Mishnah teaches that before the threshing-floor date arrives one may sell and slaughter — a person is pleased to have a mitzvah performed with his money."

בְּמָמוֹנָא הֵיכָא דְּלֵית לֵיהּ פְּסִידָא וְלֹא יַפְקִיעוּ בְּהֶמּוֹתָיו מִמַּעֲשֵׂר וְיַמְתִּין עַד יוֹם הַמֻּגְבָּל וְאָז יִמְכֹּר וְיִהְיֶה בְּהֶמָה מְצוּיָה לְעוֹלֵי רְגָלִים. וְהָא דְּלֵית לֵיהּ פְּסִידָא בְּמַעֲשֵׂר בְּהֵמָה הַיְנוּ מִשּׁוּם שֶׁמַּעֲשֵׂר בְּהֵמָה מְשֻׁנֶּה מִכָּל הַקָּרְבָּנוֹת שֶׁאֵין מִמֶּנּוּ לַכֹּהֵן כְּלוּם לֹא חָזֶה וְשׁוֹק וְלֹא זְרוֹעַ וּלְחָיַיִם וְקֵיבָה כְּחוּלִין וְאֵין לַמִּזְבֵּחַ אֶלָּא דָּמוֹ וְאֵימוּרָיו שֶׁהוּא חֵלֶב וָקֶרֶב שֶׁאֵינוֹ שָׁוֶה לְהֶדְיוֹט כְּלוּם וְהַבְּהֵמָה גּוּפֵיהּ יָכוֹל לְעַכְּבוֹ עַד הָרֶגֶל וּלְסָפְחוֹ לְקָרְבָּן שְׁמָחָה שֶׁלּוֹ וּלְשַׂמֵּחַ בְּנֵי בֵיתוֹ עַיֵּין פֶּרֶק קַמָּא דְּחַגִּיגָה נִמְצָא אֵין בּוֹ הֶפְסֵד כְּלוּם וּבַוַּדַּאי נִיחָא לֵיהּ בְּהָא:

obligation of] ma'aser — nevertheless, it was known to the Sages — the general nature of the Jewish people being — that they are pleased to have a mitzvah performed with their money where there is no financial loss. And they will not exempt their animals from ma'aser but will wait until the designated day, and then sell, and animals will be available for the festival pilgrims. — The text reads "ימכוד," a printing variant for "ימכור" (will sell), due to the common dalet/resh confusion in Hebrew script. **And the reason there is no loss with ma'aser beheimah — this is because ma'aser beheimah differs from all other sacrifices in that the Kohen receives nothing from it: neither the breast nor the thigh,** (— These portions [**chazeh v'shok**] are normally given to the Kohen from **shelamim** offerings) **nor the foreleg, cheeks, and stomach as with non-consecrated slaughter,** (— These portions [**zero'a, lechayayim, v'keivah**] are given to the Kohen from every non-consecrated animal slaughtered) **and the Altar receives only its blood and its fats, which are the forbidden fats and innards that have no value to a layperson. And the animal itself, the owner may keep until the festival, and include it in his own korban simchah (festival offering of joy) and use it to gladden his household members. See the first chapter of Chagigah.[2] It turns out that there is no loss whatsoever, and certainly he is pleased with this.**

וְהָנֵּה סְתָם ש"ס בְּפֶרֶק קַמָּא דְּפֶסָחִים קָאָמַר הַמַּשְׂכִּיר בַּיִת לַחֲבֵירוֹ בְּחֶזְקַת בָּדוּק וְנִמְצָא שֶׁאֵינוֹ אֵינוֹ יָכוֹל לִטְעוֹן מָקוֹם טָעוּת בַּמָּה שֶׁצָּרִיךְ לְהַטְרִיחַ לְבוֹדְקוֹ דְּנִיחָא לְאִינָשׁ דְּלֵיעֲבֵד מִצְוָה בְּטִרְחַת גּוּפוֹ וַאֲפִלּוּ בְּמָקוֹם שֶׁנּוֹתְנִים שָׂכָר עַל הַבְּדִיקָה מִכָּל מָקוֹם נִיחָא לֵיהּ לְאִינָשׁ דְּלֵיעֲבֵד מִצְוָה בְּמָמוֹנֵיהּ וְכָתַב הָרַב הַמַּגִּיד בְּשֵׁם רמב"ן דְּחוֹזֵר וּמְנַכֶּה לוֹ הֶפְסֵד מִשְׂכִּירָתוֹ וְאֵין כָּאן הֶפְסֵד מָמוֹן רַק מַה שֶּׁמַּקְדִּים קְצָת מִשְׂכִּירָתוֹ בַּתְּחִלָּה קֹדֶם זְמַנּוֹ וּבָזֶה נִיחָא לֵיהּ דּוּמְיָא דּוּמְיָא בְּהֵמָה אֲבָל לְהַפְסִיד לְגַמְרֵי לֹא כִּדְמוּכָח בְּבָבָא מְצִיעָא כ"ט עַמּוּד ב' גַּבֵּי סֵפֶר תּוֹרָה וּתְפִלִּין וְלָמְדוּ מִמֶּנּוּ הַפּוֹסְקִים גַּם לְטַלִּית כְּמוֹ שֶׁכָּתַב נִימוּקֵי יוֹסֵף פֶּרֶק הַסְּפִינָה בַּסּוּגְיָא

Now, the unattributed Gemara in the first chapter of Pesachim states[3] that one who rents a house to another with the presumption that it was checked [for chametz], and it is found not to be [checked] —[4] he cannot claim a mistaken transaction regarding the trouble required to check it, because a person is pleased to perform a mitzvah with the exertion of his own body. And even in a place where they pay a fee for the checking, nevertheless, a person is pleased to have a mitzvah performed with his money. And the Magid Mishneh wrote in the name of the Ramban[5] that [the renter] goes back and deducts the [checking] cost from his rental payment. And there is no [actual] financial loss here — only that he advances a small portion of his rental payment at the beginning, before its due date. And with this he is pleased — analogous to the animal [tithe] case. But to suffer an outright loss — no. As is evident from Bava Metzia 29b regarding a [deposited] Sefer Torah and tefillin,[6] and the poskim derived from this [that the same applies] also to a tallis, as the Nimukei Yosef writes in Perek HaSefinah regarding the sugya of the flask.[7] The guardian may not use a deposited Sefer Torah because use causes wear. This shows that **nicha lei** does

[2]Chagigah, chapter 1 — Regarding the consumption of ma'aser beheimah by the owner as part of the festival offerings of *simchah*.

[3]Pesachim 4b — The Gemara discusses the case of one who rents a house on the presumption that it was checked for chametz and it was found unchecked, analyzing whether this constitutes *mekach ta'us*.

[4]Rambam, Hilchos Chametz u'Matzah 2:18 — הַמַּשְׂכִּיר בַּיִת בְּחֶזְקַת שֶׁהוּא בָּדוּק וְנִמְצָא שֶׁאֵינוֹ בָּדוּק עַל הַשּׁוֹכֵר לִבְדֹּק וְאֵינוֹ מֵקַח טָעוּת. וַאֲפִלּוּ בְּמָקוֹם שֶׁבּוֹדְקִים בְּשָׂכָר שֶׁהֲרֵי מִצְוָה הוּא עוֹשֶׂה — "One who rents a house on the presumption it was checked and it is found unchecked — the renter must check and it is not a mistaken transaction. Even in a place where they check for a fee, for he is performing a mitzvah."

