Avodah Zara Chapter 2

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I. Midwiving for Gentile Women

Mishnah Avodah Zarah 2:1

A Jewish woman may not deliver the child of a gentile woman, because in doing so she is delivering a child who will engage in idol worship. But one may allow a gentile woman to deliver the child of a Jewish woman.

Avodah Zarah 26a:11-14

And the Gemara raises a contradiction from a baraita: A Jewish woman may deliver the child of an Aramean woman in exchange for payment, but not for free. Rav Yosef said in response: It is permitted in exchange for payment due to the enmity that would be engendered if Jews refused to deliver gentile infants despite being offered money to do so. Rav Yosef thought to say: Delivering the child of a gentile woman on Shabbat in exchange for payment is permitted due to enmity. Abaye said to him: The concern of enmity does not apply here, because she can say to the gentile: With regard to our own women, who keep Shabbat, we desecrate Shabbat for them; with regard to your women, who do not keep Shabbat, we do not desecrate Shabbat for them.

Rashi on Avodah Zara 26a -

Delivering the child of a gentile woman on Shabbat in exchange for payment is permitted - just as on a weekday due to enmity, for they see that they deliver our women on shabbat and weekdays.

Tosafot on Avodah Zara 26a

Rav Yosef thought to say delivering the child of a gentile woman on Shabbat in exchange for payment is permitted -- there's a question on Rav Yosef for he believes its permitted and for Abaye too since he teaches that there isn't enmity which means that if there is enmity then it is permitted. But how can we permit out of enmity something that contains a Torah-level Shabbat prohibition? As it says on Shabbat 107b "One who reached his hand into the innards of an animal on Shabbat and detached a fetus that was in its womb is liable for detaching something from its place of growth" which is a subcategory of shearing?

One can says that in this case she is sitting on the birthing stool and the baby has already detached to come out. Or perhaps once its months are completed it has stopped growing.

משנה עבודה זרה בי:אי

בַּת יִשְׂרָאֵל לֹא תִיַלֵּד אֶת הַנָּכְרִית, מִפְּנֵי שֶׁמְיַלֶּדֶת בֵּן לַעֲבוֹדָה זָרָה. אֲבָל נָכְרִית מְיַלֶּדֶת בַּת יִשְׂרָאֵל.

עבודה זרה כ"ו א:ר"א-ר"ד

ּוּרְמִינְהוּ: יְהוּדִית מְילֶדֶת אֲרַמִּית בְּשֶׂכָר, אֲבָל לֹא בְּחִנָּם! אָמֵר רַב יוֹסֵף: בְּשָׂכָר שְׁרֵי מִשׁוּם אֵיבָה. סָבַר רַב יוֹסֵף לְמֵימַר: אוֹלוֹדֵי נָכְרִית בְּשַׁבְּתָא בְּשָׂכָר שָׁרַי, מִשׁוּם אֵיבָה. אֲמַר לֵיה אַבָּיֵ: יָכְלָה לְמֵימַר לַה — דִידו, דִּמְינַטְרִי שַׁבְּתָא — מְחַלְּלִינַן עַלַיִיהוּ; דִיִּדְכוּ, דְּלָא מִינַטְּרִי שַׁבְּתָא — לָא מְחַלְלִינַן.

רש"י על עבודה זרה כ"ו א

אולודי עובדת כוכבים בשבתא שרי בשכר - כבחול משום איבה דהא אינהו חזו דמיילדין לנשי דידן בשבת כבחול:

תוספות על עבודה זרה כ"ו א

סבר רב יוסף למימר אולודי בשבת בשכר שרי - תימה לרב יוסף דס"ד דשרי ולאביי נמי דמשני דליכא איבה משמע הא איכא איבה שרי היכי שרינן משום איבה מילתא דאית ביה איסורא דאורייתא דאמרינן בפרק שמונה שרצים (שבת דף קז:) הושיט ידו למעי בהמה ודלדל עובר שבמעיה חייב משום עוקר דבר מגידולו דהוא תולדה דגוזז י"ל דהכא ביושבת על המשבר שכבר נעקר לצאת א"נ כיון דכלו לו חדשיו פסקו גידוליו:

Shu"t HaRashba 1:120

Question: A Jewish doctor, can he help a gentile woman get pregnant or not? Is it similar to what it says in the Mishnah that a Jewish woman should not deliver a gentile woman for she is raising the boy to Avoda Zarah, or not?

