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אב״ד וריש מתיבתא דק״ק דרעזניץ, מאטערסדארף, ומשם עלה ונתעלה
לעיר ואם בישראל ק״ק פרעסבורג המעטירה, ושם חלקת מחוקק ספון, זי״ע

חלק יורה דעה
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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 107

Chalav Akum in Bread and Zimun Eligibility

Laws of Divine Service > General Rules of Blessings

Summary

Correspondent and Context: The Chasam Sofer writes to his student Rabbi Zalman, who has begun teaching in a new community. Rabbi Zalman asks about a local practice.

The Question (Sha'ila): Rabbi Zalman reports that even Jews careful about *chalav akum* buy bread from non-Jewish bakers that was kneaded with it. They consider the bread permitted. He asks whether they may join a *zimun* if the bread is rabbinically prohibited. He also asks whether *chalav akum* was enacted by formal vote and therefore applies even where non-kosher milk is unavailable.

The Ruling (Teshuvah): The Chasam Sofer rules that *chalav akum* is a formal decree that applies everywhere. If the Radbaz's lenient view is correct, Ashkenazi acceptance may instead bind them like a Torah-level vow. He rejects the bread practice because the milk prohibits mixtures, bread, ovens, and vessels. However, those who eat it may join a *zimun*. Sephardim rely on recognized authorities, and excluding them could cause strife.

Shulchan Aruch Background: The discussion centers on Shulchan Aruch Yoreh Deah 115, which prohibits milk milked by a non-Jew without Jewish supervision. The Rema says this milk also prohibits vessels in which it is cooked. Yoreh Deah 118 requires only one seal for foods whose prohibition is rabbinic, including milk. The Chasam Sofer explains how this fits Rav's view that *min bemino* is not nullified.

Key Disputes (Machlokes): The main dispute is whether *chalav akum* is a universal decree or applies only where non-kosher milk is available. The Chasam Sofer cites Rashi, the Kesef Mishneh, the Rema, and the Shach for a universal decree. The Radbaz disagrees, and the Pri Chadash relied on his view while staying with Portuguese Sephardim in Amsterdam. The Chasam Sofer also discusses the two versions in Avodah Zarah about liquid milk left between cheese curds. Finally, he answers the Dagul MeRevavah's question through a *sfek sfeka* based on whether *min bemino* follows name or taste.

שָׁלוֹם וְכָל טוּב לְתַלְמִידִי הַוָתִיק הב"ח הַמְּפֻלָּא מָלֵא עָתִיק כְּבוֹד הָרַב זַלְמָן שֶׁיִּחְיֶה:

Peace and all good to my esteemed student, the distinguished young man, wondrous, filled with aged wisdom, the honorable R' Zalman, may he live.

נָעִימוֹת יְמִינְךָ הִגִּיעַנִי וְהֶחֱנַנִי שֶׁזָּכִיתָ לָבוֹא לְבֵית יִרְא ה' מְרַבִּי' יְהִיֶה מַכִּירְךָ בָּרוּךְ וְאַתָּה תַּצְלִיחַ וְתַשְׂכִּיל בְּמַלַאכְתְּךָ מְלֶאכֶת שָׁמַיִם וְתַלְמִידְךָ יְרְוִיוּן מִדֶּשֶׁן בֵּיתֶךָ וְנַחַל עֲדָנֶיךָ תַּשְׁקֵם אָמֵן. נִידוֹן מַה שְּׁנּוֹהֲגִים שָׁמָּה אֲפִלּוּ הַכְּשֵׁרִים בְּיִשְׂרָאֵל שֶׁנִּזְהָרִים מֵחָלָב שֶׁחָלְבוּ נָכְרִי וְאֵין יִשְׂרָאֵל רוֹאֶה מִכָּל מָקוֹם פָּשׁוּט לָהֶם וְהֶתֵּר גָּמוּר לֶאֱכֹל פַּת שֶׁנִּילַשׁ עִם חָלָב הַנִּזְכָּר לְעֵיל וְלוֹקְחִים מִנַּחְתּוֹם גּוֹי לְהֶדְיָא וְאִם אֵין לָזֶה שׁוּם הֶתֵּר שְׁאֵלָת אִם יֵשׁ לְצָרְפָם לְזִמּוּן הוֹאִיל וְאוֹכְלִים דָּבָר אִסּוּר דְּרַבָּנָן שׁוּב דַּנְתָּ עַל עִקַּר הַדִּין אִי חָלָב נָאֱסָרָה בְּמִנְיָן אֲפִלּוּ בְּמָקוֹם וּזְמַן שֶׁאֵין בְּהֵמָה טְמֵאָה הָרְאוּיָה לַחֲלוֹב מָצוּי בֵּינֵיהֶם כִּבְזְמַן וּמְקוֹמוֹת אֵלּוּ שֶׁהַבְּהֵמוֹת הַטְּמֵאִים הַמְּצוּיִים גַּם הַגּוֹיִם מְמָאֲסִים חֶלְבָּם:

Your pleasant [letter from] your right hand reached me, and I was pleased that you merited to come to the house of a God-fearing person. Your teacher — may He who knows you bless you. And you shall prosper and succeed in your work, the work of Heaven. And your students shall be sated from the bounty of your house, and the stream of your delights shall give them drink, amen. This echoes the language of Tehillim 36:9, adapted as a blessing for R' Zalman's new teaching position. **The matter at hand: what they practice there, even among the upright Jews who are careful regarding milk milked by a non-Jew without a Jew observing, nevertheless, it is self-evident to them and entirely permitted to eat bread kneaded with the aforementioned milk, and they purchase [such bread] from a non-Jewish baker openly. And if there is no basis for this leniency, you asked whether they may be counted for zimun, since they are eating something prohibited rabbinically.** The question is whether eating rabbinically forbidden food disqualifies someone from a **zimun**. **Furthermore, you deliberated on the fundamental law: whether milk [of a non-Jew] was prohibited through a formal vote, even in a place and time where non-kosher animals suitable for milking are not found among them — as in these times and places where even the non-Jews find the milk of the available non-kosher animals repulsive.** A formal vote would make the decree binding even when its original concern does not apply.

הִנֵּה בְּשַׁעֲרֵי דּוּרָא כָּתַב וּמְבִיאוֹ פְּרִי חָדָשׁ סִימָן קי"ד וְזֶה לְשׁוֹנוֹ חָלָב שֶׁחָלְבוּ גּוֹי וְאֵין

[1] **Behold, in the Sha'arei Dura it is written, and the Pri Chadash in Siman 114 cites it, and this is his language: "Milk milked by a non-Jew without a Jew observing — even when there is no non-kosher animal in the pen — it is prohibited, so that no harm should result from it, and one who breaches the fence shall be bitten by a snake.** This is a reference to Koheles 10:8. **So ruled Rashi, of blessed memory." End of quote. And he [the Sha'arei Dura] did not indicate where this is found in Rashi's works. Perhaps in a teshuvah [of Rashi].** He may mean a responsum of Rashi, not Rashi's Talmud commentary. [2] **But it appears to me that this is evident in Masechta Avodah Zarah 35a, regarding the reason for the prohibition of [non-Jewish] cheese.** [3] **R' Chanina said: because it is impossible for it [the cheese] to be without residual traces of milk, according to Rashi's explanation.** The remaining liquid milk is still subject to the earlier milk decree. [4] **And what Tosfos objected — that the non-Jew would not be foolish to mix in non-kosher milk that does not curdle — when he wants to make cheese — but one who examines Rashi's language carefully will understand the matter correctly. For Rashi holds that the milk [prohibition] was an ancient decree [enacted] before they prohibited cheese. And at that time they prohibited milk where a Jew does not observe [the milking], even though the original basis of the decree was due to concern of mixing in non-kosher [milk]. Nevertheless, since they decreed and prohibited it through a formal vote in absolute terms, they prohibited all milk where a Jew neither sees the milking nor is able to see it, even where there is no concern of non-kosher [admixture], such as one milking in order to make cheese. Nevertheless, the milk is prohibited. However, when it changed from its [original] form and became butter or cheese, they did not decree [upon it], and it reverted to being permitted.** [5] **And the Kesef Mishneh also wrote this reasoning. It turns out that in that generation, the milk was prohibited even when one milks to make cheese — thus was it prohibited through formal vote. And the cheese made from it was permitted, since it had changed form. And behold, this [prohibited] milk, as long as it has not changed form, is a full prohibition like any [other rabbinic] prohibition, and it prohibits the oven, the bread, and the vessels. Subsequently, in another generation, they voted to prohibit the cheese made from it. Because even though the milk that curdled and changed form was [thereby] permitted, nevertheless, those residual traces that remained between the drops did not change. Beini atfei** means liquid milk left between the cheese curds. **Even though it is certainly kosher milk, nevertheless, as long as the milk is visible [in its original form] and has not changed, it is prohibited due to the ancient decree regarding milk milked by a non-Jew without Jewish supervision. Every discerning eye will understand that this is Rashi's view from the sweetness of his language. And Tosfos' question is no difficulty at all.**

יִשְׂרָאֵל רוֹאֵהוּ אֵין בְּהֵמָה בַּדִּיר אֲסוּרָה דְּלָא לִיפּוֹק חוּרְבָּא מִינֵּיהּ וּפוֹרֵץ גָּדֵר יִשְׁכְּנֶנּוּ נָחָשׁ כָּךְ פָּסַק רַשְׁ"י זִכְרוֹנוֹ לִבְרָכָה עַד כָּאן לְשׁוֹנוֹ וְלֹא הֵרְאָה מָקוֹם אַיֵּה מְקוֹמוֹ בָּרַשְׁ"י אוּלַי בִּתְשׁוּבָה אַךְ נִרְאֶה לִי מְבֹאָר כֵּן בְּמַסֶּכֶת עֲבוֹדָה זָרָה ל"ה עַמּוּד א' בְּטַעַם אִסּוּר הַגְּבִינָה אָמַר רַבִּי חֲנִינָא מִשּׁוּם דְּאִי אֶפְשָׁר לָהּ בְּלֹא צַחְצוּחֵי חָלָב עַל פִּי פֵּירוּשׁ רַשְׁ"י וּמַה שֶּׁהִקְשׁוּ הַתּוֹסָפוֹת הָא הַגּוֹי לֹא יִהְיֶה שׁוֹטֶה לְעָרֵב חָלָב טָמֵא שֶׁאֵינוֹ עוֹמֵד בְּשֶׁרוֹצֶה לְגַבֵּן וְהַמְעַיֵּן בִּלְשׁוֹן רַשְׁ"י יָבִין דָּבָר לַאֲשׁוּרוֹ דְּסָבִירָא לֵיהּ לְרַשְׁ"י דְּחָלָב גְּזֵרָה קַדְמוֹנִיּוֹת הָיְתָה קוֹדֶם שֶׁאָסְרוּ גְּבִינָה וְאָז אָסְרוּ הֶחָלָב שֶׁאֵין יִשְׂרָאֵל רוֹאֵהוּ אַף עַל גַּב דִּתְחִלַּת גְּזֵרָתוֹ הָיָה מִשּׁוּם חֲשַׁשׁ עֵירַב דָּבָר טָמֵא מִכָּל מָקוֹם כֵּיוָן שֶׁגָּזְרוּ וְאָסְרוּ בְּמִנְיָן סְתָם אָסְרוּ כָּל חָלָב שֶׁאֵין יִשְׂרָאֵל רוֹאֶה הַחֲלִיבָה אוֹ יָכוֹל לִרְאוֹת אֲפִלּוּ לֵיכָא חֲשַׁשׁ דָּבָר טָמֵא כְּגוֹן הַחוֹלֵב לְגַבֵּן מִכָּל מָקוֹם הֶחָלָב אֲסוּרָה אָמְנָם כְּשֶׁנִּשְׁתַּנָּה מִצּוּרָתָהּ וְנַעֲשֵׂית חֶמְאָה אוֹ גְּבִינָה לֹא גָּזְרוּ וְחָזְרָה לְהֶתֵּיר וְכֵן כָּתַב סְבָרָא זוֹ כֶּסֶף מִשְׁנֶה נִמְצָא בְּאוֹתוֹ הַדּוֹר הָיָה הֶחָלָב אָסוּר אֲפִלּוּ חוֹלֵב לְגַבֵּן כָּךְ נֶאֱסַר בְּמִנְיָן וְהַגְּבִינָה הַנַּעֲשָׂה מִזֶּה הָיָה מוּתָּר כֵּיוָן שֶׁנִּשְׁתַּנָּה וְהִנֵּה הֶחָלָב הַלָּז כָּל זְמַן שֶׁלֹּא נִשְׁתַּנִּית הִיא אִסּוּר גָּמוּר כְּכָל הָאִיסּוּר וְאוֹסֶרֶת תַּנּוּר וָתַּת וְהַכֵּלִים שׁוּב בְּדוֹר אַחֵר נִמְנוּ לֶאֱסוֹר הַגְּבִינָה הַנַּעֲשִׂית מִמֶּנָּה מִשּׁוּם נִהְיֵי דְּאוֹתוֹ חָלָב שֶׁיִּקְּפָה וְנִשְׁתַּנִּית הוּתְּרָה מִכָּל מָקוֹם אוֹתוֹ צַחְצוּחִית שֶׁנִּשְׁאֲרוּ בֵּינֵי אַטְפֵי לֹא נִשְׁתַּנּוּ אַף עַל פִּי שֶׁהוּא חָלָב טָהוֹר בְּוַדַּאי מִכָּל מָקוֹם כָּל זְמַן שֶׁהֶחָלָב בְּעַיִן וְלֹא נִשְׁתַּנָּה הִיא אָסוּר מִשּׁוּם גְּזֵרָה קַדְמוֹנִיּוֹת דְּחָלָב שֶׁחֲלָבוֹ נָכְרִי וְאֵין יִשְׂרָאֵל רוֹאֵהוּ כָּל עַיִן רוֹאֶה יָבִין שֶׁזֶּה דַּעַת רַשְׁ"י בְּמֶתֶק לְשׁוֹנוֹ וְלֹא קַשְׁיָא מִידֵּי קוּשְׁיַת תּוֹסָפוֹת וְנִרְאֶה לִי דְּהָאוֹמְרִים דִּפְלִיגִי אַדְּרַבִּי חֲנִינָא וְסָבִירָא לֵיהּ טַעַם אַחֵר בְּאִסּוּר גְּבִינָה הַיְינוּ מִשּׁוּם דְּלָא סָבִירָא לֵיהּ לָחוּשׁ לְבֵינֵי אַטְפֵי כַּאֲשֶׁר

[1] Sha'arei Dura — A major Rishonic work on *issur veheter* by R' Yitzchak of Düren. The ruling cited here — that *chalav akum* is prohibited even without non-kosher animals in the pen, attributed to Rashi — is brought by the Pri Chadash in his commentary to YD Siman 114.

[2] Avodah Zarah 35a — The Gemara discusses the reasons for the prohibition of non-Jewish cheese (*gevinas akum*). The Mishnah there states: "ואלו דברים של גויים אסורים ואין איסורן איסור הנאה... הגבינה." The Gemara then explores the reason behind the cheese prohibition.

[3] Avodah Zarah 35a–b — R' Chanina's reason for the cheese prohibition: "משום דאי אפשר לה בלא צחצוחי חלב" — it is impossible for cheese to be without residual traces of milk. According to Rashi's interpretation, these traces are liquid milk that remains subject to the earlier decree against *chalav akum*.