[5]Magid Mishneh on Rambam, Hilchos Chametz u'Matzah 2:18, citing the Ramban — that the renter deducts the checking expense from his rent.

[6]Bava Metzia 29b — regarding a deposited Sefer Torah and tefillin: the guardian should not read from the Sefer Torah or don the tefillin initially, to avoid causing wear and tear to the owner's property.

[7]Nimukei Yosef, Perek HaSefinah (Bava Metzia, ch. 5), on the sugya of the flask (*tzlochis*) — extending the principle from Sefer Torah and tefillin to a tallis.

not override a real loss. **See there, in the zav"b edition, page 199b. However, the Ran in the first chapter of Pesachim writes that he does not deduct [the cost] from his rent.**[8] This implies that **nicha lei** applies even to a real expense. **And the Darkei Moshe in Siman 437 raised the difficulty: what would [the Ran] answer regarding a tallis?**[9] If **nicha lei** permits a real loss, why may one not use another person's tallis when that would damage it? **And the difficulty from the tallis was resolved in Teshuvos Tommas Yesharim, Siman 47,**[10] **by distinguishing between a loss that occurs at the time of the mitzvah itself and a tallis that, if not folded, will deteriorate after the completion of the mitzvah. And the Magen Avraham in Siman 437 alludes to this.**[11] **And there it is misprinted as Siman 77; it should read [Siman] 46. Nevertheless, from the Sefer Torah [case, the Tommas Yesharim] resolved nothing, since there too the loss occurs at the time of the act [of reading]. And nevertheless, he should not read from it initially, nor should another [read] with him. Therefore, the Magen Avraham in Siman 14 was forced [to explain]**[12] **that a Sefer Torah involves significant financial loss, while the chametz-checking fee is minimal.**

דְּצָלוֹחִית עַיֵּין שָׁם דְּפוּס זו"ב קצ"ט עַמּוּד ב' אַדְּ הר"ן פֶּרֶק קַמָּא דְּפְסָחִים כָּתַב שֶׁאֵינוֹ מְנַכֶּה לוֹ מִשְׂכִּירָתוֹ וְהִקְשָׁה דַּרְכֵי מֹשֶׁה סִימָן תל"ז מַה יַּעֲנֶה מִטַּלִּית וְהַקְשְׁיָא מִטַּלִּית תִּירֵץ בִּתְשׁוּבָה תּוֹמַת יְשָׁרִים סִימָן מ"ז לְחַלֵּק בֵּין הֶפְסֵד בִּשְׁעַת הַמִּצְוָה וּבֵין טַלִּית שֶׁאִם אֵינוֹ מְקַפְּלוֹ יוּפְסַד אַחַר גְּמַר הַמִּצְוָה וְרָמַז לָזֶה מָגֵן אַבְרָהָם סִימָן תל"ז וְשָׁם נִרְשַׁם בְּטָעוּת סִימָן ע"ז וְצָרִיךְ לוֹמַר מ"ו מִכָּל מָקוֹם מִסֵּפֶר תּוֹרָה לֹא תֵּירֵץ כְּלוּם שָׁגַם שָׁם הִפְסִיד בִּשְׁעַת מַעֲשֶׂה וַאֲפִלּוּ הָכִי לֹא יִקְרָא בּוֹ בַּתְּחִלָּה וְלֹא אַחֵר עִמּוֹ עַל כֵּן נִדְחַק הַמָּגֵן אַבְרָהָם סִימָן י"ד דְּסֵפֶר תּוֹרָה הֶפְסֵד מְרֻבֶּה וְחָמֵץ שְׂכַר בְּדִיקָה הוּא מוּעָט:

However, in the Mordechai at the end of chapter 2 of Bava Metzia,[13] **he raised the difficulty from the Sefer Torah [case] against the chametz [ruling]. And he answered — and these are his words: "Here [the Sefer Torah case] we are dealing with [a situation that is] not of his own volition, and with this, certainly he is not pleased. But to fulfill a mitzvah with one's money of one's own volition — certainly he is pleased." "And it seems to me that there, regarding the checking of chametz, there is physical effort involved, therefore he fully commits and obligates himself. But in general, no." End of the Mordechai's words. And it is well known that the Darkei Moshe was thoroughly familiar with the pathways of the Mordechai in all its locations. Yet he intentionally omitted these words, because at first glance they make no sense in their plain meaning. What is "of his own volition" relevant when this [the obligation to check] is against his will? He is crying out that he did not want to spend his money on checking for chametz! Should we stand up and say, "We are witnesses that a Jew is pleased with this"? And [if so,] "you are returning [the merchandise] because of a different defect"!** This Talmudic phrase says that the claimed defect is only a pretext for withdrawing from the sale. **Will he not say, "Who can force me against my will?" And perforce, the second answer also has no clear meaning. Therefore, the Rema omitted it.**

וְהָאֲמְנָם בְּמָרְדְּכִי סוֹף פֶּרֶק ב' דְּבָבָא מְצִיעָא הִקְשָׁה מִסֵּפֶר תּוֹרָה אַחָמֵץ וְתֵירֵץ וְזֶה לְשׁוֹנוֹ דְּהָכָא מַיְירֵי שֶׁלֹּא מִדַּעְתּוֹ וְהָא וַדַּאי לֹא נִיחָא לֵיהּ אֲבָל לְקַיּוּמֵיהּ מִצְוָה בְּמָמוֹנֵיהּ מִדַּעְתֵּיהּ בְּוַדַּאי נִיחָא לֵיהּ. וְלִי נִרְאֶה דְּהָתָם גַּבֵּי בְּדִיקַת חָמֵץ אִית בֵּיהּ טִרְחָא לָכֵן גָּמַר וּמְשַׁעְבֵּד נַפְשׁוֹ אֲבָל בְּעָלְמָא לָא עַד כָּאן לְשׁוֹן הַמָּרְדְּכִי. וְיָדוּעַ דְּהַדַּרְכֵי מֹשֶׁה הָיָה נָהִיר לֵיהּ שְׁבִילֵיהּ דְּמָרְדְּכִי בְּכָל הַמְּקוֹמוֹת. וּבְכַוָּנָה הִשְׁמִיט דְּבָרִים אֵלּוּ כִּי לְכְאוֹרָה אֵין לָהֶם שַׁחַר כִּפְשׁוּטָן מַאי שַׁיָּיךְ מִדַּעְתֵּיהּ בְּמַה שֶּׁהוּא בַּעַל כָּרְחוֹ וְהוּא צוֹוֵחַ דְּלֹא רָצָה לְהוֹצִיא מָעוֹתָיו בִּבְדִיקַת חָמֵץ אֲנַן נָיקוּם וְנֹאמַר אֲנַן סָהֲדֵי דְּנִיחָא לְיִשְׂרָאֵל בְּהָא וּמִשּׁוּם מוּם אַחֵר אַתָּה חוֹזֵר הֲלֹא יֹאמַר מִי יַכְרִיחֵנִי שֶׁלֹּא מִדַּעְתִּי וּבָעַל כָּרְחֵנוּ גַּם הַשֵּׁנִי אֵין לוֹ מוּבָן עַל כֵּן הִשְׁמִיטוֹ רמ"א:

[8] Ran, Pesachim, chapter 1 — holds that the renter does *not* deduct the chametz-checking expense from his rent, in contrast to the Ramban's position.