Answer: Even with midwives we conclude that for pay they are permitted to deliver because of enmity, for it is taught there "a Jewish woman may not deliver the gentile. Contrast this to the following Baraita: a Jewish woman may deliver the Aramean for pay but not for free! Rav Yosef says: for pay it is permitted due to enmity." And how much more so a doctor who heals everyone and if he doesn't heal them there will be even more enmity! And I saw the Rabbi our Teacher the Ramban who was engaged in work like this for a gentile woman for pay.

שו"ת הרשב"א חלק א סימן קכ

שאלת עוד רופא ישראל מהו לעשות רפואה לנכרית כדי שתתעבר או לא. מי דמי להא דתנן בת ישראל לא תילד את הנכרית מפני שמגדלת בן לעבודה זרה או לא.

תשובה אף במילדת אסיקנא דבשכר מותר משום איבה. דגרסינן התם בת ישראל לא תילד את הנכרית. ורמינהו יהודית מילדת ארמית בשכר אבל לא בחנם! אמר רב יוסף בשכר שרי משום איבה. וכל שכן רופא שמרפא לכל ואם אינו מרפא אתהן הויא להו איבה טפי. ואני ראיתי את הרב רבינו משה ב"ר נחמן ז"ל שנתעסק במלאכה זו אצל הנכרית בשכר.

II. Gentile Oil

Mishnah Avodah Zarah 2:6

And these are items that belong to gentiles and are prohibited, but their prohibition is not that of an item from which deriving benefit is prohibited: Milk that was milked by a gentile and a Jew did not see him performing this action, and their bread and oil. The mishna notes that Rabbi Yehuda HaNasi and his court permitted the oil of gentiles entirely.

משנה עבודה זרה ב':ו'

אֵלוּ דְבָרִים שֶׁל גּוֹיִם אֲסוּרִין וְאֵין אִסּוּרָן אָסוּר הְנָאָה. חָלָב שֶׁחֲלָבוֹ גוֹי וְאֵין יִשְׂרָאֵל רוֹאֵהוּ, וְהַפַּת, וְהַשֶּׁמֶן שֶׁלָּהֶן. רַבִּי וּבֵית דִּינוֹ הִתִּירוּ בַשֶּׁמֶן.

Daniel 1:3-17

(3) Then the king ordered Ashpenaz, his chief officer, to bring some Israelites of royal descent and of the nobility— (4) youths without blemish, handsome, proficient in all wisdom, knowledgeable and intelligent, and capable of serving in the royal palace—and teach them the writings and the language of the Chaldeans. (5) The king allotted daily rations to them from the king's food and from the wine he drank. They were to be educated for three years, at the end of which they were to enter the king's service. (6) Among them were the Judahites Daniel, Hananiah, Mishael, and Azariah. (7) The chief officer gave them new names; he named Daniel Belteshazzar, Hananiah Shadrach, Mishael Meshach, and Azariah Abed-nego. (8) Daniel resolved not to defile himself with the king's food or the wine he drank, so he sought permission of the chief officer not to defile himself, (9) and God disposed the chief officer to be kind and compassionate toward Daniel. (10) The chief officer said to Daniel, "I fear that my lord the king, who allotted food and drink to you, will notice that you look out of sorts,