[4] Tosfos, Avodah Zarah 35a — Tosfos asks that a non-Jew making cheese would not be foolish enough to add non-kosher milk, since it does not curdle. The Rambam likewise rules: "חֵלֶב בְּהֵמָה טְמֵאָה אֵינוֹ נִקְפָּה וְעוֹמֵד כַּחֲלֵב הַטָּהוֹרָה" (Hilchos Ma'achalos Asuros 3:15).

[5] Kesef Mishneh, Hilchos Ma'achalos Asuros, Chapter 3 — The Kesef Mishneh explains the Rambam's view that the original decree against *chalav* was absolute but applied only to milk in its liquid form; once transformed into cheese or butter, the decree did not apply.

יבאר אם ירצה השם ותלוי זה בשני לשונות מסכת עבודה זרה ל"ה עמוד ב' ואי בעית אימא אפילו תימא דקבעי ליה לגבינה איכא דקאי ביני אטפי אבל לישנא קמא לא חיישׁ לביני אטפי אפילו בישׂראל הקונה חלב מנכרי לגבן מכל שכן נכרי חולב לעצמו לגבן ולא דפליגי לישנא אי הויה גזירה סתומה או לא אלא פליגי בלשון תחלת הגזירה ולכולי עלמא החלב נאסרה במנין ושוב אסורה בכל מקום ובכל זמן אך פליגי אי תחלת הגזירה גם היה אחלב שעושׂים ממנה גבינה ומשום ביני אטפי או מתחלה לא נחתי להכי ונראה לי עוד המדקדק ויעיין בלשונותיו של הגהות מיימוניות ממקום אחר באיזה מקומן שם יראה ויבין כי בהא לא מסתפקים כלל ולא נחלק אדם מעולם דחלב דביני אטפי אותה שלא נשתתית אסורה שהרי נאסרה במנין ואוסרת תערובתה ומה לי ששערבה בקדרה או בגבינה וחמאה ולא יאכל הגבינה כי אם בהסרת צחוחי החלב ההיא ובזה לא פליגי אך רבי חנינא סבירא ליה אסרו הגבינה הנכרית משום צחוחי חלב גזרו על הגבינה אפילו בהסיר הצחוחית על ידי בשׁוּל

Tosfos' objection does not apply. The concern is the liquid milk still covered by the earlier decree, not adulteration. **And it appears to me that those who say they disagree with R' Chanina and hold a different reason for the cheese prohibition — this is because they do not hold that one must be concerned about the [residual] traces between the drops, as will be explained, God willing.** [6] **And this depends on the two versions in Masechta Avodah Zarah 35b. "And if you wish, say: even if you say he wants it for cheese, there is [milk] that remains between the drops."** This is the Gemara's second version. It remains concerned about liquid milk between the curds. **But the first version does not concern itself with the traces between the drops, even regarding a Jew who buys milk from a non-Jew to make cheese, all the more so a non-Jew milking for himself to make cheese. And [the two versions] do not disagree about whether it was a blanket decree or not. Rather, they disagree about the language of the original decree. And according to all, the milk was prohibited through formal vote, and therefore it is prohibited in every place and at every time. They only disagree whether the original decree also applied to milk from which one makes cheese, and because of the [residual] traces between the drops, or whether originally they did not intend this.** [7] **And it further appears to me that one who examines carefully the language of the Hagahos Maimoniyos from various places [in his commentary] there, will see and understand that regarding this matter there is no doubt at all, and no one ever disagreed that the milk between the drops — that [portion] which was not absorbed — is prohibited. For it was prohibited through formal vote, and it prohibits its mixture. And what difference does it make whether it was mixed in a pot, or in cheese and butter? And one should not eat the cheese except after removing those traces of that milk. And about this they do not disagree. Rather, R' Chanina holds they prohibited non-Jewish cheese because of residual milk traces — they decreed upon the cheese even after removing the traces through cooking.**

וְעַל זֶה פְּלִיגִי אֲמוֹרָאֵי וּסְבִירָא לֵיהּ גְּבִינָה מְבֻשֶּׁלֶת לֹא נֶאֱסֶרֶת אֶלָּא מִטַּעַם נִיקּוּר אוֹ שֶׁמַּן חֲזִיר אוֹ הַעֲמָדַת הַקֵּיבָה וּפָסַק רמב"ם כְּוָתֵיהּ וְכֵן חָלָב שֶׁחָלְבוֹ נָכְרִי וּקְנָאָהּ יִשְׂרָאֵל וְעָשָׂה מִמֶּנָּה גְּבִינוֹת גַּם לְלִישָׁנָא קַמָּא הָיָה אָסוּר אִם לֹא יָסִירוּ הָאי דְּקָאֵי בֵּינֵי אַטְפֵי אֲבָל אִי בָּשֵׁיל לַהּ שָׁרֵי וְאִי בָּעֵית אֵימָא מִשּׁוּם דְּקָאֵי בֵּינֵי אַטְפֵי אָסְרִי אֲפִילּוּ לְגַבֵּן יִשְׂרָאֵל וְלֹא קַיְימָא לַן כְּלִישָׁנָא בָּתְרָא הָהוּא דְּלֵבֵיני אַטְפֵי לֹא חַיְישִׁינַן לְאִיסּוּר מְבֻשָּׁל אֲבָל בְּלִי בְּשׁוּל פְּשִׁיטָא דְּאָסוּר וְאִי לֹא תִּפָּרֵשׁ כֵּן דִּבְרֵי הַגָּהוֹת מַיְמוֹנִיּוֹת אֵין מוּבָן לְדִבָּרָיו בַּמֶּה שֶׁכָּפַל דרמב"ם לֵית לֵיהּ הַךְ דביני אטפי וְלֹא חָשַׁשׁ לְצַחְצוּחֵי חָלָב וְשׁוּב כָּתַב וְכָפַל

And about this the Amoraim disagree, and they hold that cooked cheese was not prohibited [8] **except because of snakebite, pig fat, or setting it with rennet from a non-kosher stomach. And the Rambam ruled accordingly. And similarly, milk milked by a non-Jew that a Jew purchased and made into cheese — even according to the first version it would be prohibited, unless they removed that which remains between the drops. But if he cooked it, it would be permitted.** The first version permits it after cooking because cooking removes the liquid milk. **And [according to the] "if you wish, say" [version]: because of what remains between the drops, they prohibited even [cheese made by] a Jewish cheesemaker. And we do not rule according to that second version, that regarding the traces between the drops, we do not concern ourselves with the prohibition when [the cheese is] cooked. But without cooking, it is obvious that it is prohibited.** This applies even according to the lenient first version. **And if you do not explain the words of the Hagahos Maimoniyos in this way, his words are not understandable regarding what he repeated —**

[6] Avodah Zarah 35b — The Gemara presents two versions: the first version does not concern itself with *beini atfei* (residual milk between the curds), while the second version ("ואי בעית אימא") states: "אפילו תימא דקבעי ליה לגבינה, איכא דקאי ביני אטפי" — even when milking for cheese, liquid traces remain between the drops. The text includes: "אֲפִילּוּ תֵּימָא רַ..." leading into this discussion.

[7] Hagahos Maimoniyos on Rambam, Hilchos Ma'achalos Asuros — The Hagahos Maimoniyos discusses the Rambam's position on *beini atfei* and the requirement of cooking for cheese and butter, citing a Tosefta as support.

[8] Avodah Zarah 35b — The alternate reasons for the cheese prohibition: "רַב מַלְכִּיָּא מִשְׁמֵיהּ דְּרַב אַדָּא בַּר אַהֲבָה אָמַר: מִפְּנֵי שֶׁמַּחְלִיקִין פָּנֶיהָ בְּשׂוּמֶן חֲזִיר. רַב נַחְמָן בַּר יִצְחָק אָמַר: מִפְּנֵי שֶׁמַּעֲמִידִין אוֹתָהּ בַּשְּׁרֵף הָעֶרְלָה. חִסְדָּא אָמַר: מִפְּנֵי שֶׁמַּעֲמִידִין אוֹתָהּ בְּחוֹמֶץ. רַב נַחְמָן בַּר יִצְחָק אָמַר: מִפְּנֵי שֶׁמַּעֲמִידִין אוֹתָהּ בְּשֶׁרֶף הָעֶרְלָה."

דלרמב"ם לֹא הֻתַּר גְּבִינָה וְחֶמְאָה אֶלָּא בְּבִשּׁוּל וּמַיְתִי תּוֹסֶפְתָּא עַל זֶה אֶלָּא עַל כָּרְחֲךָ כַּנִּרְאֶה לִי׃

that the Rambam does not hold this matter of "between the drops" and did not concern himself with traces of milk — and then he wrote and repeated that according to the Rambam, cheese and butter are only permitted through cooking, and he brings a Tosefta on this. It must be as I explained above. The Rambam rejects R' Chanina's added restriction after the traces are removed. He still requires cooking to remove the liquid milk.

וּבְכֶסֶף מִשְׁנֶה שָׁם כָּתַב לְהֶדְיָא דְּחָלָב הוּא דָּבָר הַנֶּאֱסָר בְּמִנְיָן וְכֵן מוֹרֶה פַּשְׁטוּת הַמָּרְדְּכִי דְּמֵבִיא הָרַב בֵּית יוֹסֵף רֵישׁ הַסִּימָן אֶלָּא דְּהָדַר תָּבַר לְגַוַּיזֵי' וְכָתַב הַטַּעַם מִשּׁוּם שֶׁמָּא הָיָה חָלָב טָמֵא בַּכֵּלִים מֵאָז מַשְׁמַע אִי לֹא שְׁכִיחֵי חָלָב טָמֵא בְּכָל הַשְּׁכוּנָה מֻתָּר וְרֵישָׁא לָאו הַיְינוּ סֵיפָא׃

[9] **And the Kesef Mishneh there writes explicitly that milk is something that was prohibited through a formal vote.** [10] **And so indicates the plain meaning of the Mordechai, which the Beis Yosef brings at the beginning of the siman. But then he goes back and shatters [his own reasoning].** The Mordechai first implies a formal decree, but then gives a reason that makes it depend on circumstances. **And he writes the reason: because perhaps there was non-kosher milk in the vessels. From which it implies that if non-kosher milk is not common in the entire neighborhood, it would be permitted. And the beginning [of the Mordechai's statement] does not match the end.**

וְעַיֵּין דַּרְכֵי מֹשֶׁה אוֹת ב' בְּסוֹפוֹ מֵבִיא דִּבְרֵי הָאִיסּוּר וְהֶיתֵּר אֲבָל אִם הָיָה לוֹ חוֹתָם אֶחָד בֶּחָלָב דַּי בְּכָךְ הוֹאִיל וְרֹב מִן הֶחָלָב כָּשֵׁר וְאַף אִם עֵירַב בּוֹ דָּבָר טָמֵא אֵינוֹ אָסוּר רַק מִדְּרַבָּנָן וְלָכֵן דַּי לוֹ בְּחוֹתָם אֶחָד עַד כָּאן לְשׁוֹנוֹ וְעַיֵּין ש"ך סִימָן קי"ח סְעִיף קָטָן ח' דְּמֵבִיא הַזֶּה טַעֲמָא אֶלָּא שֶׁכָּתַב עוֹד טַעַם אַחֵר בְּשֵׁמוֹ כֵּיוָן דְּרֹב חָלָב הַמָּצוּי בֵּינֵינוּ הֲוָה חָלָב טָהוֹר אִם כֵּן לֵיכָא אֶלָּא אִיסּוּר דְּרַבָּנָן ודגול מֵרְבָבָה הִקְשָׁה הָא מָרָא דְּשָׁמַעְתָּא דְּחָלָב מוּרְיֵיס פַּת גְּבִינָה הוּא רַב וּסְבִירָא לֵיהּ מִין בְּמִינוֹ לֹא בָטֵיל וּמִכָּל מָקוֹם סַגִּי לֵיהּ בְּחוֹתָם אֶחָד וְלֹא קַשְׁיָא מִידֵּי דְּיֵשׁ לוֹמַר רַב מְדַבֵּר בְּמָקוֹם שֶׁאֵין חָלָב טָמֵא מָצוּי וְאֵינוֹ אָסוּר רַק מִשּׁוּם גְּזֵרָה וְהָאִיסּוּר וְהֶיתֵּר רָצָה לִיתֵּן טַעַם דְּלִדְיָדַן אַפְלוּ בְּמָקוֹמוֹת שֶׁמָּצוּי חָלָב טָמֵא מִכָּל מָקוֹם סַגִּי בְּחוֹתָם אֶחָד מִשּׁוּם דְּקַיְימָא לַן מִין בְּמִינוֹ הִיא בְּרוּבָּא׃

[11] **And see the Darkei Moshe, letter 2, at its end,** [12] **which brings the words of the Issur VeHeter: "But if he had one seal on the milk, that suffices, since the majority of the milk is kosher, and even if he mixed in non-kosher [milk], it is only rabbinically prohibited. Therefore one seal suffices." End of quote.** Shulchan Aruch Yoreh Deah 118:1 requires only one seal for rabbinic prohibitions. [13] **And see the Shach, Siman 118, sub-section 8, which brings this reasoning. But he also writes another reason in its name: since the majority of milk found among us is kosher milk, therefore there is only a rabbinic prohibition.** [14] **And the Dagul MeRevavah objected: Behold, the master of the teaching regarding chalav, muryas, pas, gevinah is Rav.** Milk, fish brine, bread, and cheese are the four foods in Shulchan Aruch Yoreh Deah 118:1 that require one seal. **And he [Rav] holds that a same-species mixture is not nullified.** In Avodah Zarah 73a, Rav holds that **min bemino** cannot be annulled even by a majority. **And yet one seal suffices for him.** If Rav says **min bemino** is never nullified, one seal should not suffice. A non-Jew might add non-kosher milk and reseal the container. **But this is no difficulty. For one can say that Rav is speaking of a place where non-kosher milk is not available, and it is only prohibited due to the [blanket] decree.** If non-kosher milk is unavailable, only the rabbinic decree applies. One seal therefore suffices. **And the Issur VeHeter wanted to give a reason that according to us, even in places where non-kosher milk is available, one seal suffices, because we rule that a same-species mixture is nullified by majority.** We do not follow Rav, so the non-kosher milk is nullified in the kosher majority. Only a rabbinic prohibition remains.

שַׁבְתִּי וְרָאִיתִי דְּקוּשְׁיַית דגול מֵרְבָבָה בְּלָאו הָכִי יֵשׁ לְיַשֵּׁב וְלוֹמַר רַב סְבִירָא לֵיהּ טַעַם כְּעִיקָּר לָאו דְּאוֹרַיְיתָא וּסְבִירָא לֵיהּ לְעִנְיַן

I reconsidered and saw that the Dagul MeRevavah's question can in any case be resolved, by saying that Rav holds that ta'am ke'ikar (the

[9] See footnote 5 above. The Kesef Mishneh there writes explicitly that milk was prohibited through formal vote (*nimnuh*).

[10] Mordechai, cited by the Beis Yosef at the beginning of SA YD 115 — The Mordechai initially implies that *chalav akum* is a blanket decree, but then provides a reason based on practical concern about non-kosher milk in vessels, creating an internal contradiction.

[11] Darkei Moshe, YD 115, letter 2 — The text records: "ומיהו בחותם אחד מותר להניח ביד א"י לכתחילה אפילו זמן מרובה דלא טרח ומזייף," establishing that one seal suffices for milk sent via a non-Jew.

