

Ḥayyei Adam: Laws of Shabbat (1-3)

A Translation and Commentary

Noah S. Ferro

Academic Referee: Dr. Richard Sarason

Submitted in partial fulfillment of requirements for rabbinical ordination

Hebrew Union College-Jewish Institute of Religion

Cincinnati Campus, 5777 (2017)

TABLE OF CONTENTS

Digest_____	i
Introduction_____	1
Chapter 1_____	9
Chapter 2_____	22
Chapter 3_____	30
Appendices_____	61
Appendix A: Glossary_____	61
Appendix B: Halakhic Works and Authors_____	66
Appendix C: On the Division of Texts_____	73
Appendix D: Works Cited_____	75

DIGEST

This study is an immersion project in a particular piece of halakhic literature, the first three chapters of the second section of *Ḥayyei Adam* (the Laws of Shabbat). As such, it represents a significant amount of translation work. However, it also entailed a significant amount of reference to other referenced works throughout the halakhic corpus, both for providing context and for uncovering complete citations which were otherwise missing.

GOALS

This study has three goals. The first is to begin a translation of Rabbi Avraham Danzig's *Ḥayyei Adam* into English. The work is only two hundred years old, and despite the challenges of halakhic Hebrew, its author's mind is not so different from that of the average denizen of the twenty-first century. It can be readily understood, and it can teach readers something about its world.

The second goal, in line with the preceding remarks, is to introduce halakhic literature to readers who have never set foot in it before. The translation and explanatory content are designed to facilitate this process. It is hoped that through careful study and perseverance, these new readers will begin to learn how to explore works such as *Ḥayyei Adam*. An effort has been made to eliminate the mystifying obscurantism of halakhic literature's many insider terms and abbreviations, so these should pose no boundary to entry.

Lastly, this study looks to the world in which Danzig lived and wrote as a world in transition. It seeks to capture something of the everyday concerns and realities that

distinguished that world from the one just before it, and from the one which would come immediately after.

METHODOLOGY

In completing this project, I have made considerable use of a number of dictionaries. Chief among them, however, has been Jastrow's classic 1903 dictionary. Danzig frequently slips between Hebrew and Aramaic terms, and Jastrow does a good job of capturing the rabbinically relevant meanings a word may have in either or both languages. In addition to Jastrow, I used a number of Hebrew-Hebrew dictionaries, to ensure that my status as a non-native speaker of Hebrew would not create too great gap in my knowledge of certain idioms or connotations to be able to provide an appropriate translation.

Lastly, I consulted other works of halakhic literature. From *Mishnah B^erurah* to *Mishneh Torah*, I checked printed editions and made liberal use of the Jewish Studies Portal to ensure that I understood the context under discussion and the intended meaning of a particular comment or citation.

INTRODUCTION

ON HALAKHIC LITERATURE

To classify halakhic literature in the most general of terms, one may say that it is that ever-growing corpus of Jewish writing which has, since the redaction of the Mishnah c.200 C.E., sought to expound and examine the legal, ethical, and ritual norms by which Rabbinic Jews have constituted and governed their communities throughout the centuries following the great disruptions of 70 and 135 C.E. in Palestine. In every generation, halakhic writers examine their predecessors' understandings of these norms and their limitations, and how to apply them, before themselves adding in some way to that body of understandings. Taken as a whole, these norms themselves comprise the *Halakhah* – “the Going,” or “the Walking,” or “the Way” – a term often, though inaccurately, understood to mean “Jewish religious law.”¹ While the *Halakhah* includes much legal language, expressing a significant number of both ritual and nonritual norms particular to the Jewish people and conceived expressly for the furtherance of Jewish religious practice, there are other important features to it as well. These help to define what else the *Halakhah* is and what else it is capable of doing.

One such feature is that it insists on discussing numerous concerns and teachings rendered purely hypothetical by any historical context either without a functioning Temple in Jerusalem or without Jewish political autonomy, but to which rabbinic minds in medieval Córdoba or Troyes or Mainz could nevertheless devote serious attention. These elements

¹ For a fuller appreciation of the nuances at play in the word, see Jastrow's entry (*A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature*, New York: G.P. Putnam's Sons, 1926), p. 353.

could be said to be actionable laws, temporarily held in abeyance until the Jewish people's return to its land, but by this very articulation they may also be understood as vital set pieces in the construction of a Jewish narrative of history and human purpose. The aggadic *midrashim*² – pseudo-canonical stories, explanations, and philological games woven around the text of the Torah and other books of the Hebrew Bible – clearly contribute to the telling of the Jewish story, as do the works of the Kabbalists and other mystics. However halakhic literature, through what it emphasizes or ignores, what it forbids or permits, may be said to engage in this process as well, if sometimes quite obliquely. This fact deserves a thoroughgoing treatment, although such an endeavor lies outside the scope of this work.

An equally vital component of the *Halakhah* is the process of reasoning by which it derives new norms, or new understandings of the existing norms.³ Tracing this process through certain materials can be quite an elusive task. Some classical source texts – notably Mishnah and Tosefta – frequently offer statements and judgments without rationale of any sort, even without supporting scriptural citations. Some sections of Talmud and halakhic *midrash* employ rationalizations or evidence in ways which may seem counterintuitive, inconsistent, or outright dubious. Subsequent commentaries around these primary sources, meanwhile, generally evince a very strong desire to harmonize the voices and opinions

² For definitions of Hebrew and Aramaic terms important to this study, cross-referenced where appropriate with their English counterparts, see Appendix A.

³ There has been considerable debate in classical, medieval, and modern scholarship about whether legal hermeneutics should be understood as a process of innovation or of excavation. Azzan Yadin offers the opinion in *Scripture as Logos* (Philadelphia: University of Pennsylvania Press, 2004) that even the supposedly strict legal exegesis of the Rabbi Yishma'el *midrashim* actually entails a significant amount of creative interpretation (see his Introduction, pp. 1-10 for a summary of the framing arguments). Focusing on a more contemporary example, Binyamin Lau's *From "Maran" to "Maran": The Halakhic Philosophy of Rav Ovadia Yosef* (??) paints a picture of an innovative process of creative decision-making as practiced by the late former Sefardic Chief Rabbi of Israel. Many contemporary scholars thus see the *Halakhah* as an entity which can contract and expand in the hands of such interpreters and decision-makers.

presented. The major compendia – *Arba'ah Turim*, *Mishneh Torah*, *Shulḥan 'Arukh*, and so on⁴ – try to harmonize the strands as well, though these tend to achieve that task by being selective about how much information is even presented. In its own way, each of the halakhic compendia seeks to simplify the landscape of halakhic discourse and to provide clear, practical aid to the pious reader. In so doing, they inevitably obscure certain important features of the halakhic process.

On the other hand, the works written in response to the compendia strive to expose some of these features once more. These works fall into one of two genres: (1) commentaries – dedicated studies of one compendia or another, with notes, explanations, sources, and questions, and written with a very close eye on the given text around which it is based; as well as (2) digests – broader surveys of the halakhic works which discuss a given range of topics, often juxtaposing several sources with a principal text (such as *Shulḥan 'Arukh*).⁵ The analyses which appear in these genres are intended to provide useful halakhic guidance, yet they also preserve for readers a background process of reasoning, selecting sources, and identifying real challenges to the notion of a harmonious and unambiguous *Halakhah*.⁶

This kind of transparency is of interest to the present study, as its subject – the digest *Hayyei Adam* – is a work which engages deeply with its source material and actively

⁴ For information about specific works and authors referred to throughout this study, see Appendix B.

⁵ In addition to these genres and those identified previously, there also exist one more genre of halakhic literature: *respona* (Hebrew *t^eshuvot*; pl. of *responsum* / *t^eshuvah*) – letters which offer halakhic counsel, often with a considerable amount of exposition and preamble to properly frame the issue being addressed. Such framing acts may well tend toward obscurantism or oversimplification; however, they often elucidate the shortcomings or complexities of the *Halakhah* on a given subject instead.

⁶ It is worth noting that a single author may produce both a compendium and a “post-compendium” work. Yosef K^aro, for instance, authored the *Bet Yosef* as a critical commentary on the *Arba'ah Turim* many years before writing *Shulḥan 'Arukh*.

complicates the instruction it offers. Presented as it nearly always is with the author's accompanying commentary *Nishmat Adam*, it comes to function much as a modern work of academic scholarship might: it surveys the relevant extant literature with a knowledge both broad and deep, and it unflinchingly poses for its readers' consideration problems that lie beyond its ability to resolve.

ḤAYYEI ADAM AND ITS AUTHOR

The life and works of Rabbi Avraham Danzig are little studied today outside pious Ashkenazic circles, where he is often referred to simply as “Ba'al ha-Ḥayyei Adam.” He lived from 1747 to 1820 – his adult life and career beginning at roughly the same time that the Haskalah first took hold in Germany. This Jewish Enlightenment movement sought a reconciliation between Jewish thought and the cultural milieu of modern Europe, and Danzig and other pious Jews of Poland, Bohemia, and Lithuania tended to regard it with considerable apprehension. His death, meanwhile, would occur only two years after the dedication of the Hamburg Temple, the first house of worship ever devoted from its inception to a reformist approach to Jewish liturgy, worship, and sacred music.

Thus situated as he was in time and place, Danzig was largely insulated both from the dramatic goings-on across Western Europe and from these early churnings of a nascent Reform movement. Even the demise of the Polish-Lithuanian Commonwealth and the subsequent partitions of the area, which left his native Danzig in Prussian control and made the Vilna in which he lived and worked a part of the Russian Empire, seem to have had little noteworthy impact on his life and work, to judge from the following biography:

Danzig, R. Avraham ben R. Yeḥiel-Mikhal (5508-5581; 1747-1820)

Born in Danzig. Studied in Prague in the yeshiva of R. Yosef Liberman and in the yeshiva of R. Yehezkel Landau. Son-in-law of R. Mosheh Segal of Vilna. At age 18, ordained to teach. Settled in Vilna and worked as a merchant, but devoted most of his time to Torah and writing books. In the year 5564 [1803-04], miraculously survived an explosion which occurred in his courtyard and caused 31 fatalities. In his old age, his fortunes reversed, and he lost his wealth, and with no other choice, answered the call of Vilna's notables and agreed to serve as a halakhic judge and decisor in Vilna. He was righteous and honest and beneficent with people. Humble and modest in his judgments. Ordered his sons that after his death "they would not crown him with titles and would not speak any praise of him except that he had engaged in commerce faithfully, and to his knowledge did no wrong to any man with respect to money." His compositions: *Hayyei Adam* and *Nishmat Adam*, rulings in *Orah Hayyim* (Vilna, 5570 [1809-10]); *Hokhmat Adam* and *Binat Adam*, rulings in *Yoreh De'ah* (Vilna, 5574 [1813-14]); *Sha'arei Tzedek*, on the commandments dependent on the Holy Land (Vilna, 5572 – [1811-12]; *Zikhru Torat Mosheh*, laws of Shabbat, with *Mitzvat Mosheh* – an abridgement of *Sefer Haredim* (Vilna, 5577 [1816-17]); *Toledot Adam*, a commentary on the Pesah Haggadah, published with the text (Vilna, 5578 [1817-18]); *Bet Avraham*, a last will on topics of ethics and Judaism (Vilna, 5581 [1820-21]); "*Tefillah Zakkah*," for Yom Kippur evening (Minsk, 5598 [1837-38]). His books were accepted throughout the entire Diaspora of Israel, and continued to be printed many times. In many communities "*Hayyei Adam*" societies exist for the study of his books. He died in Vilna.⁷

⁷ *Yahadut Liṭa*, v.3, p.42; translation mine.

Despite being called after the name of his most famous work, the Ba'al ha-Ḥayyei Adam may have won a more lasting place for his Yom Kippur composition than for any of his halakhic writings. This prayer is still found in some Ashkenazi maḥzorim to this very day. The book *Ḥayyei Adam* itself, on the other hand, is largely remembered as one of the few sources upon which Shelomo Ganzfried relied in compiling his own digest, the *Ḳitzur Shulḥan 'Arukh*, published in 1874. As noted in the above biography, *Ḥayyei Adam* was written and organized primarily around the *Oraḥ Ḥayyim* section of *Shulḥan 'Arukh*, while *Ḥokhmat Adam* follows *Yoreh De'ah*. Though it draws on both of these works, the *Ḳitzur's* popularity greatly eclipsed that of either. This fact may explain why in 1973, Menachem Elon chose to afford Danzig and his works only one brief mention in *Mishpaṭ 'Ivri*, his sweeping four-volume survey of the legal writings of the Jewish people.

PRESENT STUDY

The present study has as its object a three-part goal.

First, it contributes in a small way to an as-yet unrealized task: the translation of *Ḥayyei Adam* into English. In the work of this translation, an effort has been made to reproduce much of the author's style, including its particular idiom and lacunae. (This choice was made in furtherance of the remaining two considerations.)

Second, it offers the uninitiated contemporary reader an opportunity to explore a work of modern halakhic literature "risk-free," as it were. To those not practiced at reading them, the style, language, and intertextual references which characterize halakhic compendia and digests can be off-putting. Taking a small section of the text such as this and reading it closely will help readers to understand not only what halakhic concepts, forces,

and methods of reasoning are at play in the text, but also the sources which the author consulted most closely and most frequently.

Lastly, this study finds in *Hayyei Adam* a snapshot of Eastern European Jewry in the early nineteenth century. Rabbis like Avraham Danzig were both contributors to and products of social, literary, and *weltanschauungische* developments in the communities where they made their homes. For these, the *yeshivot* of Lithuania, Bohemia, and Poland were bulwarks against the onslaught of change ushered in by Enlightenment thought and Emancipation politics. Because *Hayyei Adam*'s initial publication in 1810 predated a widespread Reform movement in Europe, it is impossible to know with any certainty how the author or his immediate community might have responded to such a phenomenon had it erupted in their midst. Nevertheless, the sorts of grand ideological battles which would be precipitated by the Central European rabbinical conferences later in the 19th century would hardly seem to be within the work's realm of concern; nor, for that matter, would the crises of communal identity and boundary demarcation exemplified in the words of Yehudah Leib Gordon's "*Hakitzah 'Ami*": "Be a man in your going-out, and a Jew in your tent."

None of this is to say that *Hayyei Adam* itself betokens a self-conscious insularity. Rather, Danzig's concerns as seen here are merely limited to a neatly circumscribed practical field: the everyday ritual observances of an educated and devout Jewish readership. As such, the glimpses which he provides of his contemporary surroundings are relatively sparse. He uses terms borrowed from Yiddish to identify certain foods and ideas for which his rabbinic Hebrew vocabulary lacks a suitable form of expression. He describes a reality in which a "winter-house" and the kind of oven which would be inside it are

necessary considerations for the Jew who wants to avoid doing or designating an unsuitable labor on the Sabbath or holidays.⁸ He also considers the role of hired gentile laborers who harvest Jewish-owned fields, stoke fires for Jewish bathhouses, and launder the clothes of Jewish customers. While none of these details in and of itself can offer a complete picture of everyday life in Jewish Vilna or its environs, the reader concludes that it was not characterized by strict isolation from non-Jews, widespread persecution, or crippling economic hardship.