[9] Darkei Moshe, Orach Chaim, Siman 437 — raises the difficulty: if the Ran holds that *nicha lei* applies even to actual monetary expenditure, how does the Ran account for the tallis case, where the Gemara prohibits causing monetary damage through use?

[10] Teshuvos Tommas Yesharim, Siman 47 (some editions: Siman 46).

[11] Magen Avraham, SA Orach Chaim 437, s.k. 5 — The Rema and Magen Avraham there discuss the case: המשכיר בית לחבירו בחזקת בדוק ונמצא שאינו בדוק, noting the view that the landlord must reimburse the checking fee.

[12] Magen Avraham, SA Orach Chaim 14, s.k. 10 — In the context of a borrowed tallis, the Magen Avraham discusses the distinction between significant financial loss (*hefsed merubeh*), where *nicha lei* does not apply, and minimal expenses, where it does.

[13] Mordechai, end of chapter 2 of Bava Metzia — raises the question from the Sefer Torah case against the chametz ruling and offers two answers.

But it is written: "Then you shall understand the fear of Hashem, and the knowledge of the Holy One you shall find."[14] He cites this verse to introduce his explanation of the Mordechai. **It appears to me that these two answers are connected to one another. And the phrase "and it seems to me" [the Mordechai's second answer] explains the first part. Behold: since we consider the chametz [case as] "of his own volition," this is because it is at the very least obvious to the Talmud that one is pleased to perform a mitzvah with the exertion of his own body. And regarding this, he had no claim whatsoever. But since he did not exert himself physically, but rather hired someone to check, as was the custom of his city — nevertheless, it is considered "of his own volition," since he [originally] obligated his own body to check by himself. And of his own volition he spent his money to redeem his body [from the obligation].** He voluntarily replaced his personal duty to check with a payment. **Therefore, the chametz [case] is considered "of his own volition." This, as it seems to me, is the explanation of the Mordechai, and it works out well.**

אַךְ כְּתִיב אָז תָּבִין יִרְאַת ה' וְדַעַת קְדֹשִׁים תִּמְצָא נִרְאֶה לַעֲנִיּוּת דַּעְתִּי דְּהָנֵי ב' תֵּירוּצִים שַׁיְיכִי אַהֲדָדֵי וְהַאי וְלִי נִרְאֶה מְפָרֵשׁ לְרֵישָׁא הָא מִדְּמַחְשְׁבִינַן חָמֵץ מַדַּעְתּוֹ הַיְינוּ מִשּׁוּם דְּעַל כָּל פָּנִים פָּשׁוּט לַשׁ"ס דְּנִיחָא לֵיהּ לְמֶיעְבַּד מִצְוָה בְּטִרְחַת גּוּפוֹ וְעַל זֶה לֹא הָיָה לוֹ שׁוּם טַעֲנָה. אַךְ יַעַן שֶׁהוּא לֹא טִרַח רַק שָׂכַר אֶחָד לִבְדֹּק כְּמִנְהַג עִירוֹ אֶלָּא מִכָּל מָקוֹם הָוָה מַדַּעְתּוֹ שֶׁהֵרִי שִׁעְבֵּד גּוּפוֹ לִבְדֹּק בְּעַצְמוֹ וּמַדַּעְתּוֹ הוֹצִיא מָמוֹנוֹ לִפְדּוֹת גּוּפוֹ מִשּׁוּם הָכִי הָוֵי חָמֵץ כְּמַדַּעַת כַּנִּרְאֶה לַעֲנִיּוּת דַּעְתִּי פֵּירוּשׁ הַמָּרְדְּכִי וְאָתֵי שַׁפִּיר:

And indeed, after we merited [the publication of] the Sefer Asifas Zekeinim,[15] **which the earlier authorities did not have, we found that the Ritva offers a correct answer. [Namely:] A Sefer Torah, tallis, and tefillin, which are made for [the purpose of] a mitzvah** (— The text reads "חפילין," a variant spelling of "תפילין" [tefillin]) **and the owners themselves perform a mitzvah with them — "his reward goes out with his loss."** The borrower's mitzvah credit is offset by the owner's lost opportunity to use the item himself. **If the borrower uses up his Sefer Torah, tallis, or tefillin, he [the owner] will not be able to study from them [or use them] afterward. Thus, his reward goes out with his loss. And this does not apply to other types of financial loss.** Other financial losses do not cost the owner his own opportunity to perform a mitzvah. **And the question from the chametz [case] is resolved.**

וְאָמְנָם אַחֲרֵי שֶׁזָּכִינוּ לְסֵפֶר אֲסִיפַת זְקֵנִים שֶׁלֹּא הָיָה סֵפֶר זֶה לָרִאשׁוֹנִים מָצָאנוּ לְהָרִיטְבָּ"א תֵּירוּץ נָכוֹן דְּסֵפֶר תּוֹרָה טַלִּית וַחֲפִילִין שֶׁהֵם עֲשׂוּיָה לְמִצְוָה וְהַבְּעָלִים בְּעַצְמָן עוֹשִׂין בּוֹ מִצְוָה יָצָא שְׂכָרוֹ בְּהֶפְסֵדוֹ אִם הַשּׁוֹאֵל יְכֹלֶה סֵפֶר תּוֹרָה אוֹ טַלִּית וּתְפִילִין שֶׁלּוֹ לֹא יָכוֹל הָא לִלְמֹד אַחַר כָּךְ נִמְצָא יָצָא שְׂכָרוֹ בְּהֶפְסֵדוֹ וְזֶה לֹא שַׁיָּיךְ בִּשְׁאָר הֶפְסֵד מָמוֹן וּמְיוּשָּׁב קוּשְׁיַת מֵחָמֵץ:

Now, the Rambam at the end of Hilchos Nachalos writes[16] **that one who has become insane — we give tzedakah on his behalf from his assets. And the Kesef Mishneh wrote, in his first answer,**[17] **because a person is pleased to have tzedakah done from his money. And your honor wrote that he heard from his grandfather, the Rav, our teacher Rabbi Moshe, of blessed memory, Av Beis Din of the holy community of Piesing, who raised the difficulty: this involves significant financial loss and is also without his consent! Now, if the Rambam holds like the Ritva mentioned above — that whenever "his reward does not go out with his loss," we say nicha lei even with significant loss and even without his consent —** (the presumption fails only when the owner loses his own opportunity to perform the mitzvah) **then the Rambam's ruling works out well. But the Kesef**

וְהִנֵּה הָרַמְבַּ"ם סוֹף הִלְכוֹת נְחָלוֹת כָּתַב מִי שֶׁנִּשְׁתַּטָּה נוֹתְנִים צְדָקָה עֲבוּרוֹ מִנְּכָסָיו וְכָתַב הַכֶּסֶף מִשְׁנֶה בְּתֵירוּץ קַמָּא מִשּׁוּם דְּנִיחָא לֵיהּ לְאִינָשׁ לְמֶיעְבַּד צְדָקָה מִמָּמוֹנֵיהּ. וְכָתַב מַעֲלָתוֹ שֶׁשָּׁמַע מִזְּקֵנוֹ הָרַב מוהר"ר משֶׁה זִכְרוֹנוֹ לִבְרָכָה אָב בֵּית דִּין קְהִלַּת קֹדֶשׁ פִּיזִינְג, שֶׁהִקְשָׁה הָא הָוָה הֶפְסֵד מְרֻבֶּה וְגַם שֶׁלֹּא מַדַּעְתּוֹ. הִנֵּה אִי סְבִירָא לֵיהּ לְרַמְבַּ"ם כְּהָרִיטְבָּ"א הַנִּזְכָּר לְעֵיל דְּכָל שֶׁלֹּא יָצָא שְׂכָרוֹ בְּהֶפְסֵדוֹ אָמְרִינַן נִיחָא לֵיהּ אֲפִלּוּ בְּהֶפְסֵד מְרֻבֶּה וְשֶׁלֹּא מַדַּעְתּוֹ

[14] Mishlei 2:5.