[12] The Issur VeHeter (HaAruch) — A major halachic work on *issur veheter* frequently cited by the Rema and Darkei Moshe.

[13] Shach, Yoreh Deah 118, s.k. 8.

[14] Dagul MeRevavah on Shach, YD 118.

מִין בְּמִינוֹ בָּתַר טַעְמָא אָזְלִינַן וְלֹא בָּתַר שְׁמָא כְּאַבַּיֵי וְדְלָא כְּרָבָא וְהַשְׁתָּא יֵשׁ לוֹמַר נְהִי כָּל חָלָב טָמֵא הֲוָה מִין בְּמִינוֹ בִּשְׁמָא עִם חָלָב טָהוֹר מִכָּל מָקוֹם בְּטַעְמָא אִיכָּא חָלָב טָמֵא דְּשָׁוֶה בְּטַעְמָא וְאִיכָּא דְּלָא שָׁוֶה וּלְפִי זֶה הֲוָה סְפֵק סְפֵיקָא בֵּין לְדִידַן בֵּין לְרַב לְדִידַן הֲוָה סְפֵק סְפֵיקָא שֶׁמָּא לֹא עֵירַב בּוֹ כְּלָל וְאִם תִּמְצִי לוֹמַר עֵירַב שֶׁמָּא אוֹתָהּ חָלָב הַשָּׁוֶה בִּשְׁמָא וְטַעְמָא וּבָטֵל בְּרוֹב וְלֵיכָּא תּוּ אֶלָּא אִיסּוּר דְּרַבָּנָן וְסַגִּי בְּחוֹתָם אֶחָד וּלְרַב הֲוָה סְפֵק סְפֵיקָא בְּהֵיפֶךְ דִּלְמָא לֹא עֵירַב וְאִם תִּמְצִי לוֹמַר עֵירַב שֶׁמָּא מַאוֹתָהּ חָלָב דְּשָׁוֶה בִּשְׁמָא וְלֹא בְּטַעְמָא דְּמִין בְּמִינוֹ לָא הֲוָה דְּרַב אָזִיל בָּתַר טַעְמָא וּמִשּׁוּם טַעַם כְּעִיקָּר לָאו דְּאוֹרַיְיתָא וְסַגִּי בְּחוֹתָם אֶחָד כֵּן יֵשׁ לוֹמַר מִכָּל מָקוֹם מְבֹאָר מִכָּאן דְּמַשְׁמַע דְּחֵלֶב טָמֵא מִגְּזֵירָה נֶאֱסָרָה בְּמִנְיָן בְּלֹא פְּלוּג וְכֵן יֵרָאֶה בְּהֶדְיָא בִּלְשׁוֹן רשב"א בְּתוֹרַת הַבַּיִת הָאָרֹךְ וְהָרַמְ"א בְּהַגָּהָה סִימָן קט"ו שֶׁכָּתַב וְאִם חֲלָבוֹ גּוֹיִם מְקֻצָּת בְּהֵמוֹת וְכוּלֵי וּמַה שֶּׁכָּתַב עָלָיו ש"ך סְעִיף קָטָן י"ג וְכֵן מַה שֶּׁכָּתַב רמ"א עוֹד שָׁם אוֹסֶרֶת כֵּלִים שֶׁנִּתְבַּשְּׁלָה בָּהֶם וְכוּלֵי וּמַה שֶּׁכָּתַב ש"ך עָלָיו סְעִיף קָטָן י"ד עַיֵּין שָׁם מְבֹאָר לְהֶדְיָא דְּסָבִירָא לֵיהּ דְּנֶאֱסֶרֶת בְּמִנְיָן כְּיֵינָם וּבְשׁוּלָם אַךְ הַפְּרִי חָדָשׁ מֻבְיָא תְּשׁוּבָה רדב"ז דְּפְשִׁיטָא לֵיהּ דְּחָלָב לֹא נִמְנוּ עָלָיו לְאוֹסְרָה וּמִשּׁוּם הָכִי הֵיכָא דְּלֵיכָא דָּבָר טָמֵא מָצוּי מֻתֶּרֶת וְכָתַב פְּרִי חָדָשׁ שֶׁעַל זֶה סָמַךְ בִּהְיוֹתוֹ בְּאַמְשְׁטֶרְדָם אָכַל עִמָּהֶם חָלָב שֶׁחָלְבוּ נָכְרִי רוֹצֶה לוֹמַר כִּי בְּמְדִינָתוֹ מָקוֹם שָׁיְצָא מִשָּׁם שָׁמָּה שְׁכִיחִי חֲלַב גְּמַלִּים מַה שֶּׁאֵין כֵּן בִּמְדִינָתֵנוּ הִנֵּה מַה שֶּׁכָּתַב בְּאַמְשְׁטֶרְדָם רְצוֹנוֹ שֶׁנִּתְאַכְסֵן אֵצֶל סְפָרַדִּים פּוֹרְטוּגִיזִים שָׁם וְהֵם נוֹהֲגִים הֶתֵּר עַל פִּי רד"בז הַנְּזָכָר לְעֵיל הִנֵּה בְּגוּף הַדִּין כְּבָר כָּתַבְתִּי לְעֵיל דַּעְתִּי מִשֵּׁ"ס וּפוֹסְקִים אַךְ לוֹ יִהְיֶה שֶׁיִּהְיֶה כְּדַעַת הָרַדְבַּ"ז וְעַל כָּל פָּנִים אֵיכָא דַּעַת רש"י בַּגְּמָרָא וּתְשׁוּבָה רש"י וְעוֹד פּוֹסְקִים דְּסָבִירָא לֵיהּ לְאֶסוֹר וְרַמְ"א וְכֶסֶף מִשְׁנֶה כָּתַב כְּמוֹתוֹ

principle that taste is equivalent to substance) is not Torah law.[15] **And he holds that regarding min bemino, we follow the taste, and not the name — like Abaye, and unlike Rava.** The dispute is whether **min bemino** depends on a shared name or a shared taste. Rav follows taste, like Abaye. **And now one can say: Granted, all non-kosher milk is min bemino by name with kosher milk —** All milk shares the name "milk," regardless of its source. **Nevertheless, in taste, there is non-kosher milk that is the same in taste [as kosher milk], and there is that which is not the same. And according to this, it would be a sfek sfeka (double doubt), both according to us and according to Rav. According to us, the sfek sfeka is: perhaps he did not mix in anything at all, and if you were to say he did mix, perhaps it is that milk which is the same in both name and taste, and [therefore] is nullified by majority. And then there is only a rabbinic prohibition, and one seal suffices. And according to Rav, the sfek sfeka works in reverse: Perhaps he did not mix [at all], and if you say he did mix, perhaps from that milk which is the same in name but not in taste — so it would not be min bemino, since Rav follows the taste, and because ta'am ke'ikar is not Torah law [according to Rav],** (because **ta'am ke'ikar** is only rabbinic for Rav, any remaining prohibition is rabbinic) **and one seal suffices. So one can say. In any case, it is clear from here that it is implied that milk [of a non-Jew] was prohibited by decree through formal vote, without distinction.** [16] **And so appears explicitly in the language of the Rashba in Toras HaBayis HaAruch.** [17] **And the Rema in his gloss to Siman 115, who writes: "And if non-Jews milked some of the animals, etc."** [18] **And what the Shach writes on this, sub-section 13. And also what the Rema further writes there: "It prohibits the vessels in which it was cooked, etc."** [19] **And what the Shach writes on this, sub-section 14 — see there. It is explicit that they hold it was prohibited through formal vote, like their wine and their cooking. Stam yeinam** and **bishul akum** are also formal decrees. Changed circumstances do not limit where they apply. [20] **But the Pri Chadash brings a teshuvah of the Radbaz, who considers it obvious that regarding milk, they did not vote to prohibit it. And therefore, where non-kosher [animals] are not available, it is permitted. And the Pri Chadash writes that based on this he relied when he was in Amsterdam, [and] he ate with them milk milked by a non-Jew. Meaning: in his country, the place from which he came, camel milk was common there, unlike in our countries. Now, what he means by "in Amsterdam" is that he stayed with Sephardi Portuguese Jews there, and they practice leniency based on the aforementioned Radbaz.** The Pri Chadash joined Sephardim who relied on the Radbaz. This does not show that he permitted it for Ashkenazim. **Now, regarding the fundamental law, I have already written above my opinion from the Talmud and the poskim. But even if it were like the Radbaz's view, in any case, there is Rashi's view in the Gemara, and a teshuvah of Rashi, and other poskim who hold to**

[15] The Chasam Sofer's argument relies on the principle that Rav holds *ta'am ke'ikar* (taste is equivalent to substance) is not Torah law, as discussed in Avodah Zarah 67a–b, and that Rav determines *min bemino* by taste rather than name.

[16] Rashba, Toras HaBayis HaAruch — The Rashba discusses the nature of the *chalav akum* prohibition in the relevant section of his comprehensive halachic work.

[17] SA YD 115, Rema — The Rema's glosses include: "...ולכתחלה צריך להיות הישראל בתחילת החליבה ויראה בכלי שלא יהי" and further rulings about partial milking by non-Jews and the prohibition extending to vessels.

[18] Shach, Yoreh Deah 115, s.k. 13.

[19] Shach, Yoreh Deah 115, s.k. 14.

[20] Radbaz (R' David ben Zimra), cited by the Pri Chadash on YD 115 — The Radbaz holds that *chalav akum* was never formally enacted through a vote, and therefore in places where non-kosher milk-producing animals are not found, the milk is permitted.

וַאֲנוּ נוֹהֲגִים כֵּן אִם כֵּן אֲפִלּוּ הֲלָכָה כְּאִינָךְ פּוֹסְקִים מְכָּל מָקוֹם כֵּיוָן דְּיֵשׁ דֵּעָה לְהַחְמִיר כְּבָר קִבְּלוּ אֲבוֹתֵינוּ עֲלֵיהֶם כְּאוֹתָהּ דֵּיעָה וְאָסוּר עָלֵינוּ בְּנֵי אַשְׁכְּנַז מִדִּינָא וְאֵין לוֹ הַתָּרָה וְעַיֵּין מָגֵן אַבְרָהָם סִימָן קנ"א סוֹף סְעִיף קָטָן ז' וְקָרוֹב בְּעֵינַי נָדָר דְּאוֹרַיְיתָא אַף עַל פִּי שֶׁמִּכָּל מָקוֹם קִיל כְּכָל אִיסּוּר דְּרַבָּנָן הַיְינוּ כָּךְ קִבְּלוּ הַנֵּדֶר שֶׁיִּהְיֶה אָסוּר עָלֵינוּ כְּקוּלָּא אִיסּוּר דְּרַבָּנָן אֲבָל לַעֲבוֹר עַל זֶה עוֹבֵר עַל נֵדֶר דְּאוֹרַיְיתָא וְהַיְינוּ אִם הֲלָכָה כִּרְדב"ז לְהָקֵל וְרַק אֲבוֹתֵינוּ קִבְּלוּ עֲלֵיהֶם כְּדַעַת הַמַּחְמִיר הֲוָה לֵיהּ נֵדֶר דְּאוֹרַיְיתָא אַךְ אִם עִיקַּר הַדִּין דְּלֹא כִּרדב"ז אִם לֹא קִבַּלְנוּ עָלֵינוּ כְּלוּם אֶלָּא שֶׁהָאִיסּוּר הוּא כָּךְ מֵעִיקָּרָא אֵינָנוּ נֵדֶר אֶלָּא הָעוֹבֵר הוּא עַבְרָן בְּאִיסּוּר דְּרַבָּנָן נִמְצָא חוּמְרָא קוּלוֹ וְקַל לְהָבִין:

prohibit — and the Rema and Kesef Mishneh write accordingly — and we practice accordingly. Therefore, even if the halachah follows those [lenient] poskim, nevertheless, since there is an opinion to be stringent, our forefathers already accepted upon themselves that opinion, and it is prohibited upon us, the Ashkenazi Jews, by law, and there is no dispensation for it. [21] **And see the Magen Avraham, Siman 151, end of sub-section 7. And it is close to my view that this constitutes a Torah-level vow. Even though it is nevertheless treated leniently like all rabbinic prohibitions — That is, they accepted the vow that it should be prohibited upon us with the leniencies of a rabbinic prohibition. But to violate this [entirely], one violates a Torah-level vow.** The vow was accepted with the leniencies of a rabbinic prohibition, but violating it breaks a Torah-level vow. **And this is [the case] if the halachah follows the Radbaz to be lenient, and it is only that our forefathers accepted upon themselves the stringent opinion. It has the status of a Torah-level vow. But if the fundamental law is not like the Radbaz — we did not accept anything upon ourselves at all, rather the prohibition is inherently so, it is not a vow; rather, the violator is a transgressor of a rabbinic prohibition. It turns out its stringency is its leniency, and this is easy to understand.** If the strict view is correct, violating the decree is rabbinic. If the Radbaz is correct, violating the accepted practice breaks a Torah-level vow.

וּמַה שֶּׁכָּתַבְתִּי שֶׁהַקַּבָּלָה הוּא נֵדֶר דְּאוֹרַיְיתָא אַף עַל פִּי שֶׁלֹּא אָסַר עַצְמוֹ בִּלְשׁוֹן קוֹנָם מִכָּל מָקוֹם כָּל שֶׁמְּקַבֵּל עַל עַצְמוֹ לַעֲשׂוֹתוֹ דָּבָר מִצְוָה הֲוֵי דְּאוֹרַיְיתָא וְנָפְקָא מִפִּיךָ זוֹ צְדָקָה כָּךְ כָּתַב ר"ן נְדָרִים ח' עַמּוּד א' דִּיבּוּר הַמַּתְחִיל עָלָיו לְהַשְׁכִּים וְכוּלֵי וְהַמְּקַבֵּל עָלָיו פְּרִישׁוּת שֶׁלֹּא לַעֲשׂוֹת כְּגוֹן נִידּוֹן שֶׁלְּפָנֵינוּ שֶׁלֹּא לֶאֱכוֹל חָלָב גּוֹי אוֹ קַבָּלַת תַּעֲנִית נָפְקָא לַן מִקַּבָּלַת נְזִירוּת שֶׁאוֹמֵר בִּלְשׁוֹן קַבָּלָה וּכְבָר הֶאֱרַכְתִּי בָּזֶה בְּגִלָּיוֹן מָגֵן אַבְרָהָם סְעִיף קָטָן י"ו וְאֵין כָּאן מְקוֹמוֹ:

And what I wrote — that the acceptance is a Torah-level vow — even though one did not prohibit himself using the language of "konam," nevertheless, whoever accepts upon himself to do something as a mitzvah act, it is Torah-level. And it derives from "from your mouth" — this [refers to] tzedakah. Devarim 23:24 requires a person to keep a spoken commitment. The Sages apply "from your mouth" to charity pledges. [22] **So writes the Ran, Nedarim 8a, s.v. "alav lehashkim, etc." And one who accepts upon himself abstinence — not to do [something] — such as the case before us — not to eat non-Jewish milk — or accepting a fast — derives for us from the acceptance of nazirus, which is stated in the language of acceptance.** A nazir uses language of acceptance, not **konam**. This still creates a Torah-level obligation. [23] **And I have already elaborated on this in my glosses to the Magen Avraham, sub-section 16, and this is not the place for it.**

מֵעַתָּה חָלָב שֶׁחָלְבוּ נָכְרִי וְאֵין יִשְׂרָאֵל רוֹאֵהוּ אֲסוּרָה עָלֵינוּ אִי דְּאוֹרַיְיתָא אִי דְּרַבָּנָן כַּמְבֹאָר לְעֵיל וּפוֹרֵץ גָּדֵר יִשָּׁכְּנוּ נָחָשׁ אַךְ מַה שֶּׁכָּתַב מַעֲלָתְךָ שֶׁאֲפִלּוּ הַנִּזְהָרִים מִכָּל מָקוֹם נַעֲשָׂה לָהֶם כְּהֶתֵּר וּכְחוֹמָה פְּרוּצָה לִקְנוֹת מִפַּלְטֵר פַּת שֶׁנִּילוֹשָׁה עִם חָלָב שֶׁלָּהֶם צָרִיךְ עִיּוּן גָּדוֹל מֵאַיִן נִתְפַּשֵּׁט הַהֶתֵּר הַהוּא הֲלֹא תַּעֲרוֹבְתָּהּ אוֹסֵר אֲפִלּוּ הַכֵּלִים וְעַיַּנְתִּי בָּזֶה לִלְמֹד זְכוּת אוּלַי סְבִירָא לֵיהּ כְּשֵׁם שֶׁכָּתַב כֶּסֶף מִשְׁנֶה בְּדַעַת הָרַמְבַּ"ם שֶׁלֹּא גָּזְרוּ אֶלָּא אַחֲלָב בְּעֵין וְלֹא

From now [we have established]: milk milked by a non-Jew without a Jew observing it is prohibited upon us — whether Torah-level or rabbinic, as explained above. And one who breaches the fence shall be bitten by a snake. But what your honor wrote — that even those who are careful, nevertheless it has become for them like a permitted matter, and like a breached wall — to purchase from a palter [non-Jewish baker] bread kneaded with their [non-Jewish] milk — this requires great investigation: from where did this leniency spread? For its mixture prohibits even the vessels! And I examined this to find merit [for their practice]. Perhaps they hold, just as the Kesef Mishneh writes regarding the Rambam's view, that they only decreed upon milk in its original liquid form, and not upon butter that has already changed

[21] Magen Avraham, Orach Chaim 151, end of s.k. 7 — This discusses the principle that established customs have binding force and cannot be set aside without formal annulment.