⁸ Based on the relevant notes to SA *Orah Hayyim* 451:22 in *Mishneh Berurah* and *Bi'ur Halakhah*, it would appear that the reference is to an oven covered in ceramic tiles fastened together with mud or plaster. The oven would be used both for both cooking and for heating one's winter dwelling. Such a dwelling may be presumed to be insulated and weatherproof – different from a better ventilated “summer-house,” with an oven residing outdoors (though such a distinction is not explicitly made here). A tacit understanding of differences between summer dwellings and winter dwellings seems to already be present in Talmud, cf. Abaye's words at the bottom of Yoma 10a (citing Amos 3:15). See also Jer. 36:22.

ḤAYYEI ADAM, PART II:

HALAKHOT OF SHABBAT

CHAPTER 1⁹: The law of preparing for Shabbat on Friday¹⁰ (249¹¹)

(1)¹² The Holy Sabbath is the great sign and the covenant that the Holy One, Blessed Be He,¹³ has given to Israel, that they may know that in six days the Lord made all that He created in the heavens and the earth, and He rested on the seventh; and it is the basis for [having] faith in the knowledge that the world is [constantly] renewed.

And since He created all, He is lord of all; and we are His servants, and are obligated to do His will and to serve Him with all our substance and our spirit and our wealth, for all is His.

And the Torah has warned [us] twelve times about the keeping of Shabbat.¹⁴ And Our Sages, of blessed memory, have said: “Anyone who observes the Sabbath, it is as though he

⁹ Because Hebrew terminology for text divisions is a somewhat complicated matter, I have chosen to translate several different terms as “chapter” and “paragraph.” The use of division terms such as *k^elal*, *perek*, and *siman*, is explained in Appendix C.

¹⁰ The term ‘*Erev Shabbat* has been translated throughout as “Friday,” though its precise meaning is the period from sunset Thursday evening to sunset Friday evening. Most of what Danzig identifies in the necessary preparations for Shabbat would be taking place during the daylight hours of Friday.

¹¹ Some of what will follow in this *k^elal* will expand upon the chapter of SA *Orah Ḥayyim* noted here (that is, ch. 249).

¹² Danzig has opened here with a more poetic introduction to the idea of Shabbat itself. He expands on this introduction at the beginning of *Zikhru Torat Mosheh*. The *Hafetz Ḥayyim*, too, makes use of this passage and borrows its language for *Maḥaneh Yiśra’el* (part I, ch. 28) and *Nidḥei Yiśra’el* (ch. 36).

¹³ Language which treats God as masculine has been chosen in order to preserve fidelity to the gendered theology of Danzig’s own cultural context. Similarly, the masculine-gendered nouns, pronouns, and verbs which Danzig uses for the hypothetical Jews and gentiles about whom he writes have, for the most part, been translated as though they do in fact refer to men. While it is possible in Hebrew usage to interpret masculine word forms as epicene, such an interpretation would be inconsistent with the author’s intended meaning.

¹⁴ It would appear that this count includes thirteen total references in the Torah, with one initial mention and twelve additional “reminders,” presumably divided as follows: Ex. 16:23-29, 20:8-11, 31:13-16, 35:2-3; Lev. 19:3, 19:30, 23:3, 23:38, 24:8, 26:2; Num. 15:32, 28:9-10; Deut. 5:12-15.

is fulfilling the entire Torah; and anyone who desecrates the Sabbath, it is as if he is rejecting the entire Torah.”¹⁵

And the Torah has commanded [us] to remember the Sabbath every single day, as it is written (Ex 20:9): “Remember the Sabbath day,” and this means to always be mindful of the Sabbath, in order to make it holy and to take joy in it. And thus Shammai the Elder would say of every fine thing he would buy: “This is for Shabbat.” (Betzah 16a). And if he found something finer, he would consume the first and put the second aside. And so every day.

But Hillel the Elder – whose temperament favored trust [in God] – in order to strengthen his faith, would not behave so, but rather trusted that something fine would come his way with which to honor the Sabbath. And nevertheless, he would concede [Shammai’s approach to be appropriate] for everyone else. And obviously with any article that was not commonly available for purchase, when something rare would come his way, then he would put it aside for Shabbat.

And so, when one reckons the count of days [of the week], one should reckon according to Shabbat, as follows: “the first day *b^eShabbat*,” and “the second day *b^eShabbat*,” and thus with all of them, because the holiness of Shabbat lingers on every day, since it is the central axis from which all the days of the week imbibe [holiness]; Sunday, Monday, and Tuesday

¹⁵ The Hebrew abbreviation for the phrase “Our Sages, of blessed memory” – *Ḥazal* (*ḥakhamenu, zikrhonam livrakha*) – indicates pre-medieval rabbinic sources, often Talmud and *midrash* in particular. The precise quotation offered here, however, does not exist in the classical corpus. Rather, it appears to be a pastiche of three different ideas, taken from different sources:

(1) “[W]hoever observes the Sabbath, it is as if he had fulfilled the entire Torah” (*Pesiḳta Zuṭarta* to Numbers, *par^eshat Sh^elaḥ L^ekha*); (2) the notion that idolaters and those who publicly desecrate the Sabbath are to be judged alike, present in both *Hullin* 5a and *‘Eruvin* 69b; and (3) “Whoever acknowledges idolatry rejects the whole Torah” (various locations, incl. *Sifrei* to Deuteronomy, *par^eshat R^e’eh*, *pisḳa* 54, and *Pesiḳta Zuṭarta* to Deuteronomy for *R^e’eh*). Putting these together, we may arrive at something close to what Danzig offers here.

are called “after Shabbat,” since they receive holiness from the previous Shabbat; and Wednesday, Thursday, and Friday are called “before Shabbat,” because they are influenced by and receive holiness from the upcoming Shabbat.

And therefore, one who is traveling in a wilderness or one who has been taken captive among non-Jews, who does not know when Shabbat is, counts off seven days from the day when he becomes aware of his uncertainty, and he sanctifies the seventh day with *Ḳiddush* and *Havdalah*. And if he has a way to support himself, he is forbidden to perform any work¹⁶ on any day, until he exhausts what he has, and then he may perform work on any day, even on the day he sanctifies, according to his reduced means, for the sake of *piḳḳuah nefesh*.¹⁷ Since if he does not perform work, he will die. And if he has bread, or other things which may be eaten uncooked, he is forbidden to cook; but he is permitted to walk [a distance greater than the area permitted on *Shabbat*] even on the day he sanctifies, since [the concept of] *teḥumin*¹⁸ is only rabbinic, and he is permitted so that he may hasten to get out of the wilderness. But other rabbinic prohibitions are [still] forbidden [to him].

If he knew the number of the days since he set out into [the wilderness] – for instance, he knew that today is the fourth or fifth day since he set out – but he doesn’t know on which day [of the week] he set out, he is allowed to perform any work on the eighth day from the day that he set out, since on such a day [of the week] he went out from his house, [and]

¹⁶ Heb. *m^elakḥah*. “Work” here is understood to mean one of the thirty-nine categories of (chiefly creative) labor, or any of their subdivisions, as identified in tractate Shabbat. The *Halakhah* prohibits these entirely on Shabbat itself, barring extreme extenuating circumstances. Many of them are forbidden on festival days as well. meaning one of the thirty-nine prohibited categories of actions

¹⁷ The saving of a life, which takes precedence over almost every prohibition in *Halakhah*.

¹⁸ The *teḥum* is the distance a person is permitted to travel beyond the city or inhabited area in which he or she resides (whether permanently or temporarily) on Shabbat or festival days. See Appendix A.

since it is certain that he didn't go out on Shabbat, and in like manner on day 15 and on day 22, and so on ad infinitum (chapter 344). The reason being that the holiness of Shabbat overflows to every [other] day, and therefore any day on which he might rest, has a little bit of Shabbat's holiness anyway.

(2) And therefore it is a *mitzvah*¹⁹ to get up early in the morning on Friday to prepare the necessary things for Shabbat, as it is written, (Exodus 16:5) "And it shall come to pass on the sixth day that they shall prepare", meaning that as soon as it is the sixth day they shall prepare. And if one has no [time] to buy something [for Shabbat] after [praying] the *Tefillah*, he should preempt [the *Tefillah*] and buy it beforehand, as long as he recites *Keri'at Shema'* first.²⁰

(End of chapter 251, *Magen Avraham*. And his words bear examining, since he wrote that [the commandment to prepare for the Sabbath] is from the Torah. This being the case, if it is time-sensitive, why not suspend *Keri'at Shema'* as well?²¹ Since things needed for Shabbat are sanctified, and we have learned: "Frequent and sanctified, they are equal." And I wrote accordingly on the laws of blessings, chapter 68 [in Part I of *Hayyei Adam*]. And what he wrote as well, not to separate oneself from the community – how does that idea [apply] to

¹⁹ A commandment, ultimately representing a divine imperative incumbent upon Jews. See subsequent notes and Appendix A for a fuller exploration of the concept.

²⁰ Here, the daily morning obligations to recite *Shema'* and pray the series of benedictions composing the *Tefillah* are understood to have different levels of importance relative to making Shabbat preparations; *Shema'* takes precedence, while the *Tefillah* can be put off.

²¹ I.e., since the time-sensitive *mitzvah* of preparing for Shabbat can preempt the time-sensitive *mitzvah* of *Tefillah*, should it not also preempt the time-sensitive *mitzvah* of reciting *Shema'*? It bears noting that in the classical understanding, while one may offer a compensatory *Tefillah* for an earlier one not prayed at its proper time, no such option exists for reciting *Shema'*.

this? And in any case, it seems to me that if one has anything whatsoever to eat on Shabbat, it should be forbidden to put off the *T^efillah*, and all the more so *K^eri'at Sh^ema'*.)

(3) It is a *mitzvah* incumbent upon every man, that he himself should personally prepare anything needed for Shabbat, to show honor to it, even if he has servants, as we find among many *Amora'im*,²² and every person should learn from them. And especially when the days are short²³ – and all the more so when he sees that it is already nearly Shabbat, since then he is obligated to busy himself with all his might. And I have seen men of accomplishment, great [in the study of] Torah, who would clean their homes themselves during the short days, so as not to desecrate Shabbat. And this is absolutely an obligation for every man, since what difference does it make if he has no one to prepare [in his stead], or if an agent is not available. And he should not say, “I will not damage my dignity”, for this is his dignity: that he honors Shabbat (chapter 250).

(4) The custom²⁴ among all Israel is to bake bread in honor of Shabbat, the reason being not only so that women will separate *ḥallah*,²⁵ – since on a Friday the First Man was created, who was the *ḥallah* of the world²⁶ – but also, another reason: in order to eat *Pat*

²² The rabbis who lived in the generations after the Mishnah was redacted.

²³ I.e., when there are fewer hours of sunlight per day, thus resulting in an earlier sunset time.

²⁴ Heb. *minhag* – often implying a custom that has halakhic weight (see Appendix A).

²⁵ The separation of *ḥallah* is one of the few Jewish ritual acts axiomatically understood to be a woman's task. It entails the removal of a token portion of dough from the whole, which is then disposed of, often through burning.

²⁶ The idea *Adam ha-Rishon*, the first human being, as “the *ḥallah* of the world” can be found in various *midrashim*, incl. *Avot d^e Rabbi Natan B* (ch. 9 and 42), *B^ereshit Rabbah* to *par^eshat B^ereshit*, 17:8, and *Midrash Tanḥuma* (to *par^eshat Noah*, 1, and in the Buber edition, also to *par^eshat M^etzora'*, 17).

Yiśra'el.²⁷ And therefore, [even] those who are accustomed to eating everyday gentile bread²⁸ on weekdays in any event should be careful specifically to eat *Pat Yiśra'el* on Shabbat (chapter 242).

(5) One should [prepare] abundant meat and fish and savories, according to his ability, and should sharpen his knife, since this is all for the honor of Shabbat. And he should imagine that a king of flesh and blood were coming to stay with him; how much he would clean the house and make up the beds – and all the more so [for the sake of] the Queen Shabbat²⁹ (chapter 250).

(6) One who performs work on Friday from *minḥah* onward will not see the slightest blessing from the selfsame work.³⁰ And there are those who say [that this applies] specifically [beginning from] *minḥah kēṭanah*,³¹ and specifically [to work performed] in the usual manner, but [work which is performed] in an unusual manner is permitted.³²

²⁷ Bread baked by a Jew.

²⁸ Bread baked by a non-Jew.

²⁹ In a Kabbalistic formulation which by the nineteenth century had become commonplace even in the circles least receptive to mysticism, the Sabbath is personified as a queen and a bride. Her presence is welcomed symbolically at sunset on Friday with the psalms and songs of *Qabbalat Shabbat* before beginning the evening service proper with the *Barḥu*.

³⁰ The implication is that the divine order of the universe does not permit a Jew to obtain a financial or other personal benefit from work being performed during this lead-up to Shabbat, when one ought to be preparing for the holy day.

³¹ The halakhic day is divided into twelve equal divisions of daylight, each division being considered an “hour.” The time called “*minḥah kēṭanah*” occurs 2.5 of these “hours” before evening and marks the beginning of the period during which the afternoon prayer service is typically recited. Thus by implication, on the eve of Shabbat or a festival, it would also mark the end of one’s time in the secular working world and the beginning of one’s Jewish ritual duties leading up immediately to the holy day.

³² Throughout the laws of Shabbat and holidays, the classical sources make a distinction between acts done in their conventional manner and ones which are not. The general attitude of authorities tends to be twofold: first, that a

And for the sake of Shabbat one is permitted all day,³³ even to repair his fellow's garments, if he doesn't collect payment. And getting a haircut is permitted all day, even for payment, since anyone would recognize that it is [being done] for the sake of Shabbat.

And writing is permitted, even a friendly letter – and so how much the more so texts for the sake of study; but it is forbidden to write for one's fellow in exchange for payment. And it is necessary to warn artisans thoroughly, since sometimes their work will last until it gets dark (chapter 251).

(7) In principle, it is forbidden to travel more than three parasangs³⁴ on Friday. But in any case, everyone should be very careful to reach his lodging while it is still full day, so that they can prepare for him what is needed for Shabbat; since so many pitfalls come [about] through this, that the host or even one of his household, when [the guest] arrives close to Shabbat, they continue to cook for him and they violate Shabbat. And so much the more so, since he might stumble often, so that he will become delayed on the way, until it has become quite dark; and how much violation of Shabbat [would then result] concerning taking out and bringing in [i.e., objects from one domain to another] and going beyond the

Jew ought to take special steps to remain cognizant of the holiness of the day, lest he or she accidentally come to do something which is actually forbidden on that day; and second, that the Jew should not debase the day by performing everyday acts which are not a part of its special character, even if these acts themselves are not forbidden. To address both of these concerns, these authorities recommend performing the act in question in an unusual manner – such as to extinguish a light with a foot rather than a hand or breath, or to write a word left-handed although one is right-handed.

³³ That is, so long as it is light. As daylight begins to wane, halakhic authorities enact additional prohibitions against certain activities, for fear that it may already be Shabbat. Beginning in the Talmud, there is a marked uncertainty about the exact moment when Friday ends and Shabbat begins, and authorities wish to avoid accidental transgressions here. See Appendix A, *d'rabbanan*.

³⁴ A parasang is an ancient unit measuring distance. According to Pesahim 93b, ten parasangs would be the distance an average person could be expected to travel in one day.

tehum and resting one's beast.³⁵ And therefore a man should take all this to heart, and the *yetzer*³⁶ will not incite him to say, "It is still full daylight, and the road is good" (chapter 249).