[15] Sefer Asifas Zekeinim — a collection of Rishonim's commentaries on the Talmud. The Ritva's answer cited here was not available to the earlier Acharonim who dealt with this question.

[16] Rambam, end of Hilchos Nachalos — ruling that we give tzedakah from the assets of one who has become insane.

[17] Kesef Mishneh on Rambam, Hilchos Nachalos — first answer: the *nicha lei* principle justifies giving tzedakah from the *shoteh*'s assets, using the specific formulation "pleased to have *tzedakah* done from his money."

אָתֵי שַׁפִּיר פְּסַק הָרַמְבַּ"ם. אַךְ הַכֶּסֶף מִשְׁנֶה לֹא לְכָךְ נִתְכַּוִּין:

Mishneh did not mean this.

וְנִרְאֶה לִי הַכֶּסֶף מִשְׁנֶה דְּקָדֵק וְלֹא כָּתַב נִיחָא לֵיהּ דְּלִיעֲבֵד מִצְוָה אֶלָּא לִיתְעֲבֵד צְדָקָה דַּוְקָא מִשּׁוּם דְּשְׁאַרֵי מִצְוֹת יֵשׁ צַדִּיקִים שֶׁמַּגִּיעַ עֲלֵיהֶם כְּמַעֲשֵׂה הָרְשָׁעִים בָּעוֹלָם הַזֶּה. מַה שֶּׁאֵין כֵּן צְדָקָה תַּציל מִמָּוֶת מִמִּיתָה עַצְמָהּ וּכְתִיב בְּחָנוּנִי נָא בְּזֹאת וּמָתָר לְנַסּוֹת בּוֹ הַקָּדוֹשׁ בָּרוּךְ הוּא וַאֲפִלּוּ אִי נֵאמַר בְּאָדָם אַחֵר מִכָּל מָקוֹם אֶפְשָׁר עֲוֹנוֹתָיו הָרַבִּים גּוֹרְמִים לְהַכְרִיעַ הַכַּף שֶׁאִם יִתֵּן צְדָקָה מִצַּד אֶחָד וְיִרְצַח אֲנָשִׁים בְּמָקוֹם אַחֵר אֵינוֹ בַּדִּין שֶׁיַּאֲרִיךְ יָמִים מִכָּל מָקוֹם מִי שֶׁנִּשְׁתַּטָּה וְאֵין לוֹ חֵטְא מַכְרִיעַ עַל כָּל פָּנִים יֶגֶן עָלָיו צְדָקָה מִמָּמוֹנוֹ לְהַחֲיוֹתוֹ אַף עַל פִּי שֶׁאֵינוֹ מְצֻוֶּה וְעוֹשֶׂה מִכָּל מָקוֹם מְמוֹנוֹ מֵגֵן עָלָיו וַהֲוָה לֵיהּ כְּאִלּוּ קָנוּ לוֹ סַם חַיִּים לִרְפוּאָתוֹ זֶהוּ כַּוָּנַת הַכֶּסֶף מִשְׁנֶה לְפִי עֲנִיּוּת דַּעְתִּי:

And it seems to me that the Kesef Mishneh was precise and did not write "he is pleased to have a mitzvah done," but rather "to have tzedakah done" — specifically. Because regarding other mitzvos, there are righteous people upon whom comes [suffering] like the deeds of the wicked in this world. This is not so with tzedakah, which "saves from death" — from death itself.[18] **And it is written: "Test Me, please, with this."**[19] **And it is permitted to test the Holy One, Blessed be He, with it. And even if we were to say regarding another person [that tzedakah might not always save him], still, it is possible that his many sins tip the scale, so that if he gives tzedakah on one side but murders people on the other, it is not just that he should have long life. Nevertheless, one who has become insane and has no tipping sin** (he is not liable for acts done while insane, so those acts do not outweigh the tzedakah) **in any case, tzedakah from his money will protect him and keep him alive. Even though he is not "commanded and performing"** (— The insane person lacks the mental capacity to consciously fulfill a mitzvah) **nevertheless, his money protects him. And it is as if they purchased for him a life-saving medicine for his healing.** The tzedakah is treated as protection for him, not only as mitzvah credit. **This is the intent of the Kesef Mishneh, in my humble opinion.**

וּבְדִבְרֵי הָרִיטְבָּ"א יוּבְנוּ דִּבְרֵי רַב יְהוּדַאי גָּאוֹן שֶׁבַּמָּרְדְּכִי סוֹף פֶּרֶק הַמַּפְקִיד סִימָן רצ"ג דְּמַיְיתֵי שָׁ"ך חוֹשֶׁן מִשְׁפָּט סִימָן רצ"ב וּפֵירֵשׁ בּוֹ דְּכַוָּנָתוֹ שֶׁמֻּתָּר לִקְרוֹת בּוֹ מִשּׁוּם דְּגַבֵּי תַּלְמִיד חָכָם הֲוָה כְּמָעוֹת מְתָרִין וְסָבִיר וְקִבֵּל. וְשׁוּב כָּתַב בְּהֶתֵּר הַעֲתָקָה מִשּׁוּם לֹא יָבוּזוּ לַגַּנָּב וּמָגֵן אַבְרָהָם סִימָן י"ד קָלֵס לְפֵירוּשׁ זֶה מִכָּל מָקוֹם יֵשׁ לְפַקְפֵּק לְהש"ך כְּשֶׁמַּגִּיעַ לִקְרָא לֹא יָבוּזוּ לְהַגַּנָּב אִם כֵּן זֶה מַסְפִּיק לְהַתִּיר גַּם לִקְרוֹת בּוֹ וְתוּ לֹא צָרִיךְ לְטַעַם דְּמָעוֹת מְתָרִין וְסָבִיר וְקִבֵּל וְאֵינוֹ בְּמַשְׁמָע עַל כֵּן נִרְאֶה לַעֲנִיּוּת דַּעְתִּי לְהוֹסִיף תַּבְלִין עַל דִּבְרֵי הש"ך וְאוֹמֵר בְּדִקְדּוּק לְשׁוֹן רַב יְהוּדַאי גָּאוֹן שֶׁכָּתַב אָסוּר לְהַעְתִּיק מִמֶּנּוּ אֲפִלּוּ אוֹת אֶחָד מִשּׁוּם דְּמָרַע לֵיהּ לְפִקְדוֹנוֹ עַד כָּאן לְשׁוֹנוֹ אֵין בְּמַשְׁמָעוּת