וַיָּאמֶר הַמֶּלֶךְ לְאַשָּׁפָּנַז רַב סָרִיסֵיו לְהָבִּיא מִבְּנֵי יִשְׂרָאֶל וּמָזָרַע הַמָּלוּכָה וּמְן־הַפַּרְתִּמִים: יִלְדִים אֲשֶׁר אַין־בָּהֶם כָּל־מאֿוּם וְטוֹבֵּי מַרְאָה וּמַשִּׂכְּלֵים בָּבֶל־חָכְמָָה וְיָדְעֵי דַעַתֹ וּמָבִינֵי מַדָּע וַאֲשֶׁר בְּחַ בָּהֶם לַעֲמָד בָּהֶיכֵל הַמֶּלֶךְ וְלַלַמְּדָם סָפֶר וּלְשָוֹן כַּשְׂדִים: וַיְמַן בָּהֶם הַפֶּּלֶךְ דְבַר־יָוֹם בִּיוֹמֹוֹ מִפַּת־בַּג הַפֶּּלֶךְ וּמִיֵּיִן מְשָׁהַּיו וְּלְגַדְּלָם שָׁנִים שָׁלָוֹשׁ וּמָקצַהָם יַעַמְדָוּ לְפָנֵי הַמֶּלֶך: וַיְהָי בָהֶם מִבְּנֵי יְהוּדֶה דְּנֵיָאל חֲנַנְיָה מִישָׁאַל וַצְזַרְיָה: וַיָּיֶשֶׂם לָהֶם שַׂר הַפְּרִיסִים שֵׁמְוֹת וַיָּשֶׂם ּלְדַנַיָּאל בֵּלְטִשַאצַּר וְלַחַנַנְיָהֹ שַׁדְרַדְ וּלְמִישָׁאֵל מֵישַׁרְ וַלַעַזַריָה עַבָּד נִגְוֹ: וַיַּשֶׂם דָּנִיֵאל עַל־לְבֹּוֹ אֲשֶׁר רָאריִתְגָּאֶל בְּפַת־בָּג הַמֶּלֶך וּבְיֵין מִשְׁתָּיו וַיְבַקֵּשׁ מִשַּׂר הַסַּרִיסִים אֲשֶׁר לָא יִתְגָּאֲל: וַיִּתַּן הָאֵלהִים אֶת־דָּנִיֵּאל רָאָמֶר אַלרְחָמֵים לִפְנֵי עַּלָר הַפָּרִיסִים: וַיֹּאמֶר עַיִּר ָהַסָּרִיסִים לְדָנִנֵּאל יָרָא אֲנִי אֶת־אֲדֹנִי הַמֶּּלֶךְ אֲצֶׁעַר מִנָּה אָת־מַאַכַלְכָם וְאָת־מִשִׁתֵּיכֵם אֲשֶׁר לְנַּמָה יִרְאָה unlike the other youths of your age—and you will put my life in jeopardy with the king." (11) Daniel replied to the guard whom the chief officer had put in charge of Daniel, Hananiah, Mishael, and Azariah, (12) "Please test your servants for ten days, giving us legumes to eat and water to drink. (13) Then compare our appearance with that of the youths who eat of the king's food, and do with your servants as you see fit." (14) He agreed to this plan of theirs, and tested them for ten days. (15) When the ten days were over, they looked better and healthier than all the youths who were eating of the king's food. (16) So the guard kept on removing their food, and the wine they were supposed to drink, and gave them legumes. (17) God made all four of these young men intelligent and proficient in all writings and wisdom, and Daniel had understanding of visions and dreams of all kinds....