[22] Ran, Nedarim 8a, s.v. *alav lehashkim* — The Ran explains that one who accepts upon himself to perform a *davar mitzvah* (a meritorious act) is bound by Torah law, derived from the verse "מוצא שפתיך תשמור" (Devarim 23:24), where "מפיך" refers to *tzedakah*.

[23] The Chasam Sofer refers to his own marginal glosses on the Magen Avraham, sub-section 16, where he elaborated on the Torah-level status of accepted customs.

עַל הַחֻמְאָה שֶׁכְּבָר נִשְׁתַּנָּה וְסָבִירָא לֵיהּ אַף עַל גַּב דְּאוֹסֶרֶת תַּעֲרוֹבְתָּהּ מִכָּל מָקוֹם כְּשֶׁנִּלּוֹשָׁה עִם קֶמַח וְנַעֲשֶׂה מַצֵּירוּפָם עִיסָה וְנֶאֱפֶת פָּנִים חֲדָשׁוֹת בָּא לְכָאן וַהֲוָה לֵיהּ כְּנִשְׁתַּנָּה וְיֵשׁ לָזֶה פָּנִים בְּמַסֶּכֶת כְּרִיתוֹת ה' עַמּוּד א' לֶחֶם לֹא אִיסּוּר בְּעֵינֵיהּ וְעַיֵּין מַה שֶּׁכָּתַב בְּסֵפֶר מְקוֹר חַיִּים סִימָן תס"ז גַּבֵּי דְּבַשׁ וְדָחִיתִי כָּל דְּבָרָיו בְּגִלָּיוֹן מָגֵן אַבְרָהָם סִימָן רי"ו סְעִיף קָטָן ג' בַּאֲרִיכוּת וַאֲפִלּוּ לְפִי טָעוּת הַלָּז מִכָּל מָקוֹם צָרִיךְ לִהְיוֹת כְּעֵין תּוֹרָא דְּאִי לָאו הָכִי אָסוּר מִשּׁוּם עִיסָה שֶׁנִּילּוֹשָׁה בְּחָלָב וְעַיֵּין מַה שֶּׁהֶחְמִיר בָּזֶה בִּתְשׁוּבַת צֶמַח צֶדֶק וְרָמַז עָלָיו מָגֵן אַבְרָהָם סוֹף סִימָן תמ"ז סוֹף סְעִיף קָטָן מ"ה:

form. And they would hold: even though it prohibits its mixture [when merely mixed], nevertheless, when kneaded with flour and their combination becomes dough and is baked, "a new face has arrived here" — (this Talmudic phrase means that the substance has undergone a basic transformation) **and it is considered as if it changed form.** [24] **And there is a basis for this in Masechta Kerisus 5a: "bread is not the prohibition in its [original] form."** The Gemara treats bread as a new form created through baking. [25] **And see what is written in the Sefer Makor Chaim, Siman 467, regarding honey. And I refuted all his words in my glosses to the Magen Avraham, Siman 216, sub-section 3, at length.** He refers to his glosses, where he rejects this transformation argument. **And even according to this error — it still needs to be in the shape of an ox.** Shulchan Aruch Yoreh Deah 97 requires milk bread to have a distinctive shape. **For if not, it would be prohibited because of dough kneaded with milk.** The distinctive shape warns people not to eat the bread with meat. [26] **And see how stringent the Tzemach Tzedek was about this,** [27] **and the Magen Avraham alludes to it at the end of Siman 447, end of sub-section 45.**

וְאַתָּה בְּנִי שְׁמֹר נַפְשְׁךָ וְלֹא תִטּוֹשׁ תּוֹרַת אִמֶּךָ וּמִכָּל מָקוֹם לְצָרֵף בְּזִמּוּן כֵּיוָן דְּפָרֵי חָדָשׁ הֵעִיד דִּסְפָרַדִּים אוֹכְלִים לְהֶדְיָא אִינְהוּ מֵיכַל אָכְלִי לְדִידַן מִסְתָּם נַמֵּי לָא סָתִים וְעוֹד אֵיכָּא מִשּׁוּם אֵיבָה וְגָדוֹל הַשָּׁלוֹם וְשָׁלוֹם לְךָ וּלְתוֹרָתְךָ הַכּוֹתֵב דּוֹרֵשׁ שְׁלוֹמְךָ וְטוֹבָתְךָ אָמַר נְאוּם פֹּה יַעַרְגֵן סָמוּךְ לִקְהִלָּה קְדוֹשָׁה פְּרַעְשְׁבּוּרְג יוֹם ד' ט"ו מְנַחֵם קצ"ד לִפְרָט קָטָן: מֹשֶׁה הַקָּטָן סוֹפֵר מִפְּרַנְקְפוּרְט דְּמַיִין.

And you, my son, guard yourself, and do not forsake the Torah of your mother. This echoes Mishlei 1:8 and serves as a directive to maintain the Ashkenazi practice. **And nevertheless, to include [such people] in a zimun: since the Pri Chadash testified that Sephardim eat it openly, they eat it [legitimately].** They rely on the Radbaz's ruling. **For us, should we not at least let it pass [and count them for a zimun]?** Ashkenazim may not eat this milk, but they may include those who rely on recognized authorities in a **zimun**. **And further, there is [the consideration] of enmity, and great is peace.** Excluding such people from zimun could cause unnecessary strife. **And peace to you and to your Torah learning. Thus writes the one who seeks your peace and welfare, so declares — here in Yaergen, near the holy community of Pressburg, Wednesday, 15th of Menachem [Av], [5]594 of the minor count. Moshe the humble, Sofer, from Frankfurt am Main.**

[24] Kerisus 5a — The Gemara discusses the verse regarding *chadash* (new grain): "אָמַר רַבִּי יִצְחָק: הָאוֹכֵל לֶחֶם, קָלִי, וְכַרְמֶל – לוֹקֶה שָׁלֹשׁ." The distinction between *lechem* (bread) and *kali/karmel* (raw/roasted grain) suggests that bread constitutes a new form, which the Chasam Sofer considers as a possible — but ultimately rejected — basis for leniency regarding baked products containing *chalav akum*.

[25] Makor Chaim, Orach Chaim, Siman 467 — This work discusses honey derived from chametz and whether the transformation constitutes *shinui* (a change of form sufficient to remove the prohibition). The Chasam Sofer rejects this reasoning.

[26] Tzemach Tzedek — The teshuvah of the Tzemach Tzedek (R' Menachem Mendel Krochmal, 1600–1661) is stringent regarding bread kneaded with prohibited milk.

[27] Magen Avraham, Orach Chaim, end of Siman 447, end of s.k. 45.

תשובה 108

Structuring Pork Sales Concession to Avoid Sechorah

Food Laws > Laws of Prohibitions of Eating from a Living Animal

Summary

Correspondent and Context: The Chasam Sofer writes to his student Rabbi Yosef, Av Beis Din of Nadadvar, Hungary, who had studied the sugyos at length.

The Question (Sha'ila): Jews lease butcher concessions from the government and must sell pork to non-Jews. Because trade (*sechorah*) in forbidden foods is prohibited, they give the pork concession, with the capital and profits, to a gentile who also butchers the kosher meat. He hides the kosher beef and says only pork is available, so the kosher meat spoils. May the Jew take the pork profits while the gentile is only a paid employee?

The Ruling (Teshuvah): Only for major loss (*hefsed merubeh*), the Jew may lend money to the gentile, who buys and slaughters the pigs in his own name. The debt is repaid with the meat, and the Jew never does *meshichah* or handles it. Many *poskim* hold money alone does not acquire from a gentile, and most hold a loan does not acquire, so by Torah law the pork never becomes the Jew's. Even if it did, collecting a debt is "rescuing from their hands." Still, one who guards his soul should avoid this and earn only in permitted ways.

Shulchan Aruch Background: Yoreh Deah 117 forbids trade in Torah-prohibited foods, even when benefit is allowed. It permits *chelev* (Vayikra 7:24) and immediate sale of forbidden species a hunter caught incidentally (*nizdamnu lo*); the Rema says not to fatten them. Yoreh Deah 114 and the Bach discuss items used mainly not for food.

Key Disputes (Machlokes): Tosfos, the Rosh, the Rashba (Teshuvah 301), and the Rambam hold the ban is biblical, from *yihyeh* in Vayikra 11:11. The Terumos HaDeshen cites a Gilyon Tosfos calling it an *asmachta*, supportable from Pesachim 23a, but the Chasam Sofer follows the majority. He asks whether the reason is a *gezeiras hakasuv* or a safeguard against eating, which affects the law. With Tosfos in Sukkah 39a and the Hagahos Masas Binyamin, he rejects the Taz's leniencies on resale by a second Jew, "one who began may finish," and slaughter for gentiles to recover the hide. Against the Chavas Yair's distinction between sheratzim and neveilah or treifah, he argues sheratzim give a *kal vachomer* for all prohibitions.

שָׁלוֹם וְכָל טוּב לְתַלְמִידִי הָרַב הַמּוּפְלָא וּמוּפְלָג בַּתּוֹרָה וְיִרְאַת ה' כמו"ה יוֹסֵף נֵרוֹ יָאִיר אַב בֵּית דִּין דִּקְהִלָּה קְדוֹשָׁה נָאדַאדְוָאר יע"א:

Peace and all good to my student, the outstanding and eminent Rabbi, distinguished in Torah and fear of God, the honorable R. Yosef, may his light shine, Av Beis Din of the holy community of Nadadvar, may God protect it.

גי"ה הִגִּיעַנִי וְנַפְשׁוֹ הַיָּפָה בִּשְׁאֵלָתוֹ נִידוֹן יִשְׂרְאֵלִים הַחוֹכְרִים קִצְבוֹת מֵהַמֶּשָׁרָה יָרוּם הוֹדוֹ וּצְרִיכִים לְמָכֹר לְאוּמוֹת הָעוֹלָם בָּשָׂר חֲזִיר וּמִפְּנֵי שֶׁאָסוּר לַעֲשׂוֹת סְחוֹרָה בְּדָבָרִים הָאֲסוּרִים מִן הַתּוֹרָה עַל כֵּן שׂוֹכְרִים לָהֶם פּוֹעֵל נָכְרִי הַמְקַצֵּב כָּל הַבָּשָׂר הַכָּשֵׁר וְלוֹ מָסְרוּ קִצְבַּת הַחֲזִיר שֶׁלּוֹ יִהְיֶה הַקֶּרֶן וְהָרִיוַח וְהִנֵּה רוֹאִים שֶׁעַל יְדֵי זֶה בָּאִים לִידֵי הֶפְסֵד גָּדוֹל כִּי אִם יָבֹאוּ נָכְרִים לִקְנוֹת מַכְחִישׁ וְאוֹמֵר שֶׁאֵין לָהֶם בְּשַׂר בְּהֵמָה טְהוֹרָה כִּי אִם בְּשַׂר חֲזִיר שֶׁהָרִיוַח שֶׁלּוֹ וְנִמְצָא בְּשַׂר בְּהֵמָה טְהוֹרָה שֶׁל יִשְׂרָאֵל תַּעֲבוֹר צוּרָתוֹ וְיֵצֵא לְבֵית הָעִפּוּשׁ וְסִרְחוֹן עַל כֵּן שׁוֹאֲלִים וּמְבַקְּשִׁים לְהַמְצִיא לָהֶם הֶתֵּר שֶׁיִּהְיֶה רִיוַח הַטְּמֵאִים נַמִּי שֶׁל יִשְׂרָאֵל וּפוֹעֵל הַנָּכְרִי לֹא יִהְיֶה אֶלָּא מְשָׂרֵת וּבָזֶה יִנָּצְלוּ מֵהֶפְסֵד רַב וְיַעַן מַעֲלָתוֹ כָּתַב שֶׁאַגַּב עִיֵּן בַּסּוּגְיָא וּבַהֲלָכָה וְהֶאֱרִיךְ וְאֵין דַּרְכִּי אֶלָּא לְהַעֲמִיד עַל הָאֱמֶת לְפִי עֲנִיּוּת דַּעְתִּי

His letter reached me, and his fine soul [is evident] in his question. The case concerns Jews who lease butcher concessions from the government, may its glory be exalted, and they are required to sell pork to the gentile nations. And since it is forbidden to do business with items prohibited by the Torah,[1] therefore they hire a gentile worker who butchers all the kosher meat. And they assigned the pork concession to him, The principal and profit [from the pork sales] are to be his. This keeps the Jews out of the forbidden trade. **But they observe that through this arrangement they suffer great loss. For when gentile customers come to buy, he denies [the availability of kosher meat]. He claims they have no kosher beef, only pork — because the pork profit belongs to him.** The gentile employee has a financial incentive to push pork sales over kosher meat sales. **And consequently the kosher meat of the Jew deteriorates, and goes to waste and spoilage. Therefore they ask and request that a permissible arrangement be devised for them, so that the profit from the non-kosher [meat] should also belong to the Jew, and the gentile worker would be merely a salaried employee.** This would remove the gentile's incentive to favor pork sales. **And through this they would be saved from great loss. And since his honor wrote that in the course [of his inquiry] he studied the relevant sugyos and halachos at length,**

[1] SA, Yoreh Deah 117:1 — The Shulchan Aruch rules: "כל דבר שאסור מן התורה אף על פי שמותר בהנאה אם הוא דבר המיוחד למאכל אסור לעשות בו סחורה...ואם נזדמנו לצייד חיה ועוף ודגים טמאים... מותר למכרם ובלבד שלא יתכוין לכך."