And with the words of the Ritva, the words of Rav Yehudai Gaon will be understood — which are found in the Mordechai, end of Perek HaMafkid, Siman 293,[20] **[and] which the Shach brings in Choshen Mishpat, Siman 292.**[21] **And he [the Shach] explained it that his [Rav Yehudai Gaon's] intent is that it is permitted to read from it [the deposited Sefer Torah], because regarding a Torah scholar, it is like "permitted money" (mesos musarin).** This term means deposited money that the guardian may use because the depositor expects it. **And he has considered [the risk] and accepted it.** The depositor expected the scholar to read the Sefer Torah and accepted the risk of wear. **And then he [the Shach] further wrote regarding the permission to copy [from the deposited book], on the basis of "they do not despise the thief."**[22] Mishlei describes a thief who steals to satisfy hunger. The Shach applies this to a scholar hungry for Torah. **And the Magen Avraham in Siman 14 praised this interpretation.**[23] **Nevertheless, there is reason to challenge the Shach's explanation. When he reaches the [application of the] verse "they do not despise the thief," if so, this suffices to permit reading from it as well!** If the verse permits copying, which causes greater harm, it should also per-

[18] Mishlei 10:2 — צדקה תציל ממות, "Tzedakah saves from death."

[19] Malachi 3:10 — בחנוני נא בזאת, "Test Me, please, with this" — regarding the unique permission to test God specifically with regard to the rewards of charity (ma'aser and tzedakah).

[20] Mordechai, end of Perek HaMafkid (Bava Metzia, ch. 3), Siman 293 — containing the ruling of Rav Yehudai Gaon regarding a Sefer Torah deposited with a guardian.

[21] Shach, SA Choshen Mishpat 292, s.k. 35 — discusses the ruling of Rav Yehudai Gaon about using and copying from a deposited Sefer Torah. The Shach distinguishes between reading (permitted as *mesos musarin*) and copying (permitted under *lo yavuzu laganav*).

[22] Mishlei 6:30 — לֹא־יָבוּזוּ לַגַּנָּב כִּי יִגְנֹב לְמַלֵּא נַפְשׁוֹ כִּי יִרְעָב, "They do not despise the thief when he steals to satisfy his soul when he is hungry."

[23] See footnote 12 above — Magen Avraham, SA Orach Chaim 14, s.k. 10.

זֶה שֶׁהַסֵּפֶר נִקְרַע וְנִתְקַלְקֵל עַל יְדֵי הַהַעְתָּקָה וְהַחוּשׁ מֵעִיד שֶׁזֶּה אֵינוֹ אֶלָּא דְּמָרַע לֵיהּ פֵּירוּשׁ מְזַלְזֵל בְּשָׁוְיֵהּ הַסֵּפֶר דְּבִימֵיהֶם לֹא הָיָה הַדְּפוּס וְהֶעְתִּיקוּ הַסְּפָרִים בִּכְתִיבַת יָדָם וְכָל שֶׁהַסְּפָרִים יוֹתֵר מְצוּיָה וּמוּעְתָּקִים וּמוּגָהִים הֵמָּה בְּזוֹל יוֹתֵר וְאֵינָם שָׁוִים כָּל כָּךְ נִמְצָא עַל יְדֵי שֶׁזֶּה מַעְתִּיק אֲפִלּוּ אוֹת אֶחָד מִסִּפְרוֹ שֶׁל זֶה לְהַגִּיהַּ סֵפֶר אַחֵר עַל יְדֵי אוֹת זֶה הֲרֵי מְגָרֵעַ וּמְזַלְזֵל פִּקָּדוֹנוֹ שֶׁל זֶה כָּךְ נִרְאֶה לִי כַּוָּנַת ר"י גָּאוֹן. וּמַעֲתָּה תְּרֵי מִילֵי נִינְהוּ דְּתַלְמִיד חָכָם שֶׁלּוֹמֵד בְּתוֹךְ הַסֵּפֶר וּמְקַלְקְלוֹ לֹא שַׁיָּךְ לֹא יָבוּזוּ לַגַּנָּב וְנִמְצָא יְשַׁלֵּם שִׁבְעָתַיִם פֵּירוּשׁ שֶׁיַּעֲשֶׂה גָּדוֹל בְּיִשְׂרָאֵל עַל יְדֵי זֶה וְיִהְיֶה זְכוּת לָזֶה הַמַּשְׁאִיל זֶה לֵיתָא דְּיָצָא שְׂכָרוֹ בְּהֶפְסֵדוֹ שֶׁאִם לֹא יִקְרַע סִפְרוֹ יִלְמַד הוּא וְיִהְיֶה הוּא גָּדוֹל בְּיִשְׂרָאֵל וּמַה לּוֹ לְתַשְׁלוּמֵי שִׁבְעָתַיִם שֶׁלּוֹ. אַךְ הַהֶתֵּר הוּא מְשׁוּם דְּהָוֵה לֵיהּ כְּמָעוֹת מְתָרִים דְּמִתָּר לְהִשְׁתַּמֵּשׁ וְשׁוּב כְּשֶׁמִּתְקַלְקֵל הָוֵה לֵיהּ כְּמֵתָה מֵחֲמַת מְלָאכָה דְּלָאו לְאוֹקְמֵי בְּכִילִי שַׁיְּילִי' אֲפִלּוּ סְתָם פִּקָּדוֹן הָוֵה כְּשׁוֹאֵל מִדַּעַת כְּמוֹ מָעוֹת מְתָרִים אֶלָּא שָׁצָרִיךְ לְשַׁלֵּם לוֹ הֶפְסֵדוֹ אֲבָל לְהַעְתִּיק סִפְרוֹ וּלְזַלְזֵל מִשָּׁוְיֵהּ לָזֶה לֹא שַׁיְּילִי' וְהַמַּעְתִּיק הָוֵה גַּנָּב גָּמוּר לוּלֵי לֹא יָבוּזוּ לַגַּנָּב כִּי שֶׁלֵּם שִׁבְעָתַיִם וְלוֹ אֵין הֶפְסֵד שֶׁהֲרֵי אֵין הַסֵּפֶר מִתְקַלְקֵל וְגַם הוּא יָכוֹל לִלְמֹד בּוֹ רַק שֶׁמְּזַלְזֵל בְּשׁוִיוֹ מָקוֹם הַסֵּפֶר וְזֶה יְשַׁלֵּם לוֹ שִׁבְעָתַיִם וְנִיחָא לֵיהּ לְמֶעְבַּד מִצְוָה בְּמָמוֹנֵיהּ הֵיכָא דְּלֹא שַׁיָּךְ יָצָא שְׂכָרוֹ בְּהֶפְסֵדוֹ כַּנִּרְאֶה לַעֲנִיּוּת דַּעְתִּי. וּלְפִי מַה שֶּׁהֵבִיא רמ"א מִתְּשׁוּבַת הָרֹא"ש שֶׁכּוֹפִין לְהַשְׁאִיל סְפָרָיו הַיְינוּ אִם הַבְּעָלִים אֵינָם תַּלְמִידֵי חֲכָמִים וְלֹא יָצָא שְׂכָרָם בְּהֶפְסָדָם אֲבָל תַּלְמִידֵי חֲכָמִים לֹא. אוֹ אֶפְשָׁר וְכוּת הָרַבִּים שַׁאנִי שֶׁהַמַּעֲשֶׂה בִּתְשׁוּבַת הָרֹא"ש הָיָה שֶׁהָיוּ רַבִּים מִתְבַּטְּלִים עַל יְדֵי שֶׁאִלּוּ לֹא רָאוּ לְהַשְׁאִיל סִפְרֵיהֶם עַיֵּין שָׁם וְצָרִיךְ עִיּוּן: וְהִנֵּה תּוֹדָה לָאֵל יִתְבָּרַךְ נִתְבָּאֲרוּ דְּבָרִים אֵלּוּ וְלֹא נִשְׁאַר בָּהֶם פְּקָפּוּק וְסָפֵק בְּעֻזַּרַת הַשֵּׁם יִתְבָּרַךְ וַאֲחַתּוֹם בִּבְרָכָה. פְּרַעְשְׁבוּרְג כְּאוֹר בֹּקֶר לְיוֹם ה'