אֶת־פְּנֵילֶם זְעֲפִּים מִן־הַיְלָדִים ֹ אֲשֶׁר בְּגִילְלֶם וְחַיַּבְתָּם אֶת־פְּנֵילֶם זְעֲפִּים מִן־הַיְלָדִים ֹ אֲשֶׁר בְּגִילְלֵם וְחַיַּבְתָּם אֶת־רֹאשׁי לַמֶּלֶד: וַיִּאמֶר דְּנֵיֻאל אֶל־הַמֶּלְצֵר אֲשֶׁר מִּנְּיָה מִישָׁאל וַעַּוְרָיָה: נְסִדְּגִא אֶת־צְבָּדֶיְדּ יָמִים צֲשֶׁרָה וְיִהְנוּ־לָנוּ מִן־הַזָּרִיעִים נְסִיְלָא אֶת־צְבָּדֶיִּדּ יָמִים צֲשֶׁרָה וְיִהְנוּ־לָנוּ מִּן־אֵה וֹבְרָאוּ לְפָּנֶיךּ מַרְאֵיׁנוּ וּמַרְאֵה הַיְלְּדִים הָאָלְרְיִם הַּאָשֶׁר הִרְאֵה וֹיְנַפֵּם יָמִים צְשַׂרָה: וּמְלָבְיר בֹּאָה וַיְנַפָּם יָמִים עֲשַׂרָה: וּמְלְצְיר מִעְּילְבִּים הָאֵלְרִים אֵת פַּת־בָּג הַמֶּלֶּך וְהַצְּבָּי מִים יִמִים וּנְשְׁרָר: וִיִּשְׁלֵּע לְהָם לְּצָּבְר וְחָבְּעָה מַרְאֵיהָם טוֹב וּבְרִיאֵי בְּשָׁר מְּקְבִּיר וְמִלְּלִים אֵת פַּת־בָּג הְבָּלְים הָאֵלְרִים אֵת פַּת־בָּג הְבָּוֹן לְהָם וַנְיִן מְשְׁתֵּיהֶם וְנִין מְשְׁתֵּיהֶם הְבָּנְילִים מָדָע וְהַשְּׁבֵּל בְּכָל־מַפֶּר וְחָכְמָה וְדָנֵיְאל הַבְּיוֹ לְהָה בְּלִר תַפָּר וְחָכְמָה וְדָנֵיִאל הַבִּין לְהָקבּית הְמָּלְבִי וֹחָלְנִים הְאָלִין וְחָלְמָה וַבְּיִלְיִם מָדָע וְהַשְּׁבֵּל בְּכָל־מַפֶּר וְחָכְמָה וְדְנֵיְאל הַבִּין לְהָה בְּלִיחוֹן וְחָלְמְוֹן וֹחָלְמִים מִדְע וְחִילְמִים בְּבְּילוֹן וְחָלְמְוֹן וְחַלְּמִים מִדְע וְחִישְׁבִּיוֹ בְּיִים הְאַבְּיִים הְמִּבְעוֹן וְחָלְמִים מִדְע וְחִים מִיְנִיל וְיִים בְּנִילְית:

Avodah Zarah 35b:21-36b:1

§ The mishna teaches: And their oil was originally prohibited but later permitted by Rabbi Yehuda HaNasi and his court. The Gemara cites a dispute with regard to the origin of the prohibition of oil. Rav says: Daniel decreed that oil is prohibited, and Shmuel says: The secretion of ritually impure vessels prohibits the oil that gentiles pour into them. The Gemara asks: Is that to say that all people are consumers of only ritually pure substances? Since it is common practice to eat ritually impure foods, why should the secretion of impure vessels render the oil prohibited? The Gemara emends Shmuel's statement: Rather, the secretion of prohibited vessels prohibits the oil, as it absorbs the prohibited substances. Shmuel said to Rav: Granted, according to my opinion, as I say that the secretion of prohibited vessels prohibits the oil, this is how one can understand that when Rav Yitzḥak bar Shmuel bar Marta came, he said that Rabbi Simlai taught in Netzivin: With regard to oil, Rabbi Yehuda HaNasi and his court were counted, i.e., voted, on this matter and permitted it. Shmuel elaborates: It can be explained that Rabbi Yehuda HaNasi holds: A prohibited substance that imparts flavor to the detriment of the mixture is permitted. According to Shmuel's explanation, the prohibition was revoked because the taste absorbed by the oil would have impaired its flavor rather than enhanced it. But according to you, Rav, who said that Daniel decreed a prohibition **upon** the oil of gentiles, how can this be understood? Can it be said that Daniel decreed it, and Rabbi Yehuda HaNasi came and voided the decree? But didn't we learn in a mishna (Eduyyot 1:5): A court cannot void the statements of another court, unless it is greater than it in wisdom and in number? According to Rav, how could Rabbi Yehuda HaNasi void a decree issued by Daniel? Rather than answering Shmuel's question directly, Rav first rejects his proof: Rav said to him: Was it Rabbi Simlai of Lod of whom you spoke? Residents of Lod are different, as