(8) [For] one who has a sense of himself that if he should not eat on Friday, he would not become weak because of this, it is a *mitzvah* that he not eat even a meal which is regular for him on weekdays. But in principle, it is permitted. And in any case, it is a *mitzvah* to refrain from commencing a meal,³⁷ even one which is regular on weekdays, from the ninth hour onward. But a meal which is not regular on weekdays, even a *se'udat mitzvah*,³⁸ he is forbidden to have on Friday if it is possible to have it on another day. But as for [a meal] whose [ritually appropriate] time³⁹ is on Friday, for instance: a circumcision whether at its time or not at its time, and *pidyon ha-ben*⁴⁰ at its time, it is permitted.⁴¹ And it seems to me, even [*pidyon ha-ben*] not at its time. (NA 1) And in any case, it is proper to do it early in the morning, in order that one may eat the Shabbat meal with an appetite (ibid).

³⁵ Prohibitions against carrying (understood as transferring objects from one domain to another), exceeding the travel limits imposed by the *tehum*, and causing one's beast to do work on the Sabbath are ones which Danzig foresees travelers violating.

³⁶ His [evil] inclination (*yetzer ha-ra'*), which will incite him to be less scrupulous than he ought to in ensuring that he will not come to transgress a Shabbat prohibition.

³⁷ Literally, "to fix a meal," which may specifically imply convening a group to eat together formally, with the appropriate blessings before and after the meal.

³⁸ A festive meal to mark an occasion of ritual significance, often related to birth, marriage, or holidays.

³⁹ Heb. *zmano* – i.e., the time which *halakhah* specifies as ideal for marking the occasion with a meal (see n.41).

⁴⁰ Lit., "the redeeming of a son" – see Appendix A.

⁴¹ If a male child is delivered naturally, the circumcision and accompanying feast are to occur eight days after the birth; however, some factors may cause this feast to be arranged "not at its time." The feast marking the ceremony for the redemption of a first-born son may occur at any time after the first thirty days following birth, though it should ideally be held as soon as it can. Some questions exist about how to treat these two occasions and their timing, and whether they are appropriate for a Friday morning. See the note here in *Nishmat Adam*.

(NA 1) Nishmat Adam: The *Magen Avraham* in chapter 249 writes in the name of Tosafot in Mo'ed Katan 8[b] to distinguish between circumcision which is not at its time and *pidyon ha-ben*, and he uses the reasoning of what he writes in chapter 568 in the name of Tosafot – that there is no *s'udat mitzvah*. And this bears examining, because with *pidyon ha-ben*, any given moment could be its [appropriate] time, and so is written in the [*Sefer ha-]Hinukh, mitzvah 392*, and this is what he says: “And even though this *mitzvah* does not have a fixed time, since it can happen at any given moment, after thirty days *is* its [appropriate] time”, etc.. And it is also written in *Yam Shel Sh'elomo*, Bava Kamma, chapter 7, paragraph 37 that a meal for *pidyon ha-ben*, even if its time has passed, is nevertheless an obligation every day [until is fulfilled] – see there. And from Tosafot, it seems to me that there is no proof, since the Tosafot wrote “Even though ‘we do not mix a *simḥah* (joy) with a with a *simḥah*,’⁴² nevertheless a meal for a circumcision is permitted [on *Hol ha-Mo'ed*],⁴³ since there is no joy in it because of the child's pain, or alternatively, because its time is fixed,” etc. – meaning that even if there is joy in it, it is permissible. But a meal for *pidyon ha-ben* – it bears examining whether [or not] it is permitted; and one cannot say that its time is fixed – [if it is] at its time, this is fine, but if it is not at its time, how it would be permissible? See [*Magen Avraham* and Tosafot] there. And their meaning is that it is accepted that a circumcision even not at its time is certainly permitted, and in this there is no joy, and [furthermore] from what Tosafot wrote, “Or alternatively, because its time is fixed” – this is like [saying] also – meaning, with circumcision there are two reasons to

⁴² The Hebrew word means “festive joy” and may indicate both the occasion and the feeling. The teaching not to mix *simḥah* with *simḥah* suggests that the festive life-cycle occasion should not obscure the joy of the holiday, and vice versa.

⁴³ The intermediate days of the week-long festivals of Passover and Sukkot.

permit it, and this being the case, [to permit it] even not at its time, since there is no joy in it. But *pidyon ha-ben* not at its time, Tosafot wrote that this bears examining, since they thought that there is joy in it, because otherwise why would Tosafot have written specifically about *pidyon ha-ben*, “Does circumcision not at its time not also require investigation?” [meaning], one must conclude that in circumcision, no matter what, it is permitted because of the pain, and there is no joy in it; but [regarding] *pidyon ha-ben*, it is possible that there is joy in it, and that being the case, there is no reason to permit it. And all of this is specifically with *Hol ha-Mo’ed*, and the reason is, because “we do not mix *śimḥah* with *śimḥah*” – [and] that it is toraitic, or in any event they based it on scripture.⁴⁴ It is fine there to say that if it has joy in it, it is forbidden, but on Friday because there falls to [the father] at any given moment the obligation to redeem [his son], and this being the case, certainly he needs to redeem him, and once he has already redeemed him, he is permitted to make a feast. And all the more so, according to what the *Śiftei Kohen* wrote in *Yorei De’ah* chapter 305, that *pidyon ha-ben* has no joy in it, and the proof is that they do not bless “*She-ha-śimḥah bim’ono*” [at the beginning of Grace after Meals], and an engagement feast [where this line is recited] does have joy in it.⁴⁵ And furthermore the *Magen Avraham* wrote that it is permitted to get engaged on Friday, and since he already got engaged it is permissible to have here as well a feast, and this being the case, all the more so with *pidyon ha-ben* which is even permitted on *Hol ha-Mo’ed*, all the more

⁴⁴ Aramaic *d^e’oray^eta* – i.e., mandated by a proper reading of Torah, rather than by a rabbinic enactment. The notion that a *mitzvah* is either toraitic (derived naturally from a proper reading of the Torah text) or rabbinic (deliberately enacted by the rabbis to ensure greater community observance, or to prevent an inadvertent transgression of a Torah-based law) generates considerable discussion in the halakhic corpus about these two categories and how to apply them. See Appendix A.

⁴⁵ The single line added to the lengthy Grace after Meals is a small piece of evidence, to be sure, but Danzig takes it as an indication of *śimḥah*. Therefore an occasion where tradition mandates adding it (such as an engagement feast) is considered to include *śimḥah*, and one where it is not recited (such as a meal for *pidyon ha-ben*) is not.

so is it permitted on Friday, and such is the simple custom here in the Holy Community of Vilna, that on the day before Passover, when there is *pidyon ha-ben*, even not at its required time, the first born sons eat there,⁴⁶ according to the Ga'on Rabbi Eliyahu.⁴⁷

(9) One does not afflict himself⁴⁸ on Friday, in order that he not enter Shabbat suffering; unless he is so fastidious that if he has eaten during the day, he will not eat at night.⁴⁹

And therefore one who takes upon himself a personal fast, he should explicitly specify at the time of his accepting the fast that he will not complete it,⁵⁰ and if after the fact⁵¹ he did not make this stipulation, even so he does not need to wait until the stars come out, but rather immediately after leaving the synagogue he may eat. And as for a “*yar-tzayt*” (anniversary),⁵² if the first “*yar-tzayt*” falls on Friday, he does not complete [the fast]. And thereafter, whenever it may fall on Friday, he does not have to complete it. But if [the first anniversary] fell on a weekday and he completed [the fast] – if he thus took it upon himself to complete it – then even when it falls on Friday, he would need to complete it. And if he is weak and the fast is difficult for him, he does not lose anything if he is lenient with himself

⁴⁶ Despite being required to fast for the holiday, in commemoration of the tenth plague upon Egypt.

⁴⁷ In addition to this reference to the real-life precedent provided by the Ga'on of Vilna, this excursus is significant for the sheer complexity which Danzig introduces into the discussion.

⁴⁸ I.e., does not fast.

⁴⁹ Meaning, if his constitution or dietary habits are such that he only eats one meal per day. It is more important that he eat a Shabbat meal than that he not “enter Shabbat suffering.”

⁵⁰ I.e., he will not fast a full day by waiting until nightfall to break the fast, but rather he will eat a festive meal to begin the Sabbath.

⁵¹ Aramaic *b^edi'avad*, indicating an acceptable, but less than ideal, eventuality with respect to halakhic observance. See Appendix A.

⁵² It should be noted from Danzig's use of the Yiddish here that the Ashkenazic world had developed a very particular conception of how a death ought to be commemorated. Furthermore, it seems that in Danzig's community, a bereaved person was expected to fast on the anniversary of a death. Presumably, this would only extend to those relations for whom a person observes *shiv'ah*: a parent, child, sibling, or spouse.

and does not complete it (*Turei Zahav*). And it seems to me that he should annul his vow, and then it will be permitted according to everyone (chapter 249).

(10) It is a *mitzvah* to wash one's entire body and to immerse, and if it is not possible for him, in any case he should wash his face, hands, and feet with hot water on Friday. And it is a *mitzvah* to wash [the hair of] one's head and to pare one's nails on Friday. And he should be careful to burn [the clippings of] the nails, or to bury them. The one who throws them away is a wicked person. And one should not trim the nails of the hands and the feet on the same day (chapter 260).⁵³

(11) It seems to me that even though it is a *mitzvah* from the outset⁵⁴ to pray *minḥah* at the time of *minḥah k'eṭanah*⁵⁵, nonetheless on Friday it is not required if one goes to the bathhouse, since there are those who say that it is forbidden to enter after midday, until he has prayed, and even if he does not go to the bathhouse, it is fitting to hasten to pray *minḥah*, in order that he be free at the time of calling to the synagogue, that he not need to leave his house until he has urged the members of his household to light candles on time, since women neglect this and are late, and oftentimes they slip into a desecration of

⁵³ It bears noting that Danzig here offers advice which mixes hygiene, *halakhah*, and rabbinic advice (sometimes distinguished from *halakhah* by being called *derekh eretz* or *mussar*). That rabbinic conception of how one ought to treat fingernail clippings may betoken some element of superstition, though it may also indicate a general respect for the human body and the material that composes it – even if that material is unneeded and has been removed.

⁵⁴ Aramaic *l'khatehillah*, indicating what one ought to try to do in ideal circumstances, from the outset, when attempting to observe a particular *mitzvah*. See Appendix A.

⁵⁵ See n.31 above.

Shabbat, and the female servants in particular, and therefore one supervises this in order to hurry them along.

(12) A person is obligated to examine his clothes on Friday before it gets dark [to ensure] that a needle is not hiding in it, and [to examine] the pockets sewn into his clothing, lest there have been put there something *muḥtzeḥ*⁵⁶ or something else, and he go out with it into the public domain.⁵⁷

⁵⁶ Understood in the classical halakhic literature as that which should not be carried or used on Shabbat. This category includes money, professional work tools, and things primarily used for forbidden labors (such as writing or sewing).

⁵⁷ Carrying is effected by transferring an object from one domain into another. The two most paradigmatic domains are the public (a broad city street, for example) and the private (such as a house). The laws of carrying and the precise halakhic definitions of different domains are both complicated topics which receive considerable attention in the tractates of Shabbat and 'Eruvin.

CHAPTER 2: The law regarding what work

one is permitted to begin on Friday

(1) One is permitted to begin work on Friday towards nightfall, even though he cannot complete it while it is still day, if it will be completed by itself on Shabbat. And specifically as concerns a thing about which there is no concern that it will end up constituting a toraitic labor, and therefore it is permitted to put wool to dye in a cauldron towards nightfall, if the cauldron is not over a fire and it is sealed with plaster. But if it is over a fire, it is forbidden, lest he stir the coals. And even if it is not over a fire, if it is not sealed with plaster, it is forbidden, lest he stir it with a spoon.

And one who stirs a pot – even if it is not over a fire – is culpable, because of [the prohibition against] cooking. And even if it is [already] fully cooked, he will be culpable because of [the prohibition against] dyeing,⁵⁸ and so on, etc. (252).

(2) As for our prohibition⁵⁹ “lest he stir” – [this applies] specifically to an item to which stirring is helpful and not damaging. But if it is an item which stirring would damage, it is permitted, even if it is on the fire (chapter 254).⁶⁰

⁵⁸ Meaning that even if one is not cooking, he or she may still be doing some kind of labor because of the leeching of color out of the food or the absorption of color in.

⁵⁹ The Hebrew noun *g'zerah* and the verb *gazar* both indicate the establishing of a rabbinic prohibition which goes beyond what is strictly mandated by the Torah.

⁶⁰ Note that intent and desired results have an impact on whether a prohibition has been violated.

(3) The sages forbade cooking from the outset towards nightfall something which one wishes to eat on Shabbat, lest he stir the coals to speed up the cooking (see chapter 253, *Magen Avraham*, note 4, and chapter 254, note 20, and chapter 257, note 2), and even if he does not need it for Shabbat, it is forbidden, since we lay down a prohibition, lest he change his mind about eating it on Shabbat and stir it.

And in any case, [as regards] something which is impossible to eat that night, such as raw meat, it is permitted to put [it into a cooking vessel] immediately before nightfall. And therefore it is forbidden to put a loaf [of bread] into an oven unless its surface is already crusted – that is to say, when someone cuts it and no strings pull away from it, and so also a pie or a *flodin* [Yid., also *floden* or *flodn*] (a filled pastry), so that its surface is crusted and what is inside it is cooked before Shabbat – that is, before twilight, even though its surface will not crust before *Ḳabbalat Shabbat*, and this bears examining. (NA 1)

(NA 1) Nishmat Adam: The words of the *Magen Avraham* in chapter 253, note 26, bear examining, as he wrote that “even though it does not crust before *Bar^ekhu*,⁶¹ but rather after it gets dark, we do not lay down a prohibition against stirring after *Bar^ekhu*, because it is not toraitic.” And actually, this is not clarified in Rashi or Rabbenu Nissim, and nevertheless, this bears examining, since Rabbenu Nissim – and indeed, it is the opinion of the *Maggid Mishneh*, and what the *Bet Yosef* wrote in their names in chapter 261 – that they thought extending

⁶¹ I.e., before the normal time on a Friday night when the community would be concluding the preliminary *Ḳabbalat Shabbat* service and beginning the evening prayer service proper. See n.29.

Shabbat was toraitic.⁶² But if so, how did the *Magen Avraham* write that it isn't toraitic? Rather, we should say that although it is toraitic, nevertheless it is only an *issur 'aseh*,⁶³ as all the *posekim*⁶⁴ wrote. And we should say that they thought, as Rashi wrote in Menachot, that the Talmud [here] is difficult because of [its contradiction to] the *mitzvah* of taking a stand and laying down a prohibition, and Rashi interprets, that [this is so] because there is no negative commandment in it. But Tosafot in fact left it in question, because, why shouldn't we lay down a prohibition on *mitzvah* grounds, since if he does stir he will be doing something which is forbidden toraitically? And it seems to me that it is possible that his [i.e., the *Magen Avraham's*] meaning is that because it is only a rabbinic prohibition, we do not legislate an extension of Shabbat. And so wrote Tosafot in Ketubot, that in an extension of the festival day, even though it is toraitic, it is permissible to marry a woman; see there, and it bears further examination.⁶⁵

And so with everything which is not eaten raw except under exigency, such as forest apples⁶⁶ or an onion and so on, it is forbidden to put it on the fire, unless there is time

⁶² The "extension" of Shabbat would entail treating the early evening before nightfall as a time in which Shabbat prohibitions are in effect.