mit reading. **And we would no longer need the reason of "permitted money" and "he accepted [the responsibility]." And this does not fit [the Shach's structure].** The Shach gives a separate reason for each permission. His structure implies that both reasons are needed. **Therefore, it appears to me to add "spice" to the words of the Shach** He means that he will refine the Shach's explanation. **And I say, with close attention to the precise language of Rav Yehudai Gaon — who wrote: "It is forbidden to copy from it even one letter, because he diminishes his deposit." End quote. This does not mean that the book is torn or physically damaged through the copying. And common sense testifies that this is not so. Rather, "he diminishes it" means: he reduces the monetary value of the book. Because in their days there was no printing press, and they copied books by hand. And the more copies of the books that are available, copied, and proofread, the cheaper they become, and they are not worth as much. It follows that when this person copies even one letter from this other person's book in order to proofread another book using this letter,** (Correcting even one letter improves the competing copy and can reduce the deposited book's value) **he indeed diminishes and devalues this person's deposit. So it seems to me is the intent of Rav Yehudai Gaon. And from this point, there are two separate matters. A Torah scholar who studies from within the book and [gradually] damages it [through wear and tear] — "they do not despise the thief" does not apply. [And one might suggest that the verse continues:] "and if found, he shall pay sevenfold" —** [24] **meaning that [the scholar] will become great in Israel through this [study], and it will be a merit for the lender. This is not valid, because "his reward goes out with his loss." For if his book were not torn, he would study from it himself and he would be great in Israel! And what does he care for the other person's "sevenfold payment"? Rather, the permission [to read from the deposited book] is because it is like "permitted money" — that it is permitted to use. And subsequently, when it deteriorates, it is akin to "[an animal that] died from [the very] work [it was borrowed for]."** A borrower is exempt if the borrowed animal dies while doing the work for which it was borrowed. **Because "they do not borrow it to keep it locked away."** — The depositor entrusted the book knowing it would be read, not stored unused. **Even a regular deposit is treated as "borrowing with consent" just like "permitted money." Except that he must pay the owner for the damage. But to copy from his book and reduce its value — for this purpose he did not borrow it.** The implied permission covers normal reading, not copying that reduces the book's value. **And the copier is a complete thief were it not for "they do not despise the thief." Because he "pays sevenfold." And to him [the owner] there is no [physical] damage, since the book is not physically damaged. And he can also [still] learn from it.** Copying leaves the owner's own mitzvah use intact, so **yatza secharo b'hefsedo** does not apply. **It only reduces its value — the sale price of the book. And this [mitzvah merit] will repay him sevenfold.**

[24] Mishlei 6:31 — ונמצא ישלם שבעתים, "And if found, he shall pay sevenfold."

And he is pleased to have a mitzvah done with his money, in a case where "his reward goes out with his loss" does not apply. Reading is permitted as **mesos musarin**. Copying is permitted under **lo yavuzu laganav** and **nicha lei**, because the owner can still use the book. **So it appears to me. And according to what the Rema brought from the Teshuvos HaRosh**[25] **that we compel [a person] to lend his books — this is [specifically] if the owners are not Torah scholars and "their reward does not go out with their loss."** Non-scholars do not use the books for their own study, so lending costs them no personal mitzvah. **But [with] Torah scholars — no.** Forcing a scholar to lend his books would cost him his own opportunity to study. **Or perhaps the merit of the public is different, since the case in the Teshuvos HaRosh involved many people who were being prevented [from learning] because those [owners] did not see fit to lend their books. See there; this requires further investigation. And behold, thank God, these matters have been clarified, and no doubt or uncertainty remains in them, with God's help. And I close with a blessing. Pressburg, like the morning light, Thursday, 11 Teves [5]592 [1831/1832 CE]. The humble one [who writes] all these words, Moshe the humble, Sofer, from Frankfurt am Main.**

י"א טֵבֵת קצ"ב לִפְרָט קָטָן. הַקָּטָן כָּל הַדְּבָרִים מֹשֶׁה הַקָּטָן סוֹפֵר מִפְּרַנְקְפוּרְט דְּמַיְין:

תשובה 3

Tefillin Written on Residual Duchsustus Layer

Laws of STAM > Laws of Tefillin

Summary

Correspondent and Context: The Chasam Sofer writes to Rabbi Shaul Landau, a Torah leader in Krakow. He praises him as both a "Sinai," with broad Torah knowledge, and an "uprooter of mountains," with strong analytical skill.

The Question (Sha'ila): Rabbi Landau asks about tefillin written on *klaf*. Some words lay on a thin raised layer that could be peeled off with a sharp knife. The scribe said a thin remnant of *duchsustus* remained because the parchment was not scraped fully. After studying the Nishmas Adam, Rabbi Landau asks whether the tefillin are valid.

The Ruling (Teshuvah): The Chasam Sofer rules that the tefillin are valid. Only the surface that directly touched the animal's flesh must be removed. Even minimal scraping is enough if it removes that surface. Any other thin remnant does not matter. Expert parchment makers reliably remove the flesh-touching surface. He agrees with the Nishmas Adam's ruling but gives a different explanation.

Shulchan Aruch Background: Shulchan Aruch, Orach Chaim 32, gives the rules for writing tefillin. Tefillin must be written on *klaf*. A halachah l'Moshe miSinai distinguishes *gevil*, *klaf*, and *duchsustus*. The Rishonim disagree about which hide layer bears each name and which side is used for writing. This dispute is central to the teshuvah.

Key Disputes (Machlokes): Tosfos and Rabbeinu Tam identify *klaf* as the thin outer layer near the hair. Tefillin are written on its inner split surface. They identify *duchsustus* as the thick flesh-side layer, written on its outer split surface. Rabbeinu Hai, the Rambam, the Rashba, and the Ramban identify the thick flesh-side layer as *klaf* and allow writing on its flesh side. The Ran says that today scraping the flesh side counts as removing *duchsustus*, since we can no longer split hides. The Chasam Sofer says the halachah l'Moshe miSinai did not fix the names, thickness, or peeling method. It requires writing *gevil* on the hair side and *klaf* on its exposed inner surface,

[25] Rema, citing Teshuvos HaRosh — regarding the obligation to lend one's sefarim to others for Torah study, and the ruling that the community may compel such lending.

never on the surface that touched flesh. The Talmudic names reflected the hide-processing methods of that time. This explains the Ran, Sefer HaTerumah, and Musaf HaAruch and supports present parchment practice.