עבודה זרה ל"ה ב:כ"א-ל"ו ב:אי

ְוָהַשֶּׁמֶן שֶׁלָּהֶן. שֶׁמֶן, רַב אָמַר: דָּנִיאֵל גָּזַר עָלָיו, וּשְׁמוּאֵל אָמַר: זְלִיפָתָן שֶׁל כֵּלִים טְמֵאִים אוֹסַרְתָּן. אַטוּ כּוּלִי עַלִמָא אוֹכָלֵי טְהַרוֹת נִינָהוּ?

אָלָא, זְלִיפָתָן שֶׁל כֵּלִים אֲסוּרִין אוֹסַרְתָּן.

אֲמֵר לֵיהּ שְׁמוּאֵל לְרַב: בִּשְׁלָמָא לְדִידִי דְאָמֵינָא זְלִיפָתָן שֶׁל כֵּלִים אֲסוּרִין אוֹסַרְתָּן, הַיְינוּ דְּכִי אֲתָא רַב יִצְחָק בַּר שְׁמוּאֵל בַּר מֶרְתָא וְאָמַר: דָּבִישׁ רַבִּי שִׂמְלַאי בִּנְצִיבִין: שָׁמֶן, רַבִּי יְהוּדָה וּבֵית דִינוֹ נִמְנוּ עָלָיו וְהָתִּירוּהוּ. קָסָבַר: נוֹתֵן טַעַם לְפָגָם — מוּתָּר.

אֶלֶּא לְדִידָהְ דְּאָמְרַתִּ דָּנִיאֵל גָּזַר עָלָיו, דָּנִיאֵל גָּזַר וַאָתָא רַבִּי יִהוּדָה הַנְּשִׂיא וּמְבַטֵּל לֵיהּ?

וְהָתְנַן: אֵין בֵּית דִּין יָכוֹל לְכַמֵּל דְּבְרֵי בֵּית דִּין חֲבֵירוֹ, אֶלָּא אִם כֵּן גָּדוֹל הֵימֶנּוּ בְּחָכְמָה וּבְמִנְיָן!

אֲמַר לֵיהּ שִׁמְלַאי לוּדָאָה קָא אָמְרַתְּ? שָׁאנֵי לוּדָאֵי דִּמְזַלְזְלוּ.

אֲמַר לֵיה: אֶשְׁלַח לֵיה? אִיכָּסִיף.

אָמֵר רַב: אִם הֵם לֹא דָּרְשׁוּ, אֲנֵן לָא דָּרְשִׁינַן? וְהָכְתִיב: ״וַיָּשֶׁם דָּנִיֵּאל עַל לְבּוֹ אֲשֶׁר לֹא יִתְגָּאַל בְּפַת בַּג הַמֶּלֶךּ וּבְיֵין מִשְׁתִּיו״ — בִּשְׁתֵּי מִשְׁתָּאוֹת הַכָּתוּב מְדַבֵּר, אֶחָד מִשְׁתֵּה יֵיִן וְאֶחָד מִשְׁתָּה שֶׁמֶן.

רֵב סָבַר: עַל לְבּוֹ שָׁם, וּלְכָל יִשְׂרָאֵל הוֹרָה; וּשְׁמוּאֵל סָבַר: עַל לְבּוֹ שָׁם, וּלְכָל יִשְׂרָאֵל לֹא הוֹרָה.

> ְוְשֶׁמֶן, דָּנִיאֵל גְּזַר? וְהָאָמֵר בָּאלִי אֲבִימִי נְוְתָאָה מִשְּׁמֵיה דְּרַב: פִּיתָּן וְשַׁמְנָן, יֵינָן וּבָנוֹתֵיהֶן, כּוּלָן מִשְׁמֹנָה עֲשָׂר דָּבָר הֵן.