⁶³ Literally, "a positive prohibition" – meaning a prohibition which does not specifically exist on its own (such as "you will not murder" or "you will not steal"), but rather arises incidentally from an effort to perform a positive commandment (i.e., one such as "keep the Sabbath" or "rejoice on your festivals"). Explicit prohibitions are treated differently from positive commandments and from the incidental prohibitions which arise from positive commandments.

⁶⁴ The word *posek* indicates a decisor – a rabbinic authority who officially gives binding halakhic decisions in a given community. Here, Danzig means that of the halakhic writers with whom he is familiar, none offers the opinion that extending Shabbat constitutes a prohibition on its own.

⁶⁵ This passage points out the difficulties which ensue when different authorities have different understandings of whether a concept follows naturally from the Torah text or not. The concluding comment, that the matter "bears further examination" may be taken as an indication of the challenges posed here.

⁶⁶ Presumably, this term is being used to distinguish the fruit from "earth apples," i.e., potatoes.

before twilight for it to cook halfway, for then we are not concerned anymore that someone may stir the coals on Shabbat, since without this it would [still] be cooked.

But things which are eaten raw, such as: fruits and milk and so on, we are not concerned that someone may stir. And all this is concerning a fire or an oven which is not sealed with plaster, but in an oven which is sealed with plaster, as we are accustomed to, it is permitted to put anything [in], since in this we are not concerned that someone will remove the seal. And if he does transgress and put something [in] accidentally and he has nothing [else] to eat, it is permitted. And with a loaf [of bread] it is forbidden to remove from the oven more than what is needed for Shabbat. And in any case, he should not remove it with a spatula, which would appear like a weekday activity, but with a knife, and so on. And if [he transgresses] deliberately, whether with a loaf [of bread] or with anything else, it is forbidden until the end of Shabbat (chapter 254, paragraph 8). And from this you can see that wayfarers who set a cauldron with fish to cook towards nightfall need to be certain that no matter what, it is halfway cooked before nightfall, and if not, they are forbidden to eat on Shabbat (ibid).

(4) When one comes to remove a pot from the fire on Shabbat, if the pot is standing on burning coals, such that there is no need to move the coals, if he has no gentile,⁶⁷ the Jew is permitted to move it; but when the coals are resting around the pot, [so that] when he moves it he will move the coals, and will be causing the lower ones to burn and

⁶⁷ I.e., to do the work in his place. As chapter 3 makes clear, authorities draw a considerable distinction between actions being done by a Jew and those being done on his or her behalf by a non-Jew. Nevertheless, a non-Jews actions and intentions are not irrelevant.

extinguishing the upper ones, it is forbidden for a Jew. But for a gentile, it is permitted, because the gentile has no intent to make [them] burn or go out, even though it constitutes a *pesik reishei*,⁶⁸ it is permitted for the gentile (253).⁶⁹

(5) Our Sages, of Blessed Memory, also forbade [us] to bury⁷⁰ [something] – even on Friday – in something which adds heat. But on Shabbat it is forbidden to bury even in something which does not add heat, and all because of an additional prohibition against boiling. But our burying in an oven, even if it is not sealed with plaster, is permitted to everyone, because it is not called burying, but rather [burying is] when the thing in which one buries is touching the body of the pot, from above and below and on all sides; but with an oven, it does not touch the pot. And so too people are accustomed to bury coffee⁷¹ in a small hole on the oven and to cover it with clothes on top, even though it is not correct in the opinion of some *poskim*, and they require one in any case to place a plank over the pot and afterward to cover it with clothes. However, they [i.e., the former] have a basis [for this practice], and it should not be prohibited, since it is plausible to them that since the oven is becoming cooler all the time. And also it is not necessary to lay down the prohibition, lest he bury it in something completely, since [the hole] is not suitable for burying in. But if one puts sand in the hole, which is a thing which adds heat, even if [something] is not buried in

⁶⁸ Literally, “cut his head off” – short for the rhetorical remark, “Cut his head off, and let him not die!” The question indicates that there is a certain potential for absurdity in claiming that one did not perform a particular action, whose inevitable consequences are known from the outset, with any intention of causing those consequences. See, e.g., Ketubot 6a. In our case, however, even though the non-Jew cannot avoid affecting the coals in removing the pot, it seems that his lack of intention does suffice.

⁶⁹ The repetition here suggests that there is a real want or need to be permissive in this area, despite the fact that coals will become extinguished and ignited through the non-Jew’s actions.

⁷⁰ To pack food in an insulating material which may or may not conduct or preserve heat.

⁷¹ Here Danzig uses the Yiddish *kave*.

it completely, with only the edges of the vessel standing in the sand, and it is covered above, with clothes over the pot, it is forbidden; since sand adds heat, we lay down the prohibition lest he bury it completely.

And one who covers with something that adds heat, even after the fact it is forbidden by most *pos'kim*, if it was deliberate. And if it was accidental, and it was already fully cooked, even if it shrivels up and this improves it,⁷² it is permitted; but if its cooking was not entirely complete, it is forbidden – even [if] accidentally, even to others, until the end of Shabbat (chapter 257). And all this is when one buried for the sake of that night, but if he buried for the sake of the following day, after the fact we can permit it and rely on *pos'kim* that anything which one buried for the sake of the following day we are not concerned about issues of boiling, but in any case, if he is accustomed to [doing] this, it is forbidden (257).

(6) It is forbidden on Shabbat to wrap a pot of hot food with pillows and cushions, as on Shabbat it is forbidden according to everyone to bury, even with something that does not add heat. (NA²) And specifically when the food is still in the pot in which it was cooked, but if we moved it to another pot, it is permitted to wrap it. And so also if it was buried entirely in clothes from Friday, it is permitted to return it (to re-bury it) or to put it in pillows and cushions, even in the first vessel⁷³ (ibid).

⁷² I.e., it becomes smaller and perhaps more flavorful or more pleasing in texture.

⁷³ The vessel in which it was actually cooked.

(NA 2) Nishmat Adam: And [this is so] even though the reason is that it would be like burying from the outset – [whereas] this was already in the oven, and this being the case, it would only be like he was adding [new pillows and cushions], and it is explained in chapter 257 that one is permitted to replace [pillows and cushions] – [but] this is not that. Because if it were burying in the oven, it would be forbidden. And [so] we must conclude that he thinks that this is not considered burying. And this being the case, he needs to be careful with this not to put a primary cooking vessel in the pillows and cushions. Because this would be burying from the outset. But if it was already buried on Friday, it is permissible to add or to replace [insulating materials], [even] on Shabbat.

(7) There are some who open an oven at night,⁷⁴ and this is completely prohibited, in case there is a pot which has not entirely cooked, and by closing [the oven] afterwards, this causes cooking. Therefore it is forbidden even to place additional clothes over the oven, because through this, one causes heating and cooking; and even for a gentile, it is forbidden to seal it. And if a Jew sealed it or put additional clothes [over it], even after the fact, the food is forbidden. But if a gentile sealed it, it is possible there is reason to permit the food after the fact, because without this it [still] would have cooked. Only there is one more prohibition, extinguishing and lighting, [even] when there is a fire in the oven, which is [discussed] below in the Labor of Lighting (end of chapter 259). And so we need to be careful when putting coffee or anything else in the *kakhle*⁷⁵ of a winter-house's oven, even if

⁷⁴ After the Sabbath has begun.

⁷⁵ A Yiddish word meaning “tiles.”

it is already cooked, and all the more so if it is not yet cooked; and if they seal the *kakhle*, one needs to be careful that if it is opened after nightfall it is not sealed on Shabbat when [the food] is not hot enough, and with raw things [before they are] cooked, since it is clear that because of the sealing [the food] will become cooked.

(8) It is forbidden to immerse a vessel of cool liquid in a vessel in which there is warm [water], even if it is not so warm that cooking would be pertinent; if one immerses it in it entirely, this is burying and it is forbidden (*Ṭurei Zahav* 251). And all the more so is it forbidden to put [anything] into it when it is hot enough that the cooler [thing] could become cooked, and then it is forbidden even [if] it is not wholly immersed in it.

(9) Other laws which are in *Shulḥan 'Arukh* in chapters 253-260 are explained below in chapter 20, [dealing] with the Labor of Baking.

CHAPTER 3: In what matters it is permitted

to give work to a gentile on Friday

(Chapters 244, 245, 246, 255)

(1) The sages prohibited us from letting a gentile do a Jew's work on Shabbat, and they based this on a verse: "No work whatsoever will be done among them," (Exodus 12:16), meaning, even by a gentile.⁷⁶ And specifically, to give him the item of work on Shabbat, or according to conditions which we shall explain. But one is permitted to give it to him on Friday. And therefore a man may make with a gentile an arrangement concerning an item of work, even towards *Kabbalat Shabbat*,⁷⁷ and even if the gentile does the work on Shabbat. And specifically according to these conditions: 1) That he not do it in the home of a Jew, [and] that in any event he remove the materials from the Jew's home before Shabbat. 2) That [the Jew] arrange for him his payment, and this is called *katzatz*.⁷⁸ 3) That he not be a day-laborer, but rather under contract. 4) That [the Jew] not specify the item of work for him on Shabbat, or even say to him: "See, I need this work [to be finished] just after Shabbat" – since he would be specifying the work for Shabbat. 5) That it specifically be an item of work [performed on] something detached from the ground,⁷⁹ and not for the sake of something attached to the ground, and all the more so an item of work [performed on]

⁷⁶ The commandment is not, "You [Israelites] will not do any labor," but rather given in the passive voice, forbidding even non-Israelite labor.

⁷⁷ I.e., the time when the preliminary service would be recited (see nn.29, 61).

⁷⁸ Literally, "cutting" – here, in the sense of cutting a deal or finalizing an arrangement, specifically an arrangement of financial compensation for a completed task. See Appendix A.

⁷⁹ The distinction here is often agricultural – between live and dead wood, between unharvested and harvested grain – but here it is indeed literal. A house or other building is understood to be "something attached to the ground."

something itself attached to the ground. 6) That it not be publicized that this work is [being performed] for this Jew,⁸⁰ if the gentile does the work in a public place. (And it seems to me that anything which is known to three people is considered “public,” Shevu’ot 22, Rashi, keyword “and if it is well-known.”) 7) That the Jew not profit by the work that the gentile does on Shabbat. 8) That the gentile not be contracted to him for the year to constantly do an item of work for him. And we shall explain each and every detail at length.

(2) (Condition 1). That he remove [the materials] before Shabbat from the house of the Jew, even if he had arranged it with him previously, since if he were to go out on Shabbat with the materials, it would look like [the Jew] was giving [the task] to him on Shabbat and paying him on Shabbat. And therefore, even if he left the materials in a specified room⁸¹ within his domicile and designated the place for the gentile, even this is forbidden (see section 252 in *Magen Avraham*, note 4, that in the matter there is cause to be lenient concerning specifying the place for him, but this seems to me forbidden according to everyone, and barred from sale, since the Rama is strict there, see there). And therefore, whoever has hired a gentile to peddle his wares, he should take it out of his house before Shabbat, but he is forbidden to let him take from his house on Shabbat (section 307).

(3) (Condition 2): “*Katzatz*,” that is to say, that [the Jew] must tell him that he will give him payment as appropriate, or that the fact is known that one always gives [a certain amount

⁸⁰ I.e., the Jew is not identified by name.

⁸¹ Literally, “building.”

as] payment for this work, (NA¹) even if he did not arrange with him how much payment he would give him, since the gentile knows with certainty that he will be given his payment – and that being the case, when he does the work on Shabbat, he does it for his own sake, that he should hasten to complete his work. And this is also the law if the gentile initiates and says to the Jew: “Give me this item of work, and I will do it for you for free,” since obviously the gentile has already accepted a definite benefit from the Jew, and it is as if he is giving him compensation.

(NA 1) Nishmat Adam: The *Bayit Ḥadash* wrote in chapter 252 on this, that the *Tur* wrote there, they do not give skins to the tanner unless he has set with him the compensation; and this is what he says:⁸² “But the *Sefer ha-Tʿrumah* and *Mordʿkhai* think that we do not require *ḵatzatz* unless it is a letter which is known that a Jew wrote it, and they will think he gave it to him on Shabbat, but in the giving of garments, as contract labor, separately, this is sufficient, because the gentile knows that the Jew will pay him eventually, permitted” – end quote.⁸³ And here, even though we may find grounds for his words from the words of the *Tur*, that in chapter 247 concerning letters wrote, “unless he arranged (*ḵatzatz*) a known compensation with him [in advance]” and in chapter 252 he wrote, “unless he arranged (*ḵatzatz*) compensation with him,” meaning seemingly like the words of the *Bayit Ḥadash* – but this is not the case. Because the *Tur* wrote in hints, in the first chapter, also concerning [giving] skins to the tanner, “unless he

⁸² This phrase (Heb. *vʿzeh lʿshono* – “and this is his language”) is a formula used liberally in rabbinic literature to introduce a direct quotation of another author’s words. Its companion phrase, *ʿad kan lʿshono* (“to here his language”), indicates the end of the quotation. The first instance of each phrase has been translated here, but subsequent instances have been elided in the translation and replaced with punctuation. The convention of using punctuation marks to indicate direct citations became commonplace in Hebrew only following its revival as a living spoken language later in the nineteenth century.

⁸³ Heb. *ʿad kan lʿshono* (“to here his language”). See previous note.

set a known compensation” – and this being the case, we should say truly that the *Tur* thinks that what they said in Gemara to be *ḵatzatz*, [can only be] *ḵatzatz* with a known [amount of] compensation. But according to what the *Bet Yosef* wrote in the name of R. Sh^elomo ben Adret in chapter 247, that it is not necessarily “*ḵatzatz*,”⁸⁴ but rather when he has stipulated with him to give him his payment, even though he has not made explicit to him how much he will give him, the law for this is like *ḵatzatz*. And so is it written explicitly in *Sefer Mitzvot ha-Gadol*, as follows: “We do not send a letter, etc., because it is known that a Jew wrote it and they will think that he gave it to him on Shabbat; but if he has made a fixed agreement to give him coins for this, it is permitted.” And such is written in *Shulḥan ‘Arukh*, chapter 247, and because the law of *ḵatzatz* concerning skins and the like is learned from the case of letters, and so have all the *pos^ekim* written, and this being the case, all the more so is this called *ḵatzatz* concerning skins and the like, and this is understood from the Rambam, chapter 6 [of the Laws of Shabbat], where he wrote in halakhah 12, “unless he has done *ḵatzatz*,” and he wrote this in halakhah 20 concerning a letter;⁸⁵ and the *Maggid Mishneh* wrote that it is learned from the case of the letter; and how can we say that the *ḵatzatz* being written about is understood with respect to two [different] categories? Rather, we must conclude that it is all one. And what is written, that such is the meaning in *Sefer ha-Terumah* and the *Mord^ekhai*, the one who looks there may not immediately understand, and these are the words of *Hagahot Mord^ekhai*: “And it bears examining whether we need [an advance] arrangement with clothes for the launderer and skin for the tanner, but in Tosafot, I found that [with] clothes for the launderer [it is] self-evident

⁸⁴ That is, with a clearly specified amount of compensation.