שָׁלוֹם וְכָל טוּב לַה"ה יְדִיד נַפְשִׁי הָרַב הַגָּאוֹן הַמְפֻלָּג סִינַי וְעוֹקֵר הָרִים כקש"ת מוֹרֵנוּ הָרַב שָׁאוּל לַאנְדוֹי נ"י בְּשַׁבַּת תַּחְכְּמוֹנִי דִּקְהִלַּת קֹדֶשׁ ק ראקקא יע"א:

Peace and all good to the esteemed, my dear friend, the Rabbi, the outstanding Gaon, a Sinai and an uprooter of mountains, (these terms mean broad Torah knowledge ["Sinai"] and strong analytical skill ["uprooter of mountains"]) **his honorable holiness, our teacher Rabbi Shaul Landau, may his light shine, who sits in the seat of wisdom of the holy community of Krakow, may God protect it.** "Sheves tachkemoni" (II Samuel 23:8) is an honorific for a Torah leader.

יְקָרַת קָדְשׁוֹ הִגִּיעַנִי נִידוֹן תְּפִלִּין הַנִּכְתָּבִים עַל הַקְּלָף וּנְמְצְאִים בְּתוֹכָם אֵיזֶה תֵּיבוֹת נִכְתָּבִים אֲשֶׁר בִּמְקוֹם אוֹתָן הַתֵּיבוֹת אִם יוּקַח סַכִּין חַד יְכוֹלִין לְקַלֵּף אוֹתָן תֵּיבוֹת עִם מְעַט מִן הַקְּלָף לְגַמְרֵי מִן גּוּף הַקְּלָף וְהַסּוֹפֵר אוֹמֵר שֶׁנִּכְתְּבוּ אוֹתָן הַתֵּיבוֹת וְאוֹתִיּוֹת עַל מְעַט דּוּכְסוּסְטוֹס הַנִּשְׁאָר מִן הַקְּלָף עֲדַיִן אַחַר גְּרִירַת הַדּוּכְסוּסְטוֹס שֶׁלֹּא גֵּרַר הֵיטֵב וְהִשְׁאִיר מִן הַדּוּכְסוּסְטוֹס עַד כָּאן לְשׁוֹן הַשְּׁאֵלָה אוֹת בְּאוֹת. וְהָיָה לְמַרְאֶה עֵינָיו הַבַּדּוּלְחִים אֵלּוּ הַנֶּאֱמָרִים עַל עִנְיַן הַלָּז בְּסֵפֶר נִשְׁמַת אָדָם וְרוֹצֶה לֵידַע דַּעְתִּי הֶעָנְיָה בְּעִנְיָן זֶה:

His precious holy [letter] reached me, [regarding] the case of tefillin that were written on klaf, and there were found within them some words that were written such that in the place of those words, if one were to take a sharp knife, one could peel off those words together with a bit of the klaf, entirely from the body of the klaf. And the scribe says that those words and letters were written on a bit of duchsustus remaining from the klaf still after the scraping of the duchsustus, because he did not scrape well and left some of the duchsustus. End of the question, letter for letter. And there was before his brilliant eyes these [matters] that are discussed regarding this topic in the sefer Nishmas Adam,[1] and he wishes to know my humble opinion on this matter.

לְבָרֵר דָּבָר זֶה נַאֲרִיךְ קְצָת בְּעֶזְרַת הַשֵּׁם יִתְבָּרַךְ וְה' יָאִיר עֵינֵינוּ בְּתוֹרָתוֹ. הִנֵּה בְּפֵירוּשׁ גְּוִיל הַקְּלָף וְדוּכְסוּסְטוֹס פְּלִיגִי כִּי הַתּוֹסָפוֹת וְר"ת בְּרֹאשָׁם סְבִירָא לְהוּ קְלָף הוּא הָעֶלְיוֹן וְכוֹתְבִין בְּתַחְתִּיתוֹ סָמוּךְ לַבָּשָׂר וְדוּכְסוּסְטוֹס הוּא הֶעָבֶה הַסָּמוּךְ לַבָּשָׂר וְכוֹתְבִין בְּעֶלְיוֹנוֹ צַד הַנּוֹטֶה לִשְׁטָרוֹת וְכָתַב ר"ת כִּי סוּסְטוֹס בִּלְשׁוֹן יָוָן בָּשָׂר אַךְ בָּזֶה כָּתַב רַבִּי בִּנְיָמִין הַמּוֹסָפִי בְּמוּסַף עָרוּךְ עֵרֶךְ דוּכְסוּסְטוֹס שֶׁהַמַּגִּיד כִּחֵשׁ לְר"ת כִּי אֵינֶנּוּ כֵּן בִּלְשׁוֹן יָוָן (מִיהוּ בְּבָבָא בַּתְרָא י"ד עַמּוּד א' כָּתְבוּ תוֹסָפוֹת בִּלְשׁוֹן מְדִיעַ"ש) וְכָתַב ר"ן פֵּרֵק הַמּוֹצִיא יַיִן וְזֶה לְשׁוֹנוֹ הִלְכָךְ כֵּיוָן דְּאֵי כּוֹתְבִין תְּפִלִּין אֶלָּא עַל הַקְּלָף צְרִיכִין כּוֹתְבֵי תְּפִלִּין לִגְרֹד הַקְּלָף יָפֶה

To clarify this matter, we will elaborate somewhat, with God's help, and may Hashem illuminate our eyes in His Torah. Now, regarding the explanation of gevil, klaf, and duchsustus, [the authorities] disagree. Gevil is whole, unsplit hide. **Klaf** and **duchsustus** are the two layers formed by splitting it. **For Tosfos, with Rabbeinu Tam at their head, hold[2] that klaf is the upper [layer],** (it is the thin outer layer nearest the hair) **and one writes on its lower surface, close to the flesh [side].** This is the inner face of the outer layer, formerly joined to the thicker layer. **And duchsustus is the thick [layer] close to the flesh, and one writes on its upper side, the side facing toward the [hair side].** This is the surface formerly attached to the **klaf**. The printed word may be a variant of "hair." **And Rabbeinu Tam wrote that "sustus" in the Greek language means "flesh," However, regarding this, Rabbi Binyamin HaMusafi wrote in the Musaf HaAruch, entry "duchsustus,"[3] that the informant misled Rabbeinu Tam, for this is not so in the Greek language. (However, in Bava Basra 14a, Tosfos wrote [the term] in the Median language.)[4] And**

[1]Nishmas Adam (by R' Avraham Danzig), Klal 14 — discussing the laws of parchment for tefillin and the definitions of klaf and duchsustus.

[2]Tosfos, Shabbos 79b — where Tosfos, following Rabbeinu Tam, define klaf as the outer thin layer (near the hair) and duchsustus as the inner thick layer (near the flesh).

[3]Musaf HaAruch (by R' Binyamin HaMusafi), entry "duchsustus" — disputing Rabbeinu Tam's claim that "sustus" means "flesh" in Greek.

[4]Tosfos, Bava Basra 14a — where Tosfos identify the etymology of "duchsustus" as deriving from the Median language rather than Greek.