עַל כֵּן גַּם אָנֹכִי אַעֲרִיךְ לְפָנָיו מְקוֹר הָעִנְיָן מִמְּקוֹר חֻצָּבוֹ וּמִמֵּילָא רַוְחָא שְׁמַעְתָּא בְּמַה שֶּׁנּוֹגֵעַ לְעִנְיָנֵנוּ בְּעֶזְרַת הַשֵּׁם יִתְבָּרַךְ׃

and my way is only to establish the truth according to my humble opinion, therefore I too will set before him the source of the matter from its original quarry, and thereby the discussion will be broadened, regarding what pertains to our matter, with the help of God.

בְּמַסֶּכֶת פְּסָחִים כ"ג עַמּוּד א' וַהֲרֵי שְׂרָצִים וְכָתְבוּ הַתּוֹסָפוֹת שָׁם וּבָבָא קַמָּא פֶּרֶק ב' עַמּוּד ב' בְּשֵׁם הַיְרוּשַׁלְמִי דִּבְמִין שֶׁסְּתָמוֹ לִמְלָאכָה לֹא נֶאֶסְרָה סְחוֹרָה וְתוּ הִקְשׁוּ לָמָּה לִי אָרוּר מְגַדֵּל חֲזִירִים תֵּיפוֹק לֵיהּ מִדְּאוֹרַיְיתָא אָסוּר וְעַל כָּרְחָךְ נָחֲתוּ לְחַלֵּק אֲפִלּוּ בְּמִין שֶׁעּוֹמֵד לַאֲכִילָה אִם אֵין הַסְּחוֹרָה לַאֲכִילָה כִּי אִם לַעֲשׂוֹת מְלָאכָה כְּגוֹן לִמְשׁוֹחַ עוֹרוֹת מָתָר וּמְבֹאָר מִדְּבְרֵיהֶם וּמִן הָרֹא"ש בְּמַסֶּכֶת בָּבָא קַמָּא שָׁם וּמִלְּשׁוֹן הָרַשְׁבָּ"א בְּתִשׁוּבָה סִימָן ש"א דְּמִדְּאוֹרַיְיתָא אָסוּר אֶלָּא טַעְמֵיהּ דִּקְרָא מִשּׁוּם דְּיִלְמָא אָתֵי לְמֵיכַל מִינֵיהּ עַיֵּין שָׁם וּבָרַשְׁבָּ"א וְאָמְנָם בְּתִרוּמַת הַדֶּשֶׁן מַיְיתִי בְּשֵׁם גְּלְיוֹן תּוֹסָפוֹת דְּרַק מִדְּרַבָּנָן אָסוּר וּקְרָא דְּיִהְיֶה אַסְמַכְתָּא בְּעָלְמָא הוּא וְלִכְאוֹרָה נִרְאֶה כֵּן מֵהַסּוּגְיָא דְּפָרִיךְ וּלְחִזְקִיָּה לָמָּה לִיתֵּיהּ רַחֲמָנָא לֹא יֵאָכֵל וּמַיְיתִי לָכֶם לְמֵישְׁרֵי וְכוּלֵי וּמַאי קוּשְׁיָא דְּהָא אִצְטְרִיךְ לְאִיסּוּר סְחוֹרָה מִן הַתּוֹרָה וּכְמוֹ שֶׁכָּתַב מַהֲרַשַׁ"ל וּמַהֲרָשָׁ"א אֲבָל לְגַלְיוֹן אָתֵי שַׁפִּיר דְּהִנֵּה הַמַּקְשָׁן דְּפָרִיךְ אִי הָכִי אֲפִלּוּ לְכַתְּחִלָּה נַמִּי צָרִיךְ לְהָבִין מַאי אִי הָכִי הָא בְּלָאו הָכִי קָשֶׁה מַה שֶּׁנֶּ רִישָׁא וּמַה שֶּׁנֶּ סֵיפָא וְעַל כָּרְחָךְ צָרִיךְ לוֹמַר בְּלָאו הָכִי נַמִּי הֲוָה אָמִינָא אִיסּוּר סְחוֹרָה דְּרַבָּנָן וְהֵם הִתִּירוּ בְּנִזְדַּמְּנוּ אֲבָל הַשְׁתָּא דְּכְתִיב לְהֵדְיָא לָכֶם לְהֵיתֵּרָא כָּל צָרְכֵיכֶם לֹא מָצֵי רַבָּנָן לְאֶסּוֹר מַה שֶּׁהַתּוֹרָה הִתִּירָה בַּהֲדְיָא כְּמוֹ שֶׁכָּתַב טוּרֵי זָהָב סִימָן קי"ז וּכְבָר קְדָמוֹ כֶּסֶף מִשְׁנֶה פֶּרֶק ג' מֵהִלְכוֹת מְלָכִים וּמְבִיאוֹ תּוֹסָפוֹת יוֹם טוֹב פֶּרֶק ט' דְּסַנְהֶדְרִין מִשְׁנָה ב' וְעַיֵּין תּוֹסָפוֹת בָּבָא מְצִיעָא ע' עַמּוּד ב' דִּיבּוּר הַמַּתְחִיל תַּשִּׁיךְ וְכוּלֵי וְאִם כֵּן שַׁפִּיר מַקְשֶׁה אִי הָכִי שֶׁהוּא מְבֹאָר הֵיתֵּרָא בִּקְרָא לְכָל צָרְכֵיכֶם אֵיךְ יְכוֹלִים לֶאֱסוֹר וּמְשַׁנֵּי לְעוֹלָם דְּרַבָּנָן וְאֵין הֵיתֵּרוֹ מְבֹאָר בִּקְרָא כֵּיוָן דְּהַדַּר

In Masechta Pesachim 23a, [the Gemara discusses] "But what about sheratzim [creeping creatures — they are forbidden in benefit]?"[2] **And Tosfos write there, and in Bava Kamma, Chapter 2,**[3] **in the name of the Yerushalmi,**[4] **that for a species whose primary purpose is for work, trade was not forbidden. Furthermore, they raised the difficulty: why do I need [the Rabbinic dictum] "Cursed is one who raises pigs"?**[5] **Let [the prohibition] be derived from the fact that it is biblically forbidden!** If sechorah in food items is already a Torah prohibition, why is a separate curse needed? **And necessarily they came to distinguish: Even in a species that is designated for eating, if the particular trade is not for eating purposes, but rather for work purposes — such as greasing hides — it is permitted. And it is clear from their words and from the Rosh in Masechta Bava Kamma there,**[6] **and from the language of the Rashba in his Teshuvah, Siman 301,**[7] **that it is biblically prohibited. Rather, the reason for the verse is: lest one come to eat from it.** The Torah prohibited trading in forbidden foods because regular commercial involvement might lead to eating from them. **See there and in the Rashba. However, the Terumos HaDeshen cites in the name of the Gilyon Tosfos**[8] **that [sechorah] is only rabbinically prohibited, and the verse "yihyeh" is merely an asmachta.** An **asmachta** is textual support for a rabbinic law, not a true biblical derivation. **And at first glance, this appears to be so from the sugya, for it asks: According to Chizkiyah, why does the Torah need [to write] "lo ye'achel" [it shall not be eaten]?**[9] Chizkiyah holds that "eating" in the Torah means only actual eating, not benefit. **And it brings [the word] "lachem" [for you] to permit [benefit], etc. And what is the difficulty? For [the verse] is needed for the biblical prohibition of sechorah!** If the verse teaches the biblical ban on **sechorah**, it already serves a purpose. **As the Maharsha"l and the Maharsh"a write.**[10] **But according to the Gilyon [Tosfos], it works out well.** If sechorah is only rabbinic, the verse isn't needed for it, and the Gemara's question stands. **For behold, the questioner who asks "if so, even lechatchilah [initially, one should be permitted to trade] too" requires explanation — what does "if so" mean? For even without this, the difficulty exists — what is different about the first clause and what is different about the latter clause? And necessarily one must say: even without [the explicit derivation of "lachem"], I would have thought the prohibition of sechorah is rabbinic, and they [the Rabbis] permitted it in cases where [the items] happened to come to one's hand. But now that the Torah explicitly writes "lachem" [for you], as a permission — for all your needs — the Rabbis cannot prohibit what the Torah has explicitly permitted. As the Taz writes in**

[2]Pesachim 23a — The Gemara discusses the scope of benefit from forbidden items: "אוֹתוֹ אַתָּה מַשְׁלִיךְ לַכֶּלֶב, וְאִי אַתָּה מַשְׁלִיךְ לַכֶּלֶב כָּל אִיסּוּרִין שֶׁבַּתּוֹרָה."

[3]Tosfos, Pesachim 23a and Bava Kamma, Chapter 2.

[4]Yerushalmi, cited by Tosfos — distinguishing between species whose primary purpose is work versus food.

[5]The Talmudic dictum "Arur megadel chazirim" (Bava Kamma 82b) — cursed is one who raises pigs.

[6]Rosh, Bava Kamma, Chapter 2.

[7]Rashba, Teshuvos, Siman 301.

[8]Terumos HaDeshen, citing Gilyon Tosfos.

[9]Pesachim 23a — The Gemara questions Chizkiyah's view: since Chizkiyah holds "eating" means only eating (not benefit), why does the Torah need "lo ye'achel"?

[10]Maharsha"l and Maharsh"a on Pesachim 23a — They ask why the Gemara doesn't answer that "lo ye'achel" is needed for the biblical prohibition of sechorah.

כְּתִיב יִהְיֶה יֵשׁ לִסְמֹךְ עָלָיו אִיסּוּרָא אַף עַל גַּב שֶׁאֵין דְּרָשָׁה גְּמוּרָה מִכָּל מָקוֹם לֹא מִיקְרֵי הֶיתֵּר מְפוֹרָשׁ וּמָצֵי רַבָּנָן לְמִיסַּרְיֵהּ עַל כֵּן כֵּיוָן דְּיֵדַע בִּפְשִׁיטוּת דְּהוּא אַסְמַכְתָּא וְאִיסּוּר סְחוֹרָה דְּרַבָּנָן עַל כֵּן פָּרִיךְ לְחִזְקִיָּה לֹא יִכְתֹּב לֹא יֹאכַל וְלֹא בָּעֵי לָכֶם וּמוֹכָח כְּגִלְיוֹן:

Siman 117.[11] And the Kesef Mishneh already preceded him in Chapter 3 of Hilchos Melachim,[12] and the Tosfos Yom Tov cites him in Chapter 9 of Sanhedrin, Mishnah 2.[13] And see Tosfos, Bava Metzia 70b, s.v. "Tashich," etc.[14] And if so, the Gemara properly asks "if so": Since [the word "lachem"] constitutes an explicit permission in the verse for all your needs, how can they [the Rabbis] prohibit [sechorah]? And [the Gemara] answers: Actually, [sechorah is] rabbinic, and its permission is not explicitly stated in the verse. Since the verse then writes "yihyeh" [it shall remain], there is a basis to lean upon it for a prohibition. Even though it is not a genuine derasha, nevertheless it is not called an explicit permission. And the Rabbis can therefore prohibit it. Therefore, since [the questioner] knows plainly that it is an asmachta, and the prohibition of sechorah is rabbinic, therefore he asks regarding Chizkiyah: let [the Torah] not write "lo ye'achel," and then "lachem" would not be needed either. If there is no verse to prohibit benefit, there's no need for one to permit it. **And this proves [the position] of the Gilyon [Tosfos].**

אַךְ רֹב הַפּוֹסְקִים הַתּוֹסָפוֹת וְרֹא"שׁ וְרַשְׁבָּ"א הַנְּזָכָר לְעֵיל וְרַמְבַּ"ם כְּמוֹ שֶׁכָּתַב מִשְׁנֶה לַמֶּלֶךְ סוֹף פֶּרֶק ח' מִמַּאֲכָלוֹת אֲסוּרוֹת סְבִירָא לֵיהּ דְּיִהְיֶה דְּרָשָׁה גְּמוּרָה הִיא וּמִדְּאוֹרַיְיתָא אָסוּר וְצָרִיךְ לוֹמַר בְּיִשּׁוּב קֻשְׁיַית מַהַרְשַׁ"ל הַנְּזָכָר לְעֵיל כְּמוֹ שֶׁתֵּירֵץ מַהַרְשָׁ"א אֶלָּא שֶׁצָּרִיךְ בֵּיאוּר וְהַיְינוּ דְּהָא מִלְּשׁוֹן יִהְיֶה לֹא מַשְׁמַע אֶלָּא לוֹמַר אַף עַל גַּב שֶׁכָּתַבְתִּי הֶיתֵּירָא דִּלְכֶם מִכָּל מָקוֹם בַּהֲוָיָתוֹ רִאשׁוֹנָה יִהְיֶה וְצָרִיךְ חֲקִירָה מַה הָיָה הֲוָיָתוֹ רִאשׁוֹנָה הִנֵּה לְרַבִּי אַבָּהוּ דְּכָל לְשׁוֹן אֲכִילָה שֶׁבַּתּוֹרָה מַשְׁמַע אִיסּוּר הֲנָאָה אִם כֵּן הֲוָיָתוֹ רִאשׁוֹנָה הוּא אִיסּוּר הֲנָאָה בְּכָל מִינֵי הֲנָאוֹת וּכְתִיב לָכֶם לְהַתִּיר כָּל מִינֵי הֲנָאוֹת וְעַל כָּרְחָךְ צְרִיכִים לְפַשֵּׁר בֵּינֵיהֶם וְנִמְסַר לַחֲכָמִים לֶאֱסוֹר סְחוֹרָה וּלְהַתִּיר שְׁאָרֵי הֲנָאוֹת אַךְ לְחִזְקִיָּה דְּסָבִירָא לֵיהּ כָּל אֲכִילָה שֶׁבַּתּוֹרָה אֵינוֹ אֶלָּא אֲכִילָה מַמָּשׁ וְאִם כֵּן אִי לֹא כְּתִיב לֹא יֹאכַל וְלֹא לָכֶם רַק יִהְיֶה בַּהֲוָיָתוֹ יִהְיֶה נַמִּי לֹא מַשְׁמַע אָסוּר כָּל הֲנָאוֹת דְּהָרֵי הֲוָיָתוֹ רִאשׁוֹנָה אֵינוֹ אֶלָּא אִיסּוּר אֲכִילָה וּמִסְתַּיְיעִין דְּהָווּן תּוֹסֶפֶת אִיסּוּר קְצָת וְהַיְינוּ סְחוֹרָה וְלֹא שְׁאָרֵי הֲנָאוֹת וְאִם כֵּן לֹא לִכְתּוֹב לֹא יֹאכַל וְלֹא לִיבָּעֵי לָכֶם וְאָתֵי שִׁפְיר וְאוּלַי לָזֶה נִתְכַּוֵּן מַהַרְשָׁ"א זִכְרוֹנוֹ לִבְרָכָה אֶלָּא שֶׁקִּיצֵּר:

However, the majority of poskim — Tosfos, the Rosh, and the Rashba mentioned above — and the Rambam, as the Mishneh LaMelech writes at the end of Chapter 8 of [Hilchos] Ma'achalos Asuros —[15] hold that "yihyeh" is a genuine derasha, and [sechorah] is biblically prohibited. And one must say, to resolve the difficulty of the Maharsha"l mentioned above, as the Maharsh"a answered, except that it requires further explanation. And that is: from the expression "yihyeh" [it shall remain], the implication is nothing more than to say: although I wrote the permission of "lachem" [for you], nevertheless, in its original state it shall remain. And we need to investigate: what was its original state? Now, according to R' Avuhu, who holds that every expression of "eating" in the Torah implies a prohibition of benefit, then its original state was a prohibition of all benefit, of every kind of benefit. And the Torah writes "lachem" to permit all forms of benefit. And necessarily we must compromise between them The broad prohibition of **yihyeh** must be balanced with the broad permission of **lachem**. **And it was entrusted to the Sages to prohibit sechorah, and to permit other forms of benefit.** The Torah left the exact boundary for the Sages to define. **But according to Chizkiyah, who holds that every "eating" in the Torah means only actual eating, then if the Torah had not written "lo ye'achel" and not "lachem," only "yihyeh" — in its [original] state it shall remain — this too would not imply a prohibition of all benefits. Since its original state was only a prohibition of eating. And it would suffice that we expand [the prohibition] slightly, namely, sechorah, but not other benefits. And if so, [the Torah] should not have written "lo ye'achel" and would not have needed "lachem." And this works out well.** According to Chizkiyah, the Gemara's question is valid even if sechorah is biblical, since "yihyeh" alone would suffice for Chizkiyah's framework. **And perhaps this is what the Maharsh"a, of blessed memory, intended, only that he was brief.**

[11] Taz, Yoreh Deah 117 — The Taz states the principle that the Rabbis cannot prohibit what the Torah has explicitly permitted.