⁸⁵ In fact, Maimonides does not explicitly use these words in halakhah 12, but rather only in halakhah 20.

[that] there is an arrangement, because it is not being done for free.” And his meaning is straightforward: because it is known that he is not doing it for free, this being the case, in any case, it is like fixed remuneration – that specifically if the gentile is doubtful whether he will give him a payment, this [alone] is called “not *ḵatzatz*”. And [this] is not like the *Bet Yosef*, who wrote at the beginning of chapter 252⁸⁶ that the *Hagahot Mord^ekhai*⁸⁷ thinks that we do not need *ḵatzatz* – and his words are surprising, because he writes, “that he does not do it for free”, meaning on the contrary, we *do* need *ḵatzatz*, only that [stipulating that it is not being done for free] is considered *ḵatzatz*. And the *Magen Avraham* in chapter 252 writes in the name of the *Hagahot Mord^ekhai* and changes his wording, and writes that in “this time,” [giving] clothes to the launderer – [it is] self-evident [that this constitutes] *ḵatzatz*, since his rate is known.⁸⁸ And his words bear examining, since *Shulḥan ‘Arukh* explicitly rules that even concerning a letter we do not specifically require that the rate be explicitly [specified], rather it is sufficient that [the Jew] tell him that he will give him payment. And also the words of the *Magen Avraham* there [chapter 252], note 9, where he characterizes the words of the *Bet Yosef* and the *Bayit Ḥadash* as “bearing examination” – that they wrote “that if he does it for payment, even if [the Jew] did not set [the compensation], we do not need to protest [his doing the work].” And it is clear that his intent is [to say that] that even if he did not set a known compensation, that this too is called *ḵatzatz*; and to no purpose did he characterize their words as “bearing examination.” And it is written there furthermore, that the Yerushalmi⁸⁹ deals with *ḵatzatz*, since otherwise, it

⁸⁶ Though some manuscripts erroneously read “254,” the passage referenced is in the *Bet Yosef* to chapter 252.

⁸⁷ *Mord^ekhai* to Shabbat 18b.

⁸⁸ *Magen Avraham* 252, note 6.

⁸⁹ The Talmud Yerushalmi (“Palestinian Talmud” or “Talmud of the Land of Israel”) as opposed to the Talmud Bavli – the Babylonian Talmud. The reference is to the following passage from Y. Shabbat 4b.

would be forbidden to give [a gentile laborer] anything. And this is what the *Hagahot Mord^ekhai* says about this Yerushalmi [passage]: “If one has given clothes to a gentile launderer and has found him working with them on Shabbat, [this is] forbidden; Rabbi Yudan says, ‘He should tell him not to work,’ Rabbi Yudan says, ‘This is said when [the work is being done] for the sake of a [non-monetary] benefit, but if it is for payment, he is occupied with his [own] work’ – meaning that [the Jew] cannot [successfully] protest.” [Y. Shabbat 4b] And this being the case, there is certainly no difference whether he finalized with him a known compensation or told him that he would pay him – the gentile would not heed him [by stopping]. After writing this, I saw most of the [same] words in *Eliyah Rabbah*, chapter 247.

But if the Jew asks the gentile to do it for him for free, even though the gentile is simply doing it for benefit that he has received or will receive from the Jew, nevertheless the appearance is that he is taking pains on the Jew’s behalf. And it is right to be stringent about this, if not in a situation of exigency (chapter 247).

But if the gentile is unsure whether they will give him any payment at all, were he to know that they will not give him payment he would not do it for free – in this case he appears to be the Jew’s agent, and this is forbidden according to everyone. And this is specifically on Friday, if there is not time to finish the work before Shabbat, but if there is still time to finish the work before Shabbat, it is permitted according to everyone, even without *ḵatzatz*.

And on Wednesday or Thursday, even if it is an item of work that he cannot finish before Shabbat, there are those [authorities] who permit it, since it is specifically on Friday that he

appears to be [the Jew's] agent (section 252 in *Magen Avraham*). And there is reason to rely on them.

But if it is work that is known to be a Jew's, there is reason to be strict, if it is not in a situation of exigency. And sending a letter is work known to be a Jew's, if it is in Jewish script⁹⁰ (section 242 in *Magen Avraham*, note 60).

(4) (Condition 3): That he not be a day-laborer, but rather under contract (*b^ekabb^elanut*). And the meaning of contract (*kabb^elanut*) is that he accepts (*m^ekabb^eel*) upon himself to do this work for such and such a sum. And it seems to me that this is also the law if [the Jew] pays him so that for one week he gives him such and such, whether he does it on Shabbat or not, since otherwise it is as though he is ordering him to do it on Shabbat.

(5) (Condition 4): That he not specify his work for him on Shabbat, since otherwise it would be telling a gentile,⁹¹ [which is] rabbinically forbidden. And there is no difference whether he tells him on Shabbat or tells him before Shabbat that he should do an item of work on Shabbat. But he simply gives it to him [without specifying the timing], and since the gentile has authority to do it whenever he wants, even if he does it on Shabbat he is only hastening to complete his activity. And therefore one is forbidden to give a gentile pocket money on Friday to buy [something] for him on Shabbat, and even if he does not tell him explicitly to

⁹⁰ I.e., written in Hebrew characters.

⁹¹ Heb. *amirah l'goy* – a Jew's explicit instruction to a non-Jew that the latter should do something which is forbidden for the Jew, with the intention that the Jew will benefit from it. This is considered to be a violation of the spirit of Shabbat's character, even if not a violation of an explicit toraitic prohibition.

buy it for him on Shabbat, but the thing is known to be impossible to buy except on Shabbat, since then it is a market-day. But on Wednesday or Thursday, one is permitted simply to give it to him, even if he knows that he will buy it on Shabbat. And so too is one permitted to give it to him on Friday if it is possible to get it on other days, as long as he does not say to him: “Buy it on Shabbat.” And it is permitted to say to the gentile on Friday: “Buy it for yourself and I will take it from you after Shabbat (section 307) and I will give you a reward” (see section 448). And see below, chapter 101, section 3, that after the fact it is permitted if the gentile bought it on Shabbat (and this law is absent from *Turei Zahav*, section 307).

(6) (Condition 5): That it specifically be an item of work [performed on] something detached from the ground; but work [performed on] something itself attached to the ground, even if it stands in a place that is not known to be his, is forbidden. Therefore one who arranges with a gentile to build him a courtyard or a house or to harvest his field, if the work was in a place to which there is reason to suspect that Jews will come on Shabbat, even if he lives among the gentiles, since there are Jews near this work inside the Shabbat *tehum*,⁹² it is forbidden to allow a gentile to do the work on Shabbat – even if he finalized with them a wage by contract and is permitted on principle, nevertheless it is forbidden because of those who see it who do not know and will suspect that they are day-laborers, and that is forbidden on principle.

⁹² I.e., within the area in which observant Jews might travel on Shabbat. See Appendix A.

And even to harvest a field that is usually given out for tenant farming, that is, that the gentile works [the field] and gives to the landowner half or a third [of the produce], and this is permitted on principle; also there is no suspicion, since those who see him will say that he is a tenant, and is doing this on Shabbat for his own sake. And that being the case, we could permit it with contract labor, since those who see him will say that he is a tenant – and nevertheless the sages forbade it [even] with contract labor. And regarding the fact that they have permitted him to give out it for tenant farming – this is specifically when in truth he does give it to him for tenant farming. But if he has not given it to him for tenant farming, since they will see afterward that a Jew is taking all the produce, and that being the case, they will know that [the gentile] was not a tenant, and they will suspect him of simply paying the gentile in the way one pays – that is, as a day-laborer. And nevertheless, since it is only because of suspicion, if the work is outside of the *tehum* and also there is not another city inside the *tehum* of the place where the work is being done, it is permitted, since no Jews will know at all if the gentile is doing work on Shabbat.

And it is forbidden to build even a synagogue on Shabbat, even though it is for the sake of a *mitzyah* and is public space.

(7) And after the fact if the gentile did work [on] something attached to the ground, if he was a day-laborer – which is forbidden on principle – that selfsame house is forbidden, on principle, to [the Jew] forever, and to others for the duration of the work⁹³ (and see in

⁹³ That is, it must remain unused after Shabbat has ended for a period of time equal to the time it took to complete the work. This waiting period is discussed in Betzah 24a-b.

Eliyah Rabbah, whose opinion inclines toward being lenient). And it is correct to be stringent in perpetuity, even for other [Jews, so] rather he should sell it to gentiles. And if he paid them by contract, since on principle it is permitted, [and] it is only forbidden because of *mar'it 'ayin*,⁹⁴ there is reason to trust that we may permit it after the fact. But if he has stipulated with the gentile that he not do his work on Shabbat, and the gentile did so against his wishes because of a need to hasten to complete his work, there is no need to be concerned at all (*ibid.*).

(8) From this it becomes clear that it is forbidden to hire a gentile even by contract to remove his garbage from the courtyard, since this is a toraitic labor, and even to remove it [from] the street, which is public space – and there are those who say that in a public space, there is no suspicion [of wrongdoing] – nevertheless even with this there is reason to forbid it (and see concerning the Labor of Building, the Law of Levelling Depressions, Section 1). (NA 2)

(NA 2) Nishmat Adam: In chapter 244,⁹⁵ the *Magen Avraham* wrote that with respect to [a space] “of the *rabbim*,”⁹⁶ there is no suspicion.⁹⁷ And *Eliyah Rabbah* wrote that this is specifically with respect to idolatry, which is a serious prohibition. But here, according to what the *Magen Avraham* wrote, if this is the case, he would be able to permit it even when two

⁹⁴ Literally, the “seeing of the eye” – referring to a situation which creates the appearance of halakhic transgression, even though someone who knew all the details would know that no transgression is actually taking place.

⁹⁵ Some editions have “254,” which is an error.

⁹⁶ Literally, “of the many.” This term can mean a technical, halakhic public domain, but here it indicates property which is jointly owned or jointly occupied.

⁹⁷ I.e., no suspicion of wrongdoing – that is to say, since the space is shared and any actual transgressions would have witnesses, we presume that no one will presumptuously flout community norms.

[Jews] share one courtyard,⁹⁸ because two are called “many” – as the *Śifteī Kohen* wrote in the name of Rabbenu Yeruḥam.⁹⁹ But heaven forbid that one should be lenient with this, since this – even with *ḳatzatz* – is forbidden in the house of a Jew. And the *Magen Avraham* only permits it in the street, which is a public domain – as he writes that street-cleaning is not referred to in connection with particular Jews, but in a courtyard, [cleaning it out] is forbidden – even through contract labor, and even when it is of the “many”. And furthermore, the *Śifteī Kohen* wrote there a proof that two are called “many” – as we say at the beginning of Berakhot: “With two, here also there is no suspicion” – see there. And according to this, it is proven that it is not specifically with respect to idolatry, but rather that this is the law with respect to promiscuity anyway as well. But in this, the proofs are rejected; see in *Even ha-‘Ezer* chapter 12, that two judges who have released a woman [from her marriage by declaring her husband dead] is permitted for marriage to one of them, because a person does not sin for the sake of his fellow’s benefit; and so a challenge comes out to [the idea] “with two there is no suspicion,” and from this would be proven that it *is* specifically with respect to idolatry. But this is not so – since concerning promiscuity, it comes up explicitly in the Gemara. And indeed, the reason that he wrote down in *Even ha-‘Ezer* is the truth for that case.

Also, since he brought evidence from Betzah, and it is in chapter 516, note 2: we should say that there, those who see will suspect that the ones carrying [things away] only know what they are told by the one who sends them. But what Rabbenu Yeruḥam determined,¹⁰⁰ that two are called “many”, bears examining, because we said in Giṭṭin, a vow which is “vowed among

⁹⁸ Lit., “reside in the courtyard.”

⁹⁹ *Śifteī Kohen*, chapter 141, note 27.

¹⁰⁰ See *Toledot Adam v’Havvah*, netiv 17, part 5.

many”, [and] some say that [this means] among ten (Giṭṭin 46a), and “a stolen [animal for offering as a] purification-offering, which is not known to the many” (Giṭṭin 55a); there, Tosafot Yom Tov wrote in the name of the Yerushalmi that this is three. And it furthermore bears examining, because if this is the case, that which he raised [by way of] objection – the [case] of Rabban Gamliel, who “was alone” (‘Avodah Zarah 43b) – that should mean that he did not have [with him] any members of his household, and this bears examining.¹⁰¹ And also what the *Bet Yosef* wrote, that Rabbenu Yeruḥam learned thus, from the [case] where Shmuel’s father and Levi went into the synagogue (‘Avodah Zarah 43b), meaning that [with] two there is no suspicion; there is no proof, because we could say that anyway, there were [already] “many” there in the synagogue. And according to the words of Rabbenu Yeruḥam, we should say that this raises a difficulty, this [case] of Rabban Gamliel; even though he certainly had plentiful members of his house and a wife, they are all counted as one [person], and see Ketubot [22b], Tosafot with the keyword, “Such as [that she married one of her witnesses]”.

(9) An item of work [performed on] something detached from the ground, for the sake of something attached to the ground, such as carving stones, repairing rafters, and so on, for the sake of a building that is inside the *tēhum* ([see] *Levush [Malkhut]*), if it is widely known that it belongs to a Jew, even if the gentile does it in his own house, the law is like [the case of] something attached to the ground in every respect. And nevertheless, after the fact in a

¹⁰¹ In the case in question, Rabban Gamliel is said to have charts depicting phases of the moon in the upper chamber of his house. The rabbis are concerned that a person might worship such images, but want to say that they do not suspect Rabban Gamliel, even though Rabban Gamliel is said to be “alone” in this situation (meaning that no one would see him if he did worship them).

situation [with a potential for] loss, there is reason to trust that we may [even] permit setting them into the structure, as the Rama wrote (Section 244, and see *Eliyah Rabbah ad loc.*).

(And in the book *Dagul meRevavah* it is written, as follows: “In my humble opinion, it seems that this prohibition [applies] specifically when the stones and the rafters belong to a Jew, and he has given them to a gentile craftsman to repair them and carve them; but if the gentile carves his stones or repairs his rafters, concerning all of which the Jew has made a work order with him, and the choice rests with the gentile to carve other stones and to keep these for himself, even if the craftsman is doing it for the sake of the Jew, if he is not in the Jew’s house, even if it is well known that he is doing it for the Jew’s sake, even this is permitted, since this is still not called a Jew’s work,” etc., see *ad loc.*).

(10) (Condition 6): An item of work [performed on] something detached from the ground is only permitted specifically when the gentile does it at home, (^{NA 3}) and [this is so] even if the matter is public knowledge to all, that this is a Jew’s work. But if it is known that it is a Jew’s work, and the gentile does it in a public place, this would also be judged like [the case of] something attached to the ground. And [this is also the case] specifically with something which the Jew already owns; but if a gentile is making for the Jew footwear or the like, or a new wagon, even if it is known and reported that he is doing it for this Jew, there is no need to prevent him, for behold, the Jew does not own it yet, and if he wishes, the gentile can sell it to someone else and make another one for the Jew.