וְכִי תֵּימָא: אֲתָא דָּנִיאֵל גְּזַר וְלָא קַיבֵּל, וַאֲתוֹ מַלְמִידֵי דְּהִלֵּל וְשַׁמֵּאי וּגְזוּר וְקַיבֵּל, אָם כֵּן מַאי אָסָהָדוּתֵיה דְּרֵב?

אֶלָּא, דָנִיאֵל גָּזַר עָלָיו כַּעִיר, וַאֲתוֹ אִינְהוּ וּגִזוּר אֵפילוּ בַּשֵּׂדָה.

וְרַבִּי יְהּיִדָה הַנָּשִׂיא הֵיכִי מָצֵי לְמִישְׁרֵא
הַקַּנְתָּא דְּתַלְמִידֵי שַׁמַּאי וְהָלֵל? וְהָתְנַן: אֵין
בֵּית דִּין יָכוֹל לְבַטֵּל דִּבְרֵי בֵּית דִּין חֲבֵירוֹ,
אֶלָּא אִם כֵּן גָּדוֹל הֵימֶנּוּ בְּחָכְמָה וּבְמִנְיָן!
אֶלָּא אִם כֵּן גָּדוֹל הֵימֶנּוּ בְּחָכְמָה וּבְמִנְיָן!
יוֹחָנָן: בַּכֹּל יָכוֹל לְבַטֵּל בֵּית דִּין דְּבָרַי בֵּית
דִּין חֲבֵירוֹ, חוּץ מִשְׁמוֹנָה עֲשֶׁר דָּבָר, שֶׁאֲפִילוּ
יִבֹא אֵלִיָּהוּ וּבֵית דִינוֹ אֵין שׁוֹמְעִין לוֹ!
אִמַר רַבִּ מְשַׁרְשִׁיָא: מַה טַעַם? הוֹאִיל וּפָשֵׁט
אִיסוּרוֹ בְּרוֹב יִשְׂרָאֵל, שָׁעֶּן לֹא פָּשַׁט אִיסוּרוֹ
בְּרוֹב יִשְׂרָאֵל, דְּאָמָר רַבִּי שְׁמוּצֵל בַּר אַבָּא
שְׁמֵר רַבִּי יוֹחָנָן: יָשְׁבוּ רַבּוֹתִינוּ וּבְּןקוּ עַל
יְסָמְכוּ וַבְּיִי שְׁמוֹב וִשְׁרָאֵל,

they disparage the Sages' decrees, and therefore Rabbi Simlai's testimony is unreliable. Shmuel said to him: Shall I send for him? As a result, Rav became embarrassed. Ray claimed that Rabbi Yehuda HaNasi and his court erred in permitting the oil of gentiles, which Daniel had prohibited. Rav said: If they, Rabbi Yehuda HaNasi and his court, did not expound the following verse, will we not expound it? We must certainly do so. Isn't it written: "But Daniel purposed in his heart that he would not defile himself with the king's food, nor with the wine which he drank [mishtav]" (Daniel 1:8)? The word *mishtav* is in the plural, indicating that **the verse** speaks of two types of drinking: One is the drinking of wine, and one is the drinking of oil. Accordingly, Daniel himself refrained from consuming oil of gentiles, as he instituted this prohibition. Why does Shmuel reject this inference, which indicates that Daniel issued this decree? The Gemara explains that Rav maintained: Daniel placed the prohibition against consuming the oil of gentiles upon his heart, i.e., for himself, and he instructed all Jews to adhere to it as well. And Shmuel held: Daniel placed the prohibition upon his heart, but he did not instruct all Jews to accept it. The Gemara asks: And is it correct that Daniel decreed that oil is prohibited? But doesn't Balei say that Avimi of Nota [Nota'a] says in the name of Rav: The prohibitions of gentiles' bread and their oil, their wine and their daughters, are all from the eighteen matters decreed in a single day in the days of the students of Shammai and Hillel. Apparently, Rav himself maintains that the prohibition was not instituted by Daniel. The Gemara adds: And if you would say that Daniel came and decreed but the people did not accept it, and later the students of Hillel and Shammai came and decreed with regard to gentiles' oil and the people accepted it, if that is so, what is the significance of Rav's testimony that Daniel initially instituted the prohibition? The Gemara explains: Rather, Daniel decreed upon the oil of gentiles in the city, and the students of Shammai and Hillel came and decreed that it is prohibited even in the field. The Gemara asks: And how could Rabbi Yehuda HaNasi permit an ordinance issued by the students of Shammai and Hillel? But didn't we learn in a mishna that a court cannot void the statements of another court, unless it is greater than it in wisdom and in number? And furthermore, doesn't Rabba bar bar Ḥana say that Rabbi Yoḥanan says: With regard to all issues, a court can void the statements of another court, except the eighteen matters decreed by the students of Beit Shammai, as, even if Elijah and his court were to come and rescind them, one would not listen to him. Rav Mesharshiyya said: What is the reason that none of the eighteen decrees can be voided? Since the prohibition spread among the majority of the Jewish people, it cannot be voided. But with regard to oil, its prohibition did not spread among the majority of the Jewish people, and therefore it can be voided. As Rabbi Shmuel bar Abba says that Rabbi Yoḥanan says: Our Sages sat and inspected the matter of gentiles' oil and