[12] Kesef Mishneh, Hilchos Melachim, Chapter 3 — The Rambam states: "כְּבָר בֵּאַרְנוּ שֶׁמַּלְכֵי בֵּית דָּוִד דָּנִין אוֹתָן וּמְעִידִין עֲלֵיהֶן." The Kesef Mishneh there discusses the principle regarding rabbinic authority vis-à-vis explicit Torah permissions.

[13] Tosfos Yom Tov, Sanhedrin, Chapter 9, Mishnah 2 — citing the Kesef Mishneh's principle.

[14] Tosfos, Bava Metzia 70b, s.v. "Tashich."

[15] Mishneh LaMelech, Hilchos Ma'achalos Asuros, end of Chapter 8 — establishing that the Rambam holds the prohibition of sechorah is biblical.

וּמִכָּל מָקוֹם דַּעַת הַפּוֹסְקִים בְּטַעְמָא דִּקְרָא מְשׁוּם דְּילְמָא אָתֵי לְמֵיכַל מִינֵּיהּ וְנִרְאֶה לִי רְאָיָה בְּרוּרָה לָזֶה מִשּׁ"ס עֲבוֹדָה זָרָה ס"ח עמוד ב' בְּעָלְמָא סָבַר רַב נוֹתֵן טַעַם לִפְגָם מָתָר וְהָכָא חִידּוּשׁ הוּא דְּהָא מִימְאַס מָאִיס וּבְדִילֵי אִינְשֵׁי מִינֵּיהּ וְאַף עַל פִּי כֵן אַסְרֵיהּ רַחֲמָנָא וּפֵירֵשׁ רַשׁ"י וּבְלֹא אַזְהָרָה בְּדִילֵין אִינְשֵׁי מִינֵּיהּ וְלָמָּה לִי דְּאַזְהַר רַחֲמָנָא שְׁמַע מִינָּה אֲפִלּוּ נוֹתֵן טַעַם לִפְגָם אָסוּר עַד כָּאן לְשׁוֹנוֹ וְאִי סַלְקָא דַּעְתָּךְ סְחוֹרָה אַסְרֵי רַחֲמָנָא אִם כֵּן אִיצְטְרִיךְ קְרָא לֶאֱסוֹר סְחוֹרָה אֶלָּא עַל כָּרְחָךְ סְחוֹרָה נַמִּי לֹא אָסְרָה רַחֲמָנָא אֶלָּא מִשּׁוּם דְּילְמָא אָתֵי לְמֵיכַל מִינֵּיהּ וְהָכָא דִּבְדִילֵי אִינְשֵׁי לֹא נֶאֱסַר סְחוֹרָה כְּמוֹ שֶׁכָּתַב בִּתְשׁוּבַת רַשְׁבָּ"א דְּבַאֲנָן רְאוּיוֹת עוֹד לַאֲכִילָה מָתָר לַעֲשׂוֹת בּוֹ סְחוֹרָה וְאַף עַל גַּב דְּתוֹסָפוֹת שָׁם בַּעֲבוֹדָה זָרָה פֵּירְשׁוּ פֵּירוּשׁ אַחֵר בְּהָא דְּחִידּוּשׁ הוּא עַיֵּין שָׁם מִכָּל מָקוֹם בַּמִּשְׁנָה סוֹף מַסֶּכֶת מַכּוֹת אָמַר רַבִּי חֲנַנְיָה בֶּן עֲקַשְׁיָא רָצָה הַקָּדוֹשׁ בָּרוּךְ הוּא לְזַכּוֹת אֶת יִשְׂרָאֵל אִי אֶפְשָׁר לְפָרֵשׁ פֵּירוּשׁ אַחֵר עַיֵּין שָׁם אִם כֵּן מוּכָח כַּנּוְכָר לְעֵיל וְקַל לְהָבִין:

Nevertheless, the view of the poskim is that the reason of the verse is "lest one come to eat from it." And it appears to me that there is clear proof for this from the Talmud in Avodah Zarah 68b:[16] **"Generally, Rav holds that nosein ta'am lifgam [a prohibited substance that imparts a detrimental flavor] is permitted." "But here [regarding sheratzim] it is a novelty, for [sheratzim are] disgusting, and people naturally distance themselves from them." "Yet the Torah prohibited them." And Rashi explains: "Even without the Torah's warning, people would refrain from them."**[17] **"So why did the Torah need to warn [against them]?" "This proves that even nosein ta'am lifgam is forbidden." End quote. But if you would think that [the verse comes to] prohibit sechorah then the verse would be needed to prohibit sechorah!** And we couldn't derive the novelty about nosein ta'am lifgam. **Rather, necessarily, the Torah also did not prohibit sechorah [independently], but only because "lest one come to eat from it." And here, where people naturally refrain [from sheratzim], sechorah is not prohibited** — since there is no concern of eating, sechorah falls away too. **As the Rashba writes in his Teshuvah: that for items no longer fit for eating, it is permitted to do business with them. And even though Tosfos there in Avodah Zarah explain "it is a novelty" differently, see there, nevertheless, in the Mishnah at the end of Masechta Makkos, R' Chananya ben Akashya says: "The Holy One, Blessed be He, wished to grant merit to Israel..."**[18] The passage says the Torah rewards people for avoiding even disgusting things, such as blood. **It is impossible to explain [this Mishnah] any other way.** This supports the eating-based reason for the prohibition. **See there. If so, this proves as stated above, and this is easy to understand.**

וְנִרְאֶה לִי דְּנַפְקָא לְרַבּוֹתֵינוּ זִכְרוֹנָם לִבְרָכָה הָכִי מִקְרָא דְּאוֹסֵר סְחוֹרָה מִלֹּא יֵאָכֵל וּפֵירֵשׁ רַשׁ"י פְּסָחִים כ"א עַמּוּד ב' לֹא יִהְיֶה בּוֹ הֶיתֵּר הַמֵּבִיא לִידֵי אֲכִילָה וּסְתָם הֲנָאוֹת לִידֵי אֲכִילָה הֵם בְּאוֹתוֹ שֶׁלּוֹקֵחַ בְּדָמִים דָּבָר מַאֲכָל עַד כָּאן לְשׁוֹנוֹ וּמִטַּעַם זֶה נֶאֱסַר אֲפִלּוּ צְבִיעָה וְהַדְלָקָה בְּכָל אִיסּוּר הֲנָאָה כְּמוֹ שֶׁכָּתְבוּ תּוֹסָפוֹת שָׁם כ"ב עַמּוּד ב' דִּיבּוּר הַמַּתְחִיל לָכֶם וְכוּלֵי עַיֵּין שָׁם וְאִם כֵּן הָכָא בִּשְׂרָצִים דְּהָדַר מַפִּיק קְרָא הֶיתֵּר הֲנָאָה מִלָּכֶם וְלֹא נִשְׁאַר רַק אִיסּוּר סְחוֹרָה מִיהֶיה אֵיךְ יְקוּיַם לֹא יֵאָכֵל לֹא יִהְא בּוֹ הֶיתֵּר אֲכִילָה וְעַל כָּרְחָךְ הָכִי קָאָמַר בַּהֲוָיָתוֹ יִהְיֶה בְּדָבָר שֶׁאֶפְשָׁר שֶׁיָּבוֹא לִידֵי אֲכִילָה הַיְינוּ סְחוֹרָה דִּילְמָא אָתֵי לְמֵיכַל מִינֵּיהּ גּוּפָהּ וְלֹא לֶאֱסוֹר שְׁאָרֵי הֲנָאוֹת הַשָּׁוִים דָּבָר הַמֵּבִיא לִידֵי אֲכִילָה וְקָרוֹב לָזֶה כַּנּוְכָר תְּשׁוּבַת חַוּוֹת יָאִיר עַיֵּין

And it appears to me that our Sages derived [the prohibition of sechorah] from the verse as follows: The prohibition of sechorah is derived from "lo ye'achel" [it shall not be eaten]. And Rashi explains in Pesachim 21b:[19] **"There shall not be any permitted benefit that leads to eating." "And ordinary forms of benefit lead to eating, in that one takes the money received and buys food with it." End quote. And for this reason, even dyeing and lighting were prohibited — in all cases of prohibited benefit. As Tosfos write there, 22b, s.v. "lachem," etc.**[20] **See there. And if so, here regarding sheratzim, where the verse subsequently derives a permission of benefit from "lachem," and only the prohibition of sechorah remains, from "yihyeh," how is the concept of "lo ye'achel" — "there shall be no benefit leading to eating" — fulfilled? "There shall not be in it a permitted [pathway to] eating."** If the only remaining prohibition is sechorah, how does that relate to the original concept of "lo ye'achel"? **And necessarily, [the Torah] is saying this: "In its [original] state it shall remain" — regarding a matter where there is a possibility of coming to actual eating, namely, sechorah, where one might come to eat from the item itself. But it does not prohibit other forms of benefit, which equally constitute "something that leads**

[16]Avodah Zarah 68b — The Gemara discusses nosein ta'am lifgam regarding sheratzim. The related passage states: "וְהָא הָכִי נַמִּי דִּפְגַם מַעִיקָּרָא, וּפְלִיגִי!"

[17]Rashi, Avodah Zarah 68b — Rashi explains that even without the Torah's prohibition, people would refrain from sheratzim since they are naturally repulsive.

[18]Makkos 23b (end of Makkos) — R' Chananya ben Akashya's teaching, which includes the passage: "וּמָה אִם הַדָּם, שֶׁנַּפְשׁוֹ שֶׁל הָאָדָם קָצָה מִמֶּנּוּ – הַפּוֹרֵשׁ מִמֶּנּוּ מְקַבֵּל שָׂכָר."

[19]Rashi, Pesachim 21b — Rashi explains "lo ye'achel": "There shall be no permitted benefit that leads to eating; and standard benefits lead to eating, since one takes the money and buys food with it."

[20]Tosfos, Pesachim 22b, s.v. "Lachem."

שָׁם וְהַגָּאוֹן זִכְרוֹנוֹ לִבְרָכָה הִכְרִיעַ שָׁם דְּגִילָּה רַחֲמָנָא בִּשְׁרָצִים וְהוּא הַדִּין לְכָל אִיסּוּרִים שֶׁאֵין לָהֶם שְׁעַת הַכּוֹשֶׁר כְּעֵין שְׁרָצִים לְאַפּוֹקֵי נְבֵלוֹת וּטְרֵפוֹת דְּלֹא אָתֵי לְמִינְהוּ אֶלָּא מִדְּרַבָּנָן אַסִּירִי עַיֵּין שָׁם וְלוּלֵי דְּבָרָיו הָיִיתִי אוֹמֵר בְּהֵיפּוּךְ גִּלֵּי רַחֲמָנָא בִּשְׁרָצִים דִּבְדִילֵי מִינֵיהּ וְאַף עַל פִּי כֵן אוֹסֵר סְחוֹרָה קַל וָחֹמֶר לִדְבָרִים שֶׁאֵין נַפְשׁוֹ שֶׁל אָדָם קָצָה בָּהֶם דַּאֲסוּרִים בְּסְחוֹרָה מִדְּאוֹרַיְיתָא:

to eating” Money earned from any benefit could be used to buy food. **And close to this is the intent of the Teshuvah of the Chavas Yair.**[21] **See there. And that Gaon, of blessed memory, ruled there that the Torah revealed [its intent] through sheratzim, and the same applies to all prohibitions that never had a “period of permissibility” like sheratzim.** These items were always forbidden, like sheratzim. **To exclude neveila and treifa, which are not derived from them [sheratzim], but are only rabbinically prohibited [in sechorah].** Unlike sheratzim, these animals may once have been fit for kosher slaughter. **See there. And were it not for his words, I would have said the opposite: The Torah revealed [the prohibition] through sheratzim, from which people naturally recoil, and nevertheless prohibits sechorah. How much more so for items that a person’s soul does not find revolting** — such as non-kosher meat that looks and tastes appealing — **which are prohibited in sechorah from the Torah!**

וּבְתוֹסָפוֹת בְּסֻכָּה ל"ט עַמּוּד א' דִּיבּוּר הַמַּתְחִיל וְלֵיתֵב וְכוּלֵי מְבֹאָר דְּיִשְׂרָאֵל שֶׁגְּזַדְּמֵן לוֹ אַף עַל פִּי שֶׁמֻּתָּר לְמוֹכְרוֹ מָכָל מָקוֹם יִשְׂרָאֵל אַחֵר אָסוּר לִקְנוֹת מִמֶּנּוּ לְמִכֹּר לְנָכְרִי לְהַרְוִיחַ עַיֵּין שָׁם אַף עַל גַּב דְּוַדַּאי כְּשֵׁם שֶׁהוּא עַצְמוֹ מֻתָּר לְמוֹכְרוֹ הָכִי נָמֵי שְׁלוּחוֹ כְּמוֹתוֹ אֲבָל שֶׁיִּקְנֶה זֶה בְּאֹפֶן שֶׁגִּסְתַּלְּקוּ בְּעָלִים הָרִאשׁוֹנִים לְגַמְרֵי וְנִכְנַס הוּא תַּחְתֵּיהֶם זֶה אָסוּר אַף עַל פִּי שֶׁלְּפִי הַטַּעַם דְּדִלְמָא אָתֵי לְמֵיכַל מִינֵיהּ יֵשׁ לוֹמַר כֵּיוָן שֶׁגְּזַדְּמֵן לָזֶה וּמֻתָּר לֵיהּ לְמוֹכְרוֹ וְלָא חָיְשִׁינַן דִּלְמָא אָתֵי לְמֵיכַל בִּמְקוֹם הֶפְסֵידוֹ אִם כֵּן עַל כָּרְחָךְ כֵּיוָן דְּטֵרְפָה הַלָּז אִית בֵּיהּ מִשּׁוּם דִּלְמָא אָתֵי לְמֵיכַל מִינֵיהּ וְאַף עַל פִּי כֵן שַׁרֵיהּ רַחֲמָנָא אִם כֵּן מַה לִּי לְיִשְׂרָאֵל זֶה אוֹ לְיִשְׂרָאֵל אַחֵר הַקּוֹנֶה מִמֶּנּוּ מִכָּל מָקוֹם מִבֹּאָר מֵהַתּוֹסָפוֹת דְּלֹא הֻתַּר אֶלָּא לָזֶה וְלֹא לִקְנוֹת מִמֶּנּוּ אַךְ הַטּוּרֵי זָהָב סֵימָן קי"ז רָצָה לְהַתִּיר וְסָמַךְ עַצְמוֹ אַדִּקְדּוּק לְשׁוֹן הַקְּרָא תִּתְּנֶנָּה אוֹ מָכוֹר וְלֹא אָמַר אוֹ תִּמְכּוֹר כְּמוֹ דִּכְתִיב תִּתְּנֶנּוּ אֶלָּא עַל כָּרְחָךְ לְהוֹרוֹת נָתַן שֶׁאֵין הוּא צָרִיךְ לְמוֹכְרוֹ בְּעַצְמוֹ אֶלָּא אֲפִלּוּ אַחֵר וּלְהַתִּיר עַל יְדֵי שְׁלוּחוֹ פְּשִׁיטָא דִּשְׁלוּחוֹ כְּמוֹתוֹ אֶלָּא עַל כָּרְחָךְ עַל יְדֵי מַשָּׂא וּמַתָּן שֶׁזֶּה קוֹנֶה מִמֶּנּוּ וּמוֹכֵר לְאַחֵר כַּנִּרְאֶה לַעֲנִיּוּת דַּעְתִּי לְיַיֵּשֵׁב כַּוָּנַת טוּרֵי זָהָב וּמִכָּל מָקוֹם נֶעְלָם מִמֶּנּוּ תּוֹסָפוֹת סֻכָּה הַנִּזְכָּר לְעֵיל שֶׁאוֹסֵר לְהֶדְיָא וְדִקְדּוּקוֹ בַּקְּרָא דְּלֹא כְּתִיב תִּמְכְּרֶנּוּ אֵינוֹ כְּדַאי וּבְשַׁגַּם יֵשׁ לוֹמַר דִּנְתִינָה לַגֵּר שֶׁהוּא מִצְוָה לְהַחֲיוֹתוֹ וּלְהַקְדִּימוֹ עַל כֵּן כְּתִיב תִּתְּנֶנּוּ דְּמִצְוָה בּוֹ

And in Tosfos, Sukkah 39a, s.v. “V’leisiv,” etc.,[22] **it is clear that a Jew to whom [a forbidden item] happened to come, although he is permitted to sell it, nevertheless, a different Jew is forbidden to buy it from him in order to sell it to a gentile for profit. See there. Even though it is certain that just as the first Jew himself is permitted to sell it, so too his agent is considered like him, But that this [other Jew] should purchase it such that the original owners are completely removed, and he takes their place, this is prohibited. Even though according to the rationale of “lest one come to eat from it,” one could argue: since it happened upon the first Jew and he is permitted to sell it, and we are not concerned about eating when there is financial loss, then necessarily, since this treifa [animal] does carry the concern of “lest one come to eat from it,” and yet the Torah permitted [selling] it, then what difference is there between this Jew and another Jew who buys from him? Nevertheless, it is clear from Tosfos that [selling] was permitted only for this [original owner], and not for [another Jew] to buy from him [for resale]. However, the Taz, Siman 117, wished to permit [such resale],**[23] **and he relies on a textual nuance in the verse: “titnenah [you shall give it] or machor [sell]”** (Devarim 14:21). **And it does not say “timkerenah” [you shall sell it], as it says “titnenah” [you shall give it — in the personal, active form]. Rather, necessarily, it was given to teach that [the original owner] does not need to sell it himself, but even another [person may sell it]. And to permit [sale] through his agent is obvious, since an agent is like oneself. Rather, necessarily, [the verse permits it] through a business transaction, where this [other Jew] buys from him and sells to another. This is how it appears to my humble opinion to explain the Taz’s intent. Nevertheless, the Tosfos in Sukkah mentioned above escaped his notice, which explicitly prohibits [such a purchase]. And his textual deduction from the fact that the verse doesn’t say “timkerenah” is insufficient [to override Tosfos]. Moreover, one can say: Giving to the ger [resident alien] — which is a mitzvah to sustain him and to prioritize him — therefore the Torah writes “titnenah” [in the personal form], since a mitzvah is better performed personally than through an agent. But**

[21] Chavas Yair — The Chavas Yair distinguishes between items that never had a *sha’as hakosher* (like sheratzim) and those that once were permitted (like neveila).

[22] Tosfos, Sukkah 39a, s.v. “V’leisiv” — Tosfos establish that while the original owner may sell forbidden items that happened upon him, a different Jew may not purchase from him for resale.

[23] See footnote 11 above.

יוֹתֵר מִבִּשְׁלוּחוֹ אֲבָל מְכִירָה לְעוֹבֵד כּוֹכָבִים וּמַזָּלוֹת שֶׁאֵינוֹ מְצַוֶּה כְּתִיב אוֹ מָכוֹר עַל יְדֵי שְׁלוּחוֹ אֲבָל לֹא עַל יְדֵי הַקּוֹנֶה מִמֶּנּוּ׃

selling to a gentile, which is not a mitzvah, the Torah writes "or sell" [in the impersonal form], meaning through one's agent, but not through another Jew who purchases from him. The wording permits an agent, not a second buyer who resells the item.

וְהִנֵּה בְּתוֹסָפוֹת יוֹם טוֹב דְּמַסֶּכֶת שְׁבִיעִית שָׁם הִקְשָׁה מִפֶּרֶק קַמָּא דִּבְכוֹרוֹת דְּבָעֵי לְמֵילַף חֵלֶב שֶׁרֵי מֵעֲשָׂרָה חֲרִיצֵי חָלָב וְדָחֵי דִּלְמָא לְסְחוֹרָה וְקַשְׁיָא לֵיהּ דַּהֲרֵי כָּל הָאָסוּר מִן הַתּוֹרָה גַּם סְחוֹרָה אָסוּר וְהִנֵּה קֹדֶם זֶה כְּבָר מַיְיתֵי ש"ס מֵחֲלֵב עִזִּים לְלַחְמֶךָ וְדָחֵי נָמֵי לְסְחוֹרָה וּמֵהָא לָא הֲוָה קַשְׁיָא לְתוֹסָפוֹת יוֹם טוֹב מִשּׁוּם דְּיֵשׁ לוֹמַר בְּנִזְדַּמְּנָה לוֹ שֶׁהֲרֵי מְגַדֵּל עִזִּים לְגִיזָּה וְלַאֲכִילָה וּבֵין כָּךְ חוֹלֵב לְסְחוֹרָה אֲבָל מֵחֲרִיצֵי חָלָב קָשֶׁה שַׁפִּיר דַּאֲפִלּוּ אִם נִזְדַּמְּנוּ לְיִשַׁי אֲבִי דָוִד חֲרִיצֵי חָלָב וּמָתַר לוֹ לְמוֹכְרָם לְנָכְרִי אֲבָל מִי הִתִּיר לְשַׁר הָאֶלֶף לְלוֹקְחָם מִמֶּנּוּ לְסְחוֹר בָּהֶם׃

Now, in the Tosfos Yom Tov on Masechta Shevi'is there,[24] (the Mishnah states that one may not do business in forbidden items) **he raised a difficulty from the first chapter of Bechoros,**[25] **where [the Gemara] seeks to derive that chalav [milk, even from a kosher animal] is permitted [in eating], from [the verse about] "ten cheeses of milk"** (I Shmuel 17:18, where Yishai sent David with ten cheeses to the army commander). **And [the Gemara] deflects: perhaps [those cheeses were] for sechorah [not eating].** If chalav is forbidden in eating, the cheeses may have been sent for trade purposes. **And [the Tosfos Yom Tov] finds this difficult: for anything forbidden by the Torah, its sechorah is also prohibited! Now, before this [proof], the Gemara already cited [a proof from] "goat's milk for your bread"** (Mishlei 27:27), **and also deflected: perhaps [it means] for sechorah. And from that [deflection], the Tosfos Yom Tov found no difficulty, because one could say it was a case of "nizdamnu lo" — [items that] happened to come to him.** A person who raises goats for shearing and eating incidentally has milk, and may sell it. **For he raises goats for their fleece and for eating, and in the meanwhile milks them for trade. But from the cheeses, the difficulty is well-founded. For even if cheeses happened to come to Yishai, David's father, and he was permitted to sell them to gentiles, but who permitted the army commander to buy them from him in order to trade in them?** According to Tosfos Sukkah 39a, a second Jew may not purchase forbidden items for resale — so how could the army commander engage in this trade?

וְהַנִּרְאֶה לַעֲנִיּוּת דַּעְתִּי בְּיִשּׁוּב קוּשְׁיָה זוֹ דְּיֵשׁ לוֹמַר נְהִי בְּכָל הָאִיסּוּרִים מַיְיתֵי ש"ס קְרָא לְהֶתֵּר הֲנָאָה לָכֶם וּקְצִירֵיכֶם וְכַדּוֹמֶה מִכָּל מָקוֹם יִהְיוּ דִּכְתִיב בַּשְּׂרָצִים וּמְגַלֶּה עַל כָּל לָכֶם דִּכְתִיב בְּכָל הָאֲסוּרִים שֶׁאֵינָנוּ לְכָל צָרְכֵיכֶם מַמָּשׁ דִּלְסְחוֹרָה מִיהַת אָסוּר וּמִכָּל מָקוֹם מַשְׁמָעוּת דִּלְכֶם בִּמְקוֹמוֹ קָאֵי דִּלְכֶם הֲוָה דַּהֲרֵי מָתַר בִּשְׂאָרֵי הֲנָאוֹת אַךְ בְּדָם וְאֵבֶר מִן הַחַי דְּפָרִיךְ ש"ס וַהֲרֵי דָּם וּמְשַׁנֵּי דָּם אִיתַּקַּשׁ לְמַיִם וְאֵבֶר מִן הַחַי אִיתַּקַּשׁ לְדָם אִם כֵּן בְּהָנֵי תְּרֵי אִי אֶפְשָׁר לוֹמַר דִּיהְיוּ דִּכְתִיב בַּשְּׂרָצִים מְגַלֶּה נָמֵי אָדָם וְאֵבֶר מִן הַחַי שֶׁיִּהְיֶה אָסוּר בְּסְחוֹרָה דְּאִם כֵּן אֵינוֹ דּוֹמֶה לְמַיִם שֶׁהֲרֵי מַיִם גַּם בְּסְחוֹרָה מָתַר נִמְצָא דָּם וְאֵבֶר מִן הַחַי עַל כָּרְחָךְ מִן הַתּוֹרָה מֻתָּרִים בְּסְחוֹרָה וְאִם אֲסוּרִים הַיְינוּ מִדְּרַבָּנָן אֲבָל מִן הַתּוֹרָה אִי אֶפְשָׁר וְהָא דַּהֲוָה בָּעֵי לְמֵיסַר חֵלֶב הַיְינוּ אוֹ מִשּׁוּם אִיסּוּר דָּם דְּנֶעֱכַּר וְנַעֲשָׂה חָלָב אוֹ מִשּׁוּם דְּלֵיכָא דָּבָר הַיּוֹצֵא מִן הַחַי דִּשְׁרֵי וְכֵיוָן

And what appears to my humble opinion to resolve this difficulty: One can say: granted, regarding all [Torah] prohibitions, the Talmud brings verses to permit benefit — "lachem," "uketzirchem" [and your harvest], and the like — nevertheless, "yihyeh" [it shall remain] written regarding sheratzim reveals regarding all the "lachem" verses written for all forbidden items that [the permission] is not literally for all your needs. For sechorah at least is prohibited. Nevertheless, the meaning of "lachem" stands in its place. It IS "for you" — for other forms of benefit remain permitted. However, regarding blood and eiver min hachai [a limb from a living animal], where the Talmud asks: "But what about blood [which is permitted in benefit]?" And answers: blood is compared [via a hekesh] to water. And eiver min hachai is compared to blood. If so, regarding these two [prohibitions], it is impossible to say that "yihyeh" written regarding sheratzim also reveals regarding blood and eiver min hachai that they should be prohibited in sechorah. For if so, [blood] would not be comparable to water, since water is also permitted in trade! It follows that blood and eiver min hachai must necessarily be permitted in sechorah from the Torah. And if they are prohibited, it is only rabbinically. But from the Torah, it is impossible [to prohibit their sechorah]. And the fact that [the Gemara] wanted to prohibit chalav [milk]: This was either because of the prohibition of

[24]Tosfos Yom Tov on Mishnah Shevi'is 7:3 — The Mishnah states: "שֶׁאֵין עוֹשִׂין סְחוֹרָה בְּפֵרוֹת שְׁבִיעִית, וְלֹא בִּבְכוֹרוֹת, וְלֹא בִּתְרוּמוֹת, וְלֹא בִּנְבֵלוֹת, וְלֹא בְּטֵרֵפוֹת, וְלֹא בִּשְׁקָצִים, וְלֹא בִּרְמָשִׂים."

[25]Bechoros 6b — The Gemara attempts to derive that milk (chalav) is permitted from "ten cheeses of milk" (I Shmuel 17:18) and from "goat's milk for your bread" (Mishlei 27:27), and deflects each proof by suggesting it refers to sechorah. The sugya also states: "חַד לֶאֱסוֹר עַצְמוֹ, וְחַד לֶאֱסוֹר חֶלְבּוֹ."

blood, which becomes altered and turns into milk, or because there is no product that comes from a living animal that is permitted. And since blood and eiver min hachai are permitted for trade, all the more so chalav [should be permitted in trade]. Only, one might have thought to prohibit it in eating. And as [the Gemara] seeks to derive from cheeses — the deflection works well: say [those cheeses were] for sechorah. And the Rabbis had not yet enacted a prohibition [of sechorah in these items]. And this works out well.

דְּבָדָם וְאֵבֶר מִן הַחַי מֻתָּר לִסְחוֹר בָּהֶם מִכָּל שֶׁכֵּן בְּחָלָב רַק הֲוָה סָלְקָא דַּעְתָּךְ אָמִינָא לֶאֱסוֹר בַּאֲכִילָה וּכְדָבָעֵי לְמֵילַף מֵחֲרִיצֵי חָלָב דָּחֵי שַׁפִּיר אֵימָא לִסְחוֹרָה וַעֲדַיִן לֹא אָסְרוּ רַבָּנָן וְאָתֵי שַׁפִּיר:

And from what I wrote above — that the reason the Tosfos Yom Tov did not raise a difficulty from "goat's milk for your bread" is that one could say it was a case of nizdamnu lo [items that happened upon him] — this proves that when one purchases goats for their hides, meat, and shearing, even though incidentally there is milk here, it is like [a case of] trapping kosher [animals], where there are also non-kosher ones present, which is permitted lechatchilah to trap both together. And so writes the Bach in the language of the Tur, at the beginning of Siman 114.[26] See there. But to slaughter billy-goats [through nechira] to sell the meat to gentiles, merely because he wants to avoid losing the value of their hides and therefore slaughters them — this is certainly prohibited. As the glosses of Masas Binyamin, Siman 25, write.[27] See there. And the words of the Taz who permits this are very puzzling. He has already been struck with a hundred reeds — a Talmudic expression meaning this position has been thoroughly refuted. **For there is no beginning of a permitted action here whatsoever. Since the primary purpose of purchasing them is to sell the meat to gentiles. And only because of a minor loss regarding the hides does he want to slaughter them. And the matter should be buried.** The Chasam Sofer utterly rejects the Taz's leniency in this case.

וּמִתּוֹךְ מַה שֶּׁכָּתַבְתִּי לְעֵיל דְּמִשּׁוּם הָכִי לֹא הִקְשָׁה תּוֹסָפוֹת יוֹם טוֹב מֵחֲלֵב עִזִּים לְלַחְמְךָ דַּהֲוָה מָצֵי לְמֵימַר דַּהֲוָה נִזְדַּמְּנוּ לוֹ מוּכָח דִּכְשֶׁקּוֹנֶה הָעִזִּים לְצָרְכָּן עוֹרָם וּבְשָׂרָם וְגִיזָּה אַף עַל פִּי שֶׁמְּמֵילָא יֵשׁ כָּאן חָלָב הֲוָה לֵיהּ כְּצַד טְהוֹרִים וְיֵשׁ שָׁם גַּם כֵּן טְמֵאִים דְּמוּתָּר לְכַתְּחִלָּה לָצוּד שְׁנֵיהֶם יַחְדָּו וְכֵן כָּתַב בַּיִת חָדָשׁ בִּלְשׁוֹן הַטּוּר רֹאשׁ סִימָן קי"ד עַיֵּן שָׁם אֲבָל לִנְחוֹר תְּיָשִׁים לִמְכּוֹר הַבָּשָׂר לְנָכְרִים אֶלָּא שֶׁלֹּא לְהַפְסִיד עוֹרָם הוּא נוֹחָרָם זֶה בְּוַדַּאי אָסוּר כְּמוֹ שֶׁכָּתַב הַגָּהַת מַשְׁאַת בִּנְיָמִין סִימָן כ"ה עַיֵּן שָׁם וְדִבְרֵי טוּרֵי זָהָב הַמַּתִּיר תְּמוּהִים מְאֹד כְּבָר מָחוּ לֵיהּ מֵאָה עוֹכְלֵי בְּעוֹכְלֵי דְּאֵין כָּאן שׁוּם הַתְחָלָה בְּהֶתֵּר דַּהֲרֵי עִיקַּר קִנְיָתָם לִמְכּוֹר הַבָּשָׂר לְנָכְרִים וְרַק מִשּׁוּם הֶפְסֵד מוּעָט דְּהָעוֹר רוֹצֶה לִנְחוֹר וְיִשְׁתַּקַּע הַדָּבָר:

And behold, [the Taz] brings a proof from Masechta Berachos 14:[28] **"Rav said: One should not begin [reciting Parshas Tzitzis at night], but if he began, he finishes." And many were puzzled, [saying] that [the Taz] erred in the plain meaning of the Gemara. There [in Berachos], there is no hint of prohibition regarding Parshas Tzitzis [at night].** Even though tzitzis doesn't apply at night, there is nothing forbidden about reciting the passage. **And what proof is there from this that one who begins permissibly may finish with a prohibition? And so that we should not make this great man [the Taz] into one who errs, God forbid, I will say something about this matter. For the Rashba there [on Berachos] raised a difficulty:**[29] **Regarding the Bnei Ma'arava [people of Eretz Yisrael] who begin [saying]: "Speak to the Children of Israel and say to them" — but [we have the principle that] any verse that Moshe did not divide, we do not divide!** They are reciting only part of a verse, which violates this rule. **And my student, the outstanding young man, told me — the bridegroom, the distinguished, his honor R. Moshe Tuviah — in the name of his father, the Rabbi, our teacher R. Yosef, of blessed memory, of the holy community of Amsterdam, who said a wonderful thing: that this is the verse in Parshas Arayos** (Vayikra 18:2). **"Speak to the Children of Israel and say to them: I am Hashem your God."** On this reading, they

וְהִנֵּה מַיְיתִי לֵיהּ רְאָיָה מִמַּסֶּכֶת בְּרָכוֹת י"ד אָמַר רַב לֹא יַתְחִיל וְאִם הִתְחִיל גּוֹמֵר וְרַבִּים תָּמְהוּ שֶׁטָּעָה בְּפִשַּׁט גְּמָרָא הָתָם לֵיכָא שׁוּם נִדְנוּד אִיסּוּר בְּפָרָשַׁת צִיצִית וּמַאי רְאָיָה מִזֶּה שֶׁהַמַּתְחִיל בְּהֶתֵּר יִגְמֹר בְּאִיסּוּר וְכִי הֵיכִי דְּלָא לְשַׁוְוֵיהּ לְגַבְרָא רַבָּה בְּטוֹעֶה חַס וְשָׁלוֹם אֵימָא בֵּיהּ מִלְּתָא דְּהָרַשְׁבָּ"א שָׁם הִקְשָׁה אַבְנֵי מַעֲרָבָא שֶׁמַּתְחִילִין דִּבֶּר אֶל בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם הָא כָּל פְּסוּקֵי דְּלָא פָּסַק מֹשֶׁה אָנַן לָא פָּסְקִינַן לֵיהּ וְאָמַר לִי תַּלְמִידִי הַבָּחוּר הַמּוּפְלָא הֶחָתָן המל"ח כְּבוֹד הָרַב מֹשֶׁה טוֹבִיָּה בְּשֵׁם אָבִיו הָרַב מוֹרֵנוּ הָרַב יוֹסֵף זֵכֶר צַדִּיק לִבְרָכָה מִקְּהִלָּה קְדוֹשָׁה אַמְשְׁטֶרְדָּם שֶׁאָמַר דָּבָר נִפְלָא שֶׁזֶּה הוּא הַמִּקְרָא בְּפָרָשַׁת עֲרָיוֹת דַּבֵּר אֶל בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם אֲנִי ה' אֱלֹהֵיכֶם עַיֵּן שָׁם וּתְמִיהָא רַבְתָּא עַיֵּן שָׁם הָרַשְׁבָּ"א שֶׁנֶּעְלַם זֶה מִמֶּנּוּ אָמְנָם שַׁבְתִּי וְרָאִיתִי אֲנִי עָנִי דִּלְכָאוֹרָה

[26] Bach, Tur Yoreh Deah, beginning of Siman 114.

[27] Hagahos Masas Binyamin, Siman 25.

[28] Berachos 14a — The Gemara records: "אָמְרִי בְּמַעֲרְבָא עַרְבִית — דַּבֵּר אֶל בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם..." regarding the Bnei Ma'arava's practice for the evening Shema.

[29] Rashba on Berachos 14a — The Rashba raises the difficulty of splitting a verse that Moshe did not split.

recited a complete verse and did not split it. **See there. And it is a great wonder regarding the Rashba, that this [answer] escaped him. However, I returned and reconsidered, humble as I am: At first glance, what is all the fuss of the Bnei Ma'arava about not saying Parshas Tzitzis [at night]? Let it be that [the mitzvah of tzitzis] does not apply at night; nevertheless, what harm is there in reciting Parshas Tzitzis at night? We must say: since at that time [night] it has no relevance to Kri'as Shema, it constitutes an interruption between [Shema] and the two berachos of Kri'as Shema that follow it. Therefore, they only said what is relevant to [the theme of God's] kingship — "Speak to the Children of Israel and say to them: I am Hashem your God... True."** They recited only part of the first verse and part of the last. **And now, it is impossible to say that they intended [to use] that verse from Arayos, since [that verse] was never established as part of the Kri'as Shema passages, and it is obvious that it would be an even greater interruption. And necessarily, [the Bnei Ma'arava] intended only the first half-verse of Parshas Tzitzis, and the last half-verse, since they are relevant to Kri'as Shema** — together, these words express God's kingship. **And the Rashba properly raised the difficulty that Moshe did not divide [these verses]. And [the Rashba] was forced to give a strained answer. And now: Rav says one should not begin [Parshas Tzitzis] at all, so that one does not divide a verse that Moshe did not divide. But if he began, he finishes [the entire parshah], even though [the recitation of the full parshah] interrupts with Parshas Tzitzis between Shema and the final berachah. For we hold that whenever one began permissibly, one may finish that matter, even though its conclusion involves a prohibition. This is how one can settle the Taz's intention, so that he should not appear to err in the interpretation of the Talmud. But it is obvious that nevertheless the analogy does not hold up well. And what does one matter have to do with the other?** A minor hefsek in Kri'as Shema is entirely different from the Torah prohibition of sechorah. **And on Erev Pesach, we hold that even if one began [a meal] permissibly, one does not finish, but rather spreads a cloth [over the bread] and makes Kiddush.** Even beginning permissibly does not always allow finishing. **And in Masechta Beitzah 11b,[30] one who began [selling] his dough during the festival: were it not that they permitted the end because of the beginning, it would not have been permitted to finish.** The special dispensation shows that beginning permissibly does not normally allow one to finish. This rejects the Taz's proof from Berachos.

מַה כָּל הָרַעַשׁ דִּבְנֵי מַעֲרָבָא שֶׁלֹּא לוֹמַר
פָּרָשַׁת צִיצִית וְיהִי מָה שֶׁאֵינוֹ נוֹהֵג בַּלַּיְלָה
מִכָּל מָקוֹם מַה הֶּפְסֵד יֵשׁ בַּאֲמִירַת פָּרָשַׁת
צִיצִית בַּלַּיְלָה וְצָרִיךְ לוֹמַר כֵּיוָן דְּאָז אֵין
לוֹ שַׁיָּכוּת לִקְרִיאַת שְׁמַע הֲוָה לֵיהּ הֶפְסֵק
בֵּינוֹ לִבְרָכַת קְרִיאַת שְׁמַע שְׁתַּיִם לְאַחֲרָיו
עַל כֵּן לֹא אָמְרוּ רַק מַה שֶּׁשַּׁיָּךְ לְמַלְכוּת
דַּבֵּר אֶל בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם אֲנִי
ה' אֱלֹהֵיכֶם אֱמֶת וּמַעֲתָּה אִי אֶפְשָׁר לוֹמַר
שֶׁלֹּא נִתְכַּוְּנוּ לְאוֹתוֹ פָּסוּק עֲרָיוֹת שֶׁלֹּא נִתְקַן
מֵעוֹלָם לְפָרָשַׁת קְרִיאַת שְׁמַע דְּפִשִׁיטָא
דַּהֲוָה הֶפְסֵק טְפֵי וְעַל כָּרְחָךְ לֹא נִתְכַּוְּנוּ
אֶלָּא לַחֲצִי פָּסוּק רִאשׁוֹן דְּפָרָשַׁת צִיצִית
וַחֲצִי פָּסוּק אַחֲרוֹן דְּהֵם שַׁיָּכִי לִקְרִיאַת שְׁמַע
וְשַׁפִּיר הִקְשָׁה הָרַשְׁבָּ"א דְּהָא לָא פַּסְקִינַן
מֹשֶׁה וְנִדְחַק בְּתֵירוּצוֹ וְהַשְׁתָּא אָמַר רַב
לֹא יַתְחִיל כְּלָל כִּי הֵיכִי דְּלָא לִפְסוֹק קְרָא
דְּלָא פַּסְקִינַן מֹשֶׁה וְאִי הִתְחִיל גּוֹמֵר אַף
עַל גַּב דְּמַפְסִיק בְּפָרָשַׁת צִיצִית בֵּין קְרִיאַת
שְׁמַע לַבְּרָכָה אַחֲרוֹנָה דְּקַיְימָא לַן דְּכָל
שֶׁהִתְחִיל בְּהֶתֵּר גּוֹמֵר אוֹתוֹ הַדָּבָר אַף עַל
פִּי שֶׁגְּמָרוֹ בְּאִיסּוּר כָּךְ יֵשׁ לְיַישֵׁב כַּוָּנַת טוּרֵי
זָהָב שֶׁלֹּא יִהְיֶה כְּטוֹעֶה בְּפֵירוּשׁ הש"ס אֲבָל
פְּשִׁיטָא שֶׁמִּכָּל מָקוֹם אֵין הַדִּמְיוֹן עוֹלֶה יָפֶה
וּמַה עִנְיָן זֶה לָזֶה וּבְעֶרֶב פֶּסַח קַיְימָא לַן
אֲפִלּוּ הִתְחִיל בְּהֶתֵּר אֵינוֹ גּוֹמֵר אֶלָּא פּוֹרֵס
מַפָּה וּמְקַדֵּשׁ וּבְמַסֶּכֶת בֵּיצָה י"א עַמּוּד ב'
הַמַּתְחִיל בְּעִיסָּתוֹ עַל גַּבֵּי הָרֶגֶל לוּלֵי הִתִּירוּ
סוֹפָן מִשּׁוּם תְּחִלָּתָן לֹא הָיָה מַתִּירִים לְגָמְרֵי:

Let us now see what is before us, with the help of God. Behold, at first glance, if we rely on the reason of the verse mentioned above — that **sechorah** is prohibited only lest one eat the forbidden item — **even to be lenient, then if the Jew has no involvement at all — for instance, the gentile buys and sells pig necks and the Jew is not engaged with them at all, and they never came into his hands, only that the gentile servant gives profit to the Jew — it would be permitted. However, one cannot rely [on this reasoning] to be lenient, for perhaps it is a decree of the verse without any [accessible] reason. And indeed, [the Teshuvos of R.] Menachem Azariah, Siman 30, explicitly prohibits [this].[31] However, accordingly, if the Jew did not acquire the pigs through a valid Torah mode of acquisition, then they are not the Jew's property, and it is**

וְנָחֲזֵי מַאי דְּקָמָן בָּעֲזָרַת הַשֵּׁם יִתְבָּרַךְ הִנֵּה
לְכְאוֹרָה אִם נִסְמֹךְ עַל טַעֲמָא דִּקְרָא הַנִּזְכָּר
לְעֵיל אֲפִלּוּ לְהָקֵל אִם כֵּן אִם אֵין לְיִשְׂרָאֵל
שׁוּם עֵסֶק כְּגוֹן שֶׁהַגּוֹי קוֹנֶה וּמוֹכֵר קְדָלֵי
דַּחֲזִירֵי וְיִשְׂרָאֵל אֵינוֹ עוֹסֵק בָּהֶם כְּלָל וְלֹא
בָּאוּ לְיָדוֹ רַק שֶׁהַמְּשָׁרֵת הַגּוֹי נוֹתֵן רִיוַח
לְיִשְׂרָאֵל הָיָה מוּתָּר אֶלָּא שֶׁאֵין לִסְמֹךְ
לְהָקֵל דִּלְמָא גְּזֵירַת הַכָּתוּב הִיא בְּלִי שׁוּם
טַעַם וְכֵן אָסַר לְהַדְיָא בִּתְשׁוּבַת מְנַחֵם
עֲזַרְיָה סִימָן למ"ד אֶלָּא לְפִי זֶה אִם לֹא
קָנָה הַיִּשְׂרָאֵל הַחֲזִירִים בְּדִין קִנְיַן הַתּוֹרָה

[30]Beitzah 11b — The principle of "they permitted the end because of the beginning" (התירו סופן משום תחלתן) regarding dough begun on Yom Tov.
[31]Teshuvos Menachem Azariah (Rema MiFano), Siman 30.