(NA 3) Nishmat Adam: In chapter 252 it is written in the *Shulḥan ‘Arukh* that with regard to a well-publicized item of work which is done in a public place, it is good to be stringent and to forbid it. And the *Magen Avraham* wrote that this means that if [the Jew] sees it, he should protest, but it is permissible to allow him. And the *Magen Avraham* wrote that this bears examining, because in chapter 244, paragraph 4, it is written that in principle, the law is like [the case of] something attached to the ground, and this being the case, it is forbidden on principle to give it to him – and see there. And to me, it bears examining, since I wrote in the previous section in the name of the *Hagahot Mord^ekhai* that the reason [for] the distinction – that with [the case of work being done] for free one needs to protest, but not [in the case of work being done] for payment – is because the gentile will not heed him, because of his payment. And this being the case, once he has determined a payment for him by *ḳatzatz*, what use is it to protest? And so is it written in *Shulḥan ‘Arukh*, paragraph 2, and it urges [us] to say that he should protest, so that those who see him will understand that he did not give him [the work] on Shabbat. And furthermore, this being the case, there would have been no reason for the *Meḥabber*¹⁰² to give this judgment its own paragraph, but rather he could have written everything in paragraph 1, if [with] one who does it for free, or with an item of work [done] in public, [the Jew] must protest. And therefore it seems to me that the words of the *Magen Avraham* were correct, when he wrote to distinguish between [work related to] a boat owned by a Jew, and other work done in public. Because the law for a boat he wrote at the end of chapter 244 in the name of *Sefer Torat ha-Adam*, and in chapter 252¹⁰³ he wrote in the name of

¹⁰² Lit., “the author” – another name for Yosef Ḳaro.

¹⁰³ Some editions have “202,” which is an error.

Rabbenu Yeruḥam: it is forbidden. And next, he wrote the words of Rashba¹⁰⁴ [that] with a willow it is good to be stringent.¹⁰⁵ And the Rama¹⁰⁶ wrote in chapter 664, that if there is another [boat], it is explicit that with something not owned by a Jew, that it is only a stringency that it is possible to impose, but in a case of great need we should be lenient. And thus it should be said that you must conclude [that in one case the reasoning is] because in a Jew's house everything is forbidden, [and in the other] it is because his labor is [being done] in public, as was written in chapter 244 on the matter of accepting taxes. But this being the case, why did he write that it was a stringency?¹⁰⁷ Rather, you must conclude that he has to make a distinction [between the two cases].¹⁰⁸

And all the more so the garments of a Jew, even if they are known to belong to a Jew, the *Tosefet Shabbat* wrote that there is no concern, because we do not know [specifically] to whom they belong. And it seems to me [that we should] deduce this from the words of Rabbenu Yeruḥam, as the *Bet Yosef* wrote that “what is known with respect to its owner” means specifically that it is known who the owners are; but [concerning] that which is known to belong to a Jew and its owners are not known, there is no concern.

¹⁰⁴ That is, R. Shelomo ben Adret.

¹⁰⁵ The meaning of this comment is not entirely clear, based on the chapters of *Shulḥan 'Arukh* cited here and the *Magen Avraham's* notes on those chapters.

¹⁰⁶ R. Moses Isserles, author of *ha-Mappah*, the authoritative Ashkenazi gloss to *Shulḥan 'Arukh*.

¹⁰⁷ In chapter 252 of *Shulḥan 'Arukh* – why is it considered a “stringency” to forbid work in a public place, but a stringency which one should impose nonetheless?

¹⁰⁸ In other words, because the halakhic understanding of work being done in a Jew's home is markedly different from that of work being done in a public place, the *Shulḥan 'Arukh* has to explain the former as being forbidden and the latter as being technically permissible, but forbidden in practice.

And my rabbinic friend Mahu Duber¹⁰⁹ has challenged me, that in Menachot 43[a] we say that one does not sell a tallit to a gentile¹¹⁰ because of [the story of the] prostitute; Rashi explains, in his second interpretation [to this comment], that “she will say that ‘a Jew gave it to me,’ and they will come to suspect him” – meaning even if it is not known who he is. And I responded that Rashi’s meaning is that she will say, “*This Jew gave it to me,*” and we learn this from [the fact that] he concludes, “and they will come to suspect *him*” and he did write [simply] “to suspect.” And thus is it written in the *Nimmukei Yosef*: “Rashi explained, etc. – it is even a gentile prostitute and she will say, ‘So-and-so the Jew gave it to me,’” etc. And you cannot say that here also [the gentile] will say that “This belongs to so-and-so the Jew”—this is not [the case]. Because if so, he would also say how much he had arranged with him [for payment]. And Rabbenu Yeruham, in *Nativ* 19, part 3, only wrote Rashi’s first interpretation.¹¹¹

And I found in the *responsa* of Shim’on ben Tzemaḥ [Duran], part 2, chapter 54, where he wrote [about] that Bet Hillel permit skins [to be given] to the tanner, even though the gentile will wash them by the river; since any [labor] that [the gentile] does not do in a Jew’s house is called “private,” and our Rabbis do not disagree, and he concludes: “that one who knows that this is a Jew’s fishing net, knows as well that the gentile is his ‘tenant.’”

And know that if three people know about it, it is called “well-known,” as Rashi wrote in Shevu’ot 25b, keyword “and if it is well-known.”

¹⁰⁹ It is not clear to whom Danzig is referring here.

¹¹⁰ The word appears in the text as “Samaritan” – a substitution for “gentile” designed to prevent Christian censors from taking offense.

¹¹¹ His work leaves out the second interpretation with which Danzig is concerned.

Moreover, it seems to me that regarding things about which it is known that the custom of all in the city is to give them out for contract labor, like clothes to a launderer, and materials for a wagon, and the like, even if it is known that it belongs to a Jew and the gentile does it in a public place, for example in the road, it is permitted, since this is no less [significant] than a bathhouse and an oven, below in paragraph 13.

And in the house of a Jew, everything is prohibited, and no permission may avail, as below, section 26, since he appears to be his agent, whom he orders to do [labors] on Shabbat.

(And moreover, even with contract labor on principle he could [try to] prevent him, but [the gentile] might not listen to him, as it is [written] in *Hagahot Mord^ekhai*, but in [the Jew's own] house, it is certainly forbidden.)

(11) From this it becomes clear that it is forbidden to put a letter in the “*post*”¹¹² on Shabbat, except specifically on Friday, because [putting something] in the post is *ḵatzatz* – since even if he is not paying here, nevertheless the one to whom it is sent will need to pay. And if he sends it through a designated agent, in this instance there is also *ḵatzatz*, or even at a time of exigency, and for free. And because opinions are divided about one who does it for free, it is therefore better by all opinions that he tell the gentile that he will give him liquor or brandy, and this is like *ḵatzatz*, since [the gentile] has accepted upon himself that such would be his compensation (see in *Yoreh De’ah* chapter 177). And it seems to me that it is forbidden to give a letter to a gentile whom one knows, even with *ḵatzatz*, so that he

¹¹² Danzig uses the Yiddish transliteration of the word here.

can put the letter in the post on Shabbat, since he would be delegating his labor on Shabbat, even in a place where there is an 'eruv;¹¹³ in any case, he has done nothing less than when he tells a gentile that he can engage laborers for him on Shabbat, which is forbidden, as [written] in chapter 62.¹¹⁴

And this bears examining (see in the *Mishneh la-Melekh*, 6:9, where it is written that even on Friday, giving an order to a gentile [concerning a labor to be performed on Shabbat] in a matter which is only prohibited rabbinically – even this is prohibited. And he brings evidence from the hiring of laborers). And nevertheless it seems to me that with [a risk of] loss there is reason to be lenient in such cases, since this is a rabbinic prohibition, and [transgressing] a rabbinic prohibition in a case of loss is permitted. And [this applies] specifically in the matter of delegating to a gentile. But we are not to learn from this about contracted construction work or other such cases, since because he is in a Jew's house and it is well known, they will say that he is a day-laborer, which is not the case with a letter, which is a private matter.

(12) (Condition 7): That the Jew not profit by what the gentile does on Shabbat. Therefore one who has a bathhouse in which people bathe [in exchange for payment] or an oven in which people bake in exchange for payment, it is forbidden on principle to pay non-Jews to stoke and to light fires, even when his payment is for a month or a year. And therefore it is

¹¹³ A “blending” – that is, a domain considered to be like a single house or building even though it is open to the air and actually constructed in the public domain. This is a legal fiction used for purposes of allowing people to carry within a particular neighborhood or municipal area. See Appendix A.

¹¹⁴ Chapter 62 of the Laws of Shabbat deals with the concept of *amirah l'goy* – giving direct instructions to a gentile to take actions prohibited to a Jew, so that the Jew may benefit from them.

forbidden on principle for a Jew to rent them to a gentile, such that he would give him for each and every day a known sum, because here the Jew would be profiting by the gentile's lighting something on Shabbat. And since the custom is to rent out a bathhouse or an oven in this fashion, the sages forbade even renting to a gentile secretly, that is, that he give him such and such for every week or for every month, whether he lights a fire on Shabbat or not, even if then the Jew has no profit at all by what he lights on Shabbat, because of those who will see it and will suspect [the Jew] of engaging the gentile [on Shabbat] or of renting it out to the gentile out for several days, for such is the custom.

(13) And specifically with a bathhouse and an oven which belong to a Jew, since if it is well known that they belong to a Jew, there is reason to be suspicious. But if they belong to a gentile, and the Jew has only rented them [from the gentile], and even if the Jew already sat in them (see *Eliyah Rabbah*); or even if he bought them from the gentile, but he has never sat in them and the Jew's name has never been attached to them;¹¹⁵ or if the bathhouse is in an apartment building in which he does not reside, and no other Jews bathe in it at all, except members of his household and his neighbors, and they know that he has rented the bathhouse and the oven to a non-Jew, it is permitted, since here there is no suspicion (and see *Eliyah Rabbah*, which even permits [a bathhouse] in his house, if there are none bathing in it except members of his household).

¹¹⁵ Literally, "his name has not been called on them" – which by itself can mean either that he does not own them or his ownership is not a matter of public knowledge. In this instance, the second meaning is obviously the only possibility.

(14) And so if the matter becomes well known, that he is not accustomed to hiring workers but rather rents [his facilities] out to a gentile for a year, or that such is the custom of the people of his place, it is permitted. But it is forbidden to hire workers for a month or a year [to do labor on Shabbat], since in any case there is profit for the Jew. And nevertheless we are not to learn from this to permit erecting winter-house ovens, even though the matter is well known that everyone's custom is to pay by contract, since it is known specifically that the making of the oven is done by contract; but those who help with spreading of the mortar,¹¹⁶ and so on, are customarily hired as day-laborers, and that being the case even if he hires them all by contract, it is forbidden, as above, paragraph 6. And all the more so, when it is in his house in which he resides, since [the gentile laborer] might need to take from him a key. So all this is forbidden, as above, end of paragraph 10.

(15) And therefore, regarding something that customarily is rented out to a gentile, whether he rents it out such that he will give him a half or a third of the field, or whether he rents it out so as to give him such and such for each week, and the gentile will take all the profit, like millstones in olden times, since such was the custom, it is permitted, since they would not suspect him, since such is the custom. But it is forbidden to hire the gentile to do work with millstones, even if his pay is for a month or a year, and that the Jew takes all the profit, since the Jew profits from his labor on Shabbat, it is forbidden on principle with millstones, and with the field it is forbidden because of suspicion, as above, section 6 (and see in *Shulḥan 'Arukh*, chapter 450, in *Ṭurei Zahav* there, on the topic of millstones).

¹¹⁶ The mortar which holds the tiles in place.

(16) And from this you will know, that the Jew who has a brewery¹¹⁷ or a brickworks¹¹⁸ or a factory¹¹⁹ where they make glass, and they are things through which the Jew profits by labor on Shabbat, and if so their law is according to the custom of the people of the place – [either] like a bathhouse and an oven or like millstones. And [this applies] specifically if the brewery (or the like) itself belongs to the Jew. But if it itself belongs to a gentile, and [the Jew] merely rents it from the gentile, even if the materials and the wood are the Jew's, it is permissible to hire gentile laborers by contract, as such: "When you make for me such and such liquor, or glass, and so on, you will take such and such." But there is no permission to hire a gentile for a week or a month,¹²⁰ since in any case [the Jew] profits by his labor, and he only has permission with contract labor (R. Shelomo Luria in Responsa, chapter 100, which the *Magen Avraham* cites in chapter 244, note 17).

(17) And so a Jew who collects taxes and hires a gentile to collect the taxes on Shabbat is permitted [to do so] with a contract; that is, that he says to him: "When you collect one hundred dinars, I will give you such and such"; and even though it is in public, and he appoints the labor for him on Shabbat, nevertheless because of the [risk of] loss [the sages] have permitted it. And if [the Jew] fears that he will steal [some of the money], he is

¹¹⁷ Yid. *broya hoyz*, i.e., "brew-house."

¹¹⁸ Yid. *tzigelne*.

¹¹⁹ Yid. *hute*.

¹²⁰ That is, for any period of time which will include at least one Shabbat. The prohibition against day-labor derives from the notion that if a certain period of time itself is consecrated, a Jew cannot provide a non-Jew with compensation for that *time* as such – only for the work done, and only under the conditions explained in this chapter.

permitted to set a guard, so long as he is careful not to speak with him about any business.¹²¹ And so he can farm out the taxes to him for all of the Shabbatot, and the gentile will take the profit of all of the Shabbatot, since this is like [a case in which] he took merchandise from him [to peddle] (and see *Magen Avraham, ibid.*, note 18).

(18) As becomes clear, there is no special rule for one who has a brewery or some such, unless he sells it to a gentile and publicizes the fact that he has sold it to a gentile, and the gentile pledges it [to the Jew] as collateral¹²² as described in the law on collateral, and then while the substance belongs to the gentile even if the materials are all the Jew's, its law would be like what was explained at the end of paragraph 15: that he could hire a gentile for contract labor – that is, that from every amount [taken in] he would give him such and such an amount [for himself]. (NA 4)

(NA 4) Nishmat Adam: See the *responsa* of R. Shelomo Luria, chapter 100, where he gives permission to whoever has been awarded by the ruler¹²³ [the right] to cook salt for him, and the Jew hires workers to do the cooking as contract labor, and the materials belong to the Jew. From here it is proven that it does not matter to us that a gentile is [the one] burning a Jew's wood, since obviously the wood belongs to the Jew. And against Rabbenu Śimḥah,¹²⁴ *Hagahot*

¹²¹ I.e., the terms by which he will be paid for his guard duty.

¹²² Meaning that the Jew takes possession of it, even though he does not technically own it anymore.

¹²³ The precise reference is unclear, but seems to depict a situation in Europe in which local worthies could give out limited licenses for individuals to produce salt

¹²⁴ His refuted comment will appear in a few more lines.

Maimuniyot [chapter 6, paragraph 6] posited that with a Jew's wood, it is forbidden [to burn it] even in a gentile's house, but [it also rules] like *Sefer ha-Terumah*, which posited there that even in a Jew's home it is permitted to allow [a gentile] to do labor which does not belong¹²⁵ to the Jew, see there. Whereas Rabbenu Śimḥah wrote [his] proof from [the case of giving] skins to the tanner, and wrote: what is different between other labors and the one who burns wood? He means that it is not the same, because [the Jew] is obliged to give [the gentile] what he needs [for the labor] – this being the case, the wood too belongs to the gentile.

And this also is the law for cooking salt, because the gentile does it of his own accord; this being the case, the wood too becomes his property. And one who looks in *Hahgahot Maimuniyot* will see explicitly that Rabbenu Śimḥah forbids burning things in a Jew's house, even if the Jew will not benefit from it. And *Sefer ha-Terumah* permits it, meaning even with a Jew's wood – such is the opinion of Rabbenu Yom Tov.

(19) And know that [regarding those cases] where we have explained that something is forbidden in principle, then it is forbidden even after the fact to take payment, and even if the gentile baked in the Jew's oven against his wishes and he gave him a loaf as his payment, it is forbidden to accept it from him, but in a situation which is permitted in principle, but it is [only] forbidden because of *mar'it 'ayin*, his payment is permitted after the fact.

¹²⁵ Meaning, which would not affect the Jew or the Jew's property.

(20) (Condition 8): That the gentile not be hired by him for a year to do every labor, or to constantly do a specific labor for him, since then the Jew profits by the labor that [the gentile] does on Shabbat – because if [the working arrangement] were not so, the labor would be interrupted for one day – and this is forbidden according to everyone. But when he is not hired by him to constantly do only a specific item of work, and when the Jew has this item of work [the gentile] will do it, and if not he will sit idle, for the Rambam it is permitted to let him do the work in keeping with the conditions explained above – and for the Ra'avad, it is forbidden. And in any case, on Wednesday or Thursday one is permitted to give him the item of work, even if he knows that he will be doing it on Shabbat (end of chapter 247 in *Magen Avraham*).

(21) Everything which has been said [applies] when the item of work belongs to the Jew alone. But a Jew and a gentile who jointly own a field, or an oven, bathhouse, millstones, and so on – or who share merchandise – in this there is no suspicion, because it is known that the gentile has a share in it. If they work by themselves at an item of work, each on his own day (see *Magen Avraham*, beginning of chapter 245), they will stipulate at the beginning of the partnership that the pay for Shabbat will be the gentile's alone, and that the Jew will take a specific weekday against that, and so in the case of a field they will stipulate that the gentile should plow and harvest on Shabbat, and he will collect at harvest time according to his toil on Shabbat, and the Jew according to his toil on the weekday, and since they have stipulated this [from the outset], it was never incumbent on the Jew from

the beginning to do [any work] on Shabbat – and that being the case, the gentile is not his agent.

And if they did not stipulate this and it is a substantial loss, they are permitted simply to split [the produce]; and all the more so in a situation in which both of them work together on weekdays and the gentile alone on Shabbat, he is permitted to split all the income with him, since the gentile does it for his own sake, because the work was not at all incumbent upon the Jew to do, for he can say to him: “Because I did not perform this work, you did not have to either” ([see chapter 245]). (NA 5)

(NA 5) Nishmat Adam: *A question:* Whether it is permissible to give [a gentile] rafters to make planks out of them for [salable] merchandise, since it is known that they do so as contract labor, [and] from every “*shok*”¹²⁶ [they produce] such and such [a number of planks]; and the gentile does this in his [own] courtyard, only because the planks are [to be used] for the sake of something which is attached to the ground, and its law is like something which is attached to the ground.

Response: Now, it would seem that we should learn from the words of Tosafot and Rabbenu Asher that the reason one forbids [a gentile to work on] a house as contract labor is that [those who see him] will say that he is a day-laborer, and because of this we should infer that if it is well-publicized or the custom of the entire place is to do construction as contract labor, it should be permitted. And so my master and teacher and rabbi proved in *Noda’ biYhudah*, part I

¹²⁶ Yid., a group of sixty items.

[that is, *Orah Hayyim*, first *maḥzor*], chapter 12, that concerning a bathhouse, [as discussed in] chapter 243 [of *Shulḥan 'Arukh Orah Hayyim*], it is forbidden likewise to rent them out, but nonetheless, if such is the custom, it is permitted; and this too follows his opinion. But in his days *Sefer ha-T'rumah* was not to be found at all, even one [copy] in the city, and this is what it says in chapter 222: “Regarding constructing a building, perhaps [the reason] even our rabbis agree that this is forbidden [is] that it is in a Jew’s domain,¹²⁷ whereas something which is not attached to the ground, like clothes [given] to the launderer – which is permitted – [the work] is specifically [performed] in the domain of a gentile.” And he writes thus in his decisions, chapter 221: “But on Shabbat it is permissible as contract labor, even within the *t'ḥum*; so Rabbi Ya'aqov¹²⁸ explains. And my teacher Rabbi Yitzḥak¹²⁹ says that this is specifically concerning something which is not attached to the ground and [upon which work is performed] in the gentile’s house. And from millstones [we derive] no proof, since the work is done on its own.¹³⁰ But with contract labor in which the gentile does the Jew’s work, it is forbidden – as though [the Jew] had ordered the gentile to do it on Shabbat.” And see there as well, chapter 222. And so we learn from the Yerushalmi, which Tosafot brings, that even [having a gentile launder one’s] clothes as contract labor is forbidden in a Jew’s house. And therefore I wrote in *Hayyei Adam*, chapter 3, paragraph 10 and paragraph 14, that it is forbidden to let [gentiles] erect winter-house ovens – even though it is known that they do this as contract labor – because it is in a Jew’s house. And in *Nishmat Adam* above, note 1, at the end, I wrote in the name of

¹²⁷ I.e., setting up a building for a Jew on that Jew’s property would entail doing work within the Jew’s domain.

¹²⁸ Presumably Ya'aqov ben Me'ir (Rabbenu Tam).

¹²⁹ Yitzḥak ben Sh'eṣṣu'el of Dampierre, teacher of the *Sefer*’s author, Barukh ben Yitzḥak.

¹³⁰ Barukh’s assertion is a remarkable one: the “work” done by millstones is not a human being’s work, but is rather “done on its own.” Such reasoning creates a surprising amount of distance between a person’s agency and the device which they employ to perform the actual work.

Hagahot Mord^ekhai that in the Yerushalmi [we find]: “If one has given clothes to a gentile launderer and has found him working with them on Shabbat, [this is] forbidden; Rabbi Yudan says, ‘He should tell him not to work’; Rabbi Yudan says, ‘This is said when [the work is being done] for the sake of a [non-monetary] benefit, but if it is for payment, he is occupied with his [own] work’ – meaning that [the Jew] cannot [successfully] protest.” [Y. Shabbat 4b]¹³¹ And this being the case, since he should in principle protest, but the gentile will not heed him – this being the case, if he does it in [the Jew’s] home, we will see that [on the contrary, the Jew] approves. But the bathhouse is different, because it is well-publicized that he has rented them out to a gentile, and this being the case, it is not in the domain of a Jew. And this being the case, there is no permission in the Jew’s house; even if this were a universal custom, it would not matter.

And because of this, to saw planks in a Jew’s domain – even if it is not in his courtyard – is forbidden according to everyone, even if it is well publicized that it is [being done] as contract labor. But if the gentile does it in his own courtyard as contract labor, only because it is for the sake of something which is attached to the ground, it seems to me that [we ought] simply to permit it, since [authorities] are divided [concerning] the shaping of rafters and stones for the sake of something which is attached to the ground, that is, when the Jew is building a house, and he shapes stones and rafters for the sake of that house, in this [case] those who forbid forbid, but when he isn’t building at all, but makes [them] to sell, from where would you [conclude] to forbid it?

¹³¹ Cited above in *Nishmat Adam* to paragraph 3 (NA1).

And what does it matter if it is for the sake of something attached to the ground? The reason why [work performed on] something attached to the ground is forbidden is that because it is a Jew's domain, it is as though [it is being done] at the Jew's behest, as I wrote [this] reason [above], which is not so for merchandise. And so it is written in the *L^evush*, chapter 244, explicitly: "And if the majority of the building is within the *t^ehum* there are those who say that if he cuts the stones," etc. And so do we learn explicitly in *Sefer ha-T^erumah* and in the *Kolbo* and in *Sefer Mitzvot ha-Gadol*, negative commandments, Laws of Shabbat, page 71.

And therefore it seems to me that we should simply permit it. But it seems to me that this is specifically when the planks are not specifically designated for a building set aside for a Jew [to use or inhabit], only for merchandise which he may happen to sell. But if they were designated for some building of a Jew, even if the owners were not [the ones] building it, and it were well-known as well that these planks were designated for this building, we should forbid it.

(22) It is permitted lend materials to a gentile, even materials with which work is done, such as plowing equipment and the like, on Friday. And it is similarly permitted to rent out materials with which work is not done, so long as one does not rent them out only for Shabbat – even a room to stay in – since it is forbidden to take payment on Shabbat. Rather he should rent them out for whichever days with Shabbat included among them by inference, so long as [the gentile] departs from [the Jew's] house before Shabbat, since someone seeing [the gentile] exiting a Jew's house would be suspicious that the gentile had lent or sold to him on Shabbat (Rama chapter 246, *Magen Avraham* note 6). And because of this even in a city in which it is permitted to carry everywhere, it is forbidden. But there are

those who say that lending to a gentile on Shabbat is only forbidden because someone who sees will think that the Jew ordered [the gentile] to take it out, and because of this in a city in which carrying is permitted, it is permitted. And there is reason to rely on this in a time of exigency even on Shabbat. And similarly, it is permitted to rent out even materials with which work is done, on Wednesday and Thursday, even if the gentile will do work with them on Shabbat, since we are not commanded with regard to the resting of materials; but on Friday it is forbidden, since [the gentile] will appear to be [the Jew's] agent, since he takes payment for this. And if he were not able to do [work with the materials] on Shabbat as well, he would not give him as much payment. This being the case, he appears to be his agent. And see below, in chapter 62.

(23) The Jew may give a gentile petty cash with which to do business. And even though the gentile transacts business on Shabbat, he shares all income with him evenly, since this particular item of work is not incumbent upon the Jew at all, and it is also not determinable whose transaction it is. But if the Jew is also obliged to engage in it, the law is like in chapter 21.

(24) A Jew is permitted to give merchandise to a gentile to sell, if he finalized [in advance] the terms of his payment, so long as he does not say to him, "Sell this on Shabbat."

(25) If a Jew and a gentile jointly own a livestock animal, the Jew should warn the gentile not to do any work with it on Shabbat. And if he violates [the warning] and does [work with the animal], the responsibility will be upon him, even without his consent,¹³² and this will be written in their documents,¹³³ to publicize the matter. And this being the case, even if he does [work] with it on Shabbat, it is not a Jew's animal, since the gentile is liable, [with or] without his consent. And see also below, chapter 57 [in Part II of *Ḥayyei Adam*] – all the details of the laws of how to behave with a livestock animal which is loaned out. And the law of one who is overtaken by the nightfall [of Shabbat] on the road will be explained below, chapter 58.

(26) It is permitted to put wheat in a watermill on Friday before nightfall, and we are not concerned about rumormongering,¹³⁴ that they should say: "So-and-so's millstones grind on Shabbat." But [this applies] specifically if the gentile who is grinding is employed by contract, as is explained above, in which matters it is permissible to give the gentile an item of work to do, and specifically in a situation of [potential] loss. But otherwise, this is forbidden because of rumormongering, and this would be a desecration of Shabbat, if he had not hired the gentile. And if the millstones belong to a gentile, it is obvious that there is no reason to be concerned, so long as the Jew does not stand there, since then [the gentile] would appear to be his agent. And for the sake of Passover, it is permitted for the Jew to be

¹³² Whether or not the non-Jew recognizes the authority of the *Halakhah* itself, as far as the *Halakhah* is concerned, that non-Jew still bears the responsibility for violating Shabbat.

¹³³ The legal documents by which the terms of their partnership are governed.

¹³⁴ That the use of a Jew's millstones on Shabbat will cause a scandal in the community.

standing there to see that [the grain] does not ferment.¹³⁵ And similarly, it is permissible to set a guard lest the gentile steal anything, so long as [the Jew] does not discuss any business with [the guard] (*Ṭurei Zahav* end of chapter 244.)

¹³⁵ To “watch” the grain and see that no spontaneous leavening occurs.

APPENDIX A

Glossary

(Cross-referenced with English/Latin counterparts)

N.B. For purposes of alphabetization below, apostrophes are ignored and letters with diacritics are treated the same as those without. Superscript characters should be treated as though they were simply printed in line with surrounding characters.

Ab initio (see *lekhatehillah*)

After the fact (see *b^edi'avad*)

b^edi'avad – *Ex post facto*, or “after the fact;” this term describes the *mitzvah* which is not performed under ideal circumstances but in which the the bare minimum requirements for fulfillment are met nevertheless. (cf. *lekhatehillah*)

Burying (see *hatmanah*)

Commandment (see *mitzvah*)

Contract labor (see *kabbelanut*)

Custom (see *minhag*)

Day-laborer (see *sekhir yom*)

d'e'orayeta – “Of the Torah” or “toraitic.” Refers to commandments (*mitzvot*) which are believed to be mandated not by rabbinic legislation or extension of a principle found in the text, but by the text itself. Sometimes also *midd'e'orayeta*. (cf. *d'erabbanan*)

d'erabbanan – “Of our rabbis” or “rabbinic.” Refers to commandments implemented through rabbinic action taken to safeguard the commandments of the Torah itself and ensure that they are followed. Sometimes also *midd'erabbanan*. (cf. *d'e'orayeta*)

'eruv – Literally, a “blending” – a legal fiction constructed so that people may carry objects on Shabbat across a particular neighborhood or municipal are without violating the laws of Shabbat. Though composed of a number of different streets and buildings, the *'eruv* is considered to be like a single building, surrounded by a symbolic boundary (considered to be its walls) and with entry and exit points (considered to be its doors). Because it is one mixed domain which includes the homes and synagogues of the community, moving an object from one person’s home to another within the *'eruv* is not considered to entail moving it from one halakhic domain to another.

Ex post facto (see *b'edi'avad*)

From the outset (see *lekhatehillah*)

haṭmanah – “Burying”; for purposes of Danzig’s discussion in the foregoing (chapter 2, paragraphs 5-6)

ḵatzatz – An establishment of terms of payment for a service. Depending on the authority, in order for the arrangement to qualify as *ḵatzatz*, either an amount must be specified and agreed upon, or the laborer must merely be advised that he is receiving payment for the service.

ḵabbelanut – Contract labor, or piece-work – i.e., labor evaluated as complete not by time, but by completion of the specified tasks. Contrasted with the work done by a day-laborer.

Labor (see *m^elakhah*)

l^ekhat^ehillah – *Ab initio*, or “from the outset;” this is a halakhic term describing ideal circumstances surrounding the performance of a *mitzvah*. It often becomes relevant in questions of proper intent and “a good faith attempt.” (cf. *b^edi’avad*)

mar’it ‘ayin – Literally, “the seeming of the eye.” The term is used to describe those situations in which an outside observer would be likely to assume that the *Halakhah* is being violated, even though it is not.