determined that its prohibition had not spread among the majority of the Jewish people, and our Sages relied upon the statement of Rabban Shimon ben Gamliel and upon the statement of Rabbi Elazar bar Tzadok, who would say: The Sages issue a decree upon the community only if most of the community is able to abide by it. As Rav Adda bar Ahava said: What is the verse from which it is derived? It is the verse: "You are cursed with the curse, yet you rob Me, even this whole nation" (Malachi 3:9). This teaches that if there is the acceptance of the whole nation, yes, an ordinance may be instituted, but if not, no, the ordinance may not be instituted.

גַּמְלִיאֵל וְעַל דִּבְרֵי רַבִּי אֶלְעָזָר בַּר צְדוֹק, שֶׁהָיוּ אוֹמְרִים: אֵין גוֹוְרִין גְּזֵירָה עַל הַצִּבּוּר אֶלֶּא אִם כֵּן רוֹב צִבּוּר יְכוֹלִין לַעֲמוֹד בָּה, דְּאָמַר רַב אַדָּא בַּר אַהָבָה: מֵאי קְרָא? ״בַּמְאֵרָה אַשֶּׁם נַאָרִים וְאֹתִי אַשֶּׁם לְּבְעִים הַגוֹי כֻּלּוֹ״, אִי אִיכָּא גוֹי כּוּלוֹ — אִין, אִי לָא — לָא.

Jerusalem Talmud Avodah Zarah 2:8:6-9

Who forbade the oil? Rav Jehudah said, Daniel forbade it. *Daniel was careful*, etc. And who permitted it? Rebbi permitted it and his court... Rebbi Aḥa, Rebbi Tanḥum bar Ḥiyya in the name of Rebbi Ḥanina, but some say in the name of Rebbi Joshua ben Levi: They were climbing up King's Mountain and were killed about it.

Isaac bar Samuel bar Martha went down to Nisibis. He met Simlai the Southerner who sat and expounded: Rebbi and his court permitted the oil.

Samuel said, true! Rav did not accept on himself to eat. Samuel told him, eat! Otherwise I shall declare you a rebellious Elder. He answered him, when I still was there I knew who complained about it, Simlai the Southerner. He told him, he said it in the name of himself, not in the name of Rebbi Jehudah the Prince. He bothered him and he ate.

Rebbi Joḥanan asked: Did we not state, "for no court may invalidate the words of another court unless it be greater in wisdom and numbers"? And Rebbi and his court permit what Daniel and his companions forbade? Rebbi Joḥanan follows his own opinion: Rebbi Joḥanan said, I have a tradition in the name of Rebbi Eleazar ben Rebbi Ṣadoq that any restrictive edict passed by a court which is not accepted by the majority of the public is not an edict. They checked and found in the matter of the edict about oil and did not find that a majority of the public followed it.