לְצַד לָבָן שֶׁהוּא הַדָּבוּק לַבָּשָׂר שֶׁאִם לֹא יִגְרְדוּ אוֹתוֹ כְּלָל כֵּיוָן שֶׁעַכְשָׁיו אֵין חוֹלְקִים אוֹתוֹ לִשְׁנַיִם אֵין זֶה קְלָף אֶלָּא גְּוִיל שֶׁהוּא פָּסוּל לִתְפִלִּין אֲבָל כְּשֶׁגּוֹרְדִין אוֹתוֹ מִצַּד הַלָּבָן שֶׁבּוֹ הֲרֵי הוּא כְּאִלּוּ מְסִירִים מִמֶּנּוּ הַחֵלֶק הַנִּקְרָא דּוּכְסוּסְטוֹס וְנִשְׁאָר הַחֵלֶק הַנִּקְרָא קְלָף וְכוֹתְבִין בּוֹ בְּמָקוֹם דְּבּוּקוֹ לְדוּכְסוּסְטוֹס עַד כָּאן לְשׁוֹנוֹ:

the Ran wrote in Perek HaMotzi Yayin, and this is his language:[5] **"Therefore, since one writes tefillin only on klaf, the writers of tefillin must scrape the klaf well on the white side, which is the side attached to the flesh.** The inner, flesh-facing side is lighter in color. **For if they do not scrape it at all, since nowadays we do not split it into two,** (the art of splitting the hide into two distinct layers [klaf and duchsustus] has been lost) **this is not klaf but rather gevil, which is invalid for tefillin. But when they scrape it on the white side, it is as if they remove from it the part called duchsustus. And what remains is the part called klaf, and one writes on it at the place where it was attached to the duchsustus." End of the Ran's quote.**

וּדְבָרָיו צְרִיכִין עִיּוּן גָּדוֹל שֶׁהִתְחִיל לְהַזְהִיר לִגְרֹר יָפֶה מַשְׁמַע שֶׁאִם מְגָרְדִין רַק שֶׁאֵינָם מְגָרְדִים יָפֶה וְיִשָּׁאֵר קְצָת מֵעוֹר הַתַּחְתּוֹנָה יִפָּסֵל מִטַּעַם כּוֹתֵב עַל דּוּכְסוּסְטוֹס וְשׁוּב מְסַיֵּים כִּי אִם לֹא יִגְרְדוּ כְּלָל אֵין זֶה קְלָף אֶלָּא גְּוִיל מַשְׁמַע הָא אִם מְגָרְדִין מִקְצָת בְּאוֹפֶן שֶׁיָּצָא מִתּוֹרַת גְּוִיל מִיהַת דְּהֲרֵי נָטַל שִׁפּוּיוֹ וְלֹא הֲוֵה כְּאַבְנָא דְּלָא מְשׁוֹפִין יְהֵיה כָּשֵׁר אַף עַל גַּב דְּדוּכְסוּסְטוֹס עֲדַיִן דָּבוּק בּוֹ וְעוֹד קָשֶׁה שֶׁמְּסַיֵּים כְּשֶׁגּוֹרְדִין אוֹתוֹ מִצַּד הַלָּבָן הֲרֵי הוּא כְּאִלּוּ מְסִירִין מִמֶּנּוּ הַחֵלֶק הַנִּקְרָא דּוּכְסוּסְטוֹס עַד כָּאן לְשׁוֹנוֹ מַשְׁמַע בֶּאֱמֶת אֵינוֹ מְסִירִין מִמֶּנּוּ אֶלָּא שֶׁהֲרֵי הוּא דּוֹמֶה כְּאִלּוּ מְסִירִין מִמֶּנּוּ:

And his words require great examination. For he began by warning to scrape "well," (the word "well" [יפה] implies a high standard) **implying that if they do scrape but do not scrape well, and some of the lower skin remains, it would be invalid because he is writing on the duchsustus. But then he concludes: "only if they do not scrape at all," "this is not klaf but gevil."** This implies that **any** scraping — even imperfect — would suffice to remove the hide from the category of gevil. **This implies that if they do scrape partially, such that it exits the category of gevil at least, for its smooth finish has been taken,** (the key characteristic of gevil — being totally unshaped — has been removed by the scraping) **and it is no longer like an unsmoothed stone, it would be valid, even though the duchsustus is still attached to it.** This contradicts the Ran's opening insistence on scraping "well." **And there is another difficulty, for he concludes: "when they scrape it on the white side, it is as if they remove from it the part called duchsustus." End quote. This implies that in truth, it is not actually removed, but rather it merely resembles as if it were removed.** "As if" suggests that scraping is legally treated as removal, though the layer remains.

וְכֵן צְרִיכִין בֵּיאוּר דִּבְרֵי סֵפֶר הַתְּרוּמָה סִימָן קצ"ד וְזֶה לְשׁוֹנוֹ וְאַף עַל גַּב שֶׁאֵין בְּקִיאִין עַתָּה לְקָלְפוֹ שֶׁיִּהְיוּ ב' הַקְּלִיפּוֹת רְאוּיָה לִכְתֹּב עָלָיו זוֹ כְּדִין קְלָף וְזוֹ כְּדִין דּוּכְסוּסְטוֹס מִכָּל מָקוֹם אוֹתָהּ שֶׁהִיא עָבָה וּרְאוּיָה לִכְתֹּב אִם הָיָה לְצַד שֵׂיעָר נִקְרֵאת קְלָף וְכוֹתְבִין בָּהּ לְצַד הַבָּשָׂר וְאִם אוֹתָהּ שֶׁהִיא עָבָה לְצַד בָּשָׂר נִקְרֵאת דּוּכְסוּסְטוֹס כֵּיוָן שֶׁהוּסַר קְלִיפָּה דַּקָּה שֶׁעָלֶיהָ וְכוֹתְבִין בָּהּ לְצַד הַחָתוּךְ שֶׁהוּא סָמוּךְ לַשֵּׂעָר עַד כָּאן לְשׁוֹנוֹ וְהֶעְתִּיקוֹ גַּם כֵּן בְּסֵפֶר נִשְׁמַת אָדָם כְּלָל י"ד אוֹת ד' וְתָמַהּ עָלָיו אֵיךְ כָּתַב שָׁם הֶעָבֶה מִצַּד

And similarly, the words of the Sefer HaTerumah, Siman 194, require explanation.[6] **And this is his language: "And even though we are not expert nowadays to split it such that both layers would be suitable for writing on — this one according to the law of klaf and that one according to the law of duchsustus — nevertheless, the one that is thick and suitable for writing: if it is on the hair side, it is called klaf, and one writes on it on the flesh side.** The **duchsustus** remains attached beneath the writing surface. **And if the thick [part] is on the flesh side, it is called duchsustus, since a thin layer that was on it has been removed, and one writes on it on the cut side, which is close to the hair." End of the Sefer HaTerumah's quote. And [this passage] was also copied in the sefer Nishmas Adam, Klal 14, Os 4,**[7] **and [the Nishmas Adam] expressed astonishment at it: How can he write that where the thick part is on the**

[5]Ran, Shabbos, Perek HaMotzi Yayin (Chapter 8) — discussing the practical requirements for preparing klaf for tefillin in an era when the art of splitting hides has been lost.

[6]Sefer HaTerumah, Siman 194.

[7]See footnote 1 above. Specifically, Nishmas Adam, Klal 14, Os 4, where the author quotes the Sefer HaTerumah and raises the difficulty that if the thick part on the hair side is called klaf and one writes tefillin on its lower side, the entire duchsustus remains attached.