Meal (see *s^e’udah*)

m^elakhah – “Labor” or “work” – specifically understood in a discussion of Shabbat to refer to the thirty-nine prohibited categories of labor (chiefly, creative labor) which a Jew is prohibited from performing on Shabbat.

midd^e’oray^eta (see *d^e’oray^eta*)

midd^erabbanan (see *d^erabbanan*)

midrash – A narrative, excursus, or instance of wordplay based on the text of the Hebrew Bible and used to suggest a hidden or unconventional meaning within the text.

minhag – A custom, often specifically a well-established and widespread custom among the Jewish people as a whole or a Jewish community. Such customs may be brought into a discussion of appropriate halakhic decisions, even preempting certain other considerations of observance.

mitzvah – A commandment, whether divinely given or divinely sanctioned, which is incumbent upon Jews. See also *d^e’oray^eta*, *d^erabbanan*, *b^edi’avad*, and *l^ekhat^ehillah*.

pidyon ha-ben – The ceremony of symbolically redeeming a first-born son from a Levite. It is performed 30 days or more after birth.

posek – A decisor; one who studies rabbinic literature and precedent to be able to provide halakhic rulings.

Rabbinic (see *d^erabbanan*)

Redemption of the son (see *pidyon ha-ben*)

š^ekhir yom – A day-laborer, who is hired for a specified period of time and paid for that time, rather than for the completion of a contract or assignment.

s^e’udah – A meal, often a special one (see subsequent entry).

s^e’udat mitzvah – A “commandment meal,” convened and eaten to celebrate a special occasion.

tehum – The farthest distance beyond a Jew's place of residence to which that Jew is allowed to travel on Shabbat.

Toraitic (see *de'orayeta*)

Work (see *melakhah*)

APPENDIX B

Halakhic Works and Authors

What follows are major figures and works which form the background of Danzig's work and study (as well as of halakhic literature in general). All works which he cites other than tractates of Talmud or other works of classical rabbinic literature are identified here. Note that throughout his work, Danzig refers to authors by the names of their compositions.

N.B. For purposes of alphabetization below, apostrophes are ignored and letters with diacritics are treated the same as those without. Superscript characters should be treated as though they were simply printed in line with surrounding characters.

Arba'ah Turim (Tur) – A legal compendium written by Ya'aqov ben Asher. It was the first to use the four-part structure shared by *Shulḥan 'Arukh: Oraḥ Ḥayyim, Yoreh De'ah, Even ha-'Ezer*, and *Hoshen Mishpat*.

Alfasi, Yitzḥaq ben Ya'aqov ha-Kohen (Rif) – 11th c. Morocco. Wrote *Sefer ha-Halakhot*, a collection of bottom-line legal opinions in various Talmud passages.

Avraham ben David (Ra'avad) – 12th c. France. Commentator to Talmud and *Mishneh Torah*.

Asher ben Yeḥi'el (Rosh, Rabbenu Asher) – 13th-14th c. Germany and Spain.

Barukh ben Yitzḥaq – 12th c. France. Wrote *Sefer ha-Terumah*.

Bayit Ḥadash – A commentary to *Arba'ah Turim* written by Yo'el Sirkis.

Bet Yosef – A commentary to *Arba'ah Turim* written by Yosef K̄aro.

Dagul meRevavah – A commentary to *Shulḥan 'Arukh*.

Duran, Shim'on ben Tzemaḥ (Tashbatz) – 14th-15th c. Wrote several commentaries, including on Talmud and Alfasi.

Eliyah Rabbah – A study of *Shulḥan 'Arukh Oraḥ Ḥayyim* by Eliyahu Shapira.

Even ha-'Ezer – One of the four major divisions of *Arba'ah Turim* and works that follow its structure (like *Shulḥan 'Arukh*). Deals with issues of sexuality, marriage, and divorce.

Ganzfried, Shelomo – 19th c. Hungary. Wrote *Kitzur Shulḥan 'Arukh*.

Gombiner, Avraham – 17th c. Poland. Wrote *Magen Avraham*.

Hagahot Maimuniyot – A supplement to the halakhic work of Maimonides (particularly in *Mishneh Torah*), adding Ashkenazic customs. Written by Me'ir of Rothenburg.

Hagahot Mordēkhai (Mordēkhai) – A commentary to the Talmud written by Mordēkhai ben Hillel ha-Kohen.

Ḥaviva, Yosef – 14th-15th c. Spain. Author of *Nimmukei Yosef*.

Ḥoshen Mishpat – One of the four major divisions of *Arba'ah Turim* and works that follow its structure (like *Shulḥan 'Arukh*). Deals with courts and legal disputes.

Isserles, Moses (Rama / Remo) – 16th c. Poland. Wrote *ha-Mappah*, the authoritative Ashkenazi gloss to *Shulḥan 'Arukh*.

Ḳaro, Yosef (*ha-Meḥabber*) – 16th c. Ottoman Empire (incl. Palestine). Wrote *Bet Yosef*, *Shulḥan ‘Arukh*, and *Kesef Mishneh* (a commentary to *Mishneh Torah*).

Kolbo (Kol-Bo, Kol Bo) – An anonymous compilation of laws, probably first collected in the late 15th century.

Landau, Yeḥezḳel – 18th c. Poland. Teacher of Avraham Danzig. Wrote *Noda’ biYhudah* (a collection of *responsa*) and *Dagul meRevavah* (commentary on *Shulḥan ‘Arukh*).

Levush Malkhut – An eclectic halakhic composition by Mordēkhai Yoffe.

Luria, Shēlomo – 16th c. Poland. Wrote *Yam Shel Shēlomo*.

Magen Avraham – A commentary to *Shulḥan ‘Arukh Oraḥ Ḥayyim* written by Avraham Gombiner.

Maggid Mishneh – A commentary to *Mishneh Torah* by Vidal de Tolosa.

Maimonides, Moses (Rambam, Mosheh ben Maimon) – 12th c. Spain, Egypt. Wrote several works, including *Mishneh Torah*, a law code intended to simplify Jewish observance.

Me’ir of Rothenburg – 13th c. Germany. Wrote *Hagahot Maimuniot*.

Mishneh la-Melekh – A commentary on *Mishneh Torah* written by Yēhudah Rozanes.

Mishneh Torah – Also called “the *Yad*” and “*Yad ha-Ḥazaḳah*.” Maimonides’ great halakhic code, intended in large part to serve as a simple, practical distillation of the dictates of the rabbinic tradition.

Mord^ekhai (see *Hagahot Mord^ekhai*)

Mord^ekhai ben Hillel ha-Kohen (Mord^ekhai) – 13th c. Germany. Wrote (*Hagahot*) *Mord^ekhai*.

Mosheh ben Maimon (see Maimonides)

Mosheh ben Naḥman (see Naḥmanides)

Mosheh ben Ya‘aḳov of Coucy – 13th c. France. Wrote *Sefer Mitzvot ha-Gadol*.

Naḥmanides (Ramban, Mosheh ben Naḥman) – 13th c. Spain, Palestine. Wrote (among many other works) *Sefer Torat ha-Adam*.

Nimmuḳei Yosef – A commentary on the work of Alfasi, written by Yosef Ḥaviva.

Noda’ biYhudah – A collection of *responsa* written by Yeḥezḳel Landau.

Oraḥ Ḥayyim – One of the four major divisions of *Arba‘ah Ṭurim* and works that follow its structure (like *Shulḥan ‘Arukh*). Deals with matters of ritual observance for weekdays and holidays.

Ra‘avad (see Avraham ben David)

Rabbenu Asher (see Asher ben Yēḥi‘el)

Rabbenu Nissim (see Ran)

Rabbenu Tam (see Ya‘aḳov ben Me‘ir)

Rabbenu Yēruḥam (see Yēruḥam ben Mēshullam)

Rama (see Isserles)

Rambam (see Maimonides)

Ramban (see Nahmanides)

Ran (Rabbenu Nissim) – 14th c. Spain. Wrote commentaries to Talmud and to the writings of his predecessor, Alfasi.

Rashi (Shelomo Yitzḥaḳi) – 11th c. France. A prolific commentator on Torah and Talmud.

Remo (see Isserles)

Rozanes, Yehudah – 17th-18th c. Turkey. Wrote *Mishneh la-Melekh*.

Rosh (see Asher ben Yehi'el)

Sefer ha-Terumah – A compendium of laws written by Barukh ben Yitzḥaḳ.

Sefer Mitzvot ha-Gadol – A book detailing 613 commandments revealed in the Torah.

Written by Mosheh ben Ya'aqov of Coucy.

Sefer Torat ha-Adam (see *Torat ha-Adam*)

Segal, David ha-Levi – 17th c. Poland. Wrote *Turei Zahav*.

Shabbetai ben Me'ir ha-Kohen (Shakh) – 17th c. Lithuania, Poland, and Moravia.

Shakh (see Shabbetai ben Me'ir ha-Kohen)

Shapira, Eliyahu – 17th-18th c. Bohemia. Wrote *Eliyahu Rabbah*.

Shelomo ben Adret (Rashba) – 13th c. France. Wrote Talmud commentary and other works, including *‘Avodat ha-Ḳodesh*, a work on the laws of Shabbat and festival observance.

Shulḥan ‘Arukh – Widely considered to be the best-known and most authoritative compendium of Jewish law. Written by Yosef Karo and based on the structure of *Arba‘ah Ṭurim*.

Śiftei Kohen – A commentary to *Shulḥan ‘Arukh Yoreh De‘ah* by Shabbetai ben Me’ir ha-Kohen.

Śimḥah ben Shemu‘el of Vitry (Rabbenu Śimḥah) – 11th c. France. Wrote *Maḥzor Vitry*.

Sirkis, Yo‘el ben Shemu‘el – 16th-17th c. Poland. Wrote *Bayit Ḥadash*.

Tashbatz (see Duran)

Tolḏot Adam veḤavvah – A compendium of laws and customs written by Yeruḥam ben Meshullam.

Tosafot – A group of additions to Rashi’s Talmud commentary. The word is also used to indicate the people who wrote those additions.

Torat ha-Adam (Sefer Torat ha-Adam) – A treatment of laws around death, burial, and mourning written by Nachmanides.

Ṭur (see *Arba‘ah Ṭurim*)

Ṭurei Zahav – A commentary to *Shulḥan ‘Arukh* written by David ha-Levi Segal.

Vidal de Tolosa – 14th c. Spain. Wrote *Maggid Mishneh*.

Ya'aqov ben Asher (Ba'al ha-Turim) – 13th-14th c. Spain. Wrote *Arba'ah Turim*.

Ya'aqov ben Me'ir (Rabbenu Tam) – 12th c. France. Leading tosafist.

Yeruham ben Meshullam (Rabbenu Yeruham) – 14th c. Spain. Wrote *Tol'dot Adam v' Havvah*.

Yitzhak ben Shemu'el (of Dampierre) – 12th c. Spain. Tosafist.

Yitzhaki, Shelomo (see Rashi)

Yoffe, Mordekhai ben Avraham – 17th c. Bohemia, Poland. Wrote *Levush Malkhut*.

Yoreh De'ah – One of the four major divisions of *Arba'ah Turim* and works that follow its structure (like *Shulhan 'Arukh*). Deals with miscellaneous issues, including birth rituals, death and mourning, conversion, and dietary law.

APPENDIX C

On the Division of Texts

Jewish religious compositions – from the Hebrew Bible to *Shulḥan ‘Arukh* and beyond – follow various conventions for dividing the text so that passages may be identified and located properly. Famously, Tanakh (Hebrew Bible) is divided into *p̄raḳim* (chapters) and *p̄suḳim* (verses) and in the case of the Torah text, into *par̄shiyot* (portions) as well.

Collections of *midrashim* are themselves sometimes numbered or labeled according to the divisions of the Tanakh as a way to indicate the stories or verses on which they are focusing (and in particular the *parashah* divisions, if they focus on the Torah), however many also have their own internal structure of chapters (sometimes called *pisḳa’ot*).

Halakhic literature, however, tends to follow a different structure. A common system is as follows:¹³⁶ A work may or may not first be divided into broad subdivisions called “parts” (*ḥalaḳim*). These themselves may be numbered: Part I, Part II, and so on. In the *Arba’ah Ṭurim* and all later works using its organizational structure (notably, *Shulḥan ‘Arukh* – see entry for *Arba’ah Ṭurim* in Appendix B), they are divided instead into the sections *Oraḥ Ḥayyim*, *Yoreh De’ah*, *Even ha-‘Ezer*, and *Ḥoshen Mishpat*. In any case, after any such divisions, the work is next divided into chapters. These may be designated *p̄raḳim*, *simanim*, or *k̄lalim*. These chapters may then be divided into individual paragraphs, sometimes called *simanim*, sometimes *se’ifim* (if the term *simanim* has already

¹³⁶ Not all halakhic works will follow this structure, of course. One prominent exception is Maimonides’ *Mishneh Torah*, which is divided into fourteen books, each of which itself has multiple sections. Each section (e.g., “the laws of Shabbat” or “the laws of Nazirites”) has a series of chapters (*p̄raḳim*), and each chapter a series of laws (*hilkhot*).

been used for the chapters). Lastly, a note in a commentary on another work may be defined as a *sa'if kaṭan* ("small *sa'if*"), in reference to the small superscript Hebrew letters often used to indicate the specific word or phrase in the original work upon which a given comment is focusing.

APPENDIX D

Works Cited

- Danzig, Abraham ben Jehiel Michal. *חיי אדם השלם והמנוקד* / [*Ḥayyei Adam ha-Shalem ve-ha-Menuḳḳad*]. Jerusalem: Mekhon Me'orot Da'at, 1988.
- . *ספר חיי אדם* / [*Sefer Ḥayyei Adam*]. Jerusalem: Efrayim Binyamin/Hillel Katzenelbogen, 2007.
- Elon, Menachem. *Jewish Law*. Philadelphia: Jewish Publication Society, 1994.
- Ganzfried, Shlomo. *Kitzur Shulchon Oruch*, vv. 1-2. Eliyahu Touger, tr. and ed. New York/Jerusalem: Moznaim Publishing Corporation, 1991.
- Ḥasman, Rafa'el, et. al., eds. *יהדות ליטא* / [*Yahadut Lita*], v. 3. Tel Aviv: 'Am ha-Sefer, 1967.
- Jastrow, Marcus. *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature*. New York: G.P. Putnam's Sons, 1926.
- Kagan, Israel Meir. *Mishnah Berurah: the classic commentary to Shulchan Aruch Orach Chayim comprising the laws of daily Jewish conduct*, vv. 3A-3D: *Laws of Shabbos*. Aharon Feldman and Aviel Orenstein, eds. Jerusalem: Pischah Foundation/Feldheim Pulishers, 1980-1986.
- . *Mishnah Berurah: the classic commentary to Shulchan Aruch Orach Chayim comprising the laws of daily Jewish conduct*, v. 4A: *Domains & Eyruvin*. Aviel Orenstein, ed. Jerusalem: Pischah Foundation/Feldheim Pulishers, 2001.

-----, *Mishnah Berurah: the classic commentary to Shulchan Aruch Orach Chayim comprising the laws of daily Jewish conduct*, v. 4B: *Eyruvin & Rosh Chodesh*. Aviel Orenstein, ed. Jerusalem: Pischah Foundation/Feldheim Publishers, 2002.

Skopitz, Laurence M. "Shulḥan Arukh, Oraḥ Ḥayim, Hilkhoh Shabbat, with Mishnah Berurah: An Annotated Translation of Selected Chapters." HUC-JIR (Cincinnati) Rabbinic thesis, 1978.