תלמוד ירושלמי עבודה זרה בי:חי:וי-טי

מִי אָסַר אֶת הַשֶּׁמֶן. רַב יְהוּדָה אָמַר. דָּנְיֵּאל אֲסָרוֹ. וַיְּשֶׁם דְּנִיֵּאל עַל־לְבּׁוֹ וגו׳. וּמִי הָתִּירוֹ. רְבִּי הָתִּירוֹ וּבֵית דִּינוֹ....רָבִּי אָחָא רִבִּי תַּנְחוּם בַּר חִייָה בְשֵׁם רָבִּי חֲנִינָה וְאָמֶרֵי לָהּ בְּשֵׁם רְבִּי יְהוֹשֻׁעַ בֶּן לֵוִי. שָׁהָיוֹ עוֹלִין לְהַר הַמֶּלֶךְ וְנָהֶרָגִין עַלָיו.

יִצְחָק בַּר שְׁמוּאֵל בַּר מַרְתָּא נְחַת לְנְצִיבִין. אַשְׁכַּח שִׂמלֵאי הַדְּרוֹמִי יְתִיב דְּרַשׁ. רִבִּי וּבֵית דִּינוֹ הִתִּירוּ בשׁמוָ.

אָמַר שְׁמוּאֵל אֲכָל. רַב לָא קְבִיל עֲלֵיה מֵיכוּל. אָמַר לֵיה שְׁמוּאֵל. אֲכוֹל. דְּלָא כֵן אָנָא כְתַב עָלֶיָךְ זָקֵן מַמְרֵא. אָמַר לֵיה. עַד דַּאָנָא תַּמָן אָנָא יִדע מָאן עָרֵר עֲלֵיה שִׁמְלַאי הַדְּרוֹמִי. אֲמֵר לֵיה. מֵר בְּשֵׁם גַּרְמֵיה לֹא בְשֵׁם רִבִּי יוּדָן נְשִׂייָא. אַטְרַח עֲלוּי וִאַכל.

רָבִּי יוֹחָנָן בָּעֵי. וְלֹא כֵן תַּנִּינָן. שֶׁאֵין בֵּית דִּין יָכוֹל
לְבַטֵּל דְּבָרֵי בֵית דִּין חֲבֵירוֹ עַד שֶׁיְּהֵא גָדוֹל מִמֶּנּוּ
בַחְכְמָה וּבַמִּינְיָן. וְרְבִּי וּבֵית דִּינוֹ מַתִּירִין מַה
שֶׁאֶסַר דָּנִיֵּאל וַחֲבֵירָיו. רְבִּי יוֹחָנֶן כְּדַעְתֵּיה. אָמַר
רְבִּי יוֹחָנָן. מְקוּבָּל אֲנִי מֵרְבִּי לֻעְזָר בֵּירְבִּי צְדוֹק
שֶׁכָּל־יְּזֵירָה שֶׁבֵּית דִּין גּוֹזְרִין וְאֵין רוֹב צִּיבּוּר
מְקַבְּלִין עֲלֵיהָן אֵינָה גְּזֵירָה. בָּדְקוּ וּמָצְאוּ בִּגְזֵירָתוֹ
שֶׁלְשֶׁמֶן וְלָא מָצְאוּ שֶׁקִּיבְּלוּ רוֹב הַצִּיבּוּר עֲלֵיהָוּ,
שֶׁלְשֶׁמֶן וְלָא מָצְאוּ שֻׁקִּיבְּלוּ רוֹב הַצִּיבּוּר עֲלֵיהָוּ.

פני משה על תלמוד ירושלמי עבודה זרה

ב':ת'

שהיו עולין להר המלך ונהרגין עליו. אדלעיל קאי דניאל אסרו ומאי טעמא לפי שראה שהיו מסכנין עצמן ועולין להר המלך ללקט זיתים ונהרגין עליו ולפיכך גזר על השמן. ובפ"ק דשבת גריס לה בתר הא דדניאל אסרו: