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כ' למדינת ישראל

"The essence of our knowledge of the Deity is this: that He is One, the Creator and the Revealer of Commandments. And all the varied faculties of the spirit are only so many aids to the solution and the detailed description of this knowledge; their purpose is to clarify it and present it in a form that will be at once the most ideal, noble, rational, practical, simple and exalted..."

"How shall man obtain a conception of the majesty of the Divine, so that the innate splendor residing within his soul may rise to the surface of consciousness, fully, freely, and without distortion? Through the expansion of his scientific faculties; through the liberation of his imagination and the enjoyments of bold flights of thought; through the disciplined study of the world and of life; through the cultivation of a rich, multifarious sensitivity to every phase of being. All these desiderata obviously require the study of all the branches of wisdom, all the philosophies of life, all the ways of the diverse civilizations and the doctrines of ethics and religion in every nation and tongue."

RABBI ABRAHAM ISAAC KOOK



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ISRAEL

What place does the State of Israel have in Jewish Thought? What — if any — are the *halachic* consequences of its Day of Independence? Specifically, are any special prayers (such as Hallel) to be recited? Rav Aaron Soloveitchik, presently the *Rosh Yeshiva* of the Hebrew Theological Seminary in Skokie Illinois, discusses these issues in the paper printed below. This paper was originally presented by Rav Soloveitchik to his *Shiur* in Yeshiva University on *Yom Ha'atzmaut* 5726 (1966).

ISRAEL'S DAY OF INDEPENDENCE: REFLECTIONS IN HALACHA AND HASHKAFAT

The Torah consists of prose and poetry. While rhythm and rhyme are the usual distinctions between human prose and poetry, there is another distinction between divine prose and poetry. The Gemara tells us that the Song of Moses, the Divine Poetry, has to be written in a particular way, in the form of a "half-brick" set upon a "whole brick." The "half-brick" refers to the written part of the *shira*, and the "whole brick" refers to the space left blank. The blank part of the *shira* is double the written part. Divine prose, however, is written with only as much blank space as is necessary to separate one word from another. This is symbolic of the essence of the poetic as contrasted to the non-poetic part of the Torah. What this means for us will be explained shortly.

There is a dispute between R. Eliezer and R. Joshua in the Midrash: *היכן החכמה מצויה* — where is wisdom located? R. Eliezer says that the heart is the source of wisdom, while R. Joshua asserts that the mind is the source of wisdom. The Torah in its entirety is composed of two categories of *mitzvot*, one based upon the wisdom of the mind, and the other based upon the wisdom of the heart. There is a logic of the heart just as there is a logic of the mind;

„יענך ה' ביום צרה" משל למה הדבר
דומה? לאב ובן שהיו מהלכין בדרך, נתיגע
הבן אמר לאביו: אבא, היכן היא המדינה?
אמר לו: בני סימן זה יהא בידך. אם ראית
בית הקברות לפניך הרי המדינה קרובה לך.
כך הנביא אומר לישראל, אם ראיתם הצרות
שיכסו אתכם מיד אתם נגאלים שנאמר יענך
ה' ביום צרה.

ילקוט שמעוני על תהילים כ' ב'

and the two phylacteries, for the arm and the head, represent these two categories. The one worn on the head represents the *mitzvot* that stem from the wisdom of the mind, and the one worn on the forearm opposite the heart represents the *mitzvot* which stem from the wisdom of the heart. The halacha is that the phylactery of the arm must be put on before that worn on the head. The reason for this halachic rule is that the *mitzvot* which emanate from the wisdom of the mind are significant only if these *mitzvot* are coupled with, and preceded by, the *mitzvot* which emanate from the wisdom of the heart.

The halachic rule as to the peculiar manner in which Divine poetry, contrasted with Divine prose, is to be written is based upon the fundamental distinction between *mitzvot* based upon logic of the mind and *mitzvot* based upon logic of the heart. Divine prose is perceived through observation and deductive and inductive reasoning in accordance with the wisdom of the mind; divine poetry, however, which contains blank space double that of the written space, stems from, and is to be perceived intuitively through, the logic of the heart.

As we cannot find any explicit statement by *Chazal* regarding the establishment of the State of Israel, we have to delve into the "blank lines" of the Torah. In understanding an historical phenomenon that did not take place in the time of *Chazal*, we have to apply primarily, although not exclusively, the wisdom of the heart.

I

Those who do not recognize the importance of the establishment of *Medinat Yisrael* give several reasons. The first argument raised is that non-observant Jews led the movements which culminated in the establishment of the State. They argue that the results of such leadership cannot be of great historical significance for the Jewish people. These results cannot be considered as a step towards *geula*, but rather as a step away from *geula*.

A second argument is that inasmuch as *galut* is a penalty for abandonment of the Torah, it follows that any salvation or deliverance can take place only as a result of *teshuva*. The Zionist

movements, however, did not originate as part and parcel of a universal Jewish movement of repentance.

A third argument against the significance of the *Medina* is that the State of Israel came into being through natural processes. According to the opinion of some rabbis — though I think they constitute a very small minority of *g'dolei yisrael* within the last fifty years — any form of *geula* must take place in a supernatural fashion.

* * *

Chapter VII of the second book of Kings has a bearing on all these arguments. Samaria, the capital of the northern kingdom of Israel, was besieged by the mighty armies of Syria and was in the throes of famine. Ordinary food was unobtainable and articles of food which, under normal circumstances, would have been considered repulsive were obtainable only at fantastic prices. Samaria seemed doomed.

Desperate as the situation of the inhabitants of Samaria was, the condition of the four lepers outside the city was infinitely worse. According to our sages, these four lepers were none other than Gechazi and his three sons who were afflicted with physical leprosy as a penalty for their spiritual leprosy (Maimonides in his commentary on the Mishna describes them as epicureans and heretics). Kept from the city because of their malady, they faced certain death by starvation. Consequently they decided to surrender to the Syrians. At worst, they might be put to death immediately — that would be much better than starving. At best, their lives might be spared. They had nothing to lose and everything to gain.

As they approached the camp of the armies of Syria, they beheld a miraculous spectacle — the camp was empty, and on every side there were signs of a panicky flight. In their haste, the Syrian soldiers had abandoned everything: tents, horses, an abundance of food and arms, and precious stones and metals. The four lepers went from tent to tent taking these precious objects and hiding them. But as soon as they finished providing for their own needs, their consciences began to prick them, and they said, "We are not deporting ourselves properly. This is a day of good tidings. We are not allowed to be passive. If we tarry till the next morning, we will

be guilty of an unforgiveable sin." Consequently, they entered the city of Samaria and conveyed the good tidings to the inhabitants. We thus see that the miracle of the deliverance of all the inhabitants of Samaria was carried out through the medium of four lepers: physical lepers, yes, but above all, spiritual lepers.

The first argument as to how any relief to the Jewish people could be realized through the medium of *apikorsim* can easily be rebutted by the precedent of the deliverance accorded to the people of Samaria through the medium of the four lepers. This episode shows that no Jew can be excluded from the grace of God, that *ישראל אע"פ שהטא ישראל הוא*, and that there is an innate tendency towards altruism even in the hearts of spiritual lepers; it also shows that God does not exclude any Jew from salvation and He may therefore designate even spiritual lepers as the messengers of relief and deliverance for the people of Israel. Consequently we cannot ignore the significance of the establishment of the State of Israel simply because Jews who stand a substantial distance from any form of observance of *mitzvot* were in the forefront of the movements which established the State and are in the forefront of the State itself. Perhaps the fact that nonobservant Jews are in the forefront today is a penalty for Orthodox Jewry's failure to play the most important part in the formation of the State.

A remarkable fact is noted in II Kings (XIV, 23-27):

בשנת חמש עשרה שנה לאמציהו מלך יהודה מלך ירבעם בן יואש מלך ישראל... ויעש הרע בעיני ה' לא סר מכל חטאות ירבעם בן נבט אשר החטיא את ישראל. הוא השיב את גבול ישראל מלבוא חמת עד ים הערבה... כי ראה ה' את עני ישראל מרה מאד ואפס עצור ואפס עזוב ואין עוזר לישראל. ולא דבר ה' למחות את שם ישראל מתחת השמים ויושיעם ביד ירבעם בן יואש.

Y'ravam ben Yoash did not depart from the evil deeds of Y'ravam ben N'vat. Yet he restored the borders of Israel from *Chamat* unto *Yam Ha'arava*. The extent of his conquest forms the substance of a dispute in the Jerusalem Talmud (*Shvi'it*). One opinion holds that everything that Joshua conquered, Y'ravam ben Yoash restored to the Jewish people, while the other holds that the extent of Y'ravam ben Yoash's conquest was greater than that of Joshua.

Now the question arises, why Y'ravam ben Yoash, certainly not

a greater *tzadik* than Ben Gurion, merited such a great privilege? In answering this question, we will also be able to answer the question how any relief, any form of *geula*, can take place for the Jewish people when the Jews had not prepared themselves for it through a universal repentance. Many raise the question why it was that during the reigns of David and Solomon, when the Jews complied with the principles of the Torah and there was almost no idol worship, the boundaries of Israel were not as extensive as they were during the reign of Y'ravam ben Yoash when the bulk of Jewry in the Kingdom of Israel all followed his example and were idol worshippers.

The answer is, *ולא דבר ה' למחות את שם ישראל מתחת השמים ויושיעם ביד ירבעם בן יואש*. During the reigns of David and Solomon it was not necessary to make the empire of Israel so extensive. But if during the reign of Y'ravam ben Yoash this deliverance had not been realized by God, then the name of Israel could have been wiped out. Similarly, 800 years ago, in the times of the Rambam, five hundred years ago, in the time of the Shulchan Aruch, a Jewish state was not indispensable for the survival of the Jewish people. The Jews survived very well; they suffered, but they survived. And they blossomed intellectually and spiritually without a state. But after the experience of the Nazi holocaust, the Jewish people could not survive any longer without a state.

* * *

Now in order to refute the third contention that has been raised by many orthodox Jews, that the *geula* must take place outside the framework of history and natural processes, we must recognize that there are two kinds of redemption: there is a *ketz nistar* and a *ketz nigleh*. The whole process of redemption from beginning to end can be realized in the form of a *ketz nistar*. The *ketz nistar* means that it is possible that the whole redemption will be realized not in accordance with natural processes, not within the framework of history, but on a meta-natural level. The Messiah will come not within the framework of history and natural processes, not with a Balfour declaration and not with the consent of the members of the United Nations, but on a meta-natural level. This will be

realized if the Jews will do *teshuva*. But suppose the Jews do not do *teshuva*? Then, although the ultimate redemption cannot be realized without repentance, the initial stages leading to redemption will take place on a natural level — this is the *ketz nigleh* — and only the culmination of the *geula* will be on a meta-natural level.

This is the import of the two statements of Rabbi Alexandri found in Sanhedrin 98a: [אני ה' בעתה אחישנה (ישעי' נ' כ"ב)] אומר ר' אלכסנדרי ריב"ל רמי כתיב בעתה וכתיב אחישנה. זכו אחישנה. לא זכו בעתה. "I will hasten it in due course." (Isaiah LX, 22). There seems to be an inconsistency in this expression. *בעתה* implies that it will take place in due course. *אחישנה* implies that it will be hastened. There is no inconsistency. *זכו* — if Jewry merits it, if they do *teshuva*, then *אחישנה*, it will be hastened. *לא זכו* — if they do not do *teshuva* then the redemption will still come, but *בעתה*, it will come only in due course.

Rabbi Alexandri continues by quoting a verse in Daniel (VII, 13): וארו עם ענני שמיא כבר אנוש אתיה appear the form of a human being, *melech hamashicach*. He then quotes Zachariah (IX, 9): עני ורוכב על חמור — this implies that the Messiah will arrive riding a donkey. There seems to be an inconsistency. From the verse in Zachariah, it appears that the *mashiach* will arrive riding on a donkey. From the verse in Daniel, it appears that the *mashiach* will come from the clouds. *זכו*, עם ענני, שמיא, לא זכו, עני ורוכב על חמור. There is no inconsistency. If the Jews merit it, the Messiah will come from the clouds. If they do not, he will come anyway, but he will come riding a donkey. This does not mean that *mashiach* will literally come riding on a donkey; rather, the donkey is symbolic of gradualness.

If *זכו*, if the Israelites repent, then עם ענני שמיא the Messiah will come from the clouds, and the redemption will take place on a meta-natural level. But, if *לא זכו*, if they do not repent — the Messiah will come as one riding on a donkey; the redemption will occur on a natural level within the framework of history and natural processes. Then the Jews are bound to comply with the mandate of למען יברכך ה' אלהיך בכל מעשה ידך אשר תעשה — בשעה שאתה עושה ולא בשעה שאתה יושב במל. Thus the Rambam writes in a responsum to the leaders of the Jewish community of Marseilles that

the sin of our forefathers was that they did not involve themselves in the conquest of the land of Israel. Now this is not the only reason why we are in *galut*. However, so long as there were other sins which precluded the realization of redemption on a meta-natural level, it is the obligation of Jewry to expedite the initial steps leading towards redemption as far as possible, and that can only be done on a natural level. Our ancestors failed in doing this and this was their sin.

What are the symptoms of a *ketz nigleh*, of redemption on a natural level? R. Abba in the same Gemara in Sanhedrin (98a) says: אין לך קץ מגולה מזה שנאמר: ואתם הרי ישראל ענפיהם תתנו ופרייהם תשאז לעמי ישראל כי קרבו לבא. כי הנני אליכם ופניתי אליכם ונעבדתם ונזרעתם והרביתי עליכם אדם כל בית ישראל כלה ונושבו והערים והחרבות תכנינה. "There is no other *ketz* which is more manifest (*meguleh*) than is the one mentioned in Ezekiel (XXXVI, 8): 'Mountains of Israel, you shall yield your fruit to my people Israel for the days are approaching; I am turning towards you, and you shall be tilled and sown. And I will multiply the house of Israel upon you, and the cities shall become inhabited and the ruins rebuilt.'" The significance of this promise becomes apparent in light of the verse in Leviticus (XXVI, 32): והשימותי אני את הארץ ושממו עליה: "I shall destroy the land and your enemies who shall inhabit the land shall leave it desolate." The fact that the enemies of Israel will leave the land of Israel desolate after inhabiting it for hundreds and thousands of years in itself represents a miraculous phenomenon. The land was inhabited by the Romans and then alternately by the Christians and the Moslems, and yet until the first *chalutzim* settled in Israel eighty years ago, it was as desolate as it was nineteen hundred years ago. The *chalutzim*, in a matter of decades, converted a wilderness into paradise. The mountains of Israel brought forth fruit. This is indicative of a *ketz nigleh*. The days are approaching; Almighty God is turning towards us.

In a word, how is redemption reached on a natural level? By full dedication to the upbuilding of the land of Israel — through colonization, through settlement, through reclamation of the land. Not through war, but by peaceful means.

This approach is in full accord with the Gemara in Ketubot 111:

Rabbi Joseph ben Chanina says that three oaths were administered by God: a) that Israel should not return to their land by force, b) that Israel should not rebel against the nations, and c) that the nations of the world should not oppress Israel too much.

But how can any redemption be realized on a natural level through peaceful means, if the nations of the world forbid Jews to settle the land peacefully? Suppose boats crammed with Jews desperately attempting to escape the Nazi holocaust are not admitted into Palestinian ports — or American ports either, for that matter — and are sunk within sight of the coast. What peaceful means are open to the Jews?

This situation was anticipated by the Gemara as also symptomatic of a *ketz nigleh*. R. Elazar quotes Zachariah (VIII, 10) as indicative of a *ketz nigleh* — a *ketz* achieved by natural means: כי לפני הימים הזהם שכר האדם לא נהיה ושכר האדם איננה וליוצא ולבא אין שלום מן הצר ואשלה את כל האדם איש ברעהו. Prior to the establishment of the State of Israel says Zachariah, there will be no peace, for the Jews will not be allowed to emigrate, or to leave any land to immigrate to Israel. Are the Jews still bound by their oaths not to go to their land by force and not to rebel against the nations? Of course not! The oaths of שלא ימרדו בגויים and שלא יעלו בחומה are dependent upon a reciprocal fulfillment by the nations of the world of the oath imposed upon them not to persecute the Jews too much. If the nations of the world violate their oath (as was the case during and immediately following the war) then the Jews are justified in revolting against them. This is simply the halachic requirement of self-defense — הבא להרגך השכם להרגו — expressed on a national level.

* * *

It is written in the Psalms (CIII, 12): כרחוק מזרח ממערב הרחיק: ממנו את פשעינו; as far as east is from west, so have our sins kept us away from God. The Rebbe of Kotsk once asked his chasidim how far east is from west. The chasidim responded, "Why, the whole world separates east from west." The Rebbe disagreed, "You are laboring under a grave error. If a Jew is facing west all he has to do to face east is turn his head." It is true that as far as east is from

west, our sins have kept us away from God. But if we make just one turn towards God, then the distance disappears.

The establishment of the State, the fact that we have succeeded in sowing and tilling, and in multiplying the Jews upon the land of Israel, is proof that God has turned towards us: כי הנני אליכם ופניתי אליכם. We must now turn towards Him.

* * *

The Midrash in Song of Songs mentions a story on the verse מי זאת הנשקפה כמו שחר (VI, 10). Several Amoraim were walking on the road to Tiberias throughout the night. Before dawn they noticed the אילת השחר, that the morning had started. Said one to the other, "Take good notice of the manner in which the day rises. First appears the morning star, אילת השחר, then the dawn, עמוד השחר, then the נגן החמה, and the sun comes out in full glory. So will be the redemption of Israel, little by little until the sun comes out in full glory."

It is to be noted that the Midrash equates the beginning of redemption with *ayelet hashachar*, not *amud hashachar*. Halachically, there is a fundamental distinction between the two. All *mitzvot* whose fulfillment can take place during the day, if performed during the period of *amud hashachar* are considered בדיעבד (*ex post facto*) to be valid, even though לכתחילה (*ante factum*), one must wait until after נגן החמה. The same *mitzvah*, if performed before *amud hashachar*, during *ayelet hashachar*, is invalid, for *ayelet hashachar* is part of the night. This is clearly shown by the halacha of tefillin. It is forbidden to don tefillin during the night. In extenuating circumstances however, it is permitted to don tefillin after *amud hashachar* and thereby fulfill the *mitzvah* of wearing tefillin during the day. *Ayelet hashachar* however, does not mark the beginning of the day, but a stage prior to the beginning of the day, and under no circumstances may tefillin be donned then.

The State of Israel represents not the *amud hashachar* of redemption, but the *ayelet hashachar* of redemption. The *amud hashachar* of redemption must be part of the actual day of *geula*. Unfortunately, we have not yet attained that. Perhaps, if in the course of the last fifty years all observant Jews had dedicated themselves to the up-

building of the land and would not have allowed spiritual lepers to take the lead, then we might have attained the עמוד השחר של גאולה and perhaps even more.

II

Before turning to the halachic questions raised by *Yom Ha'atzmaut*, we must ask whether 5 Iyar, the day on which the independence of Israel was declared, is of more significance than any other day in the course of our fight for survival in the War of Independence. I think it is. The attainment of a great military victory is without significance if people do not use it as a starting point for building. If Israel had attained all its victories, but had abstained from declaring its independence — as the U.S. State Department urged at the time — then I am afraid that all the victories would have been futile. The United States celebrates the Fourth of July not because any important military victory was attained that day, but because it is the date of the Declaration of Independence. Similarly it is that 5 Iyar is endowed with more significance than any other stage in the victories attained by Israel in the War of Independence.

Let us now deal with some of the halachic questions raised by *Yom Ha'atzmaut*. The first problem that concerns us is whether or not a Jew should say *Tachanun* on *Yom Ha'atzmaut*. *Tachanun* is not said on any festive day, even if there is no prohibition of work (איסור מלאכה) on that day. Lag Ba'omer has no halachic significance as far as work is concerned, but since it is considered a festive day, *Tachanun* is not recited. Similarly, the fifteenth day of Av; although there is no prohibition of work, no reading of the Torah, nor any specific laws attached to the day, still, because it is a festive day, *Tachanun* is not recited. The Mishna says: לא היו ימים טובים לישׂראל כיום הכפורים וט"ו באב. The Gemara understands the festive nature of Yom Kippur. It is a day of atonement. But why is the fifteenth of Av so unique? The Gemara offers several reasons. Among the reasons given is the following: Rav Matneh says, יום שנתנו מתי ביתר לקבורה. Until the fifteenth of Av it was forbidden on pain of death for the Jews to bury any of the hundreds of thousands of martyrs of the siege of Beitar. But on the fifteenth of Av a decree was issued by the Roman authorities allowing the Jews.

to bury them. Now there is absolutely no doubt that on the fifteenth day of Av we do not say *Tachanun*. No one says lamentations on that day. Why, then, should there be any doubt with regard to *Yom Ha'atzmaut*? If the fifteenth of Av is important because on that day the martyrs of Beitar were buried, if it was a great relief when hundreds of thousands of Jewish bodies did not have to lie exposed on the roads of Israel and could be placed in graves with the dignity due them, if this is of such significance for the Jewish people that the fifteenth of Av deserves to remain a festive day for generations to come, then how much more so should the day when the remnant of the European Holocaust came not to Jewish graves, but to the refuge of the Jewish homeland, be a festive day.

Another reason offered by the Gemara for the importance of the fifteenth day of Av is that on that day the last of the doomed generation of the Exodus from Egypt died in the desert — יום שכלו בו מתי מדבר. Similarly, after the liberation from the concentration camps, the death rate in many instances rose among the Jews for they were not used to a regular diet after so many years of starvation. Those Jews who were interned in camps after the liberation would have kept on dying if not for the refuge presented by the formation of the State of Israel.

The third reason presented by the Gemara is that on the fifteenth of Av, Hosea ben Eylā, himself an idol worshipper, repealed the wicked decree of Y'ravam ben N'vat that forbade the Jews to practice the Torah and observe the commandment of *aliyah b'regel*. Now I am not oblivious to the shortcomings of the administration of the State of Israel, but certainly the day of the declaration of independence of the State of Israel is important, for it provided the only place in the world where legally *mamzerut* cannot grow and where *tabarat hamishpacha* can be maintained. This is certainly of at least as much significance as the fact that the Jews were able to observe the commandment of *aliyah b'regel*, for it would be unpleasant, but no spiritual tragedy, if this commandment could not be observed. But it would be a great spiritual catastrophe indeed if *tabarat hamishpacha* could not be maintained. Thus there is no doubt that the fifth day of Iyar has to be considered a festive day on which *Tachanun* should not be recited.

* * *

One of the great *talmidei chachamim* of our generation, Rabbi Meshulam Roth, was of the opinion that today we have to say Hallel with a blessing on *Yom Ha'atzmaut*. However, his view is a שיטת יחיד. His reasoning is based on the Gemara in Pesachim (117a) which states that the נביאים were מתקן the saying of Hallel upon deliverance from oppression: נביאים שביניהן תקנו להם לישראל שיהו אומרים: אותו על כל פרק ופרק ועל כל צרה וצרה שלא תבא עליהן ולכשנגאלין אומרים אותו על גאולתן.

However, the view of the שאלתות, the הלכות גדולות, and the רמבן, is that there is a biblical obligation to recite Hallel (with a blessing) upon the actual redemption of the *tzibbur*. In addition, the saying of Hallel was enacted פרק ופרק, i.e. on every anniversary of the event; this was the role of the תקנת נביאים. On the first Chanukah when the Jews attained their victory over the Syrian Greeks, the recitation of Hallel was biblically obligatory. But Hallel on Chanukah today is only a rabbinic enactment. It is obvious that the argument of Rabbi Roth that Hallel (with its accompanying blessing) is biblically obligatory today because of the halacha stated in Pesachim, can be raised only with regard to the first *Yom Ha'atzmaut* when Israel declared its independence and the actual redemption took place. Today, however, we observe only the anniversary of that redemption and there is certainly no biblical obligation (חיוב דאורייתא) to recite Hallel. The תקנת נביאים and תקנת חכמים of saying Hallel with a blessing פרק ופרק, i.e. on every anniversary of a redemption, was limited only to those days explicitly declared by *Chazal* as days of Hallel. No one today has the authority to declare any day as a day of Hallel if it has not already been set aside as such by *Chazal*. There is no doubt that Hallel cannot be recited with a blessing today.

Before turning to an analysis of whether or not Hallel could have been recited with a blessing on the first *Yom Ha'atzmaut*, allow me to present a brief resume of the שיטות הראשונים with regard to Hallel in order to clarify whether or not it is at all possible to say Hallel (even without a blessing) today.

The Rambam maintains that the *mitzvah* of Hallel is a rabbinic enactment under all circumstances. He therefore takes issue with all the other *rishonim* who accept it as a biblical commandment. Both the

Halachot Gedolot and the Ibn Ezra (the latter in his *sefer hamitzvot*, *Yesod Moreh*) count the saying of Hallel in the *minyan hamitzvot*. The Rambam, לשיטתו, claimed that Hallel could not be counted in the *minyan hamitzvot*. The Ramban, in defending the *Halachot Gedolot's* inclusion of Hallel in the *minyan hamitzvot*, cites two possible sources for the *mitzvah* of Hallel: either it is a הלכה למשה וכי תבאו מלחמה בארצכם: (X, 9) or it stems from Numbers (X, 9): על הצר הצר אתכם והרעתם בחצוצרות ונוכרתם לפני ה' אלתיכם ונושעתם מאושיכם.

The Ibn Ezra's source is Deut. (X, 21): הוא תהלתך והוא אלתיך אשר עשה אתך את הגדלת ואת הנוראת האלה אשר ראו עיניך. When the Torah says הוא תהלתך, it means that God is He to whom gratitude must be given by the *tzibbur* for any salvation granted us and for any miracle performed on our behalf.

Rav Daniel Habavli cites the *Sifra* on Leviticus (XXII. 32): „ולא תחללו” — ממשמע שנאמר ולא תחלל אמר קדש. וכשהוא אומר „ונקדשתי” — מסור את עצמך וקדש שמי. יכול ביחודי, ת”ל „בתוך בני ישראל” as the source for saying Hallel. While none of the other commentaries explains the *Sifra* in this manner, Rav Daniel explains that the means of glorifying *Hashem* (קדש) in public (ברבים) is by *shira*, by the saying of Hallel.

Now what is common to all these sources is that the obligatory recitation of Hallel is a *mitzvah* on the *tzibbur*, the corporate body of Israel. It is not related to individuals even if the number of individuals involved in a miraculous deliverance from disaster constitutes a majority of the community of Israel.

However, the Meiri in Pesachim says that if an individual or a community, overtaken by a *tzara* is miraculously delivered from the disaster, then there is a *mitzvah*, not of חיוב but of רשות, to recite Hallel at the time of the redemption and to designate future anniversaries of that redemption as a day of Hallel. However, because it is only a Hallel of רשות, no blessing is recited. (It is obvious that when the Meiri says: כל יחיד שארעתהו צרה ונגאל הימנה רשאי לקבע הלל לעצמו באותו יום בכל שנה, אלא שאינו מברך עליו, וכן הדין בכל צבור וצבור וכו' that רשאי does not mean “allowed.” Why shouldn't one be allowed? There is nothing wrong with reciting chapters of the Psalms. And the injunction against saying Hallel בכול יום ויום, which

precludes saying Hallel for insignificant occasions, does not apply. Therefore, when the Meiri says that we are רשאים to recite Hallel without a blessing, he means that there is a קיום המצוה involved in such a recitation.) In other words, if someone was delivered from an עת צרה — even as a יחיד — and if, subjectively, he feels overwhelmed by this miracle, then when he recites Hallel there is a קיום of a מצוה דאורייתא. On this basis we are certainly permitted to recite Hallel on *Yom Ha'atzmaut* today — but only without a blessing.

Having established that, based on the Meiri, it is permissible to recite Hallel on *Yom Ha'atzmaut*, and that such recitation involves a קיום דאורייתא, we must now ascertain if on the first *Yom Ha'atzmaut* there was a חיוב (an obligation) to recite Hallel.

The obligatory recitation of Hallel with a blessing depends upon the realization by the *tzibbur* of a complete *geula*, *geula gufanit* and *ruchanit*, i.e., physical and spiritual redemption. When the children of Israel were delivered from their Egyptian bondage, they achieved *geula* in both senses. Thus, they were the first to recite Hallel. In the Haggadah we recall their physical and spiritual bondages and the commensurate deliverances. עבדים היינו לפרעה במצרים. We were slaves of Pharaoh in Egypt, recalling our physical servitude. ויוציאנו ה' א' משם. This latter recalls our physical redemption. Then, מתחילה עוע"ז היו אבותינו ועכשיו קרבנו המקום לעבודתו, recalling how prior to our spiritual redemption, our forefathers were idol worshippers, and with the exodus and subsequent revelation at Sinai, God commanded us to His worship. While no one can deny the importance of physical redemption — the Jews had to first be delivered out of Egypt before they could go to Mt. Sinai — that is not the final goal. The goal is חרות הנפש, the ultimate spiritual redemption which was experienced with the exodus from Egypt. ויאמינו בה' ובמשה עבדו.

The Gemara raises the question as to why we do not say Hallel on Purim. One answer is that אכתי עבדי אחשוורוש אנן, we are still servants of Ahaseuras. This fact contradicts the phrase הללו עבדי ה' which is mentioned in Hallel, and this contradiction precludes the saying of Hallel on Purim. The relief granted the Jews in the times of Mordecai and Esther was a deliverance from death. However, there was no political independence, the Jewish people did not have

their own state, and therefore could not realize the concept of עבדי ה', of being servants of God alone, in the full sense.

By contrast, on Chanukah, where political independence was obtained, where the Jewish people were not subject to decrees of an Ahasueras, *geula* in the physical and spiritual domains was completely realized and Hallel was recited.

The Gemara in Pesachim says: הלל זה מי אמרו? ר' יוסי אומר אלעזר בני אומר משה ובני ישראל אמרוהו בשעה שעלה מן הים. וחלוקין עליו חבריו לומר דוד אמרו. ונראין דבריו מדבריהם. אפשר ישראל שחטו את פסחיהן ונטלו את לולביהן ולא אמרו שירה? ד"א פסלו של מיכה עומד וישראל אומרים את השירה?

The son of Rabbi Eliezer maintains that Hallel was first recited by Moses and Israel at the splitting of the sea, while his חברים say that David was the first one to recite Hallel. And, continues the Gemara, his son's saying is to be preferred, for it is impossible that prior to David's time Hallel was not recited, and secondly, that David could not have instituted Hallel.

Now David attained great victories over neighboring nations and the Jews in his time were more observant than the Jews of today. Yet David could not have introduced the recitation of Hallel. Why? Because the participation of a segment of the Jewish people — mainly from the tribe of Dan — in the idol worship of פסלו של מיכה (an *avoda zarah* which originated in the times of the Judges) was tolerated even during the reign of David. But what does one thing have to do with the other? The answer is that the saying of Hallel must derive from a complete *geula* — physical and spiritual. In David's time the segment of Jews addicted to idol worship blighted the spiritual redemption of the Jewish people as a whole and rendered it incomplete. Therefore, says the Gemara, David could not have instituted Hallel.

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The *Yerushalmi* in שביעית says that in ימות המשיח when the Jews will return from exile to Eretz Israel, they will recite Hallel only after they cross *Nachal Mitzraim*. That is, only after the crossing of *Nachal Mitzraim* will they be *obligated* to say Hallel, for only then they will be considered to be נגאלין, redeemed, in a complete sense.

But just what is the significance of the crossing of *Nachal Mitzraim*? The answer lies in our understanding of *Yemot Hamasbiach*.

The Rambam, in discussing the characteristics indicative of the Messiah, says: ואם יעמוד מלך מבית דוד הוגה בתורה ועוסק במצות כדוד אביו כפי תורה שבכתב ושבועל פה ויכוף כל ישראל לילך בה ולחוק בדקה וילחם מלחמות ה' הרי זה בחזקת שהוא משיח.

If there appears a descendant of David who is steeped in the knowledge of Torah, and who inspires the Jewish people to turn towards God, then he is בחזקת משיח, i.e., there is a presumption that he is the Messiah. However, continues the Rambam: אם עשה והצליח ובנה מקדש במקומו וקבץ נדחי ישראל הרי זה משיח בודאי.

If he succeeds in rebuilding the *Beit Hamikdash*, and in bringing the Jews to Eretz Israel, these accomplishments establish with certainty his status as the Messiah.

The reason that Rabbi Akiba believed that Bar Kochba was the Messiah was because he was הוגה בתורה ועוסק במצות כדוד אביו and because he inspired Jews to turn to God. On the basis of the presumption created by these facts, Rabbi Akiba predicted that Bar Kochba was, in fact, the awaited Messiah.

Now undoubtedly, inspiring Jewish people to walk in the path of God is more important than the ingathering of the exiles. The building of the *Beit Hamikdash* is not of great significance if Jews do not observe the commandments. The Jews had a *Beit Hamikdash* and it was destroyed precisely because they did not walk in the path of God. Why is it then, that the ingathering of the exiles and the rebuilding of the *Beit Hamikdash* finalize his status as *masbiach* while his accomplishments in terms of turning Jews to Torah only create the presumption that he is the Messiah?

It seems to me that this can be explained on the basis of that which is a preface to *Yemot Hamasbiach* and *Yemot Hamasbiach* per se. Clearly, one cannot be considered משיח בודאי until *Yemot Hamasbiach* actually begin, and *Yemot Hamasbiach* will not commence until the total ingathering of the exiles takes place. This is why the Rambam describes the unfolding of events as he does.

The Rambam says that if we see a descendant of the House of David who metes out retribution to those who shed Jewish blood and who inspires the entire people of Israel to walk in the path of

God, that creates the presumption that he will turn out to be the Messiah. But, *Yemot Hamasbiach* per se will not begin until first the building of the *Beit Hamikdash* takes place and is followed by the ingathering of the exiles. Even if we know that the next day *Yemot Hamasbiach* will commence, the fasts commemorating the destruction of the Temple, and the mitzvot which were enacted זכר למקדש will all be in effect. The Messiah cannot be confirmed in his role until *Yemot Hamasbiach* commences. And *Yemot Hamasbiach* will commence only when the נדחי ישראל assemble in the land of Israel.

Now we can understand why the *Yerushalmi* says that the Jews will be obligated to say Hallel only after they cross *Nachal Mitzraim*, for only then will the miracle of *geula* be complete in both aspects, physical and spiritual. First there will have been a universal Jewish repentance — ויכוף את כל ישראל לילך בה ולחוק בדקה and finally the נדחי ישראל will assemble in the land of Israel. Only then will *Yemot Hamasbiach* commence.

The recitation of Hallel is obligatory only when the redemption will affect the Jewish nation in its entirety and this will be realized only in *Yemot Hamasbiach*. The establishment of the State of Israel affected the lives of all twelve million Jews throughout the world. However it affected their lives only as twelve million individuals — not as a *tzibbur*. As a *tzibbur* they will be affected only לימות המשיח when the Jews will have crossed *Nachal Mitzraim*. Only then — and not before — can the recitation of Hallel with a blessing be obligatory.



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● Rabbi Dr. Aharon Lichtenstein

One of the most sensitive problems in Israel today is that of the relationship between religion and state. The *Halacha's* attitude to the present situation, as well as to an ideal situation, are discussed by Rabbi Dr. Aharon Lichtenstein, a *Rosh Yeshiva* in RIETS, and head of Yeshiva's Kollel program.

RELIGION AND STATE:
THE CASE FOR INTERACTION

Seen from a Jewish perspective, the question of religion and state¹ is both very old and very new. It goes back, on the one hand, to the "desert generation" which constituted the first independent Jewish political community. This is so in a double sense: textual and conceptually, the problem is rooted in sections of the Torah. Written or Oral, concerning the appointment of various government bodies; while, historically, it finds its first concrete manifestation in the charismatic figure of Moses — at once king and prophet, judge and priest,² legislator and teacher. On the other hand, the problem is, in a very real sense, barely twenty years old. Having lain dormant for centuries, upon the advent of the State of Israel it suddenly burst upon the scene with a vengeance, confronting us existentially with what had previously been purely theoretical issues — and largely quiescent issues at that.

A hiatus of fifteen or twenty centuries in the application of

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1. Throughout this essay I assume that the concept of a state in the modern sense of the term, distinct from either a city or a kingdom, is Halachically valid. I have no doubt that this is so, but I should point out that its precise Halachic character and status require careful formulation. This is not my present purpose, however.

2. See *Zebachim* 101b and *Shebuoth* 15a.

any Halachic area would pose severe difficulties, even if the practical situation in that area had remained relatively stable. How much greater the difficulty when that area has radically altered.

The nature of the change is twofold. First, the religious fabric of Jewry has changed fundamentally. Our last previous political experience, be it in the Land of Israel or the Diaspora, occurred within a context of basic allegiance to Torah. Whatever his behavior, the Second Commonwealth or Babylonian Jew essentially subscribed to the idea of normative Judaism.³ Needless to say, a substantial segment of contemporary Jewry, within or without the State of Israel, has rejected this concept in favor of some secular orientation. Secondly, the general Western political climate has been thoroughly transformed. The ancient world assumed not only cooperation and liaison between political and religious authorities but, at least to a limited extent, their actual identity. In the Graeco-Roman world, who but a smattering of philosophers could even have imagined otherwise? The modern Western temperament, by contrast, considers separation the norm and, at most, tolerates some *pro forma* Established Church. Moreover, whereas the ancient world thought primarily in terms of the group, be it tribe, race, *polis*, or *civitas*, modern man instinctively thinks in terms of the individual. Regardless of what philosophers may hold, popular social thought is presently atomic rather than organic.

This change bears directly upon the current question of religion and the state. For, in the intervening centuries, the question has taken two distinct forms. In its medieval phase, it revolved around the relation of church and state as two centers of power. The major issues concerned the demarcation of their respective provinces and the resolution of recurrent conflicts. Since the seventeenth century, however, these themes, while still relevant, have gradually faded into the background. The emphasis has shifted to the consideration of personal liberty, its rights and its limits. In its modern formulation, therefore, the problem tends to pit both church

3. Historians have disagreed on the degree of actual observance in this period. But, apart from the fact that I am inclined to assume that it was reasonably widespread, the mere general profession or assumption of commitment is in itself crucial.

and state against the individual citizen — public power *vs.* private conscience. In this sense, it is reduced — not without some distortion — to one aspect of the broader question of authority *vs.* the individual.

No doubt, any truly comprehensive exposition of the problem must come to grips with both its medieval and its modern aspects. Indeed, it must maintain a threefold perspective, viewing each issue with an eye to preserving the integrity of religion, of the state, and of the individual. Yet, one can hardly overlook the fact that the question of religion and the state today is primarily one of the individual and his relation to authority. It is with this aspect, therefore, that the present analysis will be principally concerned.

II

The quest for a sound Jewish position concerning the basic issues of religion and state can only be undertaken by reference to fundamental principles — principles not only social and political, but moral and religious as well. Given the secularist's premises — and, hence, his priorities — many of his contentions appear almost irrefutable. However, within a different axiological framework, from a religious and Halachic rather than secular and nationalistic perspective, we may — nay, we must — reach quite different conclusions.

What is this religious framework? Its basic components — each of which may, in turn, consist of a number of elements — are four:

1) Man was created by God as a spiritual being, a singular and unique personality, endowed with freedom and vouchsafed a personal relation to God. Metaphysically, he is, therefore, a responsible moral and religious agent, capable of responding to an ethical norm or to a divine imperative.

2) The individual realizes himself and fulfills the purpose of his life only insofar as he adheres to God — whether this be understood in conative or contemplative terms — and freely gives himself to Him. Society attains its end to the extent that it becomes a vehicle for, and a manifestation of, personal and collective beatitude.

3) Although He is, in essence, wholly transcendent, God has chosen to reveal Himself to created beings and to relate to

them — through the very act of their creation, through the indirect expression of His will as manifest in nature and in history, through direct communication with man, and through an ongoing dialectical encounter with him.

4) Through the interaction of divine will and human aspiration, a single people, Israel, entered into a covenant with God and thus assumed a unique position in history. As a result of both grace and merit, it became a holy nation, a community committed, individually and collectively, to God and His Torah, and hence invested with a special character and unique responsibilities.

These principles do not, in and of themselves, dictate a single political theory. Nor do they prescribe a specific solution to the problem of religion and state. They do, however, provide a basis and a frame of reference which serve, paradoxically, both to intensify the scope and difficulty of the problem and to point a direction for its resolution.

On the one hand, the opposition of personal liberty and social control assumes for the religious thinker a far more complex character than it may have for the secularist. Confronted with the dichotomy of the individual and the community, the secularist can opt for either. He can, with Mill and his followers, champion the absolute rights of the individual and relegate society and its rights to the role of a qualifying factor, a limit imposed upon one individual in the interest of collective preservation. Or he can, with totalitarian theorists, wholly subordinate the individual to the needs of the state, even sacrificing him, if need be, to satisfy the ravenous appetite of Leviathan. The religious thinker, on the other hand, specifically, the Jew committed to Halachic values and a Torah *Weltanschauung*, has no such latitude. He cannot abandon personal liberty or communal commitment; he cannot regard either the individual Jew or *knesset Israel* as simply a limit of the other; neither can he be reduced to a merely negative factor preventing anarchy or automatism, restraining the excesses of either license or tyranny. To the Halachah, both poles in the antinomy — the individual and the community, the moral freedom of the Jew and the historic destiny of Israel — are indispensable positive elements. At the practical level, their interests may no doubt clash, and some quasi-Hegelian

synthesis or a transcendent *modus operandi* must be developed to harmonize them. As a value, however, each is self-validating, worthy of being preserved for its own sake. They exist in dialectical tension, and their reconciliation or integration must revolve around coordinate foci.

III

The traditional importance of both elements is quite clear. The *mishna* in *Sanhedrin* testifies adequately of one: "For this reason man was created alone... to proclaim the greatness of the Holy One, blessed be He. For when a man strikes many coins from one mold, they all resemble each other, but the King of kings, the Holy One, blessed be He, fashioned every man in the stamp of the first man, and yet not one of them resembles his fellow. Therefore, every individual is obligated to say: 'The world was created for my sake.'"⁴ And innumerable texts, both Biblical and Rabbinic, concerning Israel's collective covenant and its spiritual nationality, speak eloquently of the other.

It should be emphasized, however, that Judaism does not regard the destinies and development of the individual and the community as merely independent desiderata. It sees them as inextricably intertwined, not only supplementary, but complementary. A spiritually oriented society is not only necessary *per se* as a realization of divine purpose and collective destiny. It is an indispensable condition for the fulfillment of the individual Jew — not only in the obvious pragmatic sense that his total personality cannot properly mature in isolation, or that perhaps, as some would have it, the very notion of a wholly nonsocial human existence is inconceivable, but rather in the far deeper sense that his identification with *knesset Israel* is an integral aspect of the Jew's personal identity. His community is not only a context within which the Jew thrives and from which he derives sustenance; it is the vehicle through which his personal experience transcends the bounds of his own existence. It transmutes an isolated act into an aspect of a divinely ordered plan. It relates the Jew to history and to meta-

4. *Sanhedrin* 37a. See also, *ibid.*, 38a, and *Tosefta, Berakboth* 6:2.

history. The Rambam's strictures with respect to the *poresh midarchei tzibur*, "he who diverges from communal paths," speak for themselves: "One who diverges from the communal paths, even though he has committed no transgressions but only separates himself from the congregation of Israel and does not do *mitzvot* as one of them, does not participate in their trouble, and does not fast with them, but goes his own way like one of the Gentiles, and as if he were not one of them (i.e., the Jews) — such a person has no portion in the world to come."⁵

This conception of the relation of the Jew to *knesset Israel* is persistently reflected in the Halachic emphasis upon their practical interaction. Both as a fact — "either fellowship or death"⁶ — and as a value, the social emphasis is writ large throughout the Halachah. Not only political or economic activity but even the Jew's spiritual existence is cast within a social mold. There is little yearning for the nomadic or the monastic. We encounter no idealization of the spiritual hermit, the *schöne Seele* which cannot or will not come to grips with the world and resigns itself to becoming, in Byron's phrase, a "pilgrim of eternity." Indeed, the *talmid chacham* is enjoined from living in a place which lacks basic social institutions.⁷ Moreover, innumerable *mitzvot*, ranging from charity to the observance of holydays, and including both those "between man and God" as well as those "between man and his fellow" require a social framework for their optimum fulfillment. Even prayer, "worship of the heart" though it be, has a prominent public aspect. No doubt, in its essence religion is ultimately, in Plotinus' phrase, "the flight of the alone to the Alone." Nevertheless, for the Jew, the purpose and direction of his religious existence is defined by his membership in *knesset Israel*.

In one sense, then, the principles outlined above sharpen our problem, for they compel us to consider the relation of religion and the state with reference to not one ultimate goal but two. In another sense, however, they attenuate it, or rather, they indicate a direction for its resolution. In moving from a homocentric to a

5. *MT, Teshuva*, 3:11.

6. *Taanith* 23a.

7. See *Sanhedrin* 17b.

theocentric context, they shift the focus from rights to duties, from privileges to responsibilities, from endowments to obligations. The question of religion and the state is thus largely shorn of its quasi-juridical character. At the public level, the issue is no longer one of defining the respective rights and provinces of civil or ecclesiastical authority. It is rather a matter of discovering the social structure which, at any given time, will best enable the community to attain its collective spiritual ends. The accent is upon destiny rather than hegemony. At the individual level, likewise, both the role and the character of personal liberty are radically transformed. Personal liberty retains its immense significance — not, however, as an inalienable civil or natural right but rather as an essential factor, both an instrument and a condition, in the quest for beatitude. From a religious perspective, neither the concept nor the content of liberty resembles the secularist's *jus naturalis*. It is not a lack of restraint but a capacity for self-realization; not a freedom *from* but a freedom *to*.⁸ For the Jew, liberty is the power to realize his spiritual potential, as an individual — as a being existing in special relation to God — and as a member of a community endowed with a unique historical destiny and charged with a singular commitment. Its ultimate point of reference lies beyond the order of rights or goods, on a plane where freedom and servitude are no longer polar opposites as man realizes himself in service to God. "They are My slaves, for I have taken them out of the land of Egypt;"⁹ and yet, "there is no free man but he who engages in Torah."¹⁰

8. Of course, while this view of freedom is deeply Jewish, it is by no means exclusively so; and while, in a certain sense, it implies a more restricted freedom than the eighteenth-century Enlightenment had envisioned, it has been espoused by some liberal, as well as by conservative thinkers. A prime example would be T. H. Green, for whom the concept of what he called "positive freedom" was central. See Guido de Ruggiero, *The History of European Liberalism*, tr. R. G. Collingwood (Oxford, 1927), *passim*, and especially pp. 347-357.

9. *Lev.* 25:42.

10. *Aboth*, 6:2. Cf. *Erubin* 54a, where the same idea is developed with reference to the collective, national scope. The conflict between organic and democratic theory, so irreconcilable in secular terms (see T. D. Weldon, *State and Morals*, London 1946, pp. 26-61) assumes an entirely different character within a religious framework.

To be sure, such a transcendent harmony is not ordinarily attained on the social and political level. However, even on that plane the positive conception of a teleological freedom changes the problem of religion and the state from a theoretical and juridical issue of rights into a pragmatic issue of means. There is only one question to be asked: What, at any given time, is the social and political structure which will best preserve the spiritual integrity and identity of both the individual Jew and of *knesset Israel*, and which will best promote the fulfillment of their historic destiny?

IV

In addressing ourselves to the question of separation in its contemporary setting, we encounter formidable claims — I speak, of course, of religiously valid claims — on both sides. To begin with the arguments for separation, these are of two types — theological and practical. It may be contended, first, that there should be no link between religion and the state because they relate to wholly diverse areas of human experience, the sacred and the profane, and between the two there can be no real relation. As a citizen, man lies within the order of nature; as a communicant, within the order of grace; and between the two there lies an unbridgeable chasm.

If one adopts this dichotomy, holding that nature and grace are not only distinct but disjunct, then, of course, there is little basis, if any, for the interaction of the political and the religious. The counsel of rendering unto God and Caesar their respective dues is very much in place. Indeed, it then matters little who Caesar may be. The radical separation of nature and grace is generally rooted in the conviction that the order of nature is a *massa perditionis*, inherently corrupt and lacking in ultimate spiritual relevance. So long, therefore, as there is no direct interference with the citizens' religious life — no ordinances, for instance, commanding the transgression of divine norms — does it really matter by whom and how this doomed carnal province is superintended? Thus, Calvin could, on the one hand, demand absolute fealty and obedience to Francis I, holding that even martyrdom at the hands of the most tyrannous monarch

was preferable to any resistance;¹¹ while, on the other hand, English Puritans could argue for democracy on the ground that in the secular political sphere their own will could reign supreme.¹²

If we should reject this position, we are still confronted by a number of options. One is to assume the virtual identity of the sacred and the profane — or, at least, to assume it sufficiently so as to have both ruled by a single power. This is the basis of the institution of the king-priest prevalent in so many primitive societies.¹³ A second is to assume that the sacred and the profane are neither identical nor disjunct but distinct on the one hand and integrated on the other. Within Christianity, the political consequence of this position is the famous doctrine — dating from the patristic period and given modern formulation in Leo XIII's *Immortale Dei*¹⁴ — of "two powers" which rule separate realms independently but which, in theory at least, sustain and assist each other, so that their relations are governed by perfect concord.

From a Jewish point of view, none of these solutions is truly adequate. Judaism certainly has not espoused either the renunciation of the secular or its severance from the religious. On the contrary, the whole thrust of the Halachah lies in its demand that all of life be redeemed and sanctified. Nor has it identified the sacred and the profane. *Havdalah* (Separation) is no less a *mitzvah* than *kiddush* (Sanctification). Indeed, according to the Rambam, they are both part of a single *mitzvah*.¹⁵ And, as regards our area specifically, we

11. See the selections from his writings published under the title, *On God and Political Duty*, ed. John T. McNeill (New York: Liberal Arts Press, 1950). It should be pointed out, however, that Calvin's acceptance of even the most tyrannous civil authority and his insistence that martyrdom was preferable to resistance was due, in large measure, to his acknowledgement of the former's existence as providentially ordained. The bifurcation of nature and grace was not the only factor.

12. This position was not adopted by all Puritans. One should beware of oversimplifying generalization. See A. S. P. Woodhouse's introduction to *Puritanism and Liberty*, 2nd ed. (London, 1950), especially pp. 35-60.

13. See Christopher Dawson, *Religion and Culture* (London, 1949), ch. 6.

14. See *The Church Speaks to the Modern World: The Social Teachings of Leo XIII*, ed. E. Gilson (Garden City, N. Y.: Image Books, 1954), pp. 167-168.

15. See *MT, Shabbath*, 29:1.

might recall the Ramban's strictures against the Hasmoneans' attempted union of royal and priestly authority.¹⁶ Nor yet can we be genuinely satisfied with the traditional Roman Catholic position. The Halachah is not content with the integration of the secular and the religious into a single harmonious scheme. It demands their interpenetration. The sacred must not only relate to the profane but — even as the two remain distinct — impregnate it. Halachah proclaims the central truth that while religion is, in one sense, an area of experience, in another sense it frames all of experience, inasmuch as it concerns man's relation to God, the ground and goal of life itself. It is not only a quantitative but also a qualitative aspect of existence, and, as such, it impinges upon every area. "All human activity," the Rambam insisted, "is subsumed under 'the fear of God,' and every human act ultimately results in either a *mitzvah* or a transgression."¹⁷ Every act, therefore, does not merely lead to, but is itself, in the broader sense of the term, a part of, the religious life. Both the strength and the problematic of Halachah derive precisely from its attempt to relate these two senses of religion and to grasp their often dialectical tension. Hence, the concept of "the two realms," suggesting, as it does, the parceling out of spheres of influence to political and religious authority respectively, does not satisfy the radical demands of the Halachah. The Halachic ideal would seem to call for a more organic relation.¹⁸

From a Jewish standpoint, therefore, the interaction of religion and state is theologically not only possible but desirable. But there remain formidable practical (I do not mean simply pragmatic) objections grounded upon the potential danger posed by such interaction. To the committed Jew, genuinely concerned with the

16. See his comment on *Gen. 49:10*.

17. *Teshuvot Ha-Rambam*, ed. J. Blau (Jerusalem, 1960), p. 715.

18. The scope of the Halachah could conceivably assign a far-reaching social role to a religious court (*beth din*). However, the definition of the proper role of a *beth din* and of its practical relations to civil government requires fuller and more precise Halachic formulation than can here be undertaken. I might just refer to the radically different definitions of the *mitzvah* of appointing a *beth din*, formulated by the Rambam, *Sefer Hamitzvot, mitzvot assei*, 176, and the Ramban, *Deut. 16:18*; and to the eleventh of *Rabbenu Nissim's Drushim*, which deals specifically with the delineation of civil and religious authority.

maximal preservation of both religious values and moral freedom, the danger is two fold. It threatens Judaism, on the one hand, and the Jew, on the other. We are confronted first by the prospect of Erastianism, the facile system all too readily accepted by (to paraphrase C. D. Broad's description of Bacon) "sincere if unenthusiastic Jews of that sensible school which regards the Sanhedrin as a branch of the Civil Service, and the Chief Rabbi as the Israeli Minister for Divine Affairs." The Erastian danger is itself two-edged. There is, first, the external threat. The state may seek to impose its authority and values upon religion in order to advance its own secular, perhaps even anti-religious ends. Medieval and modern European history is replete with instances of such interference, occurring in both Catholic and Protestant countries; and, if we go back somewhat in time, our own Second Commonwealth polity offers a glaring example of the deleterious effects of political meddling in religious life. Erastianism poses, secondly, an internal threat, the danger that the spiritual quintessence of religion will be diluted, if not perverted, by its official status. Quite apart from the threat of overt state interference, an Establishment religion lives under a Damocles' sword of worldliness, the perennial possibility that its public investiture will corrode the fiber of its principles and purpose, that it will fall prey to spiritual pride writ large.

As its marriage to the state thus endangers organized religion, on the one hand, so it threatens the individual citizen spiritually, on the other. The loss of religious liberty diminishes man's spiritual stature. It fractures the *tzelem Elokim*, the "human face divine" within him. Man most fully realizes his potential when he acts and exists as a subject and person rather than as an object; and to live as personality means to live freely, in consonance with conscience and on the basis of moral choice. Consequently, the danger of tyranny is not merely political or social. It is religious.

V

These dangers posed by the interrelation of religion and state are no doubt very real. A spiritual religion ignores them at its peril, and secularists are quite right — indeed, perform a genuine service to religion — in calling attention to them. From the

perspective of Jewish history, they are only half the story, however. Probing the problem in its entirety, I think we shall find that the practical inferences secularism draws from these points are both unwarranted and subversive.

The secularist prescription would avert some diseases but kill the patient. It would preserve Jews — or rather, some of their civil liberties — and destroy Jewry; not only Judaism, but Jewry. For *knesset Israel* is not just a social and political entity. It is not merely what James Baldwin says he found in Israel, a collection of individuals bound by the Hebrew language and memories of the European Holocaust. *Knesset Israel* is, in its essence, a spiritual community, or, more specifically, a religious community. It does not simply consist of brothers bound by a common past — important as that may be — but of comrades committed to a common future. We are, by definition and constitution, a people of spiritual destiny and commitment. As Rav Saadya Gaon put it, "our nation is a nation only by virtue of its *Torot*."¹⁹

Advocates of a secular State of Israel are therefore trying to put a square peg in a round hole. It is not only that the approach is wrong, that it will produce deplorable results, secularization *ought* not take place, and it *cannot* take place — unless, that is, we are *ready* to dismantle the community of Israel as it has historically evolved and as it presently exists. For we must not underestimate the scope of the secularist's position. He does not simply argue for a secular state. He advocates a secular society — a society in which individuals could practice religion freely and within which religious institutions could exist, but which, in character and structure, would be essentially secular. If the issue were solely one of church and state, if it involved only the relations of organized government and organized religion, one could give the case for separation a sympathetic hearing. It might be argued that, from a tactical point of view, disestablishment is now in the interests of both religion and state. Indeed, some genuine advocates of Halachah have at times inclined to this position, if not subscribed to it. The modern secularist plays for much higher stakes, however. Not only the organs of

19. *Ha-emunot veba-deot*, III, 7.

government but the fabric of Israeli society, ultimately the very fiber of the Jew himself, are to be gradually secularized. Of course, even within the political sphere the type of separation which would be motivated by religious considerations would perhaps be fundamentally different from that envisioned by a secularist. But this is hardly the main point. The crux of the current Israeli *Kulturkampf* is clear and simple: Are we to adhere to our historic commitment and retain our identity as a spiritual community? Or are we to abjure our heritage and undergo, in Keble's famous phrase, "national apostasy?"

The danger that the total separation of religion and state will increasingly secularize society as a whole does not derive solely from secularists' demands. It is inherently rooted in the structure of modern society. So long as democratic theory and practice were dominated by the laissez-faire approach of classical Liberalism, the effects of disestablishment were relatively minor. The church lost its privileged position, but the field was left fully open for its operation as a purely voluntary force. The French or the American Revolutions ended government's patronage of religion, but they did not posit government as a rival. However, the century-old abandonment of laissez-faire has changed the situation drastically. The erosion of the private sector attendant upon the intrusion of the state into all walks of life has directly and materially affected church-state relations. The primary threat to religion posed by a secular state is no longer suppression but competition. The danger is not persecution but displacement. It is not the threat of being uprooted but rather of becoming desiccated that is paramount.²⁰

This is true in three ways: First, insofar as a sense of comfortable security — shallow as it may be — and the loss of private initiative and personal responsibility have deadened the individual's spiritual élan generally and his religious verve specifically. Such torpor is by no means wholly due to the modern state *per se*. As De Tocqueville and Mill emphasized, the sheer weight and breadth of a democratic society are likely to lead to conformist mediocrity, especially in an age of mass communications. Welfare

20. See Christopher Dawson, *Religion and the Modern State* (New York, 1935, ch. 3.

state paternalism has been of crucial importance, however. The Grand Inquisitor knew whereof he spoke. Not the bang but the whimper, not dissipation but ennui have become the spiritual dragons of the Beveridge age.

Secondly, the expansion of the state's activity has enabled it to make inroads upon the emotional attachment to religion. In one area after another — education, philanthropy, family counseling, and so on — government has preempted the former social role of religion. In so doing, it has not only reduced the church's hegemony; it has alienated the affections of church adherents. The modern state engages the emotions of its constituents in spheres undreamt of by Talleyrand and Palmerston. It is no mere accident that the notion of treason as a major crime — popularly regarded with an abhorrence reserved for few transgressions — is so relatively recent.²¹

Thirdly, the omnivorous state competes with organized religion at a more pedestrian level — for money, for energy, above all, for time. The individual or nation with limited human and economic resources is confronted by government and religion with conflicting claims, claims which are theoretically reconcilable but, practically speaking, mutually exclusive. To be sure, religion demands much more than material elements, and when it ossifies into demanding nothing else, a period of retrenchment and disengagement from the world is perhaps in order. As a viable institution, however, it does require material elements, too, in order to fulfill its distinctly spiritual function; and at this level, it is in direct competition with the state. Needless to say, within a separatist structure in which the claims of government are binding and those of religion purely voluntary, the competition is rather unequal.

Such being the rivalry, conscious or unconscious, between government and religion, a purely "neutral" disestablished state is no more than a pipe-dream. In theory, there is a fine ring about it. The power of the state is to be exerted neither *pro* nor *con* religion, with reference to which a wholly voluntary approach is to prevail. In practice, however, things shape up somewhat differently. Religious education is voluntary — but only after a student has spent the

21. See Margaret Boverly, *Treason in the Twentieth Century*, tr. Jonathan Steinberg (London, 1961), pp. 13-18, 33-44.

lion's share of his time in state schools in which nary a prayerful syllable may be uttered. To be sure, there is an alternative. An American parent can forego the free education his tax dollars have bought for his children and spend up to a few thousand dollars a year on tuition.²² But just how voluntary is such a choice? Again, financial support for religious institutions is voluntary — but, of course, only with funds left over after the state has extracted its own sizable share!

Such a state is not neutral at all. A government which is deeply enmeshed in all spheres of life and yet operates in a purely secular manner is not just religiously inert. Beyond a certain point, omission is commission. To exercise significant control over society while remaining aloof from religion is, in effect, to oppose it. In a pluralistic democracy, this problem is aggravated by government's own tendency to become progressively more secular. Initially, assuming a generally religious society, even an avowedly disestablished state is likely to be involved in some aspects of religion. But in a religiously pluralistic society, a state committed to full separation will, at most, support only those aspects of religious life for which there is generally universal approval. In time, therefore, as any new form of dissent, however radical, crops up, the area of full consensus gradually contracts, and the state disengages itself more and more from religious involvement. With government directing so much of civic life, the public role of religion is gradually neutralized in one area after another, until it is whittled down to a private enclave within the overall social structure.

American experience, especially in its recent phases, illustrates this pattern clearly,²³ and its possible Israeli counterpart can only

22. The situation is somewhat different in Israel where, as in early Victorian England, the government supports a number of educational channels. But this pluralism is precisely part of what advocates of separation are attacking.

23. For a lucid and compact account of the legal history of this area — prior, however, to the ban on prayer in public schools — see Harry W. Jones, "Church-State Relations: Our Constitutional Heritage," in *Religion and Contemporary Society*, ed. Harold Stahmer (New York, 1963), pp. 156-214. We should not be misled here by the apparent strength of the churches as reflected in recent social and political struggles. By and large, the churches have been able to exercise this power only where they have, in effect, whether consciously (as with Harvey Cox and his confreres) or unconsciously, worked on the terms

be projected with trepidation. I am far from suggesting that the separation of religion and state in Israel would immediately produce such a secular society. Certainly, religion is too potent a force at every level of Israeli life to disintegrate overnight. Yet, before we set out on the path recommended to us by the advocates of separation, we would do well to scrutinize its direction and terminus. Moreover, separation would have greater repercussions in Israel than it has had in America. The specific practical demands of Christianity are, after all, relatively few, so that the secular character of the state might not have so direct and extensive an impact upon the nature of society. Judaism, by contrast, imposes numerous practical demands in virtually all walks of life. Its distinctive quality is best characterized by its scope. Hence, the adverse religious effect of a purely secular government would be correspondingly more serious within a Jewish than within a Christian state. The withdrawal of the state from a number of crucial areas — which, practically speaking, is no withdrawal at all but a positive thrust in a secular direction — would directly undermine the Jewish character of Israeli society as a whole.

VI

It is against this background that the problem of state religious coercion²⁴ needs to be seen. The problem proper has two aspects, for coercion may be opposed on two distinct grounds. The first is the general notion that the state has no business interfering in the personal affairs of private citizens. Each man's home is his castle,

of the secular gospel. One must entertain strong reservations as to whether they could muster widespread support over an issue which was purely religious and lacked secular sanction. It may not even be amiss to wonder whether, once their present social desiderata are attained, some church leaders will not find themselves somewhat adrift, groping — like many post-Depression liberals — for direction and purpose.

24. It should be emphasized that the question of coercion should not be identified with the problem of separation. A state can be involved in religion in a non-coercive manner (even though there is ultimately an indirect coercive element, since taxes are used to finance all state endeavors), and coercion can be exercised by a voluntary society, such as a union or, in an indirect manner, by society at large. This fact is added reason for proceeding carefully in defining the concepts of consent or coercion.

and so long as he tends his vineyard and does not disturb his neighbor no one else has the right to disturb him. This individualistic credo, which constituted the core of eighteenth and nineteenth-century liberalism, once seemed almost irresistible. However, its contemporary force has been considerably blunted. The transition from laissez-faire to a welfare state has been attended by extensive governmental encroachment upon the so-called private sector. Even in the democracies, once inviolable property rights have been ignominiously trampled in the name of transcendent human rights; and once untouchable private enclaves have been subjected to extensive legislation and regulation. The century since *On Liberty* has eroded liberty in the interests of equality. Hence, if the argument against religious coercion rested solely on this general individualistic ground, it would have relatively little contemporary force. We could then indulge ourselves in the well-founded suspicion that modern latitudinarianism is more the result of religious indifference than of libertarian conviction.

There is, however, a second and more powerful argument against specifically religious coercion. Its contention is not so much that government *ought* not compel moral and religious action as that it *cannot*. Morality and religion depend upon inner conviction, and this lies beyond external control. Hence, T. H. Green insisted, "the question sometimes put, whether moral duties should be enforced by law, is really an unmeaning one; for they simply cannot be enforced. They are duties to act, it is true, and an act can be enforced; but they are duties to act from certain dispositions and with certain motives, and these cannot be enforced. Nay, the enforcement of an outward act, the moral character of which depends on a certain motive and disposition, may often contribute to render that motive and disposition impossible."²⁵ At best, the state can try to develop an environment within which morality can flourish.

On the whole, this argument is not directly relevant to the religious legislation now being attacked by Israeli secularists. The laws presently on the books have not sought solely or even primarily to impose a degree of religiosity upon all private citizens but rather to safeguard certain public areas. While the act of betrothal

25. *Lectures on the Principles of Political Obligation* (London, 1895), p. 34 (sec. 10).

kiddushin, constitutes a *mitzvah*,²⁶ no one imagines that the purpose of the *chok ha-ishut* (the Marriage Act) was to insure that every eligible Jew should perform this one additional *mitzvah*. Nor do the local Sabbath ordinances aim so much at compelling personal observance as at preserving the Sabbath's public character. Regardless of its lack of immediate relevance, however, no discussion of religion and state can ignore this problem, and at least a summary attempt to deal with it is, therefore, in order.

From a Halachic perspective, this argument should be considered on three levels — the ideal, the normative, and what, for lack of a better term, I shall call the tactical. Ideally, of course, religion should be spiritual in character. Religious acts should be motivated by profoundest inner commitment and religious existence should be permeated by the pervasive devotion of mind and will. "God desires the heart,"²⁷ said the Rabbis. Anyone with even a nodding acquaintance with Halachah and endowed with any sensitivity to its values is fully aware of this; and he hardly needs to be told that "religion should be a force by virtue of being a norm, not a norm by virtue of being a force." This is so self-evident, however, as to be almost tautological. The real question is entirely different. In the absence of such ideal motivation, does an act become morally and religiously worthless?

From a purist or from a Kantian perspective, this question should probably be answered in the affirmative. But the Halachah has thought otherwise. While it has always emphasized the need for striving toward an ideal motivation, it has never denigrated lower levels of commitment. It demands that the Jew engage in Torah and *mitzvot lishma*, out of a pure love of God. But it acknowledges the value of inferior motivation as well. "Let a man always engage in Torah and *mitzvot*, though it be not for their own sake, for out of [doing them with] an ulterior motive he comes to [do them for] their own sakes."²⁸ On the one hand, it defines the *mitzvah*

26. See *Kiddushin* 41a, where it is stated that one should betroth in person rather than through an agent because the *mitzvah* is thus greater.

27. *Sanhedrin* 106b.

28. *Pesachim* 50b. As the Netziv pointed out, this should be understood to mean that the involvement has present intrinsic merit, even if *lishma* is

of loving God as precluding not only serving Him for the sake of earthly rewards but even for theological hedonism as well: "Lest you shall say," explains the *Sifre*, "I shall study Torah, in order that I shall become wealthy, in order that I shall be called 'rabbi,' or in order that I shall receive reward in the world to come' — therefore the text says, 'to love God, your Lord' — all that you do, you should do solely out of love."²⁹ And yet, on the other hand, it can state that "Whoever says, 'let this selah [coin] go to charity in order that I shall be a member of the world to come' — he is considered wholly virtuous."³⁰ However we resolve the apparent contradiction,³¹ it should be clear that the Halachah has acknowledged both the ideal of selfless spirituality — "His *mitzvot* he [i.e. the virtuous man] desires very much; but not the reward for His *mitzvot*"³² — and the inferior but yet valid externally motivated virtue.

Hence, even actions which might otherwise not have been undertaken spontaneously, but are performed in response to promises or threats, may have some merit. Conceived simply as present actions, they may derive some value from their objective — one might almost say, their metaphysical — character. A *mitzvah* performance — or contrarily, a transgression — has intrinsic significance. This is a notion which the Greeks would have understood readily, but which the modern mind — since Descartes so subjectively and introspectively oriented — no doubt finds difficult to grasp. It seems more mystical than Halachic. And yet it ought not be so inconceivable that objects, times, places, or actions, which have been singled out by divine command should be endowed — on a legal, and not just on a mystical, plane — with a certain character; and that acts which conform to certain external specifications could be described as

never attained, and not just as an advisable ploy because it can lead to greater heights; see *Meshiv Davar*, I, 44.

29. *Parshat Eikev*, 41, in commenting on *Deut.* 11:13; cf. *Nedarim* 62a.

30. *Pesachim* 8a.

31. Various solutions have been propounded for reconciling the citation from *Pesachim* with other texts which clearly demand that the individual purge himself of ulterior motivation; see commentaries, *ad locum*, and in parallel texts. I might only mention that R. Hananel (*Rosh Hashana* 4a) reads *tzedaka gemura* rather than *tzadik gamur* — suggesting that the act is valid or meritorious even though the agent may be spiritually deficient.

32. *Avodah Zarah* 19a.

objective religious acts even when their motivation is not impeccable. Secondly, such acts may have some value with reference to the future — as part of an educative process which can eventually lead the sluggish or recalcitrant Jew to a higher level of religious devotion. Under certain conditions, actual engagement in religious performances may turn initial reluctance into ultimate enthusiasm. It is altogether too easy to be a rigorous purist in this area. To contend, in Ernest Barker's words, "that true religion is a matter of the mind, to be sought and found in voluntary cooperation with others of like mind, and therefore to be sought and found in the area of Society,"³³ so that the state is, on the whole, effectively excluded, is to take far too simple a view of the complex interaction of the physical and spiritual aspects of human experience. In one sense, no doubt, opponents of civil rights legislation were right in arguing that morality cannot be legislated. Yet, quite apart from any objective attainments, we ought not underestimate the impact of external action and habit upon inner conviction. It is precisely because it avoided this pitfall that the Halachah defined moral or religious acts in relatively liberal terms.

There is, however, a crucial proviso. The Halachah, like Kant, *does* demand motivation, though not to the same total extent. In order to constitute a valid religious performance, a *mitzvah* action must be accompanied by *kavvanah*, by an awareness on the part of the agent that he is acting in response to a divine imperative and by a desire that the action constitute a proper fulfillment of his duty.³⁴ Such *kavvanah* obviously involves moral and theological

33. *Principles of Social and Political Theory* (Oxford, 1951), p. 46.

34. These remarks assume the view of the *tannaim* and *amoraim* who held that *mitzvot* are invalid if performed without *kavvanah*; see especially *Pesachim* 114b-115a and *Rosh Hashana* 28a-29a. This is the view which was accepted in the *Shulchan Aruch*, *Orach Chaim*, 60:4. However, not all *rishonim* accepted this view. My basic position here would not be severely affected in any event, as many *rishonim* stressed that all would agree that acts done with rebellious or resistant intention could certainly not be considered fulfillment of the *mitzvah*. The whole problem of objective and subjective elements in Judaism, the role of "inwardness," and especially the critical relation of law and morality, require, of course, much fuller treatment. I hope to be able to present it in a future paper. It should be added that these remarks deal with coercion as a stimulus to positive religious behavior. Punishments for transgressions and

presuppositions of no little import; and the need for it reduces drastically the scope of any possible coercion. We are therefore inevitably led, first, to accept R. Meir Simcha's³⁵ position that any religious coercion mentioned in the *Gemara* is limited to situations in which it can be reasonably assumed that the application of external pressure will lead to an inner change of heart. Secondly, we are led to ponder the conditions under which such a situation obtains. They do not admit of easy and precise definition, but at least their general outline may be indicated. The crucial principle, I believe, rests upon a distinction between two types of will — a specific and immediate will which resists a command or bristles at a restriction, and a more general and settled moral will which may acknowledge in principle the very authority which, on a different level, is then resented.³⁶ Broadly speaking, I know that I oughtn't double park, and, fundamentally, I recognize the state's right to prevent me from so doing. But when I return from the dentist to find that my car has been towed away, I am genuinely, if temporarily, resentful. If we reject the notion that all sin or vice is simply error, and if we recognize the clear fact that we are regularly derelict in performing duties of whose essential value and normative character we are fundamentally convinced — then we shall grasp the essence of paradoxically convincing coercion. When agent and patient share a basic recognition of the law and of its authority to impose upon the individual, coercion, even in the moral and religious sphere, becomes possible. Where such recognition is lacking, it is wholly unworkable — and then, of course, as R. Meir Simcha emphasized, it becomes immoral. There is no middle ground here. Coercion either effects inner conviction — and then it may be justified, or else it is not simply neutral but Halachically forbidden.

their use as a deterrent would pose a somewhat different problem. The argument with reference to them would, therefore, follow a different — albeit, in some respects, parallel — course. The conclusion at the tactical level would be pretty much the same, however.

35. Or *Sameach*, *Hilchot Gerushin*, 2:20.

36. The distinction is by no means my own discovery. It has classical origins; it was prominent in Burke (see Charles Parkin, *The Moral Basis of Burke's Political Thoughts* Cambridge, Eng., 1956), and was especially developed and applied in Bernard Bosanquet, *The Philosophical Theory of the State*, 3rd ed. (London, 1920), chs. 3, 5-6.

On the ideal level, then, the Halachah strives for maximal spirituality. On another level, it asserts that in principle external pressure may sometimes be morally justified. What are we to assume, however, on a third level — the tactical? Even if the power and the authority to impose Halachah exist or did exist, would it now be wise and moral to exercise them?

The answer must be sought in the light of the principles outlined above and with an eye to contemporary conditions.³⁷ Quite obviously, with respect to many, if not most, Halachic demands, fundamental acceptance by non-observant Israelis simply does not exist. This is not solely due to the fact that non-observant Jews are now so much more numerous than they were before the Enlightenment, although this is a factor. It is due, in large measure, to the fact that the recalcitrant Jew is now differently motivated. Whereas dereliction in fulfilling religious duties would previously have been probably due to frailty and backsliding — a volitional failing — it is now generally the result of unbelief — an intellectual failing. The type of resistance encountered is, therefore, entirely different, and it is not amenable to formerly effective modes of response. Moreover, within the generally libertarian climate of modern Western society, attempted coercion is usually not only ineffectual but destructive. Inasmuch as it generates resentment, it does not simply fall short but backfires. Within the present context, therefore, coercion, as a technique of stimulating positive religious observance, cannot generally succeed.

37. I have omitted any discussion of the most obvious tactical argument for pluralism — namely, that, if generally pursued, the insistence on spreading one's truth leads to conflict and instability, resulting finally in the situation commended by Dr. Johnson to Boswell: "Every man has the right to speak his mind, and every other man has the right to knock him down for it." On the assumption that one has the truth, however, this is primarily a pragmatic rather than a moral argument; and the possibility that a system may be false (one of Mill's arguments) cannot itself be part of the meaning of that system. Of course, from the perspective of Kant's categorical imperative, this is a moral argument, and a most persuasive one — but only within a philosophic framework which rejects the concept of particular revelation. To say that the argument is pragmatic rather than moral is not to dismiss it, and the various factors in any given situation — e. g. what would be the effect of religious legislation in Israel upon Jews potentially subject to equivalent legislation in non-Jewish countries — need to be weighed. Such calculation occurs at a different level, however, and it lies outside the purview of this paper.

VII

Lest I be misunderstood, let me emphasize that I am not suggesting that all religious legislation is now *ipso facto* out of court. Some laws may aid in preserving our public national character even if they do not materially promote individual observance. And for others there may be general basic acceptance. I simply point out that, by and large, coercion is no longer a feasible and justifiable *modus operandi*; and that now, more than ever, our main thrust must be educational. This does not mean that we should introduce total separation of religion and state — a step which could entail the gravest consequences. The modern state has many other means at its disposal besides coercion. The schools are no less a part of its apparatus than the courts. I think it would be a great mistake to sever the state from religion totally. From both a moral and pragmatic point of view, however, we need to be most careful about the stress and scope of its involvement.

It should be clear that such reservations about the present value of much specific legislation are radically different from the total opposition in principle espoused by secularists. Before a Jewish State institutes religious ordinances, it must evaluate empirically the overall impact of a given law upon the quality of national and individual religious life. It must ascertain whether the game is worth the candle. The possibility that resistance engendered will outweigh any gain in observance or commitment; that individual personality will be impaired by the impingement upon civil liberties; that the spirituality and the independence of organized religion will be diluted by its increased affiliation with the state — all must be carefully considered, spiritual gain in one sector being balanced against possible loss in another. However, the right of legislation *per se* does exist. We cannot ignore valid objections to religious legislation; but if we are to maintain a viable Jewish society, neither can we assume that they must always be decisive.

The realities of life will not let us have our cake and eat it, too. We cannot be both wholly free and truly committed. No society can be fully open unless it is genuinely open-ended. Most modern Western readers are no doubt revolted by the middle books of Plato's *Republic*. Even while sharing in this revulsion, however, we

need to realize what drove the greatest of classical thinkers to such extremes. It was, of course, commitment — commitment to the true, the beautiful, and the good, to the idea of virtue, the ideal of a *polis* saturated with *arete*. We must realize further that, unless it wishes to rely upon Pollyannish hopes, any society committed to any ideal will have to take some step down this Platonic road. It will have to encourage — perhaps even compel — action it deems necessary to preserve that ideal and maintain its character; and to this end, it will almost inevitably involve its political arm, the state. If we agree with Aristotle that the state does not exist solely for the sake of life but for the sake of the good life — taking "good" to be in some sense ideal rather than utilitarian — then we must recognize that at some point the state will have to act in order to promote that life. In so doing, it will employ its two principal weapons: the carrot and the stick. The only question is how much use will be made of one or the other. To us the question is crucial, but from the point of view of those who would divorce a state's political activity from its ultimate commitment it is thoroughly irrelevant. The principle of separation is breached by blandishment or education no less than by threat.

Hence, the only truly neutral state is one governed by a relativist ethic. If no absolute values are assumed, then, of course, a fully open society is quite feasible. However, if a society wishes to lead its members and, therefore, itself in a certain direction, it must be prepared at some point to act to this end politically. No doubt, the main thrust should always be educational, the basic language always spiritual, the primary appeal always to minds and hearts rather than to bodies or pockets. Nevertheless, we cannot *a priori* eschew a political approach entirely. Let us make no mistake: ultimately, we are not only confronted with the problem of religion and state but with the broader question of morality and state. Philosophically, the same arguments which militate against the state's involvement in the one apply likewise to the other.

These remarks have a particular relevance for a Jewish society — by definition, to use Rav J. B. Soloveitchik's phrase, "the community of the committed." Ours is, moreover, a specific commitment, rooted in our history and revolving around an apocalyptic experience. We are not just committed to some abstract Platonic idea but to the

God of Abraham, Isaac, and Jacob. Indeed, our moral claim to the very possession of the Land or the State of Israel rests solely on the historic destiny growing out of that historical commitment. The commitment and the experience must be created anew in every generation — “let them, the words and the commands of the Torah, be treasured by you as if you had received them this very day from Sinai; and let them be as regularly upon your tongue as if you had heard them this very day.”³⁸ But at the same time they must be transmitted and inculcated, and to this end we cannot *a priori* reject governmental assistance entirely. Even if we should be sufficiently optimistic to imagine that such assistance need never be extended in the interests of natural religion or morality (and one need hardly be a Hobbesian to reject such a judgment), we cannot assume the same with reference to Judaism. Without external guidance and with no knowledge of tradition whatsoever, a spiritually minded person may perhaps become a devotee of Bahai; but a Jew — hardly. He must somehow learn that God has spoken to Israel and receive the content of the divine message; and to this end, he needs some guidance. To establish a purely secular State of Israel at present would mean to preclude such guidance from the vast areas of life influenced, if not controlled, by government. This could not be countenanced by the *knesset Israel* out of whose past we have evolved and in whose future we have devout faith. It was not for this that our forefathers lived and died, and it is not through this that our children can hope to survive. Ours is a unique destiny; to serve as a vehicle of God’s purpose in history, and this entails not just glory but responsibility.

This sense of unique destiny, grounded in the reality — paradoxical though it may seem — of our particular revelation, is the core of Judaism. It assisted at our birth, it defined our essence, and it molds our destiny. To constitute, in some particular sense, a “dwelling” for the suffusive Presence of the *Shechinah*, to testify to a singular divine message, received, on the one hand, and to be borne, on the other — this is the essence of Jewish history. Covenants ago, in a land by rivers bounded, two roads diverged in a wood. We took the one as yet untravelled — and that has made all the difference.

38. *Sifre, Parshat Re’ei*, 58, commenting on *Deut.* 11:32.

REFLECTIONS ON TORAH...

● Rabbi Harold B. Kanatopsky

Halacha has both objective and subjective dimensions. The abstract, theoretical nature of *Halacha* as a logical system, as well as the actual physical observance of its norms (קיום מצוות), constitute its objective dimension. Its subjective dimension depends upon the attitude brought by the Jew to his or her observance of the objective *mitzvot*, as well as upon the individual's sensitivity to, and awareness of, the atmosphere that emerges from observance within the *halachic* framework. In this article, Rabbi Kanatopsky, a *Rosh Yeshiva* in RIETS and rabbi of the Young Israel of West Hempstead, analyzes the beautiful Sabbath atmosphere in terms of its relationship to the (objective) *halachic* system.

THE SABBATH

Our purpose in this essay will be to analyze certain sections of the Torah which deal with the Sabbath. While the *halachic* perspective can never be discounted, our principal concern in these analyses will be with the religious moods it prescribes.

Let us therefore direct our attention to four particular sections: first, a comparative study of the Sabbath as expressed in the Decalogue in Exodus, and the Sabbath as expressed in the Decalogue in Deuteronomy; second, the section dealing with the Sabbath in relation to the manna; third, the Sabbath as presented by Moses to the Israelites as an introduction to the directives to construct the Tabernacle; finally, we shall attempt to detect the motif of the Sabbath as expressed in the Divine communication to Moses following the detailed description of the Tabernacle.

* * *

I. The Decalogue (Exodus XX:8-11; Deuteronomy V:12-15).

The term *Zachor* and the term *Shamor* are the introductory terms to the Sabbath commandment. Rashi quotes the *Mechilta* to the

effect that these two terms were pronounced simultaneously. At first glance, the implication of this strange and mystical communication appears to be that the two supplement each other. This is hardly the case. There are several other examples of directives which were also communicated "B'Dibur Echod," and these suggest something entirely different. If one examines each case which the *Mechilta* records, it appears obvious that in each set of two directives, the directives are contradictory. For example: observe the Sabbath — and offer the sacrifices; your brother's wife is prohibited to you and yet the mitzvah of *Yibum* maintains its full force. The same is true of all the other examples. It is logical to assume therefore, that *Zachor* and *Shamor* again represent some form of contradiction. And it does not suffice — at least in the absence of any careful analysis — to contend that the contradiction lies in the fact that *Zachor* is a positive commandment and *Shamor* a negative one. This, in and of itself, is hardly a contradictory set. If the positive commandment of Shabbos addresses itself merely to one area, *Kiddush*, and the negative to another, the prohibition of work, then there is hardly any relationship between the two.

However, if we forget momentarily the limited halachic definitions and the confines of the legalistic implications of these two terms, a broader view defines them as two religious experiences. The Ramban, as a matter of fact, senses the positive in *Zachor* and the negative in *Shamor* not as limited *halachic* categories alone, but as general religious concepts. And, if we view these terms from this perspective, a paradox of exciting proportions does indeed evolve. What we are suggesting now is founded primarily upon the remarks of the Ramban on *Zachor*.

Zachor, the positive commandment reflects the love of God. *Shamor*, the negative commandment, reflects fear of God. The Ramban in his commentary on the *Mishna* in *Avot* (1, 3) emphasizes that love of God motivates the fulfillment of positive commandments while fear of God is the experience which prevents transgression of the negative commandments.

While the Ramban in his *Mishne Torah* suggests that love of God generates a yearning to know Him and to understand Him, in his *Sefer HaMitzvoth*, he appears to say something quite different.

There, the suggestion is made that love of God follows upon the heels of cognition which comes about through the study of Torah and *mitzvoth*. But, whether it stems from cognition or generates a yearning for cognition, one thing is clear; love of God goes hand in hand with an affirmative view of oneself. Through the love of God, my existence is affirmed. And not only is it affirmed in a static sense, but what is more, a dynamic is activated. I want to know Him better. Indeed, I want to emulate God. And emulation of God is, indeed, the essence of my existence.

Fear of God, again as defined by the Ramban in the *Mishne Torah*, goes much further than fear of punishment. The experience here is not to be confused at all with awe and respect. While these may have their place in the total spectrum of man's relationship to God, what is meant here is something quite different. It is the recognition of my worthlessness and total dependence. It is the realization that all my faculties are worthless in the presence of God. It is the deep-rooted fear or dread in the presence of the Omnipotent and of the Almighty. It is, if you will, the recognition that "*Ayn Od Milvado*." Nothing really exists save God. Man remains passive, immobile, frozen in his tracks when this dreadful realization overpowers him. This is fear of God in the ultimate sense. It is the negation of my existence.

The act of resting on the Sabbath should be interpreted on two levels, as an expression of two motifs reflecting two religious attitudes. By not working on the Sabbath, I am emulating God. By not working on the Sabbath, I express my total immobility in the presence of God. Not working on the Sabbath is positive. God created for six days and rested on the seventh. I do the same. I emulate Him. I want to be like Him. I love Him. On the other hand, not working on the Sabbath is negative. This day is His alone. Only His forces are in operation. I can stand by and take note of "*Ayn Od Milvado*"; only God functions, so to speak. My creative efforts are at a standstill. My intrusion into the world of reality and of real creativity is interrupted. Only God moves His world. My assistance is senseless.

In one word, the experience of "*shevisa*," rest on the Sabbath, is a dual experience. It is an experience of love. It is an experience of

fear. And both together constitute the totality of the Sabbath experience.

The Decalogue in Exodus gives the drama of creation as the reason for the Sabbath. The Decalogue in Deuteronomy bypasses creation and gives the Exodus from Egypt as the reason for the Sabbath. A more careful reading of the text in Deuteronomy suggests that the reflection upon the "mighty hand" of God and upon his "outstretched hand" is what is really underlined. Creation is, to be sure, an event in which only God participated. Yet man is called upon to become a partner to God in the continuous process of creation. The drama of the Exodus from Egypt is that historical drama where all the forces of nature were disrupted and only God was active. Man was completely passive in the Exodus. In studying the story of creation, man marvels at the workmanship of God — at His omnipotence — yet strives to emulate Him within the range of his (man's) ability. In studying the drama of the Exodus, man stands in fear and in dread before the "strong hand" and the "outstretched arm" of God, realizing his complete helplessness as this drama unfolds itself.

Zachor is related to creation. Remember the Sabbath with love. Rest and emulate God. *Shamor* is related to the Exodus. Rest and fear the overpowering ultimate force that alone exists and that found particular expression in the Exodus from Egypt.

Daytime is generally associated with creativity. Man creates, lives, produces and actively participates in the drama of the cosmos. Nighttime is generally associated with passivity. The creative faculties are arrested. Man is isolated in his own small confinement, a spectator watching the cosmic drama in its dynamic functioning without him. The Ramban points out that *Zachor* is addressed to the day of Sabbath while *Shamor* is addressed to the night. Jewish tradition generally, and the mystical tradition particularly, personified the Sabbath day. The Sabbath evolved into a King (or Queen). The Sabbath evolved into a bride. As a bride, it generates the overpowering religious experience of love. As a King, it generates the equally overpowering religious experience of fear.

As *halachic* categories, *Zachor* and *Shamor* supplement each other. As religious experiences, both reflect the mitzvah of "*shevisa*." They

are, in a sense, contradictory. Yet, both experiences should emerge from the observance of "*shevisa*" on the Sabbath.

II. The Manna (Exodus XVI:21-26)

In this section a new and quite different dimension of *Shabbos* is introduced. The Israelites received their heavenly food each day for that day. On the sixth day they received an additional portion. Reporting this phenomenon to Moses they were informed that this reflects God's words that tomorrow will be "*Shabason Shabbos Kodesh*." In addition to this explanation, Moses instructs them, "*Ays Asher Tofu Aysfu; V'ays Asher Tvashlu Bashaylu, etc.*"

Regarding these instructions, we find several opinions in the commentaries. Rashi seems to explain that the instructions are to cook for two days whatever you desire to cook; to bake for two days whatever you desire to bake; use it today and then leave the remainder for tomorrow. The Ibn Ezra explains that Moses instructs the Israelites to bake and to cook for today (the sixth day) only and to leave a portion of their food for tomorrow. The Ramban agrees with Rashi and notes that the Targum Onkelos also explains the instructions like Rashi.

In any case, the implication of either interpretation is that on the Sabbath it will be prohibited to either cook or bake. It would seem that a new injunction, namely not to cook or bake on the Sabbath, should be phrased in much more explicit terms. As a matter of fact, up to this point in the text there is no explicit prohibition of work on the Sabbath. And, if this is indeed the first "*Isur Mlocho*," would it not have been more suitable if it were at least formulated in the negative?

Continuing with the story we find that on the next day — the Sabbath — the food had not spoiled (as it ordinarily did when left overnight) and Moses issues another instruction. The instruction is, "Eat it today, for today is '*Shabbos*' to God." Two observations beg to be made regarding this directive and its formulation. Firstly, why was this directive necessary? Moses had already instructed the Israelites to either prepare the food for the Sabbath or at least to leave it for the Sabbath. (This depends upon the two interpretations outlined above.) Surely it was to have been eaten. Secondly, the explanation

that this day is *Shabbos* appears, at least on the surface, to explain why they will not find the food in the field. If so, its position in the text should be at the end of the verse. From the structure of the text, it appears that this is an explanation for the suggestion or for the directive to eat the food on Shabbos. The *Or haChaim* makes these observations and recognizes the obvious difficulties in the text itself.

The Rambam devotes Chapter XXX of *Hilchos Shabbos* to a definition of the two Sabbath obligations which he calls *M'Divrei Sofrim*. They are, *Kibud* and *Oneg*. When one examines carefully the examples which the Rambam quotes and attempts to arrive at some definition of *Kibud* and of *Oneg*, the following definition appears to suggest itself rather clearly. *Kibud* are those obligations which we must fulfill in preparation for the Sabbath. *Oneg* are obligations which are to be fulfilled on the Sabbath. In other words, whatever we are obligated to do on Friday in preparation for the Sabbath is *Kibud*. Whatever we are to do on the Sabbath proper is *Oneg*. It is rather interesting to note that in Chapter XXX the Rambam includes the lighting of candles under the heading of *Kibud*. However, in Chapter V of *Hilchos Shabbos*, he considers candle lighting as *Oneg*. Yet, when one notes the context, it becomes clear that lighting of the candles on Friday in preparation for Sabbath is *Kibud*. The existence and enjoyment of the candles on the Sabbath itself is *Oneg*. Similarly, in the case of food, these two obligations are in force. To prepare food for the Sabbath on Friday is *Kibud*. To enjoy three meals on the Sabbath proper is *Oneg*. This definition is so clear that, although the language of the Rambam in *Halacha 7* in Chapter XXX says that the preparation of the food is *Oneg*, the truth seems to be that the consumption of the food is *Oneg* — but this can only be fulfilled if it is prepared before the Sabbath; the actual act of preparation is *Kibud*.

If we re-read the text in Exodus XVI, it should become perfectly clear that, in this section of the Torah, there is at least a hint of the subject of *Kibud* and *Oneg*. It would seem that, when Moses tells the Israelites to bake and cook in preparation for the Sabbath, what he is really suggesting is some form of *Kibud*. When they came to him the next day and he said, "Eat it today," he was not merely

suggesting, or permitting them to eat. The permission is inherent already in the previous directive to prepare the food. What is stressed here is the special obligations of the experience of *Oneg*. It is clear now that the expression "for today is *Shabbos* to God," is a reason explaining the directive, "Eat it today." It is also clear that while, as most commentaries insist, the prohibition to cook and to bake on *Shabbos* is implied here, it is phrased in the positive to suggest also the idea of *Kibud*. This section of Torah, therefore, becomes the section on Sabbath which already foreshadows the notions of *Kibud* and *Oneg* with regard to the Sabbath.

Another fact seems to support our thesis. The verse in Isaiah (LVII:13) which speaks of *Kibud* and *Oneg* instructs us to "call the Sabbath *Oneg*; the holy day of God, honored." In speaking of *Oneg*, the prophet uses the term "*Shabbos*." In speaking of *Kibud*, the prophet uses the term "*Kadosh*" — the holy day. Is it not remarkable that, when Moses instructs the Israelites concerning the cooking and baking in preparation for the Sabbath — which we called *Kibud* — he refers to the day as "*Shabboson, Shabbos Kodesh*," but, when he instructs them to eat the food on the Sabbath — which we called *Oneg* — he refers to the day merely as "*Shabbos*?"

This parallelism between the section we are studying and the verse in Isaiah is remarkable. It again underlines our thesis that the roots of *Kibud* and *Oneg* are already suggested in Torah. (Could it be that the significance of the term *Kidusha Rabah*, which the Ramban in *Yitbro* suggests really means the great and important *Kiddush* lies in the historical fact that the first fulfillment of *Oneg* was not at night, but rather during the day, as our text indicates? i.e. that *Kiddush* is a fulfillment of *Oneg*?)

III. The Prohibition of Fire (Exodus XXXV:1-3)

Before announcing to the Israelites the plan for the Sanctuary, Moses re-educates them on the subject of the Sabbath. Once again he emphasizes for them the prohibition against any form of "*Mlocho*" on the Sabbath. However, following this general and all-inclusive statement there is an additional instruction against the kindling or lighting of fire on the Sabbath. But why is this one *Mlocho* singled out? [Rashi quotes the *halachic* answers that this is done either

to put "*Havara*" in a special category or to establish the principle of "*Chiluk*" in the *Mlochos* of the Sabbath. The Ramban and the Ibn Ezra suggest that the emphasis upon the kindling of fire may be taken to mean that the Torah is indicating that it is prohibited to cook or to bake on the Sabbath. The Ramban goes further than this and suggests that this prohibition also includes making a fire for personal use or personal pleasure which one may attempt to excuse on the grounds of *Oneg*. The Sforno sees *Havara* as a destructive act in itself and maintains that it is for this reason that it requires special treatment.]

Perhaps it would be profitable to review this particular section against the background of the events which preceded this directive on the part of Moses. Viewing this injunction, particularly from the perspective of the context of the total story, will, I believe, open a new dimension to the Sabbath, give us a somewhat clearer appreciation of the fundamental theme of the Sabbath, and what is more significant, explain the strange attitude of the *halacha* to this verse and particularly the *halachic* principle which was deduced from this verse — a deduction which, on the surface, is rather startling, to say the least.

It has already been pointed out (*Beth HaLevi*) that, when the Divine communication came to Moses regarding the *Mishkan*, the entire description of the *Mishkan* came first and the Sabbath is mentioned at the very end. However, when Moses transmits this communication to the Israelites, the order is reversed. He speaks of the Sabbath first and then outlines the details of the *Mishkan*. Much has been said and written on this discrepancy in the order.

If my memory serves me well, I believe Rav Joseph B. Soloveitchik at one time suggested the following answer: The reason for the change in order lies in the fact that between the time of God's communication to Moses and Moses' meeting with the Israelites, a shattering event, namely the sin of the Golden Calf, took place. This transgression, which indicated that the Israelites still lacked a good deal of instruction in the purity of their faith, was responsible for the change. Prior to this sin it was possible to speak to them in terms of a Sanctuary and all its attendant theological implications. Axioms, such as the Sabbath, could have been left for the end

as a mere reminder of the basics. However, given the reality of this transgression, it became apparent that the axioms of faith had to be reemphasized prior to any meaningful discussion of the Sanctuary with its dimensions of holiness.

The section of the Torah which we are examining is not merely a restatement of the Sabbath principle; it is a restatement of the Sabbath. Its very particular purpose is to set up the Sabbath as a bulwark against any form of idolatry. The Sabbath is presented here with special emphasis upon the basic message that God created the universe and continues to give the universe its existence. While it is certainly true that Sabbath is mentioned in this context to make it clear that no work on the Sanctuary may be done on the Sabbath it also appears clear that it is mentioned for the purpose of re-emphasizing its basic message which lies at the root of our faith. This reemphasis serves primarily as a response to the transgression of the golden calf, which had in it at least some elements of idolatry.

Now I should like to make two suggestions. First, it strikes me as rather interesting that "fire" and its prohibition are singled out in this context as a reaction to the "Calf" which was fashioned out of gold through the medium of fire. Second, and more important, fire is the symbolic representation of man's technological advancement. As the Sforno points out, fire is the necessary element for all kinds of work. The achievements of man in the field of technology and in his mastery over the physical world are dependent in a very great measure upon the controlled utilization of fire in its many and varied forms. The prohibition against the use of fire implies, therefore, the suspension of man's mastery over the universe. It underlines the principle that man's mastery is limited and that God's rule is unlimited and eternal. When man is impressed with a limitless power over the universe, he is on the threshold of idolatry. If man learns that his power and his mastery are limited, the door to idolatry is closed. It is once again the idea indicated above that on the Sabbath man is passive. But here his passivity is an expression of the limited nature of his creative faculties. The prohibition against fire reemphasizes the principle that man is not an omnipotent being.

The *halacha* interprets the verse we are studying in a very technical manner. "*Lo Svd'aru Esh*" prohibits the courts from executing any

● Rabbi Steven Riskin

In the Tractate Sabbath 30b, we read in the name of Rab: "The sages wished to hide the book of Ecclesiastes because its words are self-contradictory..." In this article Rabbi Riskin follows the theme of Koheleth through the apparent contradictions and shows that the book is especially meaningful today. Rabbi Riskin teaches in JSS and is the Rabbi of the Lincoln Center Synagogue. When this article was first written, it won the Ephraim Fleischer Memorial Award.

ECCLESIASTES

Ecclesiastes is perhaps the most modern — as well as the most baffling — of all the books of the Biblical canon. At first glance it hardly presents one consistent philosophy, so that it is hardly surprising that much later interpolation has been ascribed to it. Its mood varies from disillusionment to despair to faith and back to disillusionment with such frequency and intensity that it is often difficult to perceive the underlying theme.

In truth, however, I believe that it is precisely this quality — the very ambivalence of the book — which makes it so understandable to us today. The author views life in its entirety, refusing to escape from that in it which is painful. Life is fraught with complexities and contradictions; no sensitive person can be expected to have a completely uniform approach to it. The only really consistent person is the one who is dead to life's conflicting currents. And so in the Book of Ecclesiastes we are allowed a glimpse into the mind of a man — a wise, groping human being striving to understand the universe about him, to evaluate his position in a sometimes very terrifying, rarely very satisfying, world. We follow him in his spiritual odyssey, and we often fail to grasp his direction. We cannot but empathize, however, with the burning struggle between faith and despair which goes on within him. One by one he removes the

rose-colored veils until life — in all of its bleak harshness — stands naked before us. The answers are not given, for the answers are not to be had. Neither knowledge nor experience can unlock the door, and eventually a faithful resignation must be our lot. Yes, ultimately faith is the victor, but a seeing faith, a faith born of experience and not of escape, a faith tempered with the realities of existence and the disillusionments of life.

Koheleth begins with an overwhelming renunciation of life and its accepted values:

Vanity of vanities, saith Koheleth; vanity of vanities, all
is vanity...

What profit hath man of all his labor
Wherein he laboreth under the sun?

Life to Koheleth is a meaningless maze, one day aimlessly leading into the next, each year emptier than the last.

One generation passeth away, and another generation
cometh;
And the earth abideth forever...
That which hath been is that which shall be,
And that which hath been done is that which shall be done;
And there is nothing new under the sun.

But the author is not content to abide in utter despair. He must search further to try in every possible way to unravel the mystery of life.

I Koheleth have been king over Israel in Jerusalem.
And I applied my heart to seek and to search out by wisdom
concerning all things that are done under the heavens.

In effect, the entire book reflects Koheleth's agonized effort to penetrate the cosmic drama, to probe the meaning of existence. He reads all that has previously been written, and devotes his life to the understanding of the world's accumulated wisdom. The more he studies, however, the more disillusioned he becomes, and the further away he appears from the solution.

For in much wisdom is much vexation,
And he that increaseth knowledge increaseth sorrow.

And even at the very end of his search, he cannot but discourage those who place their confidence in books.

And furthermore my son, be admonished: of making many books there is no end, and much study is a weariness of the flesh.

For this reason our author leaves his books, and decides to immerse himself in the empirical world, to explore every aspect of physical experience. Perhaps in the enjoyment of life's pleasures he will find the secret to life's mysteries.

I searched in my heart how to pamper my flesh with wine,
and, my heart conducting itself with wisdom, how yet to lay hold on jollity, til I might see which it was best for the sons of men...

I made me great works; I builded me houses; I planted me vineyards;...

I gathered me also silver and gold, and treasures such as kings and provinces have as their own...

However, here too Koheleth finds only disappointment:

Then I looked on all the works that my hands had wrought, and on the labor that I had laboured to do; and, behold, all was vanity and a striving after the wind, and there was no profit under the sun.

This is the desperate discovery that the author eventually makes: wisdom cannot bring happiness, and pleasures do not yield contentment. The universe has become only more incomprehensible as a result of his search, and he is no nearer to his solution than he was when he began. Certainly Koheleth realizes that his odyssey was not entirely valueless, that there must be some purpose to the acquisition of wisdom. But at the same time he understands that death must inevitably come to all and that this ultimate darkness shuts out both the wise and foolish:

The wise man, his eyes are in his head,
But the fool walketh in darkness
And I also perceived that one event happeneth to them all,
Then said I in my heart: "As it happeneth to the fool,
so will it happen even to me; and why was I then more wise?..."

So I hated life; because the work that is wrought under the sun was grievous unto me; for all is vanity and a striving after the wind.

He can only agree with the ancient Persian philosopher:

Up from the Earth's center, through the seventh gate,
I rose, and on the Throne of Saturn's gate,
And many knots unraveled by the road,
But not the knot of human death and fate.

The lesson which Koheleth teaches is especially relevant today. Science, or intellectual understanding, comes not to solve the problems but to complicate them; the mystery of being becomes more complex with man's scientific attainments. The end of knowledge must be despair at worst and resignation at best. Knowledge moves not along a straight line but in a circle, and we must always end at our starting point. It is only the intelligent person who realizes how vast and inscrutable is the kaleidoscopic cosmic drama. We can only discover the How, never the Why. Unfortunately it is only the latter which will satisfy the human quest for understanding and will lead to real happiness. Many centuries later Joseph Wood-Krutch echoes Koheleth in *The Modern Temper*:

A wider and wider experience with inventions has convinced the more thoughtful that a man is not as once was said, twice as happy when moving at the rate of fifty miles an hour as he would be if he were proceeding at only half that speed, and we no longer believe that the millennium presents merely a problem in engineering. Science has always promised two things, not necessarily related — an increase first in our powers, second in our happiness or wisdom, and we have come to realize that it is the first and less important of the two promises that it has kept most

abundantly... We are aware of a certain disappointment and of a hope less eager..., as though our victories were somehow barren and as though the most essential things were eluding us.

It is as Byron's Manfred declared.

Knowledge is not happiness, and science
But an exchange of ignorance for that which is another
kind of ignorance.

Koheleth finds that knowledge leads to frustration, and can only cry out in despair and resignation:

All this I have tried by wisdom; I said:
"I will get wisdom," but it was far from me.
That which is far off, and exceedingly deep,
Who can find it out?

And again in the chapter following:

Then I beheld all the work of God, that man cannot find
out the work that is done under the sun, because though
a man labor to seek it out, yet he shall not find it; yea,
further, though a wise man think to know it, yet shall he
not be able to find it.

But throughout the work there is one dominant theme, one axiom that Koheleth hardly ever denies. He rarely doubts that the meaninglessness is merely *prima facie*, that if one could but see beyond the veil all would be clarified. There is a divine harmony beyond the cacophony, a design to the seemingly meaningless monotony:

There is nothing better for a man than that he should
eat and drink, and make his soul enjoy pleasure for his
labour. This also I saw, that it is from the hand of God...
For to the man that is good in His sight He giveth wisdom,
and knowledge and joy, but to the sinner He giveth the task,
to gather and heap up, that he may leave to him that is
good in the sight of God...

This is the real meaning of Koheleth's declaration: "To every thing there is a reason, and a time to its every purpose under the

heavens." Just as in human affairs there is a regular pattern, a specific time and place for each phenomenon, so in divine affairs — between God and man — an orderly pattern is existent even if not discernible:

I have seen the task which God hath given to the sons of
men to be exercised therewith;
He hath made everything beautiful in its time; also He
hath set the world in their heart, yet so that man cannot
find out the work that God hath done from the beginning
even to the end.

The difficulty lies not in the world, but in man, not with God but with ourselves, we who fail to comprehend the ultimate justice of the world.

And moreover, I saw under the sun, in the place of
justice, that wickedness was there; and in the place of
righteousness, that wickedness was there.

I said in my heart: The righteous and the wicked, God
will judge: for there is a time there for every purpose and
for every work.

Understandably — and herein lies the appeal of Ecclesiastes — he cannot always believe blindly. Often doubts must of necessity arise, and Koheleth is far too honest to disregard them. Often in the same breath in which he affirms God's justice he doubts His design:

For that which befalleth the sons of men befalleth beasts;
even one thing befalleth them; as the one dieth, so dieth
the other; yea, they are all one breath; so that man hath
no preeminence above a beast; for all is vanity. All go
unto one place; all are of the dust, and all return to dust,
who knoweth the spirit of man whether it goeth upward,
and the spirit of the beast, whether it goeth downward to
the earth?

Yet despite the doubt, he cannot but feel that there is an infinite meaning which finite man cannot perceive and perhaps dare not question. He, like Tennyson, must

Stretch lame hands of faith, and grope,
 And gather dust and chaff, and call
 To what I feel is Lord of all.
 And faintly, trust the largest hope.

Thus Koheleth reaffirms his faith and even castigates himself for the questions he cannot silence:

Be not rash with thy mouth, and let not thy
 heart be hasty to utter a word before God:
 For God is in heaven, and thou upon earth;
 therefore let thy words be few...
 For through the multitude of dreams and vanities
 there are also many words; but fear thou God.

As Koheleth reaches the end of his travels, we see a practical, if not completely satisfying, philosophy emerging. Despite all the contradictions, there are still basic values in life which must not be destroyed. "A good name is better than precious oil," and "the patient in spirit is better than the proud in spirit." And although knowledge provides no absolute solution, we hear:

And the light is sweet.
 And a pleasant thing it is for the eyes to behold the sun.

The sun is mentioned throughout the work, and is representative of life's totality. This is Koheleth's advice, the distillation of his thought. Affirm life and faith, do not deny them. Life is not vanity, but excesses are, and impossible expectations are merely a striving after the wind. Look at everything in its proper perspective: avoid extremes, seek to understand the universe, but know that you can never truly understand,

It is no good that you should take hold of the one;
 Yea also from the other withdraw not thy hand;
 For he that feareth God shall discharge himself of all.

Once you realize that complete happiness comes to no one, you will be able to accept life's simpler gifts:

Go thy way, eat thy bread with joy
 and drink thy wine with a merry heart.

More important than all, be cognizant of the problems of existence, but do not yield up your faith because these problems are not solvable by reason.

The end of the matter, all having been heard:
 Fear God, keep his commandments, for this is
 the whole man...



Since the destruction of the Temple, observance of many *mitzvot* has been suspended. The study thereof has not. The following article is a conceptual analysis of the *mitzvah* of *Hakbel* — one of the most inspiring and colorful of Temple celebrations. Menachem Kasdan is a third year *Semicha* student and a member of Yeshiva's Kollel.

HAKHEL

I

A

When once every seven years at the end of the sabbatical year the *mitzvah* of *Hakbel* becomes obligatory, men, women, and children assemble in the temple court where the king reads selections from the Book of Deuteronomy to them.¹ In order to understand the nature of *Hakbel*, we must understand some of its unique features.

B

In the first place, the Torah explicitly calls for participation by children in the *mitzvah* of *Hakbel*.² In terms of *talmud torah* — the intellectual appreciation of Torah — the presence of children is incomprehensible. Why then are they present?³

This article was originally written for the Yavneh *Parshat Hashavua* Series where it will appear in a modified form.

Throughout this essay I have limited myself to the Rambam's formulation of *Hakbel*.

1. Mishneh Torah (hereafter designated MT), *Chagiga* 3:3.

2. Deut. 31:12; MT *ibid.* 3:1.

3. The statement that "the men come to learn, women to hear, and the children are brought to enable their parents to be rewarded" (*Chagiga* 3a) is no answer to this question. The question may be asked in different terms. To what that is unique in the *mitzvah* of *Hakbel* can be attributed the specific *mitzvah* of bringing one's children? It is clearly not the general *mitzvah* of

Similarly, the *Halacha* states that one for whom the reading is inaudible, can nonetheless fulfill his obligation by merely "attending his heart" to the content of what is being read (without actually hearing it), because the *mitzvah* of *Hakbel* was set aside to strengthen one's faith.⁴ This again makes no sense of the Torah reading at *Hakbel* as a means of intellectual achievement. If one who cannot even hear the reading (or in the case of the children, at all understand it) still fulfills his obligation, what purpose does this Torah reading serve? Why have it at all? That is the second question.

Thirdly, we must understand the significance of what is read. From the Rambam's formulation, it is clear that *d'oraita* the obligation is to read any portions of the Torah that will encourage the nation in its faith and in the performance of the *mitzvot*.⁵ מצות עשה וכו' לקראת באזניהם מן התורה פרשיות שהן מזרזות אותן במצות ומחזקות ידיהם בדת האמת. As a matter of fact, the king reads from the beginning of Deuteronomy until the end of *Shema*, then *V'haya im Shamo'a* and then from *Aser t'aser* until the end of the blessings and the curses.⁶ What were the guidelines utilized by *Chazal* when, in accordance with the *chiyuv d'oraita*, they selected these parts of Deuteronomy — or was their choice simply arbitrary? This is the third problem.

chinuch that applies here. The latter would apply as a matter of course and there would be no need for the Torah to single out *Hakbel*. It would therefore follow that the reason for the unique involvement of children in the *mitzvah* of *Hakbel* is something which is of consequence for the children — even though the *chiyuv* is upon the parents. This may also be inferred from the *Yerushalmi Chagiga* 1:1.

4. MT *ibid.* 3:6. That the goal of this Torah reading is to strengthen the faith is explicit in Deuteronomy 31:12-13: הקהל את העם האנשים והנשים והטף וגרך אשר בשעריך למען ישמעו ולמען ילמדו ויראו את ה' אלקיכם ושמרו לעשות את כל דברי התורה הזאת. ובניהם אשר לא ידעו ישמעו ולמדו ליראה את ה' אלקיכם כל הימים אשר אתם חיים על האדמה אשר אתם עובדים את ה' הירדן שמה לרשתה. Accordingly the Rambam formulates the *halacha* in precisely these terms: מצות עשה להקהיל כל ישראל אנשים ונשים וטף בכל מוצאי שמיטה וכו' ולקראות באזניהם מן התורה פרשיות שהן מזרזות אותן במצות ומחזקות ידיהם בדת האמת.

5. *Ibid.*, 3:1.

6. *Ibid.*, 3:3; the sections are: Deut. 1-6:9, 11:13-21, 14:22-28:69.

The fourth problem consists of understanding what, if any, *halachic* significance there is to this assembly on temple grounds. Is the temple choice merely expedient, or is it of *halachic* moment?

Next we must understand the role of the king. Why was he chosen to do the reading, and why did the Rambam find it necessary to describe the king as "a messenger of God"? This is the fifth question.

Finally, we must understand one very enigmatic *halacha*. וגרים שאינן מכירין חייבין להכין לבם ולהקשיב אזנם לשמוע באימה ויראה וגילה ברעדה כיום שנתנה בו בסיני. אפילו חכמים גדולים שיוודעים כל התורה כולה חייבין לשמוע בכוונה גדולה יתרה. ומי שאינו יכול לשמוע מכיון לבו לקריאה זו שלא קבעה הכתוב אלא לחזק דת האמת ויראה עצמו כאילו עתה נצטווה בה ומפי הגבורה שומעה, שהמלך שליח הוא להשמיע דברי הקל?⁷

"Proselytes who are not yet acquainted with the Torah are required to prepare themselves in order to hear the reading with great fear and trepidation as (was present) on the day that the Torah was given at Sinai. Even great scholars who already know the entire Torah are required to listen with extreme concentration. One who is not able to hear should attend his heart to this reading since it was instituted solely to strengthen the true faith. And everyone should view himself as if he were being commanded by the Almighty at that moment, for the king (who does the reading) is (but) a messenger to read aloud the words of God."

C

Indeed, the solution to all our problems is found within this last *halacha*. *Hakbel is the reenactment of the experience of the revelation at Sinai*.⁸ Hence, the Rambam's equation of *Hakbel* with the revela-

7. *Ibid.*, 3:6.

8. In this connection it is interesting to note the parallel use of the imperative הקהל and the common goal of inspiring ה' יראת ה' in the assembly that gathered at the foot of Mount Sinai and in the temple for *Hakbel*.

יום אשר עמדת לפני ה' אלקיך בהרב כאמר ה' אלי הקהל לי את העם ואשמיעם את דברי אשר ילמדון ליראה אתי כל הימים אשר הם חיים על האדמה ואת בניהם ילמדון (Deut. 4:10).

קהל את העם האנשים והנשים והטף וגרך אשר בשעריך למען ישמעו ולמען ילמדו ויראו את ה' אלקיהם, ושמרו לעשות את כל דברי

tion at Sinai — כיום שנתנה בו בסיני — as if at the moment of *Hakbel*, God Himself commands the Children of Israel anew as He did once before at Sinai in an unparalleled act of Divine love. ויראה עצמו כאילו עתה נצטווה בה ומפי הגבורה שומעה.⁹

The choice of the temple site and the description of the king as a messenger conveying God's message to the people, can only be understood properly in the light of the equation of *Hakbel* with the revelation at Sinai.

At Sinai, God's Presence descended from the heavens, as it were, and dwelt, temporarily, on the mount.¹⁰ וישכון כבוד ה' על הר סיני. Later, throughout the peregrinations of the Children of Israel in the wastelands of the desert, and throughout the times of the judges in Canaan, the *Shechinah*, the Divine Presence, "resided" in the tabernacle. In the times of David and Solomon, the holy temple in Jerusalem became its final and absolute terrestrial abode.¹¹

As once the Children of Israel had gathered at the foot of a mountain upon whose summit the Divine Presence had descended,¹²

התורה הזאת. ובניכם אשר לא ידעו ישמעו ולמדו ליראה את ה' אלקיכם כל הימים אשר אתם חיים על האדמה אשר אתם עוברים את הירדן שמה לרשתה (Deut. 31:12-13).

The importance of both assemblies for the younger generation should also be noted.

9. The different phrases employed by the Rambam in his description of what *Hakbel* is like for the recent convert who is as yet unfamiliar with much of the Torah, and what it is like for one who has a basic acquaintance with Torah, should not be misleading. For both, *Hakbel* is a reenactment of the revelation at Sinai, a reenactment of the moment of Divine communication with man. In one sense, however, *Hakbel* necessarily differs from Sinai. Whereas before Sinai most of the Torah was unfamiliar to the Children of Israel, at the assembly of *Hakbel* (the first of which took place after the division and conquest of Israel, i.e., well after the revelation at Sinai) the nation was certainly acquainted with the Torah. In this respect *Hakbel* and Sinai are incommensurate. However, this is not true for a recent convert who is as yet unfamiliar with major portions of the Torah. For him what he will hear read at *Hakbel* will be as new to him as the revelation at Sinai was to the masses who had just emerged from Egypt. Thus the Rambam says: וגרים שאינן מכירין חייבין להכין לבם ולהקשיב אזנם לשמוע באימה ויראה עצמו כאילו עתה נצטווה בה ומפי הגבורה שומעה. For the rest, however, this is impossible, and the Rambam just says: (not לראות את ה' אלקיך בהרב כאמר ה' אלי הקהל לי את העם ואשמיעם את דברי אשר ילמדון ליראה אתי כל הימים אשר הם חיים על האדמה ואת בניהם ילמדון).

10. Ex. 24:16.

11. I Chron. 23:25. כי אמר דוד הניח ה' אלקי ישראל לעמו וישכון בירושלים עד לעולם.

12. Ex. 19:17; Deut. 4:1.

so for *Hakbel* they assembled on the temple mount, where the Divine Presence now resided.¹³ And as once before, they stood in fear and trembling before the awesome Presence,¹⁴ so at *Hakbel* they were commanded to stand *באימה וביראה וגילה ברעדה כיום שנתנה בו כמיני*. And as in days gone by, Moses, the messenger of God and their king,¹⁵ had been directed to speak to them in their fear of the awesome Presence,¹⁶ so at *Hakbel* it was the king as *God's messenger* who spoke to them. The Rambam did not stress the king's role in *Hakbel* as a messenger of God merely by chance; *the king at Hakbel must play the role that Moses did on Mount Sinai*.

D

According to the Ramban, there exists an independent *mitzvah* — the Ramban includes it as one of the *taryag mitzvot* — to remember and transmit the *experience* of the Sinaitic revelation.¹⁷ While *Hakbel* is not to be confused with the aforementioned *mitzvah*, its goals must be seen in the same light. A child who is too young to comprehend intellectually may be even more sensitive than grown-ups in his ability to apprehend emotionally. One must attempt to mentally recreate the scene of the multitudes of young and old that crowded the courtyard and the temple mount, and one must attempt to imaginatively reexperience their empathetic feeling of national and religious unity, pride, and awe, that derived from the intuition of their unique fate and destiny as a chosen people as physically manifested by their presence in the House of God at that assembly, in order to begin to understand the *halacha* of *Hakbel*. Such an experience could hardly fail to impress a child.

Our second question can also be resolved now. Since the goal of *Hakbel*, the strengthening of religious commitment, was to be accomplished by a religious (emotional) experience, one to whom

13. Cf. the Ramban's *Commentary on the Torah*, the introduction to *Teruma* for a more complete conceptual analysis of the *halachic* equation of the Tabernacle with Mt. Sinai. See also footnote 11. Cf. MT *Beit Haba'chira* 6:16.

14. Ex. 20:18; Deut. 5:20-24.

15. Moses was recognized *halachically* as a king and all the *halachic* privileges and obligations unique to that office applied to him. See MT *Beit Haba'chira* 6:11.

16. Ex. 30:19; Deut. 5:5.

17. *Commentary on the Torah* Deut. 4:9.

the Torah reading is inaudible can nonetheless fulfill this commandment by "attending his heart" to what is being said.¹⁸

When *Hakbel* is understood in this manner, (i.e. as a reenactment of *(מעמד סיני)*) it becomes absurd to question the need for a Torah reading. How could the reenactment of the revelation at Sinai take place without it?^{18*}

18*. This equation is *halachic*, not aggadic and it has ramifications in other areas of *halacha* as well. מצוה לייחד לספר תורה מקום ולכבדו ולהדרו. יותר מדאי. דברים שבלוחות הברית הן הן שבכל ספר ומספר. Our *sifrei Torah* for example, are kept in arks not as a matter of convenience, but because the tablets given to Moses on Sinai were kept in an ark. See MT *Sefer Torah* 10:10, 11.

18. The *Yerushalmi* in *Megillah* (4:1) and the *Bavli* in *Berachot* (22) indicate that the awe elicited at Sinai must be present at every communal reading of the Torah. In addition, the *Yerushalmi* uses the Sinaitic revelation as the paradigm for other *halachot* governing the reading of the Torah. Cf. MT *Hilchot Tefilla* 12:8 and the *Hagaot Maimoniot ad loc.* note 5.

However, the communal readings on weekdays, the Sabbath, festivals, and fast days, while somewhat structured to conform to the Sinaitic revelation, are basically *halachot* of *talmud torah*, not of inspiring and strengthening religious commitment, and thereby differ from the reading at *Hakbel*. Of course the element of inspiration is not entirely absent from the weekly and Sabbatical etc. readings, but this is not their primary goal. Certainly one unable to hear the reading on these occasions could not discharge his obligation by *כונת הלב*.

In one of his annual *Teshuva* addresses, Rav Joseph B. Soloveitchik mentioned parenthetically that the question of whether one is *halachically* bound to stand up for the reading of the Torah or whether one is permitted to remain seated revolves around this question. If the weekly and Sabbatical etc. readings are exclusively a matter of *talmud torah*, posture, so long as it is not disrespectful is irrelevant. One may sit if such a posture is more conducive to *talmud torah*. However, if this Torah reading involves an emotional reenactment of Sinai, then one is obligated to stand — as our own forefathers once did — *באימה ויראה וגילה ברעדה*.

It should be pointed out that although the *mitzvah* of *Hakbel* can be fulfilled on the part of the individual without hearing the Torah reading, one who does hear the Torah reading has an added *kiyum* of *talmud torah*. According to the *Yerushalmi Chagiga* 1:1 there would seem to be two distinct levels of obligation for fulfilling the *mitzvah* of *Hakbel*, namely, emotional and intellectual where possible, and emotional alone where intellectual involvement is impossible. The *Yerushalmi* states that the category of minors (*קטין*) rather than the category of deaf men (*חרש*) were included in the *mitzvah* of *Hakbel* because the former will eventually be "fit" (*ראוי*) to participate in *Hakbel* whereas the latter never will. If one who can hear and understand the reading at *Hakbel* is obligated to do so we understand the logic of the *Yerushalmi*. Minors immediately

E

Before we can understand the criteria that guided *Chazal* in their choice of the portions of Torah to be read at *Hakbel*, we must be aware of the *halachic* significance of the revelation at Sinai. *Halachically, the acceptance of the Torah was an act of conversion* (גרות) on the part of the Children of Israel. Indeed, the *Gemara*¹⁹ finds the sources for all the requisites for conversion (circumcision, immersion in a *mikvah*, and, where *halachically* possible, the offering of a sacrifice) in the Pentateuchal description of the preparation for the receiving of the Torah. Thus the Rambam writes:²⁰ בשלשה דברים נכנסו ישראל לברית: במילה, וטבילה וקרבת. מילה היתה במצרים וכו' וטבילה היתה במדבר קודם מתן תורה וכו' וקרבת וכו' וכן לדורות בשירצה עכו"ם ליכנס לברית וכו'.

Any convert must, of course, accept the Torah, just as the Jews did at Sinai. What interests us are those portions of the Torah with which he is initially acquainted, i.e. his intellectual introduction to Judaism.²¹ כיצד מקבלין גרי צדק? כשיבא אחד להתגייר מן העכו"ם וכו' אומרים לו מה ראית שבאת להתגייר? אי אתה יודע שישראל נזמן הזה דוויים ודחופים ומסוחפן ומטורפין ויסורים באים עליהם? In other words, the potential convert first is made aware of the unjust suffering and anguish inflicted upon us by an irrationally hateful world. If this knowledge of Jewish history fails to dissuade him and he remains firm in his desire to become a Jew, he is appraised of

become participants in *Hakbel* on an emotional level alone, since eventually they will become "fit" for participating on an intellectual level also. The Torah reading will become meaningful to them when they grow older, and eventually they will be able to fulfill the mitzvah of *talmud torah* at *Hakbel*. A deaf man however, will never be able to participate intellectually at *Hakbel* since his infirmity precludes the possibility of ever hearing what is read. Thus although *Hakbel* can be observed on an emotional level alone, this is true only where the immediate or eventual possibility of participating on an intellectual level also exists. The implications for those who would reduce Judaism to religious experiences intellectual discipline is obvious.

19. *Kritut* 9.

20. MT *Issurei Biab* 13:1-4. For an analysis of the exact role of circumcision in the *halachot* of conversion, and for a discussion of why the Egyptian circumcision sufficed at Sinai and no new *ברית דם* was required, see Rav Joseph B. Soloveitchik's *קול דודי דופק*, footnote 13.

21. MT *ibid.*, 14:1.

some of the *mitzvot*. Specifically, he is instructed concerning the belief in one God and the proscription of idol worship. This is taught in depth. On a more superficial level, he is taught a *potpourri* of *mitzvot* — מקצת מצות קלות ומקצת מצות חמורות — in order to acquaint him with the range of *halachic* obligation. Finally, the laws of *מעשר שני*, *פאה*, *שכחה*, *לקט*, followed by a description of the punishments and rewards for the violation and observance of all *mitzvot* are expounded.²²

Since *Hakbel* is an attempt to recreate that moment of communal conversion in Jewish history, *Chazal* chose for the reading at *Hakbel* those portions of the Torah which are most commensurate with those areas of *Halacha* with which a convert is initially acquainted. Let us now analyze the Torah reading at *Hakbel*.²³

The beginning of Deuteronomy till the end of *Shema*, and *V'haya im Shamo'a* correspond with the first three things a potential convert is taught. The first three chapters of Deuteronomy deal with the historical tragedy of the Jewish People. The fate of the desert generation is recorded. This is followed by the story of Edom's refusal to allow the Children of Israel to pass harmlessly through its territory, and the details of the wars with Sichon and Og. These last acts were precipitated by an irrational animosity towards the Jewish nation.²⁴

After this historical synopsis, beginning with chapter four, there are the admonitions against idol worship²⁵ within a larger context describing God's choice of the Jewish People and the revelation at Sinai. The *Shema* and *V'haya im Shamo'a* which follow²⁶ contain the *halachot* of the unity of God, the belief in Him, and the acceptance of His *mitzvot*.

All this corresponds to a convert's introduction to Judaism: an historical briefing is followed by the laws of the belief in, and worship of, the One God, and the proscription of idol worship.

As the convert next learns the laws of *מעשר שני* and is given

22. *Ibid.*, 2-5.

23. See footnote 6.

24. A real convert is briefed on the more up-to-date aspects of this problem.

25. Deut. 4:15-19, 23, 25-28; 5:7-9.

26. *Ibid.*, 6:4-9; 11:13-21.

a brief survey of major areas of *halachic* concern, *Chazal* required that the next portion to be read at *Hakbel* begin from עשר תעשר — the laws of מעשר שני — and continue through what is probably the richest area of the Torah in terms of its *halachic* scope.²⁷ This reading continues until the end of the ברכות וקללות,²⁸ wherein is described the rewards and punishments for the upkeep or violation of the Torah — exactly those things made known to a convert and in exactly the same order.

II

A

That *Hakbel* is *halachically* linked with *Shemittah*, the Sabbatical year, is a גזירת הכתוב, a divine decree.²⁹ Rav Joseph B. Soloveitchik has often stressed in his *sheurim* that, while we cannot question “why” God so willed a given *mitzvah*, we may — nay, we must — analyze “what” the Divine decree means. To ask therefore why *Hakbel* is not an annual affair and applies only once every seven years; or why *Hakbel* is linked up with *Succot* and not, say, *Shavuos* is invalid. To ask what is the significance of these *halachic* relationships, is both valid, and, viewed from the perspective from which we now view *Hakbel*, meaningful.

Our first reaction, however, is that no conceptual relationship does exist. After all, what has a reenactment of Sinai got to do with the Sabbatical year? (Tongue in cheek we might phrase the question: (מה ענין הר סיני אצל שמיטה.) But whatever our initial reaction, a more critical analysis leads us to the discovery that the underlying themes of *Hakbel* and *Shemittah* are deeply intertwined, and that the observance of the Sabbatical year renders the setting for a reenactment of Sinai more complete.

27. *Ibid.*, 14:22 — 28:69.

28. This section begins with Deut. 28.

29. As a matter of fact, *Hakbel* takes place on the *Succot* following the *Shemittah* year, i.e. in the eighth year. However, the Torah explicitly relates *Hakbel* to the *Shemittah*: ויצו משה אותם לאמר מקץ שבע שנים כמועד שנת השמיטה וכו'. The reason, as will be explained anon, is that the two are conceptually related.

B

The nation that had been delivered from Egypt had voluntarily suspended logical and practical considerations on the basis of their faith in God's providence. They were aware of the treachery of the desert when they followed Moses into the parched, sand-swept wasteland. Surely they did not expect their meager supply of *matzot* to last for the entire journey. They lived by faith, and consequently, by miracles: manna, and rocks that gushed water.

There were times when the irrationality of their existence overwhelmed them. Their faith was momentarily shaken, they panicked, and they demanded immediate and tangible assurances of God's continuing providence.³⁰ This is quite understandable. It never has been easy to persuade man to relinquish tangible assurances for intangible ones. The greatness of the desert generation was that for the most part their faith was so complete that it permitted them to defy so many logical considerations. From a practical viewpoint their attitude was foolish and clearly irresponsible.

Observance of the *Shemittah* year presented the same type of practical problem and demanded the identical impractical faith solution. To the obvious question of what sustenance there would be for the nation if agricultural activities were ceased during the *Shemittah* year, the Torah answered that the crops harvested during the sixth year would suffice until the ninth year when the next crop would be gathered in. וכי תאמרו מה נאכל בשנה השביעית הן לא נזרע ולא נאסף את תבואתנו. וצוית את ברכתי לכם בשנה הששית ועשת את התבואה לשלוש השנים.³¹

From a utilitarian perspective however, it is neither logical nor prudent to rely upon a single — even if abundant — crop for a three year period. Only trust in God, the exchange of human “tangible” assurances for “intangible” divine assurances can explain the observance of *Shemittah*. Only a nation whose faith permits it to dwell in the uninhabitable desert or observe a *Shemittah* is worthy of receiving the Torah. What makes *Succot* especially appropriate

30. Ex. 17:1-7, note especially verse 7; Psalms 78:12-22, note especially verses 18-22. See also Deut. 6:16.

31. Lev. 25:20, 21.

for the *Hakbel* setting is that it highlights the nation's voluntary choice of utter dependence on, and trust in, God. Every year *Succot* is celebrated as the festival of the harvest, חג האסיף. But not the *Succot* of *Hakbel*. In stark contrast to all preceding and succeeding *Succot* celebrations, on the *Succot* following the *Shemittah* year, the *Succot* of *Hakbel*, there will be no crops harvested anywhere in the land of Israel.

Just as centuries before, their desert ancestors suspended their own efforts and placed their trust in God, so have the descendants of that generation who now stand assembled at *Hakbel*. Having manifested their faith in God and their submission to His will in advance by their observance of *Shemittah*, they are ready to receive the Torah. נעשה ונשמע



... AND SCIENCE

I wish to thank Rav Aharon Lichtenstein for directing my attention to the *Yerushalmi Chagiga* 1:1 mentioned in footnote 3 and to the *Yerushalmi Megillab* 4:1 and *Bavli Berachot* 22 mentioned in footnote 18.

Halachic and scientific categories of classification do not always coincide. Nor need they. Analogous to a mathematical system, the *halachic* system is an independent, self-contained, and rigorously logical system. To substitute the categories of one discipline for those of another because colloquially the terms describing them are identified, is clearly fallacious. Rabbi Dr. Moses Tendler, a *Rosh Yeshiva* in the *Semicha* program, and the head of Yeshiva's biology department, illustrates this point through his discussion of the coincidence and divergence of the *halachic* and scientific classifications of *kaskeset* vs. scales, and *chametz* vs. fermentation.

HALACHIC AND SCIENTIFIC CATEGORIES: THE NEED FOR CLARIFICATION

The survival of a culture is dependent on the success of its transmittal mechanisms. The errorless transmission of the truths of one generation to the succeeding generation is the only guarantee of immortality. Language can serve as a tool for the transmission of these truths only if there are universally accepted definitions — axioms of word usage. If the definition of words becomes blurred, if inaccuracies confuse the accurate intent of the written and spoken word, language grows silent, and the cultural heritage of a generation remains without heirs.

In our Torah culture, the success of this errorless transmission can be measured directly by the rise and fall of Torah scholarship and observance, and indirectly by the rise and fall of those values that are identified with a civilized society. When God gave Israel its cultural heritage, its code of personal and social conduct, there was an intrinsic guarantee that the axiomatic truth contained therein would not be subject to dispute. This guarantee was the Oral Law (*Torah she'bal Peh*). The Written Law was given as a sealed book,

with the keys to unlock the secrets contained therein, entrusted to the teachers of Torah in each generation. It was the prime responsibility of these teachers to assure the accuracy of transmission by carefully selecting their students and extracting as their tuition fee, endless hours of devoted study and total intellectual preoccupation with the task of Torah mastery.

The Torah society is in greatest need of such guaranty. Unlike other theological systems, the Torah system is man oriented. The boast of the Torah world is, "*Lo bashamayim he*" — the Torah is not in heaven. It was given to man when God descended on Mount Sinai and transmitted to Moses, concept by concept, word by word, letter by letter, the Written and Oral Law that governs the daily life of the Jew, and to a lesser extent all humanity. The Divine finger drew rigid, inviolable boundary lines outlining areas of acceptable conduct. Within these areas the Jew was permitted or rather ordered, to apply his spark of Divine Intelligence to interpret and question, compare and discriminate, so as to apply the inviolable Torah principles to human experiences yet unborn. How fraught with danger is this rigidly circumscribed freedom! How much easier would it be if we were denied this freedom of intellectual endeavor and instead directed our emotional and spiritual energies to the mastery of a system of ethics based on thousands of catechisms to be learned by rote! But this is not the way of Torah! Instead the Jew begins his Torah-directed day with a blessing of praise and thanksgiving to God "who has given us His Torah." We recognize and gratefully accept the awesome responsibility of taking possession of His Torah and subjecting it to our intellectual frailties.

When our nation suffered extended periods of declining Torah scholarship and the Oral Law was committed to the written and printed pages of the Talmud, lest it be forgotten, the Torah was confronted with the most serious threat to its survival. The *rebbe-talmid* relationship that guaranteed errorless transmission could now be eroded. Through ignorance or willful design, the truths of the Torah could now be perverted by falsifying the printed page or misunderstanding the true meaning of a Talmudic dictum. The rejection by King Jannai of the indispensable role of the Sages because "the Torah rests in the corner cabinet, whoever wants to

study it may do so" was tantamount to a rejection of the faith of Israel. This rejection of the authority of the Sages, the guardians of the Oral Law and with it the Written Law, serves as the fundamental orientation of the Conservative and Reform deviants from Torah Judaism to this day. Indeed with most of the secularist students of Torah literature dependent on a translator for their information, error and misconception becomes the rule rather than the exception.

When *limud hatorah* was supplanted by three college credits in medieval Jewish Law or two credits of Ancient Customs of Israel, a new era of confusion began, an era without axioms or without rigorous definitions. This era was ushered in when the chain of Torah transmission was allowed to weaken until its carefully fashioned links became disjointed. When these links were rejoined by those unfamiliar with the original chain, the newly fashioned chain failed to connect the Jewish people with their past heritage and future destiny. It served only to anchor them to the present. Situation ethics replaced ultimate truths and mortality replaced immortality as scientific categories were incorrectly interchanged with halachic classifications. A current example of this confusion is the decision of the Rabbinical Assembly (Conservative) to permit their adherents to eat sturgeon and swordfish. This decision was offered not as an abrogation of Torah dietary laws but in consonance with their interpretation of these laws. A detailed analysis of the halachic status of swordfish will serve the dual function of reaffirming the accuracy of the traditions of Israel and also of demonstrating the unhappy resultant of a confusion of secular scientific terminology with the technical language of the Torah.

I

"These you may eat of the fishes, all that have fins and scales." — *Leviticus* XI:9-12.

Rashi defines the Biblical term "scale" (*kakeset*), in accord with *Nida* 51b, and *Chulin* 59a and 61b, as an outer layer (shell or peel) set in the skin of the fish resembling the armor (coat of mail) worn by Goliath when he fought with David. (Viz., Targum — "*Kalvin*.") The *Tosefot* commentary emphasizes that the exact defini-

tion of the term *kaskeset* was handed down in errorless transmission as it was given to Moses on Mount Sinai.

The Ramban's definition of the term *kaskeset* has served as the primary source for all the leading Torah scholars whose rulings have determined Torah law and custom. The following is a free translation of the halachic definition of that type of scale which serves to identify the fish as a kosher variety:

"Do not think that the term 'scale' refers to those structures that are set into the skin and actually affixed to it. Rather it refers to a type of structure like the nail of man which can be removed from the skin of the fish by hand or with a knife. But if it be affixed to the skin and not separated therefrom at all [i.e., no free margins], then the bearer of these 'scales' may not be eaten. This is the intent of the Talmud in referring to the scales as an 'outer garment' that can be peeled off as one peels a fruit or removes bark from a tree. It resembles the overlapping scales of armor designed to guard the gaps in the armor plate lest a thin arrow get through."

The *Schulchan Aruch* (Rama) records this definition as halachically binding, and no halachic authority has ever disputed this definition. The biological term "scale" includes such skin structures as occur on the tail of the rat. Removeability is not a prerequisite.

With this definition in mind, it must be obvious that the biological term "scale" is not the same as the Torah's definition of *kaskeset*. Ichthyologists recognize four types of fish scale. The *ganoid* scale found on the sturgeon, or the *placoid* scale of the shark are specifically excluded from the Biblical term *kaskeset* since they are not "removable" scales. Indeed, the educated layman would not see any similarity between the heavy bony plates of the sturgeon or the needle-like projections on the shark skin and the classic kosher scale of the whitefish or carp.

During the last few decades, sturgeon was sporadically classified as a kosher fish by some who were ignorant of either the halachic or the scientific facts. Despite the absence of any "scales" that could be seen and removed; despite the confluence of so many auxiliary signs considered by Talmudic authorities to be typical of non-kosher fishes such as a ventral mouth, black roe, a heterocerclic tail (divided into unequal halves), many Jews had been misled into violation of a

Biblical ordinance. Contributing to the confusion was Fisheries leaflet (No. 531) of the United States Department of the Interior, prepared by I. Ginsburg, Systematic Zoologist on the staff of the Fish and Wildlife Service. This leaflet was issued in response to many inquiries "whether certain fishes are kosher." Despite the author's lack of halachic qualifications, and despite many inclusions that clearly mark this leaflet as a biological treatise unrelated to the requirements of Torah law, this leaflet has once again appeared to mislead and misdirect Jews eager to observe Torah law. It serves as the main proof cited by the Conservative clergy for the kashrus of swordfish. In their 1966 *Proceedings*, they cite the following four points:

a) the *Talmudical Encyclopedia*, which notes in the caption under the drawing of a swordfish that it has "scales as a juvenile but not when mature." No decision is rendered in that article on the halachic status of the swordfish. Instead the caption refers the reader to the text material in which the swordfish ("akaspatis") is listed among those fishes who lose their scales upon capture. Any unbiased reader would have concluded that the "swordfish" of this article is not our *Xiphias* species.

b) A citation from the *Darkai Teshuva* (quoting the *Kneset Hagedola*) that it is customary to eat the "fish with the sword" because although it appears to have no scales, it sheds its scales while battling to resist capture.

c) A reference to an article published in *Hapardes* that proposes swordfish to be a kosher fish.

d) A statement by a Dr. Ganz that Dr. Bruce B. Collett of the United States Department of the Interior is a competent ichthyologist. This is preparatory to a statement that Dr. Collett confirms the competence of Isaac Ginsburg who issued the government leaflet. A literature citation from *Nakamura et al.* 1951 that swordfish have scales as juveniles completes the "halachic" treatise.

Now the facts — halachic and scientific:

a) Not one of these references cited refers to the removability of the scales — an absolute requirement for a kosher scale.

b) The fishery leaflet lists *eels*, *catfish*, and *sharks* as fish that have scales and therefore are kosher — as "kosher" as swordfish. The *Talmudical Encyclopedia* lists these unequivocally as *not* kosher.

Clearly the scale of Ginsburg is *not* the scale of Leviticus! The *Talmudical Encyclopedia* does *not* list the swordfish as kosher. The kosher fishes are so captioned and they include tuna, bonito, mackerel, sardines, hake, carp, and sunfish.

c) Even Ginsburg clearly sounds a warning with regard to swordfish. "Swordfish during early juvenile stage of life have scales that are markedly specialized and rather unique. They are in the form of *bony tubercules* or expanded compressed platelike bodies. These scales are rough, having spinous projections at the surface and they do not overlap one another as scales in most other fishes do. With growth the scales disappear and the larger fish *including those sold in the market have no scales.*"

Yet they cite the *Darkai Teshuva* who clearly refers to a fish possessing scales as an adult. The citation, which they quote only in part, concludes (free translation): "A government official questioned my teacher as to the kashrut of the 'fish-with-the-sword' since it has no scales. My teacher therefore took a black cloth, placed it in the net, and proved that the fish does shed its scales, confirming the truth and accuracy of our Torah laws." All ichthyologists deny that the swordfish has scales as an adult.

d) Nakamura (p. 269) claims that in the 454 mm. size (20 inches) scales are already degenerate. They appear clearly as "bony plates" only on specimens up to a size of 8 inches — hardly the ferocious fish of the *Darkai Teshuva* citation. Surely the swordfish of America is not the fish referred to in the *Kneset Hagedola!*

e) Rav Z. Waltner, *Rosh Yeshiva* of the Ets Haim Yeshiva in Tangiers, in a personal correspondence writes that the swordfish is commonly sold in his area. When he arrived 16 years ago, he determined that the great rabbinic authorities of the Sephardic world such as the author of *Vayomer Yitzchak*, as well as the famous Rav Itzel of Ponovitz, identified this fish as non-kosher. However, several families ate this fish claiming that they have been taught that the swordfish "sheds its scales during its anger." Rav Waltner asserts, "I investigated the matter with the fishermen who unanimously agreed that they never found any scales on the fish, net, or its immediate vicinity."

f) Dr. G. Testa of the Institute for Marine Science in Monaco — a world renowned marine biologist — writes:

"L'Espadon... ne possede pas d'ecaille. La peau est lisse chez les adultes, mais chez les jeunes elle est couvert de petites tubercules." (Translation:) "The swordfish does not have scales. The skin of the adult is smooth but the juvenile forms are covered with small tubercules." The term "tubercules" is used to indicate a variation in skin texture as contrasted with a true scale.

g) Dr. James W. Atz of the Museum of Natural History in New York clarified the literature reference for me in an interview on April 5, 1968. I quote from our conversation: "The scale of the swordfish is so atypical that it cannot be considered as the usual scale." It is not a true scale but a "spiny process."

h) F. R. LaMonte, curator emeritus, Department of Ichthyology of the American Museum of Natural History, reported in 1958 on the "eeced" scales of the swordfish to which Arata (1954) and Nakamura (1951) make reference, and which serves as the basis of Dr. Bruce Collette's statement that swordfish have scales. (Bulletin, American Museum of Natural History, Vol. 114, Article 5, page 391, 1958):

"They resemble in general, the placoid scale originating in the dermis (under the skin not on top of it) with its spine eventually breaking through the epidermis." [The placoid scale is found on the shark]

i) There is a *teshuva* from a recognized *halachic* authority (*Shemesh Tzedaka Yoreh Deah*: 14) concerning spinous scales; "that which appears as scales are not true scales for they resemble nails and are but stiff dermal projections... the fish is therefore *not* kosher.

j) The reference to the *Hapardes* journal ignored my own point-point rebuttal of this article in the following issue as well as other rebuttals that were subsequently published.

k) Since Dr. Collette's opinion is the mainstay of the pseudo-halachic responsum of the Rabbinical Assembly, I wrote to Dr. Collette on April 1, 1968 to evoke from him a clear statement con-

cerning the nature of this swordfish scale. The question I posed read as follows:

"Does the scale of the juvenile swordfish resemble the scale of the whitefish or carp with respect to its relatively loose attachment to the underlying integument?"

I received the following response dated April 15:

"Specifically the scales of the juvenile swordfish *do not* resemble the scale of whitefish or carp in respect to their loose attachment to the skin. However they are certainly homologous to scales of other fishes." (The term homologous is defined as "showing a similarity of structure, embryonic development and relationship." The hand of man and the wing of the bat are homologous structures.)

This recent clarification by Dr. Collette should be recognized even by the author of the spurious "*beter*" as a total refutation of the scientific basis for their conclusions.

The Talmud lists but two exceptions to the absolute requirements of having visible scales:

- a) fish that shed their scales when netted, like the mackerel.
- b) fish that have scales developing later in the life cycle; consequently the juvenile forms that lack scales may be eaten since they do have scales at maturity.

But no place in the Talmud or the responsa literature is there any reference to such a deviant: a fish that has scales as a juvenile but not as an adult. Yet the Conservative clergy must be aware of Talmudical references to some form of swordfish since it is mentioned in the *Encyclopedia* articles that they cite as a basis for their "*beter*." If the swordfish of the Talmud had "juvenile scales," the Talmud would have surely recorded this fact.

I discussed the above presented facts with my great teachers, Rav Moshe Feinstein, שליט"א, and Rav Yosef Dov Soloveitchik, שליט"א, and they concur with my decision that on the basis of the evidence presented, the swordfish (*Xiphias Gladius*) is a non-kosher fish.

II

A second example of the need for careful analysis of the fundamental differences between the halachic and scientific definition of a specific term, is *chametz*. This analysis is, so far, free of the sociological implications of the swordfish discussion. It is also of special interest in that the halachic considerations rely heavily on the scientific facts and therefore predispose the student to assume that there is identity in the halachic term *chametz* and its scientific counterpart, fermentation.

An understanding of fermentation or yeast physiology adds clarity to laws which define *chametz*. Fermentation is an anaerobic (without oxygen) process in which a fermentable substance, usually a sugar, is split by microbial enzymes to give the live yeast cell energy for its growth processes. An end product of yeast fermentation is a gas, often a mixture of carbon dioxide and hydrogen, and an intermediate substance such as alcohol. This process is accelerated by a rise in environmental temperature. The fermentation process will proceed twice as fast at 85°F as at 65°F. Alteration of the nutritional environment will also affect the rate of fermentation. The addition of fruit sugars, which are readily utilizable, or fermentable carbohydrates, or the addition of mineral elements such as those found in crude salt, will greatly accelerate the fermentation process as measured by increase in the yeast cell population a rate of production of gas and alcohol.

This cursory glance at the variables in yeast fermentation helps us understand the *halachot* designed to prevent a flour dough from becoming *chametz*. The batter volume must be small enough so that the kneading process can keep the entire batter constantly agitated. The kneading process must not be interrupted for this is a major preventative to *chimutz*. The continuous addition of air to the batter prevents the establishment of anaerobic conditions.

The room must be, as much as possible, at low temperature.

Direct sunlight or close proximity to the baking oven is to be avoided during the kneading process. Salt, with its contaminating mineral elements must not be added to the batter which consists solely of grain flour and water which was cooled by overnight evaporation.

The concurrence of these halachic determinants of the *chimutz*

process with the variables of yeast fermentation has added to the confusion of the science major who becomes aware of significant discrepancies between the *halachot* of *chametz* and the facts of fermentation. The following exposition of the scientific basis of *hilchot chametz* should be viewed as the author's personal frame of reference. It is subject to the obvious potential of human error. It is fraught with all the dangers inherent in *taamei hamitzvot* the necessary attempt of the human mind to understand the commandments of *Hashem* as an aid to their observance, not as a prerequisite to such observance.

There are two *halachot* that do not equate with scientific fact. The first, an axiom of *hilchot chametz* about which there is no controversy, concerns the immunity of a baked product to subsequent *chimutz*. The near universal use of matzo meal as a substitute for flour during Pesach attests to this confidence in its *halachic* "non-fermentability." In fact, however the yeast cell can grow as well or indeed much better in pre-heated or pre-baked flour than in native, undenatured grain meal.

The second *halacha* concerns the talmudic dictum "fruit juices do not cause the grain to become *chametz*." All authorities agree that a batter in which the water was totally replaced with fruit juices, cannot become true *chametz*. This is completely at variance with the well established principle of adding fruit sugars to accelerate the fermentation process.

A further complication in our understanding of the influence of fruit juice on the *chametz* process is the controversy between Rashi and Tosefot. Rashi interprets the fruit juice exemption as applying to true *chametz*. In the absence of water, an intermediary staple of *chametz*, *chametz nükshe*, is attained at an accelerated rate. It is because of Rashi's interpretation that egg matzo, a cider substituted batter, is prohibited to all but the sick and elderly on Passover. The opinion of Tosefot is that pure, undiluted fruit juices do not support any *chametz* process at all. If there be added a quantity of water (fruit juice comprising more than 50%) to this batter, the *chametz nükshe* state is then rapidly achieved. According to Rashi, the addition of any quantity of water would accelerate the attainment of the full *chametz* state. Why is fruit juice a stimulator of fermentation but

an inhibitor of *chametz*? Is there any insight that can be provided in the seemingly arbitrary controversy between Rashi and Tosefot?

Chametz has its own technical definition, not shared by fermentation chemistry. Only five grain genera; wheat, barley, oats, rye and spelt, can become *chametz*. The fermentation process that can readily be initiated in rice, millet, beans, peas, potatoes and beets, does not result in *chametz*. Our sages prohibited by rabbinic ordinance, the use of rice, millet, beans and peas as if they were indeed *chametz* varieties, lest the laity aware only of the superficial similarities of these "bean products" with meal of the five grains, confuse the prohibited with the permitted. Although our Talmud Bavli, records tanaitic opinion that would extend the true *chametz* categories to rice and millet this is to be understood as a dispute concerning the species concept in halacha. (This controversy as recorded in the Talmud Yerushalmi is also subject to an alternate interpretation.) Varieties and sub-varieties of species exist in nature. Lininaeus did not evaluate the halachic status of a species when he proposed his taxonomus scheme of plant classification. Mutations and hybridizations result in botanical specimens whose relationship to parent species is indeed problematic. Rabbi Yochanan proposed that rice and millet be considered in fact as varieties of the five grains about which there was errorless transmission; and their *chametz* status, *halacha l'Moshe m'Sinai*. No one suggested however that potato flour be considered as subject to true *chametz* laws, despite its fermentability. No one questioned the obvious fact that the potato plant cannot be considered a subspecies of any of the five grains. Hence the nature of the fermentation process to which it may be subjected is of no halachic concern.

Unlike fermentation, *chametz* is not concerned with yeast cell multiplication. The yeast cell itself, not being one of the five grain varieties, is not *chametz*. If nurtured on a non-*chametz* nutrient medium, the yeast cells may be eaten at the Seder table. *Chametz* results when the yeast cells attack the natural grain and produce sufficient change to be detectable to the experienced baker. The change must occur in the grain substance: the starch, sugars, or proteins that are contained in the grain seed cells. Naturally, a larger population of yeast cells will more rapidly produce such changes. But

the *chametz* process is not identified with increasing yeast population but with the effects produced by this population on the grain substance.

When fruit juices replace the water content of the batter, the *chametz* process is inhibited while fermentation is accelerated. The yeast cells, provided with the readily available fruit sugars, multiply more rapidly, produce more gas, and accelerate the rising of the dough. They preferentially utilize the fruit juice nutrients, not the wheat flour nutrients. One can propose a "sparing effect," a well known phenomenon in microbial nutrition, in which the wheat flour is not utilized at all as long as the preferred energy source, the fruit sugars, are available. By the time the fruit juice nutrients are completely consumed by the yeast cells, the batter contains a massive population of yeast cells, whose metabolic waste products inhibit all further yeast cell activity. This is in accord with the Talmudic dictum "fruit juices do not permit [spare] the grain to become chametz." If however, diluted fruit juice be used, the *chametz* process as well as the fermentation process may be accelerated. The availability of the small quantity of fruit sugar will stimulate yeast multiplication. Once these sugars have been utilized, the greatly increased yeast cell population will avidly attack the wheat flour nutrients. The extent to which they persist in this attack before the natural accumulation of metabolic waste products interrupts their physiological activities, is the basis of the dispute between Rashi and Tosefot.

When the grain is subjected to the denaturation effect of heat, the resultant denatured flour can no longer become *chametz*. This may be explained in one of two ways. Firstly, the axiomatic (*halachic*) definition of *chametz* limits the process to the activity of yeast cells on native, undenatured grain products. Once denatured, fermentation can indeed take place but not *chametz*. Secondly, the heat of the baking or cooking process hydrolyzes the starch grain to dextrins and sugars. The ensuing yeast cell activity is, as in the case of the fruit juice addition, preferentially restricted to these starch breakdown products. The basic grain substrate which has the potential for becoming *chametz* is thus "spared" in accord with the previously described phenomenon of microbial nutrition.

* * *

Ignorance of science, the study of how God (*Elokim*) reveals Himself in the laws of nature, must interfere with our understanding of God (*Hashem*), in His relationships with man. But confusion of the two; the equating of the natural law of the Jew, his Torah, with the natural laws that govern the biotic world is even more detrimental to the truth seeking process. For the Jew, the success of this search depends on accurate definitions of halachic terms — definitions revealed to Moses on Mount Sinai during the dialogue of *פה אל פה אדבר* כו.

SECULAR LITERATURE CITED

1. Arata, George F., 1954 — "A contribution to the life history of the swordfish *Xiphias gladius* Linnaeus." Bulletin of Marine Science of the Gulf & Caribbean, Vol. 4, No. 3, pp. 183-243.
2. Ginsburg, Isaac, 1961 — "Food fishes with fins and scales." Fishery leaflet No. 531, U. S. Dept. of Interior, Fish & Wildlife Service, Bureau of Commercial Fisheries, Wash., D. C.
3. LaMonte, F. R. et al., 1958 — "On the Biology of the Atlantic Marlins, Makaira Ampla (Poey) and Makaira Albida (Poey). Bulletin of the American Museum of Natural History, Vol. 114, Art. 5, pp. 377-415.
See also:
4. LaMonte, F. R. and Marcy, 1941 — "Ichthyological Contributions." Int. Game Fish Assoc., Vol. 1, No. 2.
Miss LaMonte also reports on a new type of scale, found on some specimens which she calls a "glassy scale." In a lengthy phone conversation with Dr. LaMonte on April 9, 1968, I was unable to clarify the exact nature of this scale (unreported by any other investigator). Dr. LaMonte asserted that, "It does not resemble any other known scale and therefore cannot be classified as one of the four scale types."
5. Nakamura et al., 1951 — "Notes on the life-history of the swordfish *Xiphias gladius* Linnaeus." Japanese Journal of Ichthyology, Vol. 1, No. 4, pp. 264-271.



• Isidore Halberstam

Many *Rishonim* gained great insight into the Torah by utilizing the insights of contemporary scientific and philosophical thought. Isidore Halberstam, a third year *Semicha* student (who hopes to be a meteorologist in Israel), proposes that this approach be more fully developed and used by institutions of Torah and secular education. As one of a number of concrete examples, an interesting illustration of how modern physical theory can illuminate the problem of *הכל צפוי והרשות נתנה* — of God's omniscience in the face of man's free will, is cited.

WHEN IS GOD?

In our generation science seems to have an overpowering influence among Jewish youth. To neutralize its effect programs of synthesis should be instituted. The interpretation of synthesis at Yeshiva University (wrongly) requires involving each student in the conflict between religious and secular studies without any attempt at compromising or harmonizing opposing theories and beliefs. This problem is particularly acute when science and religion confront each other.

The conflicts of science and religion confront us on two distinct levels, the philosophical and the educational. Recently published articles by religious scientists deal with the problem on its philosophical level. A typical article has 3 steps: (1) the scientific principle and that aspect of religion with which it disagrees are stated; (2) the conflict is ultimately reduced to mutually exclusive premises or assumptions; (3) the conflict is resolved by (the religious scientist's) accepting the validity of the assumptions of religion and not accepting the contrary assumption of said scientific fact. In effect this boils down to an *a priori* belief in the absolute correctness of religion in any of its disagreements with science. The skeptic of course remains unconvinced.

Religious scientists then justify their status as scientists by pointing out that no one need deny God's existence while engaging in scientific work (or cease performing *mitzvot* because of it). Scientists must only report their results *as if* there were no Divinity to interfere with scientific law. For example: judging from the evidence before us, the world must be some eight billion years old — were there no act of divine creation which, in fact, accomplished in less time what nature takes many years to do. While all this is correct and valid on a philosophical level, educationally it is of no value. What good is it to acknowledge the *fact* of the existence of God in a universe that could just as easily be described *without* acknowledging His presence? The religious student believes in God in some courses and forgets about Him — at best — or denies Him — at worst — in others.

In educational institutions where individual students are left on their own to explore the scientific and religious worlds, many are troubled with doubts and anxiety.

If, after being exposed to the conflicts of science and religion, a student opts for his religion, Judaism has gained an adherent with unshakeable faith, experienced and victorious in battle. If he does not opt for his ancestral faith, a Jewish soul has been lost. Surely the slightest possibility of this occurring should motivate us to re-evaluate our religious thought in the light of scientific discovery so as to have science strengthen religion wherever possible. (While, as has been pointed out, this support is *philosophically* irrelevant to the *facts* of religion, e.g. the *fact* of God's existence, His role as Creator, revelation etc. . . . , *educationally* this approach is valuable.)

As an example of how this "new" form of synthesis can be used, let us review an old sore spot in the relationship between science and religion, namely the problem of a timeless and spaceless God's relationship to a time and space limited universe. In our Torah, we find two cases where angels worry about time while carrying out their divine tasks. The first is found in the description of the destruction of Sodom. There the angels hastened Lot and his family to leave as dawn approached. Why should angels be concerned over a few seconds of daybreak at a particular longitude when executing the will of an eternal God? Why is God unwilling to let Lot save

more of his possessions before destroying Sodom? Does He have a schedule with only a few seconds to spare before He takes on another task? The same questions can be asked concerning the struggle between Yaakov and his angel opponent. The latter begged to be allowed to leave at the rising of the morning star. Why this concern with meaningless seconds where time itself should have no meaning? Another age-old puzzle concerning time is the necessary paradox of *הכל צפוי והרשות נתונה*; all things are foreseen while the individual has free choice. The Rambam mentions this problem at the end of the fifth chapter in *הלכות תשובה*, and is strongly criticized by the *ראב"ד* for having mentioned the problem altogether. The *ראב"ד*, attempts a solution which is unsatisfactory to him (by his own admission) as well as to his readers.¹

* * * *

In science, time is regarded as a separate dimension. It is a basic constituent in describing the universe, just as length and mass are elementary quantities. Motion, on the other hand, is not an elementary quantity, but is derived as a ratio of the two dimensions length and time. Recent scientific inquiry has theorized the relativity of mass, length, and time to the frame in which they are measured. A body travelling at great speeds will seem smaller than if it were at rest. Time will also seem to slow down for a moving system. This means that a process which takes 2 seconds in a stationary system may take 3 seconds in a moving system. What adds to the incredibility of this set-up is that there is no absolute stationary frame in the universe. Thus if frame B is moving relative to frame A, people in frame A should measure time as slower in frame B, while people in frame B will measure time as slower in frame A because frame A seems to be moving relative to frame B. Clearly any being that transcends all frame of reference will be immune and apart from all time. The mathematical description of these phenomena also bear out God's aloofness from time. The denominator which describes the contraction of mass, length, and time is a square root given by

1. רמב"ם, ספר המדע, הלכות תשובה פ"ה הלכה ה'.

$1 - \frac{V^2}{C^2}$ where V is the velocity of the moving object and C is the speed of light. If V exceeds C, the value of the square root becomes imaginary because there is no real root of a negative number. Since God is Omnipresent, His frame of reference in mathematical terms, if one attempts to depict it in mathematical terms (i.e. כביכול), must be described as having infinite velocity.² This would mean that the square root will become equal to infinity times the imaginary unit *i*. This would thwart any attempt to assign any length, mass, or time to God. He is beyond our three or four dimensions with greater contrast than our transcendence over the first and second dimensions. He exists in all times just as we exist in an infinity of two-dimensional planes. His ineffable name has come to stand for *היה, הוה, ויהיה* (past, present and future existence) not separately but simultaneously, existing in what to us seems to be past, present, and future. Our time-locked minds cannot conceive of God's existence above time, just as a two-dimensional being could never conceive of a sphere, but we may speak of it and try to describe some of its characteristics.

Can there be any problem now of *הכל צפוי והרשות נתונה*? We can easily have *בחירה חפשית* while God knows of our every action since our action and God's knowledge are not disjoint time-separated occurrences. There is no past, present, or future for God and thus there is no knowledge *before* and action *afterwards*. These terms, in fact, can have no meaning beyond the fourth dimension, although such a situation is impossible for us to comprehend. Perhaps this is what the Rambam partially alluded to when giving his answer in *ספר המדע*:

וכיון שכן הוא אין בנו כח לידע היאך ידע הקב"ה כל הברואים והמעשים אבל נדע בלא ספק שמעשה האדם ביד האדם ואין הקב"ה מושכו ולא גוזר עליו לעשות כך. ולא מפני קבלת הדת בלבד נידע דבר זה אלא בראיות ברורות מדברי חכמה.

2. Obviously anything which can be in more than one place at the same time must have infinite velocity. This can be seen by noting that to cover distance in a short period of time requires great velocity, the shorter the time the greater the velocity. If we demand that the time required to span the distance be zero, the velocity will become infinite.

The רמב"ם's criticism is unwarranted. The Rambam was not shirking the question but answering in the simplest way he knew. The fact that we are unable to comprehend God's ability to know all things because He exists in a universe beyond time and space allows man to have free will in spite of God's knowledge.

If we accept science's definition of time in order to solve the problem of free will, we run into difficulty when trying to understand the haste of the angels. If time is truly meaningless for heavenly beings, what was the rush? Seconds, hours, and years have no meaning for God. We must reject the commentary that Yaakov's angel had to return to sing praises before God at a set time on a literal level, and explain the angels' actions with regard to man and his future. It is not God's concern for time that spurs the angels to hasten, but His concern for justice that makes seconds important. Any occurrence, no matter how minor it may seem to man may have an effect on eternity. A pebble kicked onto a road may someday disable a horse whose rider carries an important and pressing message. A few seconds may mean avoiding danger or inducing it. A minute can result in death, marriage, injury, birth, or a myriad of sequences which can easily alter history. Had Adolf Hitler been incapacitated during his years as a tramp in Vienna, no one would have given much thought to the incident although its affect on our history is quite obvious. Had Lot been given time to tarry, a member of his city rising with the sun may have left town and escaped death, or an innocent merchant may have wandered into the city. Does the Torah not mention a presumably insignificant incident concerning Lot and his daughters immediately after the chapter on Sodom's destruction? The consequences of their actions gave rise to nations which plagued Israel for literally centuries. God's timing is exact for the sake of man and for the sake of the historical goal towards which we are heading. His promise to take Israel out of Egypt, as another example, was executed with infinite precision.³

Prophecy can also be linked with our new concepts of time. When any prophet receives a message from the Eternal, his physical existence can be said to be suspended above the changing and time-

3. עיין רש"י פרשת בא (יב"מא) ד"ה "ויהי מקץ..." מה שמביא בשם המכילתא 3.

affected world. This is why Balaam and Yehezkel fell on their faces when communicating with God. Moshe and Eliyahu were able to live 40 days without food because they were in God's timeless universe. Time stood still for them, and their bodies underwent no physical change during that period. Only upon returning to our dimensions did they discover that 40 days had elapsed. Perhaps a small proof of this may be inferred from the Torah's first use of the word הנה. The word is first found in Genesis 15:16 while God speaks to Abraham at the ברית בין הבתרים. The *pasuk* states:

„ודור רביעי ישובו הנה, כי לא שלם עון האמרי עד הנה.”

The word "הנה" is a demonstrative adverb relating either to time or space, meaning "here" or "now." In the quoted phrase, it is used in both contexts, the first being spatial the second being temporal. It would seem strange to use the same word in both senses in such rapid succession unless the two were nearly synonymous. Abraham, while receiving this message was under a deep trance, a תרדמה, as the Torah comments. He was in a high spiritual state above the changing world. The future, past, and present were spread before him like points on a map. The dimension of time seemed no different to him than the dimension of space. God pointed out to him the "here" of space with the same word as the "here" of time just as we make no distinction in pointing out a point in length, width, or depth.⁴ The future was as obvious to Abraham at this occasion as the present or past. He was able to perceive the inheritance of Eretz Israel by his children with the same clarity with which we perceive events of the moment. This experience was a complete answer to his query:

„במה אדע כי אירשנה?”

* * * *

The above discussion served as but an example of what can be gained by merging scientific thought with religious and scriptural

4. This is not to say that the two connotations are not used alternatively in תנ"ך. They are never found in the same speech, however, as they are found here in practically the same breath.

beliefs. The method can be extended to help us understand more of God's universe and design, of His relation to man, and of the meaning of His laws. The employment of such an approach will be invaluable not only to theologians and religious philosophies, but to the entire Jewish nation at a time when its youth stray after the call of space exploration and desert its eternal heritage. The approach is by no means novel. It was, in fact, used by the Sephardic scholars before 1500. Today, it need only be updated so that we may say to our students as the Rambam wrote in the passage quoted earlier:

ולא מפני קבלת הדת בלבד נידע דבר זה, אלא בראיות ברורות מדברי חכמה.



• Mordechai Geduld

Man's free will and, consequently, his responsibility for his actions, are basic concepts of Judaism. Without an ability to choose and change the direction of his life, man could not be commanded to observe the Torah, neither be held accountable, nor be able to return if he does momentarily go astray. However, it is clear that man's options are limited and (partially) determined by many factors other than his own will. In the following article the relationship between free will and these deterministic factors, as well as their consequences for observance of Torah, is illustrated by use of a physical model. Mordechai Geduld is presently spending his junior year on leave at the Israel Torah Research Institute in Jerusalem.

ON THE OPERATION OF FREE-WILL WITHIN A CAUSAL FRAMEWORK

Introduction

Deterministic theories of non-theologic origin have traditionally been grounded in either physical or psychological arguments. An example of the former variety is the mechanistic philosophy which arose out of Newtonian physics during the late part of the eighteenth century when a model for human behavior was constructed based upon classical mechanics. Just as the motion of a particle of matter was understood to be completely determined by all of the forces acting upon it, so, it was concluded, must a person's behavior be determined by all the forces acting upon him.

The diagrams referred to in the text of this article may be found at the end of the article (p. 124).

Certain difficulties connected with this view left it unwieldy, and when, in the early part of this century, it became clear that some, if not all, of the causal laws of physics were statistical rather than absolute in nature, it was largely abandoned.

Almost all modern day determinists deny the existence of free will not on physical but rather on psychological grounds. According to this view, man's actions are determined by *psychological forces*, i.e. his environment, experiences, motivations, etc. For the believer in the existence of an ethically meaningful free will, the problems raised by this theory are considerable. The fact cannot be denied that causality of some form does indeed exist with regard to human behavior. In the first place, there is the seeming *regularity* of behavior which we can observe among individuals; we would not be able to have the notion of a person's "character" if it did not exist. This regularity implies some sort of law and causality since, if no such law existed, behavior should be completely random with no pattern whatsoever emerging. In addition, it seems intuitively obvious that there *are* forces in the world that influence men towards one mode of behavior or towards another, and from a traditionally Jewish point of view this feeling is backed up by numerous statements in the talmud.¹

Now it is not difficult to reconcile causality on the behavioral domain with some sort of free will; what *is* difficult is to show that this causality is compatible with a form of free will which is *ethically meaningful*. While a determinist may assume the causality by which psychological forces operate to be absolute in nature, there is no *a priori* reason to assume so. Indeed the opposite would seem to be the case, since these forces of environment, etc., are generally conceived of as causing tendencies rather than working on a strict cause and effect basis, and this would mean that we are dealing with a statistical causality which is reconcilable with some sort of free will. The difficulty with this form of resolution is the objection that because absolute free will involving no causality would

1. A classical example is *מצוה גוררת מצוה, ועבירה גוררת עבירה*. This and many other examples show that *בחירה חפשית* never considered *חז"ל* as being outside any casual system; as operating in a vacuum.

be meaningless (since it would have to be unrelated to anything the individual has ever done or experienced), the compromise of a statistical free will would be a half way house compromising the undesirable properties of both extremes.

Bertrand Russell states this as his own view in *Philosophical Essays*

Insofar, therefore, as the possibility of uncaused volitions come in, all the [undesirable] consequences above pointed out follow; and insofar as it does not come in, determinism holds. Thus one per cent of free will has one per cent of the objectionableness of absolute free will and has only one per cent of the ethical consequences.²

It is my opinion that what is relevant to the solution of this dilemma is, surprisingly enough, the fact that certain physical systems clearly demonstrate the statistical form of causality. Since, of the three logical orders of causality: 1. complete; 2. some (statistical) and 3. no causality, order 2 is assumed to be the rule for behavioral and these physical processes; these two domains, though entirely distinct, possess a structural identity. It is therefore possible to construct a model for free will based on a physical analog, and investigate whether statistical causality is compatible with an ethically meaningful free will.

The purpose of this article is to construct such a model and demonstrate that the free will it yields can in one sense, be considered the most meaningful form of all — the very *בחירה חפשית* described by *Chazal*.

Part I of the article introduces certain necessary concepts by means of an historical development; the model proper is constructed in Part II.

2. Russel, Bertrand, *Philosophical Essays*, p. 39, Green & Co.

Part I

Determinism in its strictest sense is that philosophical view which states that the causal structure of the universe is so complete, that a complete description of the universe at any one instant determines what unique configuration it must have at any instant thereafter.

Newton himself had not stated this view, but his physical system, in which knowing the state (position and momentum) of a particle at any instant would determine its state at any other instant, seemed to imply it. It was felt that if, the universe could be conceived of as a system of particles, then what was true of these particles should be true of the universe as a whole.

Laplace was one of the first scientists to describe the full logical consequences of the above assumption. In a famous paragraph found in the introduction to his *Theory of Probability*, he states:

Let us imagine an Intelligence who would know at a given instant of time all forces acting in nature and the positions of all things of which the world consists; let us assume further that this Intelligence would be capable of subjecting all these data to mathematical analysis. Then it would derive a result that would embrace in one and the same formula the motion of the largest bodies of the universe and of the lightest atoms. Nothing would be uncertain for this Intelligence. The past as well as the future would be present to its eyes.

Thus, for example, given the 19th century, the 20th — down to its most insignificant minutiae — *had* to occur; in fact, which books you will decide to take out of the library next week was already uniquely determined by a particular configuration of hydrogen atoms in the "primeval soup" of gaseous matter.

Obviously, according to this view free will is illusory. It is this sort of reasoning that leads to what Kant called a "persistent antinomy" — on the one hand, the notion that every event must be due to causes which determine it; on the other, the unassailable feeling that we are free to choose our actions.

Determinism, as described above, can be conveniently expressed as the assertion of two independent premises:

Postulate A: In purely physical systems cause and effect relationships determine *exactly* what must occur at any given instant.

Postulate B: In psychological systems, causality of the same order as that which operates in purely physical systems is observed.

If we are to have a universe in which the behavior of all people and things is determined then both Postulate A and Postulate B must be true. The negation of either one would allow for an indeterminate universe.

Prior to this century, Post. A was considered an indisputable fact by determinists and non-determinists alike. It was around Post. B. that the argument revolved.

Upon examination, this conflict concerning Post. B reveals itself to rest upon the conflict between mechanistic-materialism and mind-body dualism. The dualists rejected Post. B (and *ipso facto* determinism) because they did not believe that *everything*, including psychological processes, could be explained purely in terms of a mechanistic description of interacting particles. The mechanists on the other hand, considered psychological processes to be merely physical processes in disguise, and therefore accepted Post. B, which in conjunction with Post. A yielded a deterministic philosophy. It was about this point that the debate was to rage, until a series of scientific formulations, culminating in 1927 with Heisenberg's Uncertainty Principle, were to radically alter our notions of causality and raise serious doubts as to the truth of Post. A.

Heisenberg showed that for certain pairs of magnitude known as "conjugate magnitudes" (position and momentum, for example) it is impossible *in principle* to simultaneously measure *both* of these magnitudes with high precision, and that the old concepts of causality completely break down on the atomic domain.

The difference between the old and new views of causality can be summed up in the following example. Consider an electron whirling

about the nucleus of an atom. According to the old view, given a *complete* knowledge of the situation (i.e. complete knowledge of how the physical laws operate, and of all the forces that must be taken into account) we would be able to predict precisely where the electron would be at any given instant. According to the new view, given this same completeness of knowledge we would not be able to say at what spot it will be at a certain instant *simply because there are no causal laws which require it to be at any particular spot.*

... in the usual interpretation of the quantum theory, the precise magnitudes of the irregular fluctuations in the results of individual measurements at the atomic level are not supposed to be determined by any kinds of causes at all, either known or unknown. Instead, it is assumed that in any particular experiment, the *precise* result that will be obtained is *completely arbitrary* in the sense that it has no relationship whatever to anything else that exists in the world or that ever has existed.³

In the case of the whirling electron, all we know are the various *probabilities* of the electron being in various locations but not where in fact it will be. Figure (1) shows what might be the probability function of such an electron. The height of the curve at any r represents the relative probability of the electron appearing at that given radius from the nucleus. The most likely r is known as the orbit. As we go past this r the probability decreases, *but nowhere is it zero.* This means that theoretically at least, the electron could be anywhere. The only information we can obtain is knowledge of the probabilities of various locations, but this does not tell us where it will in fact be, any more than the knowledge that the probability of getting heads or tails with a coin is fifty-fifty tells me what in fact will turn up on a particular throw. The more particles the system contains, the steeper the wave function (figure 1) becomes and the more accurately we can describe how the system as a whole will behave.

3. Bohm, *Causality and Chance in Modern Physics*, p. 87, Van Nostrand Co., Princeton, 1957.

In the macroscopic world, where we deal with objects which are made up of many billions of such particles the curve converges to such an extent on one value (and the probability of this value comes so close to one), that for all practical purposes we may ignore the statistical nature of the prediction, and treat it as a "certainty."

There are certain cases, however, when the quantum prediction does not reduce to the Newtonian one in the macroscopic world, but where the atomic uncertainty of the microscopic domain is amplified directly into our own. Suppose, for example, a sufficiently large block of U^{235} is protected from neutrons by shielding. As soon as a *single neutron* impinges upon the block, there will be an atomic explosion, and the city the block is in will be destroyed. If the shielding is partially removed there is literally no way to predict when this impingement will take place, and the city will be destroyed at a time which is completely unknowable.

It is clear that the argument from mechanistic-determinism has been invalidated since the universe has been shown to be physically indeterminate. Numerous attempts have been made to show that free will is now possible if we assume: (1) that this uncertainty can manifest itself on a level where it is felt in the decision-making processes in the brain⁴ and (2) that there exists a non-physical force of "volition" which can now operate within the physically uncertain area and in a sense be the final "hidden parameter" which decides what actually will occur.

Realistically however, trying to prove free will from the statistical causality of the physical domain is just as inadequate as trying to prove its non-existence from an absolute physical causality — and for the same reason. In physics we deal with only three types of forces — gravitational, nuclear, and electromagnetic (included in the latter are the so-called "mechanical" forces). When we think of the forces that are acting on an individual and influencing his behavior we have in mind none of these. The causality that we speak of with regard to human behavior deals with experiences, environment, mo-

4. Though this question is highly speculative, there seems to be some evidence for (1). See "Rhythmic Activity of the Nervous System," *Philosophy of Science*, pp. 42-57, Jan. 1953, Vol. 20, No. 1.

tivations, etc. so that unless we adopt a materialistic stance of the most extreme form, the question of whether absolute or statistical causality exists on the physical domain is completely irrelevant to the question of what sort of causality exists with regard to the forces of human behavior.

Nevertheless certain *concepts* with regard to causality on the physical domain may be useful when dealing with the free will problem. Any causal system regardless of the type of forces which act in it will contain one of the three logical degrees of causality:

- 1) complete causality
- 2) partial (statistical) causality
- 3) no causality.

The seeming antinomy of free will stems from the fact that we feel intuitively both that causality exists on the psychological domain and also that we are free to do as we choose. The first of these considerations rules out (3), while the second rules out (1). From the physical domain however, we see that there is a third possibility — (2). We have examples of physical processes in which causality exists and yet which contain a "lawless" element. In the same way it might be said that while causality does operate on the psychological domain there also exists an irreducible element which transcends law. In the physical domain this transcendent element is what we call "chance." In the psychological, it is "volition." Thus the antinomy is solved. The objection to this statistical form of free will (which was mentioned at the beginning of the essay), that it is a halfway house comprising the undesirable elements of both absolute free will and absolute causality and is therefore ethically meaningless, can now be tested. Since we know that there are certain physical processes which are also of order 2 thus possessing a structural identity with the behavioral system, we can build a model for the latter system based on the physical one and thus see if this form of free will can have ethically meaningful consequences.⁵

5. Such a proof of consistency will of course involve the construction of a "system." While certain groups have felt (and in my opinion justifiably so) that no system can be adequate to the tremendous range of human experience, an analytical method can be of some use in dealing with a single problem such

Of course we may pick any physical example that we wish so long as it clearly demonstrates statistical causality, and since it is mainly the latter concept which we are trying to transfer to the psychological domain the two systems need not be analogous in details which are not relevant to the nature of the causality.

Part II

A

Psychological as well as physical processes change with time. Therefore, if we are to talk with any precision about such processes, we must do so in terms of their *instantaneous* states. Consider, for example, a person's immediate environment (a room, let us say). Modern physics has born out Heraclitus' dictum that this environment is in a constant state of flux. The sights and sounds of each instant are unique, and the room cannot be precisely the same during any two instants.

Let us define a *situation*, *S*, as a *specific location at a given instant of time, t*. From this definition it follows that any specific location contains a multitude of *situations* in a given interval of time, and that at any *one* instant of time there are an infinite number of *situations* in the universe. Each of these *situations* can be located by a particular combination of the four spatial-temporal coordinates (*x, y, z, t*) in conjunction with a suitable reference frame.

Now in any given *situation* there are various ways an individual may act. The specific physical limitations of a given *situation* determine what is and what is not physically possible for a given individual in it. Let us define⁶ *the set of all possible modes of behavior in a situation, S, as the set of reactions, R, with respect to that*

as trying to demonstrate the consistency of two ideas. It should be emphasized that this article is not an attempt to construct an all inclusive, refined philosophical system. It should be recorded merely as an interesting observation of the free will problem.

6. This definition, as well as the discussion that follows, deals, of course, with respect to a specific individual I_0 .

situation. Then, to each situation $S_1, S_2, S_3 \dots$ there corresponds a unique set $R_1, R_2, R_3 \dots$ such that:

$$\begin{aligned} R_1 &= [r_{11}, r_{12}, r_{13} \dots r_{1j} \dots] \\ R_2 &= [r_{21}, r_{22}, r_{23} \dots r_{2j} \dots] \\ &\vdots \\ R_i &= [r_{i1}, r_{i2}, r_{i3} \dots r_{ij} \dots] \end{aligned}$$

where r_{ij} is a member of R_i if it is possible in S_i .

Two clarifications are needed in order to clarify the definition of a reaction:

a) Although the physical circumstances of a particular situation determine which reactions will or will not be possible in it, a reaction is not a purely physical description of a mode of behavior, but corresponds to a particular combination of thought and action. Thus, for example, since it is possible to be *תפילה* or *מתפלל* or be *מצוה* or *מקיים*, with diverse *Kavanot* (i.e. diverse attitudes) each of these possibilities would be counted as a separate reaction even if they are physically indistinguishable from each other. Thus, a "mode of behavior" as used in the definition has two components: (1) a specific physical action, (2) a specific *Kavana*. Whether or not such a "mode of behavior" is "possible," that is whether or not it is a reaction, is dependent on whether (1) is possible; but the reaction is not defined unless (2) is specified as well. The definition should be seen in this light.

b) Complete physical *inactivity* constitutes (1) when it results from a conscious effort on the part of the individual. Reactions which have inactivity, rather than activity as their (1) component will be called "null reactions."⁷

7. Ethics, whether religious or secular in origin, can be either relative or absolute. While our formulation will lend itself more readily to a religious interpretation, it is not until the very end of the article that the concept of such absolute values as a *מצוה* (in the narrow sense of the word as when we speak of *מניין המצוות*) are introduced. Until then, we will not distinguish between a *מצוה* in its narrow sense and its loose sense, i.e. a "good deed." The reactions whose physical action objectively corresponds to that of a *מצוה* will be sprinkled along the way among the other reactions, and whatever will be shown true for the latter will also hold true for the former as well.

With regard to situation ethics: while it is true that the ordering processes in terms of ethical value depend largely on the individual and on the situation itself since it is easy to show that $r' r$ in S does not imply that $r' r$ in S' , (in

It follows that in virtually any situation there are an infinite number of reactions since, even if the physical limitations of the situation are great, there are an unlimited number of possible *Kavanot* that may accompany any physical action, thus making the number of possible modes of behavior infinite. Although this is so, we know that situations do vary in the degree of freedom which they allow. This is true because in any situation an individual has *two directions of freedom*. One which involves picking a particular physical action, the other which assigns a *Kavana* to this action. While the second of these (which we will call the individual's *subjective* or *existential freedom*) cannot be limited by the physical conditions of a particular situation, the latter (which we will call his *objective* direction of freedom) varies in degree from one situation to another with the result that the individual's total freedom will likewise vary. (Since we will have more to say concerning this distinction towards the latter part of the article it should be kept in mind).

B

Imagine the aggregate of all possible situations as a "file" of an infinite number of two-dimensional planes, each plane representing a particular situation S_n . It is on each of these planes that we will attempt to graph the "*bechira* function" of that situation, and the complete file of all of these planes will give us a picture of an individual's "instantaneous free will" in all possible situations.

A set is "ordered" if it is subject to a given rule which arranges its elements in an ordinal manner so that each element has its

the case of a *מצוה* or a "null reaction" for example) we will assume that there are *some* reactions for which $r' r$ in any situation

Because of the varying degrees of merit we can achieve by varying *כונה*, we will assume the set of ordered reactions to be everywhere dense.

Not all situations are of equal significance from an ethical point of view. In our discussion we will be interested chiefly in "significant" situations.

A situation is "significant" to the extent that it allows for a *wide* range of choice. (This is not dependent on the number of reactions but on their being spaced across a wide spectrum of the reaction line. Situations in which all of the reactions are approximately equal in value, that is, where they are all confined to a small segment of the reactive line are not significant.)

Later on it will be shown that a situation in which it is possible to do a *מצוה* is by definition always of the utmost significance.

rank (first, second, third, etc.). If for any combination of two different elements one and only one of the two conditions

$$\begin{aligned} & a > b \text{ (a comes after b)} \\ \text{or } & a < b \text{ (a precedes b)} \end{aligned}$$

is fulfilled, then the set is ordered.

Now what is probably the most fundamental premise of any system of ethics is the notion that in a specific *situation* not all of the possible reactions are equally "meritorious." Assuming this premise, that, given a specific circumstance not all the possible *reactions* are of equal ethical value, we possess the ability to order any set of reactions, R into an arrangement $\dots r_1 < r_2 \dots < r_h < r_{h+1} \dots$ where r_{h+1} is of greater merit than r_h .

We can if we wish, allow these reactions to be represented as various points along a line, so that as we move towards the right along the line the merit of these reaction-points is constantly increasing. This line will be the horizontal axis of our *bechira* function in any situation plane (fig. 2). We must take one more step before we see what it is that will be plotted against this reaction line.

C

The specific physical system which will be employed as our model's analog will now be introduced. Consider a huge volume of gas confined in a container, and composed of a fantastically large number of molecules which are in random motion and which have various kinetic energies (dependent on their velocities). At any given instant, millions of new molecules are entering, their number being small compared to the number of molecules already in the system. The entering molecules represent the millions of sense-data we receive every waking instant; the total aggregate of molecules represents the totality of human experience up until a given instant. We will first develop the static physical system and its static psychological analog, and then turn to the dynamic situations.

Let us consider the instantaneous state of the gas when no new molecules are entering it. A probability distribution showing what fraction of the molecules have various kinetic energies would show

that there is one most probable energy value for a molecule to have, and that the probability of a molecule having higher and lower values decreases successively as we move away in either direction from the most likely value. This probability distribution is dependent on the total energy of the gas as a whole, that is, on the energy values of the molecules of which the gas is composed. The higher the average energy value, the higher will be the most probable value, and the lower the former, the lower the latter.

D

Let us imagine we are observing what the reaction of an individual (whom we know fairly well) in a particular situation will be. Based upon our knowledge of his past behavior in many similar situations we know that the probabilities of his doing any of the various possible reactions are not equal since he will have more of a propensity towards some and less of a propensity towards others. If we would like to know what is truly the reaction towards which he has the greatest propensity, we would have to know him to a degree far greater than that which is possible in practice. We would require not only knowledge of his reactions in all past situations similar to this one, but knowledge of his entire lifetime behavior. In addition, we would have to have knowledge of all that he has ever seen, heard, read, been exposed to, and experienced. In short, we would have to know all of the *influences* he has received.

Now an influence can be analysed as follows: the individual receives a certain amount of sense-data which he interprets in a certain way. (The objective sense-data in themselves cannot constitute an influence until they have been given a certain meaning in the individual's mind). A group of interpreted sense-data constitutes an *influence* and corresponds to a group of molecules of a certain energy value. The impingement of the former on an individual corresponds to the entering of the latter into the already existing aggregate of molecules, and the aggregate itself corresponds to the aggregate of all influences the individual has ever received.

Since more data are constantly pouring in, we will have to specify a particular instant when talking about his behavior so that his

totality of influences will not be changing. In our model, this totality will play a role analogous to that of the *total* kinetic energy of our physical analog. Just as the latter specifies around which most probable energy value the probability distribution will lie, so does the former specify the reaction which is most probable in the light of all that the individual has experienced, and the probability distribution for all other reactions lying to either side of it. Neither case is completely determined. What the individual will actually do is subject to the use of his "volition" which must remain a primitive notion.

Since to each reaction $r_1, r_2, r_3 \dots$ there is associated a certain probability of occurrence (probabilities being understood here as representing the *relative degree of propensity* toward the reaction) $P_1, P_2, P_3 \dots$ we can define a function $P=f(r)$ over the "domain" of reactions in a specific situation (fig. 3). The height of the curve at any point represents the relative probability of occurrence of that reaction, probability being the yardstick for propensity. The total area under the curve is unity, and the area under the curve between r_1 and r_2 (any two reactions) gives the probability that a reaction in the interval $r_1 r_2$ will occur. As is shown in the diagram, we can find an interval, ac , which contains most of the area under the curve. For this reason it is clear that, more important than telling us the most likely reaction, b , (which may actually have a rather small probability of occurrence because of the curve's spread) the function tells us over what *area* the individual's free-will generally will operate. The decreasing probabilities which occur to the right of the "norm" (most likely) reaction mirror the increasing degrees of volitional effort these reactions require. With regard to reactions at great distances to the right and to the left of the norm reaction, the individual's propensity is so low that their probability approaches zero.

Even if the norm reaction lies in a subset of reactions all corresponding to variations of a specific act — to be מתפלל מנחה let us say, there will be *one* variation which will be most likely, flanked on either side by reactions which are successively less probable. Clearly what will be the norm for one individual may be very far from the norm for another.

The complete set of an individual's *bechira* functions for all possible situations is what we mean by an individual's *character*, since by character we mean that which determines an individual's propensity in any given situation. By showing that character can be defined in a meaningful way which does not preclude free will, we have overcome a major difficulty:

The most difficult problem for the believer in freedom is to define freedom in terms that will not render character meaningless, and character in terms that will not strip freedom of all meaning.⁸

And yet another difficulty remains. Can a person truly be considered self-determining if his character makes certain areas of behavior more likely than others? Even if character does not preclude choice, what of the fact that it determines the range over which choice is most likely? To answer these questions and resolve this final difficulty we will have to investigate the dynamic situation of the model to see to what degree the *individual himself* is responsible in forming his character — which in turn is responsible for these propensities.

E

In the static case the totality of sense-data influences received up until a given instant was represented by an aggregate of molecules of various kinetic energy values. The dynamic case in which sense-data influences are constantly pouring in corresponds to a situation in which molecules are constantly entering the system and are becoming part of the aggregate previously referred to. If these entering molecules have energy values higher than the average energy of the system, they will bring up the system's average energy. The result of this will be a redistribution of probabilities so that the higher values become more likely and the lower ones less so. If the energy value of the entering molecules is lower than the average energy the opposite will be true.

8. Roberts, W. H., *The Problem of Choice, An Introduction to Ethics*, p. 291, Ginn & Co., 1941.

Let us see what corresponds to this dynamic physical situation in our psychological model. Until now we have talked of *reactions* and *influences* without specifying any relationship between them. Upon recourse to the definitions of these terms, however, it becomes clear that the picking of a reaction (that is doing a certain physical action with a certain attitude) entails selecting certain sense data for reception and assigning meaning to this data (that is receiving an *influence*), so that to each reaction in a given situation there corresponds a unique influence which will impinge upon the individual upon doing that reaction. Since, as we shall show later, to each influence there corresponds a unique reaction as well, there is a one to one correspondence between reactions and influences in a given situation, and to each situation there corresponds a set of (potential) influences depending on what reactions that situation contains. Figure 3a shows this one to one correspondence graphically.

We are now prepared to describe the dynamics of our model. As a specific example let us imagine an individual in a situation who is about to make a choice (pick one of the reactions available to him). Picking a reaction to the right of his norm-value causes him to receive the corresponding influences. Observing fig. 3a and remembering that influences correspond to the gas molecules in the physical analog, it will be seen that this act corresponds exactly to the entering of molecules whose energy is higher than the average value of the aggregate. The effect of this in the physical model would be for the higher energy values to increase and the lower ones to decrease in probability. Carrying over the analogy, this would correspond to an increase in probability of those reactions to the right of the norm value and a decrease for those to its left. This is illustrated by fig. 4. Curve A represents the *bechira* function at time t . The norm reaction is r_1 . At this instant a reaction to the right of r_1 is freely chosen and the new sense-data influence which the individual receives joins his previous totality of influence. This new totality of influence determines curve B (with norm reaction r_2) representing the function at a subsequent instant t' . If a reaction would have been picked to the left of r_1 , the opposite would have occurred.

This discussion forms the basis for what might be called the fundamental theorem of the system:

THEOREM: *The effect of the selection of any reaction is a rigid shift of the entire curve in the direction of that reaction so that $|r''-r| < |r'-r|$ always where r is the reaction picked and r' and r'' are the norm reactions immediately before and after the choice respectively.⁹*

What follows as an immediate corollary is the concept of "מצוה גוררת מצוה ועבירה גוררת עבירה". Remembering that the height of the curve at any point represents the relative propensity of that reaction we see in fig. 4 that the result of the curve shifting to the right was to add propensity to those reactions to the right of r and decrease that of those to its left. מצוה גוררת מצוה can be understood in this sense rather than interpreting גוררת in the sense of strict causality leaving no room for free-will. עבירה גוררת עבירה can be understood similarly as the effect of picking a reaction to the left of the norm reaction.

THEOREM: *If a reaction r is picked a sufficient number of times it will eventually become the norm reaction.*

By the fundamental theorem $|r''-r| < |r'-r|$ the norm reaction always decreases its distance with a picked reaction. If this reaction r is repeated, the norm reaction r'' will again move closer to it. If we assume that we can get $|r''-r|$ as small as we want by repeating this process a sufficient number of times n , then $\lim_{h \rightarrow \infty} r_h = r$, i.e. in the limit, r' equals r .¹⁰

A corollary of this theorem can be found in a famous "מאמר חז"ל: "אמר רב הונא כיון שעבר אדם עבירה ושנה בה... נעשית לו כהיתר". Through repetition his attitude toward the עבירה has become נעשית לו כהיתר since it now approaches his norm for which he has no qualms.

9. That is, the norm reaction always moves in the direction of the picked reaction. Similar shifts will be felt to a lesser degree in other situations depending on how similar they are to the one in which the choice was made.

10. Since there is no condition $|r^1-r| > 0$, it may be that r^1 will take on the value of r after a finite n . Even if this does not occur we know that $\lim r(n)$ as $n \rightarrow \infty$ exists since we are dealing with a bounded monotonic sequence, and this limit is here assumed to be r .

11. יוֹמָא פּוּ:

THEOREM: *There is no step in the formation of an individual's character in which free will plays no part.*

This theorem resolves the difficulty mentioned at the end of the last section namely that although character does not determine choice, yet it determines the propensities towards the choices available. We now are in a position to discuss to what degree this propensity-yielding character is molded by the individual himself.

Let us consider two individuals with diverse characters and try to analyze this diversity utilizing terms we have been dealing with. Since by an individual's character we mean his instantaneous set of *bechira* functions for all possible situations, by two diverse characters we mean that these two sets of functions will differ greatly from each other in many particular situations. Fig. 5 shows one such situation containing the differing functions of individuals A and B. The norm-reaction of A, which is r is seen to have a very low probability of occurrence as far as B is concerned, and conversely, it would be very unlikely for A to act as r' , the norm reaction of B. Since what is true of any particular situation will reflect what will be true of character formation as a whole we will restrict our attention to how A and B acquired different functions in the general situation shown in fig. 5.

Each of these curves is determined by the sum of the *influences* the individual has received and since each *reaction* has a corresponding influence and can thus move the curve, we see that free will molds character at least partially. If conversely, we can show that to each influence the individual has received there corresponded a particular reaction, then free will has played a part in every movement of every function; that is, in each step in the molding of his character.

Remembering that influence is defined as sense-data which is given a certain interpretation we can divide influences into two categories:

Cat. A) Those influences due to sense-data whose influx is subject to the control of the individual.

Cat. B) Those influences due to sense-data whose influx is beyond the individual's control.

It is clear that the former type of influence must arise from a

reaction; a doubt remains only with regard to influences of the latter type, yet we will now show that they too must arise in reactions.

Earlier in this article it was stated that with regard to picking a reaction there are two directions of freedom, that of picking a physical mode of behavior and that of assigning to this mode a certain *Kavana*. While the former direction of freedom may vary in degree or be eliminated completely depending on the particular physical situation, the latter cannot since its existence is not contingent on external conditions, but is rather existential in nature; it persists as long as the individual remains a thinking, responsible being. In most cases the individual operates in both directions when picking a reaction while in certain limit cases he operates only in the latter one. Now the two categories of influences we have defined arise out of bi-directional and unidirectional reactions respectively. In the first case, the individual has both the power of selectivity and interpretation of sense-data, while in the second case he retains only the latter degree of freedom. This latter degree of freedom is just as important as the first for a sense-datum which I perceive, e.g. a written or spoken word, does not in itself determine a particular influence upon me until it has been interpreted. Indeed, identical sense-data may yield highly diverse influences upon diverse interpretation.

The relative percentage of influences in categories A and B will differ according to society and circumstance. The more severely the first direction of freedom is restricted (that is, the higher the relative percentage of category B) the more vital the second direction becomes — in an ultimate totalitarian social structure it would become all-important.

Unfortunately we do not have to search very long for an example of such a social structure — the concentration camp comes to mind immediately.

In *Man's Search for Meaning* Dr. Viktor E. Frankl describes some of his experiences in a concentration camp from a psychoanalytical point of view. He describes a life "which admits of but one possibility of high moral behavior: namely, man's attitude to his existence — an existence restricted by external forces." Fantastic as these forces may have been Frankl insists that his own experiences provide

sufficient proof that "in the final analysis... the sort of person the prisoner became was the result of an inner decision, not the result of camp influences alone," and that, "everything can be taken from a man but one thing: the last of human freedoms — to choose one's attitude in any given set of circumstances."¹² A word concerning responsibility for one's character development is appropriate here. Naturally, even though "there is no step in the formation of character in which free will plays no part," since ultimately each of these steps must stem from some sort of reaction on the part of the individual, it is clear that the degree to which freedom does play a part in each of these steps will vary depending on whether the individual in question was free to operate in both or only one direction of freedom. It seems obvious that a concentration camp victim whose freedom was largely uni-directional should not be held as responsible for his character development in the camp as an individual living under more favorable circumstances, אונם רחמנא פטריה, (this would apply to the modern "Ghetto Dweller" as well, to the extent that he is trapped by his environment). On the other hand, in the circumstances of the social framework familiar to most of us it is rather hard to find a case where the sense-data influx is beyond our control, and the high ratio of Category A to category B influences would tend to suggest a very great, if not close to complete, degree of responsibility with regard to character formation.

We have largely accomplished what we have set out to do. We do not pretend that what occurs in real life rigidly conforms to the model we have set up, but we have shown that even if such causal laws of statistical nature did exist, they and free will of an ethically meaningful type would not be mutually exclusive.¹³

It is not hard to show how our concept of a מצוה can be incorporated into the formulation presented in this article. In a given situation S consider the set of reactions corresponding to a particular

12. Frankl, Viktor E., *Man's Search for Meaning*, pp. 104-106.

13. Now that this has been demonstrated, the deterministic arguments, which are based on the demonstration of causality on the psychological domain, have been invalidated. For example, let us examine the argument found in *Philosophical Essays*, pages 38-39:

If we really believed that other people's actions did not have causes, we

mode of physical action. There may be a multitude of reactions sprinkled along the curve depending on the *Kavana* the action is done with. Assume that with regard to two such sets, A and B, we find that set A contains members greater than any member of set B. This means that objectively speaking, the physical action (devoid of any *Kavana* at all) corresponding to set A does *potentially* contain greater ethical value than that physical action corresponding to set B (with respect to a particular individual in a particular situation S). We might say that A contains a greater ethical potential than B. Let us go a step further. With regard to any such set T corresponding to a particular physical action, there are two possibilities: a) T is bounded from above; that is, there exists a point M on the reaction line such that $M \geq r$ for all r in T. b) T is not bounded from above; that is, there exists no such point M on the reaction line. In the first case the ethical potential of T is finite;¹⁴ in the second, it is infinite, for T's reactions can occupy as high a position on the line as we wish: their ethical value is limited solely by our *Kavana*.

The concept of a מצוה (in the narrow rather than the broad sense of the term) as found in חז"ל corresponds closely to the second case above; while its mere performance provides no guarantee of an experience of religious value, it provides us with the *possibility* of attaining such experience.¹⁵ Although the manner in which we

could never try to influence other people's action; for such influence can only result if we know, more or less, what causes will produce the actions we desire. If we could never try to influence other people's actions, no man could try to get elected to Parliament or ask a woman to marry him: argument, exhortation, and command would become mere idle breath.

From what we have discussed, the weakness of this argument in proving determinism is clear — while causality has been established, there is no reason to assume (and in fact, it seems quite unlikely) that such causality is of the absolute variety. This weakness is detected by Russell himself, who on the same page hastily adds that even if the causality is statistical, the free-will that would result would be meaningless (see quote at beginning of this article). Even at first glance this assertion seems to be rather arbitrary, and it is hoped that it has been shown to be false.

14. And equal to T's least upper bound.

15. A well-known example of this concept is found in אמר: נזיר כג. רבה בר בר חנה אמר רבי יוחנן, מהו שנאמר, "כי ישרים דרכי ד' צדיקים ילכו בם ופושעים יכשלו בם"? משל לשני בני אדם שצלו את

fulfill a מצוה will correspond to a *particular* term in the sequence of points T and thus no matter how far along the line it be always be finite, yet the objective abstract מצוה corresponding to the sequence itself has an infinite potential; it is inexhaustible in nature.

This inexhaustibility manifests itself in the potential effect the מצוה can have upon an individual. The fundamental theorem stated that the curve will shift in the direction of a choice. Even if T is bounded, if it has a high potential it may be of great value in advancing the curve. Yet being bounded it does not exist beyond a certain point and in the course of the curve's advancement it may reach a position where there are no values of T to the right of the curve's norm value; T can no longer be used to advance the curve. In actual practice there may be cases where T's potential is so great that this situation will never be reached at all, yet the principle remains true — T is exhaustible.

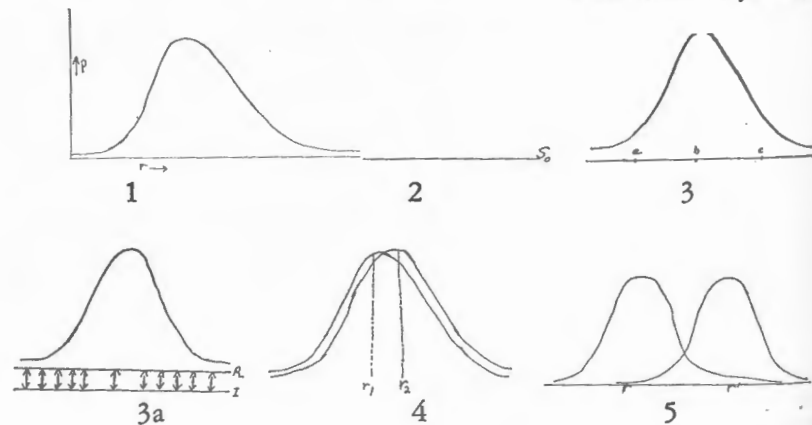
In the case of a מצוה however, T is not bounded. There will always exist values of T to the right of the curve's norm value and thus there never will arise an occasion in which T cannot advance the curve; T is inexhaustible.

Thus the מצוות are, in the words of the ישרים truly:

„האמצעים המביאים אותנו אל השלימות האמיתית.“



פסחיהם. אחד אכלו לשם מצוה ואחד אכלו לשם אכילה גסה. זה שאכלו לשם מצוה — „צדיקים ילכו בם.“ וזה שאכלו לשם אכילה גסה — „ופושעים יכשלו בם.“



NOTE: In diagram 4 curve A is on the right, curve B is on the left.

REVIEWS

- Simon Posner
- Bezalel Safran

The faith-oriented religion of James knows only of a religious experience that is visited upon an individual and generally can not be even passively evoked. However, the Jewish concept of *Kiddush Ha-chaim* — making life meaningful through sanctifying the secular — enables the Jew to actively pursue religious experience. This difference is perceptively examined by Simon Posner, a graduate of YC, presently at NYU and by Bezalel Safran, currently in his first year of *Semicha* and a student at BRGS. Bezalel was the valedictorian at Yeshiva College in 1968.

THE VARIETIES OF RELIGIOUS EXPERIENCE:
THE TENSION BETWEEN THEOLOGY
AND EXPERIENCE

After reading James' *Varieties of Religious Experiences*, it is difficult to relate any of the religious experiences which James records to a familiar Jewish experience. This impression, if valid, can probably be explained on the basis of the radical difference which exists between James' concept of religious experience and the Jewish concept. In the context of the *Varieties*, religious life emerges as a process which consists of the religious experience preceded by despair and resignation and followed by faith. It is faith which is the object of religious life. James defines faith as "the sense of life by virtue of which man does not destroy himself, but lives on. It is the force by which he lives."¹ Faith, in effect, is an affirmation of the meaning of existence.² We find that in Judaism the object of the religious experience is the same: to make

1. Reinhold Niebuhr's introduction to *Varieties of Religious Experience* (Collier Books, 1962), p. 5.

2. Ibid.

human life meaningful. The experience itself and what precedes it, however, are quite different from James' conception.

James sees religious experience possible only for those with a low psychological threshold.³ These people (such as Tolstoy), overpowered by their sick soul, who see only the meanness and futility of life, despair of leading a meaningful existence.⁴ They are seeking a motivation for carrying on. This despair persists in the sick soul until it resigns itself to its fate. (James calls this the stage of self surrender). James explains that what follows is a subliminal process of cerebral incubation which is climaxed by an incursion of an external force which effects a religious experience. The person thus affected is convinced beyond a shadow of a doubt of the absolute reality of the external force, which he usually conceives to be the divine presence; he is impressed with the "reality of the unseen." This awareness of God converts the sick soul completely. The person now has the will to persevere. Hence, faith, in its ultimate sense, has been achieved, for the individual now feels that he has a meaningful existence.

Judaism anticipates the same objective of infusion of meaning into individual existence. The end, however, is not obtained through the despair, resignation, and passiveness, which James describes. Nor is the potential for religious experience limited to those few endowed with the psychologically lower threshold. The Jew strives for meaningful life through *active* exertion of individual effort.

3. William James, *The Varieties of Religious Experience* (Longmans, Green & Co., 1903), p. 135. James employs the term threshold to indicate the point at which one state of mind passes into another. A person with a high threshold will be insensitive to incursions from other than the normal stimuli. A person with a low threshold, however, will be more sensitive to visitations from the world of the spirit. (All references to *The Varieties* are to the Longmans, Green & Co. edition, unless otherwise indicated.)

4. It is true that James includes healthy mindedness as a religious experience, but he seems to indicate that it should not be taken too seriously; that the healthy minded attitude is superficial when compared with the more profound recognition of reality which is present in the sick soul attitude. In his discussion of asceticism (p. 363) James notes, "If one has ever taken the prevalence of tragic death in this world's history fairly into his mind... he can with difficulty, it seems to me, continue his own career of worldly prosperity without suspecting that he may all the while not be really inside the game..." Also see pps. 163-164.

Judaism does not restrict religious experience to a once in a lifetime cataclysmic upheaval in a sick soul's personality, but exhorts the Jew to adhere to a theology which demands constant practice. The theology does indeed render his life meaningful because the seemingly secular, ephemeral, futile reality is imbued with sacred significance. The sanctification of all areas of life makes all life meaningful. Nor is it necessary that the Jew have certain psychological characteristics in order to attain a religious experience, for his religious experience lies in his constant effort through action to relate Godliness to his own mortal life.⁵

* * *

In order to understand why James does not consider the Jewish mode of religious experience as outlined above, it is necessary to explore his conception of the significance of systematic theology as opposed to pure experience independent of theology.

In his very first lecture James indicates exactly what he means by religious experience. He does not want to study systematic religion which, he contends, exists only as habit. The significant area of study is the experience, and this experience can only be found "in individuals for whom religion exists not as a dull habit but as an acute fever rather."⁶ A traditional religion, on the other hand, "was made for the individual by others, communicated to him by tradition, determined to fixed forms by imitation, and retained by

5. The reader will note that a distinction is drawn between the active nature of Judaism where the religious experience is deliberately and knowingly pursued and the passive nature that James portrays where the individual allows the religious experience to overcome him through self surrender. For expansion on this theme in one particular type of religious experience, repentance, cf. Rabbi Howard I. Levine's essay, *The Experience of Repentance: The Views of Maimonides and William James*, *Tradition*; Vol. I, no. 1, Fall, 1958, pps. 40-63. However, it is possible that on the whole, James feels that the religious experience can in no way be pursued, even in a passive fashion. The only reason that this note of passive pursuit of religious experience is apparent in repentance is that repentance is of such nature that it requires definite motivation on the part of the individual. But James might feel that other religious experiences, such as conversion, are visited upon the individual absolutely and cannot be evoked even in a passive fashion.

6. *Varieties*, p. 6.

habit..."⁷ and therefore conventional religion is but "a mass of suggested feeling and imitated conduct."⁸

James contends that "churches, once established, live at second-hand tradition."⁹ Such is often the case, that members of a church are only nominally associated with religion; that the experience of the original founder has not been transmitted to the individual members of the church. The function of any established theology is to expose masses of people to the experience of the founder in order that the masses might themselves be able to learn the same message that he has been taught. In this sense organized religion is not merely a secondary accretion as James likes to refer to it; rather, it is affording primary experience to the masses.

But James takes it for granted that this primary purpose of religion is impossible, and even if it does occur, it is so rare as to obviate the need for discussion of it. It would seem that James is correct in his assertion that organized theology is just not capable of evoking the same experience that has been visited upon the individual. However, this apparently general truth bears qualification. James' assertion is true only in the context of a faith-oriented religion, the type of religion whose primary requirement is the acceptance of faith. Indeed, when the original experience results in the acceptance of faith, and faith alone, by the individual, it is difficult to expect a formal structure of belief to lead to the same climactic result. For in this situation the experience and the theology are independent of each other. The experience is rapturous and entralling; the individual stands in the presence of a flash of light which illuminates the Truth for him. And what does the theology do? Does it attempt to subject the adherent to the same rapture? Hardly. Rather, it informs him of the final Truth and expects him to accept it without further ado; the original experience which resulted in illumination of the Truth is forgotten. And James is correct when he asserts that mere information is hardly sufficient to evoke faith. It is no wonder that organized theology is helpless in faith-oriented religion, for it attempts to bring normal people in

7. Ibid.

8. Ibid.

9. *Varieties*, p. 30.

a normal way to a result which was originally attained by an unusual individual (the founder of the theology who was possessed with a low threshold) in an unusual fashion. Thus, when we consider the faith-oriented religion it is true that the only effective religious experience is an emotional upheaval which is the result of an incursion from the world of the spirit, and that organized theology is but an ineffective secondary accretion.

But James, as an empiricist, set about impartially recording all types of religious experience and his rejection of the role of theology in the faith-oriented religion led him to reject theology across the board. And this wholesale rejection of theology resulted in the omission of one type of religious experience. That is the experience which is a result of a life-long adherence to a theology which demands not only faith, but *practice* as well.

If the experience depends on adherence to theology then it is the theology which is of primary importance. But James takes it for granted that life according to a theology is sterile, is a mere secondary accretion; therefore, the origin of the experience must lie elsewhere. We saw that this is true in the faith-oriented religion. But in the case of the practice-oriented religion the theology is not secondary. Rather it is the primary means. The theology and the experience are really one and the same. The religious experience is not seen as an incursion from beyond at whose mercy man is helpless; rather, it is an ongoing process which coincides with adherence to a systematic plan of action. The adherence itself constitutes the religious experience for the individual. It is by relating the theology to his practical life (קדושת החיים) that he finds a meaningful existence. In this situation, the experience is not based on emotion as in the faith-oriented religion. It is more subtle, more encompassing than mere happy mindedness or sickness of soul. It involves an intellectual recognition of the role of man who is not a passive but an active agent in his own salvation.

Perhaps the best example of the integration of theology and experience is afforded by the Eastern European shtetl culture. The formal religious structure of society demanded adherence to a strict legal code in addition to emphasis on scholarship. But despite the absence of dramatic presence, can it be denied that the adherents of

this tradition had a deep religious experience? A perusal of *Life Is With People* by Mark Zborowski and Elizabeth Herzog will reveal to the perceptive reader that the observant Jewish community of Eastern Europe was suffused with an aura of religious experience.¹⁰ Even the masses could achieve the experience by studying to the best of their ability and certainly by adhering to the code of action.¹¹

If the theology specifies action then it can serve to evoke experience. James himself points to this in his discussion of the Catholic practice of confession.¹² He asserts that confession is a means to keep the "healthy-minded" attitude in the forefront of the individual's outlook. Now confession is a prescribed action dictated by a systematic theology and James himself indicates that the theology (confession) determines what shape the experience is to take (happy-mindedness).

10. Mark Zborowski and Elizabeth Herzog, *Life Is With People*, (International Universities Press, Inc., 1952). Note specifically the chapters Sabbath Eve, Sealed on Mount Sinai, and Charity Saves From Death.

11. A similar phenomenon is, perhaps, the Puritan tradition. The Puritan church fathers went out of their way to prevent any emotional zeal from diluting the required diligence in pursuing the calling. It certainly was not the aim of the leaders of the Puritan church to preclude religious experience; rather it was their desire to prevent the superficial dramatic, transient religious experience from taking the place of the more subtle but more pervasive religious experience which is the result of the individual's own constant pursuit of the calling.

The essential point here is not the absence of emotional expression or the emphasis on scholarship. If the absence of emotion and the presence of scholarship were to be the criteria for attaining a more pervasive religious experience one would also have to include Unitarianism, which encompassed both these factors. However, Unitarianism removed the emotional zeal as a means of attaining faith, but failed to substitute a plan of action. A plan of action was pointed to, but the Unitarian theologians quailed before the prospect of setting down concrete demands. William Ellery Channing said in his address on Unitarian Christianity, "One surrender of desire to God's will is worth a thousand transports." He neglects to spell out exactly what God's will is, but he implies that it is for human beings to act with tolerance, meekness, humility, and charity. All of these traits — as well as their opposites — are so deeply embedded in one's nature that they can only be changed by a spiritual upheaval, which Channing repudiates. Thus the Unitarians could attain religious experience neither by emotional upheaval nor by a life of practice. A theology which does not emphasize religious transports is only effective if "God's will" is specifically delineated in terms of actions which the community of adherents are capable of performing on their own. Otherwise the theology is as useless as Unitarianism, which expected to change human nature without undue publicity.

12. *Varieties*, p. 128.

So it seems that theology is the determining factor in religious experience when the theology demands action. So, far from being secondary, it is indeed the primary part of the religion. Even if religious experience is the essence of religion, which is in itself debatable, it is the theology that determines what shape the experience is to take.¹³

Up to this point we have attempted to show that the religious experience need not be limited to cataclysmic incursions but can also occur as the result of a life of meaningful compliance with a theology which demands specific acts. And in this latter type of religious experience, the theology is of necessity of primary importance. However, even in the cases of religious experience which do take the form of spiritual upheavals for the individual, systematic theology plays a greater role than James admits. It is true that in a faith-oriented religion the theology cannot serve to evoke the religious experience as it can in the practice-oriented religion. But the theology definitely does mold the experience and determines the shape that it is to take. The experience which James documents invariably reflect the dictates of a theology. The religious experience of saintliness which manifests itself in devoutness, asceticism, charity, etc., is a religious experience because a particular theology encourages such manifestation. The fact that James, judging by his personal criteria, agrees that these experiences are religious by virtue of their beneficial fruits is irrelevant. The individuals who felt religious inspiration did not express their feelings in terms of asceticism or charity because they are inherently noble activities, but rather because of the theology which they felt demanded this sort of service to the Deity. And if these individuals had been reared in a different theology, their religious feelings would have been

13. Gershon Scholem takes the same approach in *Major Trends in Jewish Mysticism* (Schocken Paperbacks, 1961) pp. 4-6: "There is no such thing as mysticism in the abstract, that is to say, a phenomenon or experience which has no particular relation to other religious phenomena. There is no mysticism as such, there is only the mysticism of a particular religious system..." It should be noted that Scholem's definition of mysticism is equivalent to James' conception of the religious experience. Scholem makes this clear in his definition of terms on p. 4.

expressed in terms of different experiences. If Saint Louis of Gonzaga¹⁴ had been raised as a Buddhist his religious inspiration might have translated itself into self-immolation rather than the excessive purity which was the result of his Christian orientation. James records no cases of an individual who was raised in the environment of a particular theology and had a religious experience which was in terms of a different theology. This is most unusual if we accept James' view that experience is independent of theology. Thus we must conclude that it is the theology which provides an indispensable means for the meaningful concretization of the experience, and that religious depth is grounded in the interaction of the two.¹⁵

* * *

It seems that the mode of religious experience encountered by the individuals described in *The Varieties*, is not that which Judaism strives for. It is a matter of historical record, however, that religious individuals in the course of Jewish history actually "experienced" God in a way similar to James' description. This type of "experience" was especially characteristic of the Cabbalists in various periods. The following does not purport to exhaust the Jewish mystical tradition. Rather, using a few representative examples, we wish to observe them in light of James' criteria.

Abraham Aboulafia (1240-1291), who was ultimately condemned by the rabbinical authorities of his generation, records a series of mystical experiences at the age of thirty-one:

14. *Varieties*, pp. 350-353.

15. Along these same lines it is interesting to note that James considers as valid religious experiences only those which are in some way solemn or in some way of grave character (p. 38). This too stems from his own particular theological orientation — the Christian theory that laughter is somehow vulgar. Other theologies would not necessarily concede that the religious experience need be solemn. Cf. E. M. Forster, *A Passage to India*, pp. 283-291. Forster epitomizes the distinction between Hinduism and Christianity on this point in his description of the Hindu celebration of the birth of Krishna (the equivalent of the Christian celebration of the birth of Jesus). The celebration is marked by its complete lack of formality and self-consciousness. The participants make fools of themselves but don't mind at all. Indeed, Forster sums up the difference in one sentence: "By sacrificing good taste, this worship achieved what Christianity has shirked: the inclusion of merriment." *Ibid.* p. 289.

ואני בזמן היותי בן א"ל שנה, במדינת ברצלונה העירני ד' משנתי ואלמוד ספר יצירה עם פירושו, ותהי עלי רוח ד' ואכתוב ספרי חכמות... ותחי רוחי בקרבי ורוח ד' הגיע לפי ורוח קדושה נוססה בי ואראה מראות נוראות רבות ונפלאות על ידי מופת ואות, ובכללם התקבצו סביבי רוחות קנאות וראיתי דמונות ושגיאות ונבהלו רעיוני... והייתי משוגע ממראה עיני... עד אשר חנני אלקים... ויהי ד' עמי לעזרה.
(p. 22, Vol. I, אוצר ישראל, אברהם אבולעפיה)

The individual, absorbed in the study of mystical literature, felt possessed by the Divine, and its reality to him was unquestionable.

Similarly, there are Jewish analogues to the stage of self surrender and despair which precedes many religious experiences in *The Varieties*. It seems that as far as a single experience is concerned (in contrast to the more subtle life-long experience) Jewish religious literature has analogies to a stage of self surrender with its subsequent experience. Psalm 73 tells of the torment which the man of faith undergoes before he feels the proximity of God. The problem of good and evil in the world, the religious skepticism of the haughty, contribute to the enormity of his despair of finding God. However, out of his despair and resignation emerges religious ecstasy. For no comprehensible reason the desperate man of faith becomes regenerated and is able to proclaim his awareness of God's reality and closeness. This Psalm is one of many which portray this situation, and parallels can be drawn abundantly in other portions of the Bible.

Still, a *Varieties of Jewish Religious Experience* is not feasible because the Jew's intimacy with God is not something which the Jew feels free to publicize. Furthermore, religious mystical experiences in Jewish religious literature, even when recorded, would not be comparable to James' varieties. Even the Jewish individual who "mystically" or "emotionally" experiences God is intellectually oriented, and thus translates his emotional experience into intellectual abstractions. The religious Jew who experiences is motivated by the Halacha which objectifies the experience.

For example, the magid who appeared to Rav Yosef Karo. The magid, conceived by Rav Yosef Karo as an angel of God and thus a being conducive to religious "experience," communicated to R. Karo not necessarily emotions which he (R. Karo) could only

intuit and not articulate, not a feeling or sentiment which was ineffable (ineffability is a prerequisite in James' mystical experience), but rather words of instruction in Torah, words of encouragement for pursuing the life of Torah.¹⁶

* * *

In light of the material presented above, it seems to us that William James' contention that theology and experience are irreconcilable is vulnerable from the viewpoint of authentic Jewish experience.



16. The accounts of these experiences appear in *מגיד מישרים* which was published seventy years after the death of Rabbi Karo, to whom it is attributed.

● Lawrence Grossman

The amazing ability of the *halachic* community to survive intact, and to conquer even the most adverse and hostile cultural conditions, stems from the fact that Torah-Halachic values are rooted in the Transcendent and Eternal. By contrast, any theology rooted in, and nourished exclusively by the spirit of a particular age will wither and die with the passing of that age. This was the fate of the reform theology expounded by Kaufmann Kohler, an early American reform leader. Lawrence Grossman was the valedictorian at Yeshiva College in 1966. He is presently entering his final year in the *Semicha* program at Yeshiva.

KAUFMANN KOHLER'S THEOLOGY: A SYNTHESIS THAT FAILED

Cultural environment may cause modifications of religion in two distinct ways. Most noticeably, it influences religious practice; more fundamentally, it can effect profound, often semi-conscious shifts in the intellectual foundations of the faith. This latter phenomenon has posed a long standing dilemma for theologians of all religions in the Western World. Adoption of environmental attitudes may increase the relevance of theology, but can easily destroy its integrity.

To the Orthodox Jew living in the United States, the challenges presented by secular civilization are not mere abstractions for we confront them in almost every phase of our daily life. This essay represents an attempt to provide historical perspective on current awareness to the problem. We will describe the response of a wing of American Judaism — Reform — to environmental influences in the late nineteenth and early twentieth centuries.

H. Richard Niebuhr writes that American Protestant theology during this period was "Culture Protestantism." The values and attitudes of secular America were given a veneer of holiness, and

called religion.¹ Reform Judaism was characterized by the same tendency.² Nowhere is this more evident than in the thought of Kaufmann Kohler.

Kohler was generally recognized as the leader of American Reform after the death of I. M. Wise in 1900. He was born in Bavaria in 1843, was raised as an Orthodox Jew, but broke with Orthodoxy due to the influence of Darwinism and historical studies. He came to the United States in 1869, having received a doctorate in Germany. After serving as rabbi of several communities, Kohler became president of Hebrew Union College. In his later years he was revered as the wise elder statesman of the Reform movement. Kohler died in 1926.³

"Judaism," wrote Kohler, "is... a religion allied with reason, a faith in consonance with the dictates of science."⁴ For Kohler, as for many men of his time, the findings of natural science carried great weight. Religion had to be interpreted so as to reflect this respect for science. Thus the Pittsburgh Platform of 1885, the official credo of American Reform and largely the work of Kohler himself, contained the assertion "that the modern discoveries of scientific researches in the domain of nature and history are not antagonistic to the doctrines of Judaism..."⁵

Science was valuable, thought Kohler, because it destroyed superstition. Although he was aware that materialism might result if the findings of science were swallowed whole, Kohler believed that their positive contribution far out-weighed this potential loss of spirituality. Indeed, one of the great strengths of Judaism was

1. H. Richard Niebuhr, *The Kingdom of God in America* (Hamden Connecticut, 1956) especially the final chapter.

2. The "official" survey of Reform Judaism is David Philipson, *The Reform Movement in Judaism*, 2nd ed. (New York, 1931). It is highly partisan and outdated.

3. For a detailed biography see Max J. Kohler, "Biographical sketch of Dr. K. Kohler," in *Studies in Jewish Literature Issued in Honor of Professor K. Kohler* (Berlin, 1913), pp. 1-10.

4. "Hanukkah, A Festival of Light," in Kohler, *A Living Faith*, ed. Samuel S. Cahon (Cincinnati, 1948), pp. 94-5.

5. Philipson, p. 356.

precisely that it "always invited and encouraged research." Other religions presented their doctrine "as blind belief."⁶

Throughout Kohler's writings there are numerous obeisances to the theory of evolution. He tells us, for example, that "Evolution has enlarged the hope, broadened the sympathies and elevated the standards and ideals of struggling humanity..."⁷ Kohler's son even claimed for his father the distinction of having been "the first rabbi, and probably the first minister of any denomination" to accept evolution.⁸

Darwinism convinced Kohler that the basis of all reality was the principle of constant flux and religion was also subject to this law of change. Thus the Bible itself was simply the end product of a gradual accretion of man-made literature. Hence, it was argued, one could dismiss those elements in Scripture which were distasteful. As the Pittsburgh Platform succinctly put it, the Bible contained "the primitive ideas of its own age."⁹ Kohler called for "a Bible purified from all its offensive and obnoxious elements" that "discredit and disgrace us before the world."¹⁰ He was obviously extremely sensitive to what the gentiles might think of his religion.

Kohler believed that Higher Criticism of the Bible enhanced the value of scripture. Although the Bible could no longer be considered the product of direct divine dictation, the new discoveries showed that Judaism was even holier than previously assumed. Since these writings were accumulated over a period of centuries, a vague sort of Godly inspiration must have been at work over a long span of time, not just in the era of the prophets themselves. Inspiration continued throughout "the entire history of Judaism."¹¹

Like all good nineteenth century Idealists, Kohler emphasized the importance of history. History was the very essence of revelation and, in conjunction with Darwinism, proved the authenticity of Re-

6. "Judaism's Four Characteristic Traits," *A Living Faith*, p. 159.

7. "Nearer to Nature, to Humanity and to God," *Ibid.*, p. 133.

8. *Studies... in Honor of Kohler*, p. 7.

9. Philipson, p. 356.

10. "Backward or Forward" in Kohler, *Studies, Addresses and Personal Papers* (New York, 1931), p. 218.

11. "Is Reform Judaism Destructive or Constructive?" *Yearbook of the C. C. A. R.*, Vol. III (1893), p. 106.

form Judaism. Orthodoxy was tied to old forms, and was left hopelessly behind by the passage of time. Just as organic beings are always changing, Judaism must gradually transform itself to cope with the world around it.¹²

The biological and historical theories which influenced Kohler carried with them a fervent faith in progress. Since Reform Judaism was that species which was fittest, it was progressive and therefore "true." Orthodoxy was an unprogressive vestige of past ages which had served an important purpose: "Man in a child-like state requires... all the symbols and ceremonial forms." By Kohler's time, mankind had already matured and could "drop all the crutches and fences of childhood days."¹³

Once one identifies Reform with the wave of the future, and dismisses Orthodoxy as a steadily vanishing remnant of the ancient past, it is no wonder that competition between the two is viewed as a choice between "Retgression or Progress."¹⁴

Belief in the inevitability of steady progress usually carries with it an optimistic estimate of man's nature. It was very easy for Kohler to emphasize the absence from Judaism of the doctrine of original sin. When he combined this with a naturalistic interpretation of the Messianic era, Kohler could show that his religion was the most truly liberal, optimistic and humanitarian. Judaism did not preach "perdition nor radical corruption." Kohler soothingly proclaimed that "God has faith in man."¹⁵

Kohler was not totally blind to the existence of evil. Early in his career, he favored Sunday in place of Saturday services; this would, he felt, make for more brotherhood among men. A few years later he reversed his opinion because Christians had not been prompt in offering aid to the persecuted Jews of Europe: "How rudely have we all been roused from our dream... Dare we... recognize the predominance of Christian culture by accepting Christian Sunday?"¹⁶

12. "The Faith of Reform Judaism" in *The Menorah Journal*, II (Feb., 1916).

13. "My Strength and My Song is the Lord," *A Living Faith*, pp. 130-21.

14. "Backward or Forward," *Studies, Addresses and Personal Papers*, p. 202.

15. "Judaism and the Jew," *A Living Faith*, p. 67.

16. "The Sabbath of the Jew," *Ibid.*, p. 37-38.

Such expressions of disillusioned realism are all too rare in Kohler's writings.

Liberal theology implies broad religious tolerance; this has been especially true in the United States. According to Kohler's version of his faith, Judaism made no claim "to possess the absolute truth."¹⁷ In fact, Kohler admitted that the principles which he preached were virtually identical with those professed by Christians, except that Judaism expounded "The Fatherhood of God and the brotherhood of man... in purer notes than the Church ever did."¹⁸ Kohler even warned that unless Reform was preached from every Jewish pulpit, intelligent Jews would "henceforth go to a free Christian Church" where they could get the same religious message without the superstitious tinge given to Judaism by Orthodoxy.¹⁹

The essence of Judaism, generally ignored by otherworldly Christianity, was ethics. Indeed, once the supernatural element of a faith is denied, what is there but ethics? The moralistic emphasis present in Kohler's thought finds many parallels among liberal Protestants of his age who also needed a substitute for their eroded supernaturalism.

America had a special significance in Kohler's theology. It was a "God blessed world" whose citizens were moving "to the fore of humanity in industrial enterprise and wealth, in general education and knowledge."²⁰ America's aim in World War I was simply to spread its "freedom and justice... democracy and humanity" throughout the world.²¹

What made all this so wonderful was that these great ideals were of Jewish origin. Was not the Constitution based "on the principles underlying the Law of Sinai?"²² One cannot resist recounting one of Kohler's proofs of America's Jewish foundations. The Bible tells us that Moses told Aaron "Would that all the Lord's people were

17. "Men of Valor," *Ibid.*, p. 181.

18. "The Priestly Blessing," *Ibid.*, p. 290.

19. "Backward or Forward," *Studies, Addresses and Personal Papers*, p. 204.

20. "Style and Triumph," *Ibid.*, p. 83.

21. "The God of History and The Religion of History," *Ibid.*, p. 164.

22. "The Tocsin Call of Liberty and Democracy," *Ibid.*, pp. 113-15.

prophets." We deduce from this "the principle of democracy... the hopes of modern civilization."²³

Kohler had reason to believe that America was particularly conducive to the Reform version of Judaism. Reform was non-authoritarian, a "free, practical, common-sense religion," and had "democratized our Synagogue."²⁴ What could be more American?

The Messianic Era will come to full fruition when the world embraces American principles, which are basically Jewish. Israel's mission would steadily be realized "in the modern era of universal culture."²⁵ Zionism, therefore, must be denounced as totally alien to Judaism. This insidious movement called upon American Jews "to sell our birthright... for a mess of pottage... American citizenship for a land in the clouds."²⁶ Kohler remained a good American, but his credentials as an authentic Jewish thinker are open to challenge.

* * *

The liberal religion that Kohler preached has gone out of style both among Jews and Christians. Yet, his attempt to reconcile Judaism with the intellectual currents of his own time remains of interest, if only as a case study of the problems and pitfalls inherent in such attempts. Kohler's method of synthesis was really quite simple: traditional Jewish beliefs that seemed incompatible with Darwinism, Higher Criticism, Idealism or American patriotism would be dispensed with. Whatever remained could be called "Judaism".

Kohler did not experience the tensions and inner conflicts that result when a modern Jewish intellectual takes his religion seriously. There was no struggle at all for Kohler because he accepted the popular ideologies of his era and saw them as absolutes; he was a culture-bound man who reduced Judaism to the level of that culture.

Perhaps even more important was the lack of a personal, emotional, dimension in Kohler's religious thought. A child of his times, Kohler

23. "Religious Democracy," *Ibid.*, p. 151.

24. "Backward or Forward," *Studies, Addresses and Personal Papers*, p. 233.

25. Philipson, p. 356.

26. "The Faith of Reform Judaism," *The Menorah Journal*, II, p. 15.

thought in terms of forces, principles, ideas and spirits — all impersonal in nature. The intimate I-Thou relationship later evoked by Martin Buber is missing. If one really experiences such a relationship, or even if one merely recognizes its validity, secular patterns of thought can more easily be placed in perspective. Culture of a particular time or place assumes a secondary role, and conflicts between secular and religious thought can remain conflicts without adulterating the content of either.

Kohler distorted Judaism in order to eliminate differences between religion and culture. We, on the contrary, must take our faith seriously before we can create a synthesis. If this makes our task harder, and if, indeed, no synthesis is possible without distortion, we will just have to continue living in two mental worlds. However, if a constructive *modus vivendi* can be effected between secular thought and a religion that is true to its past, our stubbornness will have been worth it.



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JEWISH HISTORY

No one could have foreseen that Isaac Newberg's marriage to Leah Gunzhausen would eventually lead to one of the *halachic causes celebres* of the eighteenth century. Nor would anyone at the height of the controversy have dared to predict its actual O'Henry-like outcome. Rabbi Aaron Rothkoff gives a *shiur* in Talmud at the Yeshiva University High School for Boys, Manhattan.

THE DIVORCE IN CLEVES, 1766

INTRODUCTION

In his *Igrot Moshe: Eben HaEzer*, Rabbi Moshe Feinstein discusses the recurring *halachic* dilemma of the permissibility of a paranoiac granting a *get* to his wife.¹ This time, the paranoiac is described as

"...having claimed that he was the messiah. Because of this belief, he acted foolishly and constantly strove to read the Torah and to serve as the cantor at public services. Even when the congregation did not permit him to do so, he still fought for these privileges. He travelled from city to city in order to correct the world. At times, he took the property of others and did not return the items until the owners contributed to charity. He climbed trees in order to preach to passers-by. He even appeared publicly in the nude, as he claimed that he was like Adam before the sin. All this came about because of his belief that he was the messiah. Otherwise, he was completely normal..."

This study is dedicated to my beloved and revered *Rebbe Muvhak*, Rabbi Joseph B. Soloveitchik, from whom I first learned about the divorce in Cleves. May God grant the *Rav* many more years of fruitful activity in His vineyard of Torah and scholarship.

1. (New York, 1961), Responsum No. 120, pp. 285-293.

After a lengthy responsum, Rabbi Feinstein permitted this individual to divorce his wife. No vitriolic debate has resulted because of this decision. However, two hundred years ago, a similar lenient ruling resulted in the last widespread responsa controversy at a time when Rabbinical authority was still universally accepted.

COURTSHIP, MARRIAGE, AND DIVORCE

The controversy had its inconspicuous beginning when Isaac *ben* Lazer Newberg of Mannheim, Prussia, became engaged to Leah *bas* Jacob Gunzhausen of Bonn, Prussia, in 1766. After their engagement, Isaac Newberg twice visited his fiancée and her family in Bonn. During these visits, he appeared happy, healthy, and normal, and Elul 8, 1766 was designated for their marriage.²

On Friday, Elul 3, 1766, Mr. and Mrs. Jacob Gunzhausen, Leah, and their relatives arrived in Mannheim.³ They were joyfully received by the groom and his family, and Isaac escorted Leah to her room. However, on Saturday morning, a complete change overcame Isaac. All manifestations of happiness vanished, and he paced the floor as an individual in the throes of mental and emotional conflict. On Sunday morning, Leah and her parents questioned Isaac about

2. The history of the couple and the responsa dispute will be reconstructed from the *Or HaYashar* and the *Or Yisrael*. The *Or HaYashar* was published in Amsterdam by a participant in the dispute, Aaron Simeon ben Jacob Abraham of Copenhagen, in 1769. It is entirely devoted to responsa concerning the divorce. The *Or Yisrael* was published by Rabbi Israel Lipschutz in Cleves in 1770. Responsa Nos. 1-36 concern the divorce. Both volumes attempt to validate the divorce.

The Jewish Encyclopedia (IIX, p. 102) mistakenly stated: "Toward his [Rabbi Lipschutz's] own defense he published... *Or Yisrael* to counterbalance the *Or HaYashar* published by Simon Copenhagen in the previous year at Amsterdam."

In reality, both volumes attempt to validate the divorce.

3. Aaron Simeon b. Jacob Abraham was among the group that arrived in Mannheim. It is evident from his account of the events that he remained with the young couple until the newlyweds returned to Bonn.

When the controversy began, the Frankfurt Rabbinical Courts accused him of planning the deceptive divorce. Many responsa were written by the rabbinic leaders in answer to Aaron Simeon's requests. On the basis of these responsa, he published the *Or HaYashar*.

his strange behavior. They asked him if he was dissatisfied with Leah, and if he wished to break their engagement. Isaac then explained that he was upset because his father had broken his promise to give him and his bride the good rooms now occupied by Isaac's sister and her husband. His father had not evicted the older couple, and Isaac felt that the rooms prepared for him would not be sufficient for himself, Leah, and the children God would bless them with. Mr. and Mrs. Gunzhausen next discussed this problem with Mr. Newberg. An agreement was finally reached with Mr. Newberg regarding the eviction of Isaac's sister and brother-in-law, and the occupancy of these rooms by Isaac and Leah.

On Tuesday night, Elul 8, 1766, the wedding took place. The groom received the guests graciously and he delivered the customary Talmudic lecture before the ceremony. After the ceremonies, Isaac consummated his marriage and separated from his wife in accordance with Jewish law.

On Saturday morning, the eleventh of Elul, Isaac took ninety-four golden coins from his dowry which was kept in his room, and he fled from Mannheim without informing any members of his family. When his family realized that he was missing, gentiles were engaged to search for him in the surrounding communities and villages. On Sunday morning, Isaac was discovered in the house of a gentile farmer in the village of Fahmheim, some four hours distance from Mannheim. The groom's relatives immediately went to the village and they found him reclining on a bed, ashamed of his deeds. They questioned him about the dowry and he showed them that he had all the coins he had taken on the Sabbath, except for the minute rental charge he paid the farmer for the room.

After Isaac returned to his father's house, he constantly discussed the necessity of his fleeing Mannheim, as he was in severe trouble with the government. In the meantime, financial disagreements broke out between the young couple's parents regarding the support of the couple. On Tuesday morning, Elul 14th, these differences were settled in the presence of a mediator. The bride's parents then suggested that the groom reside with them in Bonn until he regained his strength and perspective. Afterwards, the couple could return to Mannheim in accordance with their previous plans. Isaac's parents

agreed to this idea, and Isaac was overjoyed at the prospect of leaving Mannheim. Before their departure, the parents of the couple rented excellent rooms in Mannheim which were to be prepared for occupancy by the newlyweds upon their return to Mannheim.

That afternoon, Tuesday, Elul 14th, Isaac and Leah, Mr. and Mrs. Gunzhausen, and members of the Gunzhausen family left Mannheim. Wednesday evening, the party arrived at an inn in Wiesnev, a small village near Mainz on the path to Bonn. After renting rooms in the inn, the party ate at a Jewish home in the village. The mistress of the home innocently inquired whether the young newlywed was the Isaac Newberg who had run away on the Sabbath after his wedding. Upon hearing this inquiry, Isaac became semi-hysterical. Later that evening, he was appeased and he regained his composure.

On Friday, Elul 17th, they arrived in Bonn. On Saturday, Isaac attended services in the synagogue, and he was honored with an *aliyah*. He had the sexton intone the customary blessings for his wife and family and he pledged liberal contributions to charity. He appeared completely normal and happy.

On Saturday night, Isaac sent for Aaron Simeon b. Jacob Abraham, his wife's relative who accompanied the Gunzhausens during their stay in Mannheim. When Aaron Simeon arrived, Isaac asked the other members of the family to leave the room as he wished to speak with Aaron Simeon privately. Isaac then told Aaron Simeon that his wife disliked him, and that he would also be in grave danger if he continued to live in any section of the Rhineland. Isaac felt that he must leave the country. However, he was greatly distressed over the fact that his wife would be an *agunah*. Aaron Simeon requested that he explain these fears in detail, but Isaac refused. Aaron Simeon then promised that he would see him tomorrow, and they would discuss the situation and decide what was to be done.

Aaron Simeon spoke with Mr. Gunzhausen about his son-in-law. He returned to see Isaac on Sunday, Elul 19th, and told him that he knew of no solutions to the problems confronting him. Isaac then confidently and sedately stated that he would divorce his wife. He told Aaron Simeon that if he would not help in arranging the divorce, he would still flee the country and Leah would remain an

agunah. After consultation with Leah and the Gunzhausens it was agreed that a divorce would be the only feasible solution. Aaron Simeon informed Isaac that a divorce was agreeable to his wife and he requested that Isaac choose the *Av-Beth-Din* to administer the *get* as there was presently no *Av-Beth-Din* in Bonn. Isaac stated that since it was his intention to escape to England by way of Holland, he would prefer that an *Av-Beth-Din* from a city in this path administer the *get*. He also specified that it must be a city that was not under the jurisdiction of the Duke of Pfalz. It was then agreed that they would go to the *Av-Beth-Din* of Cleves, as this city was close to the Holland border.

That Sunday afternoon, Isaac, Leah, Aaron Simeon, and Leah's brother and cousin departed for Cleves. On the way, Isaac explained the reasons for his inability to remain in the Rhineland to Leah's cousin, who related the conversation to Aaron Simeon. On Tuesday morning, Elul 21st, they arrived in Cleves. They immediately proceeded to the home of Rabbi Israel Lipschutz, the *Av-Beth-Din* of Cleves. After Rabbi Lipschutz inquired why they travelled the great distance to Cleves for the divorce, Isaac explained his plans to the *Av-Beth-Din*. The Rabbi then spent some three or four hours discussing the divorce with the Bonn company. Isaac explained his reasons for requesting the divorce to the Rabbi. He also told him about the history of his marriage, although he omitted the incident of his Sabbath escape from Mannheim.

During the entire course of their conversation, Isaac appeared completely normal and cognizant of the divorce proceedings he was implementing. A detailed agreement was reached between Isaac and Leah dividing their joint property and dowry. A contract verifying this agreement was signed by Isaac.

Isaac then requested that Rabbi Lipschutz administer the divorce as promptly as possible as he wished to depart for England the next day. Isaac also requested that the divorce proceedings should not be publicized in Cleves as he heard that there were people from Mannheim residing there, and he did not wish to be embarrassed.

After their conversation, the *get* was written by Aaron Chaim Shatz, in the presence of other members of the Cleves Jewish community. While the *get* was being written, Rabbi Lipschutz took

Isaac aside and told him that he was grieved that such a fine learned young man must go so far away and therefore divorce his wife. Rabbi Lipschutz also requested that Isaac consider the worry he will be causing his parents when they learn about his deeds. Isaac replied that he had no choice in the matter as he would surely be executed if he returned to Mannheim. Rabbi Lipschutz asked Isaac to explain why this was so, but Isaac would not elaborate on his previous statement. Rabbi Lipschutz then questioned Leah's brother about the accuracy of Isaac's declarations. He assured Rabbi Lipschutz that this danger was imminent if Isaac returned.

After the *get* was written, the scribe requested that Isaac puncture a letter of the document so he would be able to identify his *get* in the future. Isaac did as requested and also correctly answered all the questions that the scribe asked him.

After the completion of the divorce proceedings, Isaac obtained a passport from the Cleves government official in charge of travel. The group remained in Cleves until the afternoon of the next day, Wednesday, Elul 22nd. Leah's relatives asked Isaac to return with them to Bonn and to spend the approaching High Holy Days there. Isaac declined and came over to their wagon to say good-by. Leah refused to look at him, and Isaac asked her why she was so sad. Isaac then promised that if his business ventures were successful he would bestow presents upon the children that she would someday bear to some other man. After this, Leah and her family departed for Bonn and Isaac set out on his path.

During this entire period, Isaac's parents received no letters from him. They soon began to worry about his health and whereabouts. Finally, Lazar Newburg sent a messenger to Bonn to ascertain what had happened to the young couple. The messenger arrived in Bonn after the divorce, and returned to Mannheim with the news of the divorce and a copy of the joint property settlement.

Lazar Newburg immediately accused Leah's parents of acting surreptitiously with his sick son. He felt that his son was either insane or that he had been intimidated into divorcing his wife and fleeing to England. Mr. Newburg felt that Leah's family had greatly profited by the division of their joint property and dowry. He appealed to Mannheim's *Av-Beth-Din*, Rabbi Tevele Hess, to annul the divorce.

On Tishrei 4, 1766, Rabbi Hess and nine other Mannheim rabbis sent a letter to the famous *Beth-Din* of Frankfurt-on-the-Main asking for a decree declaring the divorce invalid. The dispute over the divorce given in Cleves had begun.⁴

HALACHIC VIEWPOINTS ANNULING THE GET

The Mishna (Gittin 67b) states:

If a man is seized with a *Kordiakos* and says, write a *get* for my wife, his words are of no effect.

The Talmud *ad loc* explained:

What is *Kordiakos*? — Samuel said: Being overcome by new wine from the vat.

Rashi explains that his words are of no effect since he is not lucid due to his being intoxicated.

This mishna was therefore interpreted as abrogating any divorce proceeding initiated by a husband who is not in a normal state of mind. Maimonides (Laws of Divorce, II, 14) states:

If a man is mentally disturbed at the time he requests that a divorce be written for his wife, his request is of no effect, as he is not lucid and rational.

The law as codified in the *Shulchan Aruch* (*Eben HaEzer*, CXXI, 1) states:

The man must be in possession of his senses when he commands that the *get* be written. Therefore, if he is mentally disturbed at the time of his command, the *get* is not considered to have been written for him even when he recovers.

Those who wished to annul the *get* that Isaac gave to Leah essentially contended that Isaac was insane at the time that he divorced Leah. As proof of Isaac's insanity they cited his strange

4. Solomon B. Freehof, *The Responsa Literature* (Philadelphia: The Jewish Publication Society of America, 1955), pp. 158-161, discussed this controversy. Freehof mistakenly stated: "After discussion between the families, it was agreed that the best thing would be to let him give her a divorce." In reality, the controversy was caused because Isaac's parents were not consulted.

behavior and fears. They continually referred to Isaac's depressive moods before and after his marriage. The fact that Isaac carried money and ran beyond the distance of the *techum* on the Sabbath after his wedding also was indicative of his insanity. Isaac's continued chatter about governmental persecution and his subsequent departure for England also denoted his mental incompetence.

Above all, they stated that the divorce itself had been obtained under the most suspicious of circumstances. Why was there no attempt to inform Mr. and Mrs. Newburg? Why did it take place so soon after the couple's arrival in Bonn, before the newlyweds could participate in their second act of marital relations?⁵ Why did the couples go to Cleves if there were cities closer to Bonn, such as Dusseldorf and Koblenz, which also had outstanding rabbis who were capable of administering *gittin*?

It therefore appeared to some of the participants in the dispute that Isaac was insane at the time of the divorce. They felt that Leah's family took advantage of his precarious mental state by manipulating him into divorcing her and agreeing to an unfair division of the property.

There also was the opinion that even if Isaac was not completely insane, the divorce was still invalid since he was definitely paranoid, suffering from illusions of persecution. This opinion was based upon Maimonides' definition of insanity (Laws of Testimony, IX, 9):

A person bereft of reason is disqualified by the Torah from bearing testimony since he is not obligated to observe the Torah. This disqualification does not solely apply to a person completely bereft of reason such as individuals who appear in the nude, destroy utensils, or throw rocks; but anyone of unsound mind is disqualified. Even if he is only unbalanced in one area, and is completely lucid in all other matters, he is still disqualified and considered bereft of reason.

5. On Tuesday night, Elul 8th, the newlyweds consummated their marriage. In accordance with Jewish law, the earliest possible time the couple could have relations again would have been on Saturday night, Elul 19th. Already, on this Saturday night, Isaac decided to leave his wife and informed Aaron Simeon of his intentions. The next day, they departed for Cleves to obtain the divorce.

The *Shulchan Aruch* codified the law in accordance with this viewpoint of Maimonides (*Choshen Mishpat*, XXXV, 8). Since a paranoid would be categorized as "bereft of reason", his *get* would also be invalid. Therefore, Isaac's divorce was void.

Proof from the Talmud was also cited to indicate that a normal person would have never divorced his wife after such a short marriage. The Talmud (Ketuboth, 10a) states:

The presumption is that no one will take the trouble of preparing a wedding-feast and will then spoil it.

It was common knowledge in Mannheim that Isaac and his family invested much money in preparing for the wedding. Isaac borrowed one thousand golden coins to complete his wardrobe. It was therefore considered absurd to imagine that Isaac, under normal circumstances, could have divorced Leah after such a short marriage.

HALACHIC VIEWPOINTS VALIDATING THE GET

To many authorities, Isaac was not to be considered insane. The only action he committed which was completely abnormal was his flight on the Sabbath after his wedding. Since he did a totally abnormal action only once, he was not to be judged "bereft of reason". The *Kesef Mishna* (Laws of Testimony IX, 9) explaining Maimonides' definition of "bereft of reason", states:

When our master declared a person "bereft of reason" for acting abnormally in only one area, it was only when he did this abnormal act in a senseless fashion. Even when he acted in a senseless fashion on one occasion, he is still not considered "bereft of reason" until he constantly behaved in this senseless fashion.

It was felt that since Isaac had acted abnormally only once, he was not to be considered "bereft of reason". Some authorities held that even the abnormal Sabbath incident was not done in "a senseless fashion", since Isaac explained the reasons for his flight.

These authorities maintained that even if Isaac's fears of the government were unfounded, and even if he was paranoid, the

divorce was still valid since the Talmud (Rosh Hashanah, 28a) states:

If a man is sometimes in his sound senses and sometimes crazy, when he is in his senses he is regarded as a sane man in all particulars, and when he is crazy he is regarded as insane in all particulars.

The law as codified in the *Shulchan Aruch* (*Eben HaEzer*, CXXI, 3) reads:

A man who is sometimes lucid and sometimes crazy, when he is lucid he is regarded as completely sane and a divorce granted to his wife at that time is completely valid. Even if he is only partially sane at that time, the divorce is still valid.

Rabbi Israel Lipschutz felt that Isaac was completely sane during the entire divorce proceedings. Six Cleves residents who were present at the proceedings also testified to Isaac's lucidity during his stay in Cleves. Aaron Simeon also stated that Isaac acted completely normal during the divorce proceedings.

The authorities validating the divorce also rebuked the *Beth-Din* of Frankfurt for interfering in a divorce granted by the Cleves *Beth-Din*. There had long been Rabbinical Laws in Germany forbidding the *Beth-Din* of one locality from interfering with the *Beth-Din* of another locality. It was therefore felt that the Frankfurt *Beth-Din* acted improperly when it expressed an opinion concerning the action of a *Beth-Din* which was not within its jurisdiction.

For these reasons, many held that the divorce was valid. Isaac could certainly not be classified as being totally insane, and Rabbi Israel Lipschutz could be relied upon to have administered a proper *get*.

THE DISPUTE AND THE RESPONDENTS

After Rabbi Lipschutz⁶ administered the *get*, Mannheim's Rabbi Tevele Hess appealed to the Frankfurt *Beth-Din* since he felt that if

6. At the time of the divorce, Rabbi Israel Lipschutz was highly esteemed in rabbinic circles. [His father, Rabbi Eliezer, served as rabbi in Ostrow, Cracow,

the annulment could be quickly publicized in Bonn, Leah's residence, all surrounding communities would know about it since there were many visitors in Bonn for the market season. Rabbi Hess reasoned that Isaac could be examined upon his return, and if declared sane, he would then redi-vorce his wife.⁷

The *Av-Beth-Din* of Frankfurt, Rabbi Abraham Abush, was an acknowledged authority in both Talmudic and esoteric studies. As the Rabbi of Frankfurt, his fame continued to spread throughout the Jewish world, and his piety, modesty, and humility were legendary.⁸ In joint action with the two Frankfurt Rabbinical Courts, Rabbi Abraham Abush accepted the reasoning of Rabbi Hess that Isaac was insane at the time of the divorce. It was felt that Rabbi Lipschutz granted the *get* only because he did not know about Isaac's history. The Frankfurt Courts declared the *get* invalid, and they requested that Rabbi Lipschutz advise the young woman not to rely on the *get* and not to remarry.

and Neuwied until his death in 1748. Rabbi Israel's teacher, Rabbi Ezekiel Katzenellenbogen, authored the *Knesset Ezekiel* while occupying the prominent pulpit of the tri-community of Altona, Hamburg, and Wandsbeck.] Since 1747, he regularly corresponded with rabbinical scholars about *halachic* problems. Much of this correspondence was later printed in the *Or Yisrael* which he published in 1770. This was his only published work; however, he also authored novellae and elucidations on the *Shulchan Aruch: Eben HaEzer* and on sections of the Talmud.

7. Rabbi Hess was the recipient of a responsum from Rabbi Ezekiel Landau of Prague. See *Nodah B-Yehuda: Mahadurah Kama: Yoreh Deah*, No. 31. Rabbi Hess died soon after the controversy began and subsequent responsa referred to him as the deceased *Av-Beth-Din* of Mannheim. Cf. M. Horowitz, *Frankfurter Rabbeinen* (Frankfurt A. M., 1884), III, p. 100.

8. Rabbi Abush was born in 1700. His father Rabbi Tzvi Hersch, and his brother, Rabbi Mordecai, were well known Torah scholars. His main Talmudic teacher was Rabbi Shmuel ben Feibush, the *Av-Beth-Din* of Furth, and author of the *Beth Shmuel* commentary on the *Shulchan Aruch: Eben HaEzer*. Later Rabbi Abush studied esoteric Jewish traditions with Rabbi Naftali Katz the *Av-Beth-Din* of Frankfurt and a renowned master of said tradition.

For his complete biography see Joshua Herschel Levenstein, *Tiferet Abraham* (Pietrokov, 1929). This biography was appended to a volume of Rabbi A. Abush's Talmudic novellae on Talmud *Berakot*, entitled *Birchat Abraham*, which was published by Levenstein at that time.

Another volume of the *Birchat Abraham* and his esoteric Torah commentaries entitled *Keneh Abraham* were previously published by his grandson, Rabbi Joseph Levenstein in Warsaw, in 1881 and 1884.

On Tishrei 27th and Cheshvan 27th 1766, Rabbi Lipschutz sent responsa to Frankfurt clarifying his validating the divorce. In his second letter he included statements of Cleves residents who saw Isaac on the day of the divorce or participated in the divorce proceedings. All these people testified to Isaac's normal deportment during this period. Their testimony was recorded in the presence of the Cleves Rabbinical Court on Cheshvan 23rd. However, the Frankfurt Courts did not agree with Lipschutz's responsa and they persisted in invalidating the *get*.

Rabbi Hess of Mannheim also presented the case to Pfalz's Rabbi Naftali Hirsch Katzenellenbogen, a scion of the well known Katzenellenbogen rabbinical family. Rabbi Naftali Hirsch immediately inquired of Rabbi Lipschutz as to the exact details of the case. After receiving a reply from Rabbi Lipschutz, Rabbi N. H. Katzenellenbogen responded to Rabbi Hess and validated the divorce. He also reprimanded Rabbi Hess for corresponding with the Rabbinical Courts of Frankfurt before contacting Rabbi Lipschutz.

In accordance with the requests of Rabbi Hess, Rabbi Naftali Hirsch also presented the case to his brother, Rabbi Eliezer of Hanover, and his brother-in-law, Rabbi Joseph Steinhardt of Furth. On Cheshvan 11th, Rabbi E. Katzenellenbogen responded and validated the divorce. Rabbi Joseph Steinhardt, renowned as a respondent and considered one of the leading rabbinic personalities of his generation,⁹ waited until he saw all the testimony gathered in Cleves from those present at the time of the divorce, and then answered Rabbi Hess by also validating the *get*. In addition, he enjoined Hess from continuing to cause confusion by voiding the divorce. He felt that Rabbi Hess should rely upon the good judgment of Rabbi Lipschutz. Rabbi Steinhardt later wrote two more responsa to Rabbi Abraham Abush validating the divorce when the Frankfurt Rabbinical Courts continued to void the *get*.

When Rabbi Abraham Abush and the Frankfurt Courts realized that Rabbi Lipschutz would not alter his position, they subpoenaed Aaron Simeon and other members of the Bonn Jewish community

9. His most important published work is *Zichron Joseph*, a collection of his responsa on the *Shulchan Aruch*. It was published in 1773.

to appear before them in order to thoroughly investigate the divorce proceedings. During Chanuka of 1766, the Bonn delegation arrived in Frankfurt where they remained for three weeks while they were questioned by the Rabbinical Courts regarding the minutiae of the divorce proceedings. On Tebeth 4, 1767, the Rabbinical Courts of Frankfurt, in conjunction with Chief Rabbi A. Abush, sent a letter to the community of Bonn informing them that the Frankfurt Courts decreed that Leah was still to be considered in a state of matrimony. While they would continue to investigate the circumstances surrounding the divorce, at present they still considered Isaac to have been insane at the time of the divorce and therefore they decreed that the *get* would only be valid if they would grant Leah a certificate of validation in the future. The Frankfurt Courts also contacted their former member, Rabbi David Tevele Schiff, then the Rabbi of London's Great Synagogue who at their request, interviewed Isaac Newburg. He reported that Isaac claimed that he was now completely normal, although he thought that he was irrational at the time of the divorce.

The famed Rabbi Saul Lowenstamm of Amsterdam next joined in the dispute.¹⁰ Rabbi Saul consulted Rabbi Zalman the son of Rabbi Jacob Emden who resided in London and requested that the latter investigate Isaac Newburg. After his examination, Rabbi Zalman informed Rabbi Saul that he too found Isaac to be completely sane, although Isaac admitted that he was not rational at the time of the divorce. The Frankfurt Courts wrote to Rabbi Saul explaining their position and requesting that he inform them of the results of Rabbi Zalman's London inquiries. They also advised Rabbi Saul that they would now be the sole authorities in determining the validity of the divorce in accordance with the final results of their multiple investigations.

On Shebat 6, 1767, Rabbi Saul answered the Frankfurt Courts and he informed them of Rabbi Zalman's conclusions. However, he questioned the authority of Frankfurt to claim sole jurisdiction in

10. A great-grandson of Cracow's Rabbi Herschel, Rabbi Saul's vast erudition and modesty were described by Rabbi Chaim Joseph David Azulai when he visited Amsterdam in 1777. Azulai, *Shem HaGedolim: Maarechet Sforim* (Jerusalem, 1953), 9b, Letter "Bet," No. 99.

the case, and he also validated the *get*. He felt that since Rabbi Lipschutz ruled that Isaac was sane at the time of the divorce, then the *get* was entirely valid, and there was no need for the elaborate investigations being conducted by the Frankfurt Rabbinical Courts. In an answer dated the 11th of Shebat the Frankfurt Courts explained once again that they were fully justified in claiming sole jurisdiction as they were collecting numerous testimonies regarding the proceedings. They believed that no responsa should be requested from other rabbinical authorities by Rabbi Lipschutz as the Frankfurt Courts, under the direction of Rabbi Abraham Abush, were amply capable of ruling after the completion of the investigations. They assured Rabbi Saul that even if they finally permanently invalidated the *get*, Rabbi Lipschutz's reputation would still be protected since he was unaware of Isaac's background at the time of the divorce.

As it became apparent that the Frankfurt Courts would continue to publicly void the *get*, Leah's father, Jacob Gunzhausen, sent letters to leading rabbis requesting their responsa. After receiving this request from Leah's father, Rabbi Saul once again wrote to the Frankfurt Courts. He reiterated that they did not have sole jurisdiction as Bonn was never solely subject to their decisions. He stated that all the scholars consulted may respond to the question, and he challenged the Courts to justify their voiding the *get*.

Rabbi Lipschutz also requested other authorities to investigate the *halachic* status of the divorce. The controversy was now a *cause célèbre*, and the Torah luminaries of the generation soon rose to the problem.

On Adar 1, 1767, the famous Rabbi Jacob Emden¹¹ of Altona responded by validating the *get*, declaring Rabbi Lipschutz com-

11. Rabbi Emden, the son of the *Hacham Zvi*, an outstanding Rabbi of the previous generation, was born in Altona in 1697. Except for a brief period in Emden, he supported himself by business ventures rather than accept a rabbinic position. He was a prolific writer and the author of numerous rabbinic tomes. In 1750, he became embroiled in what later developed into the famed "Emden-Eybeschütz Controversy." At the time of the Cleves divorce dispute, Rabbi Emden had successfully reestablished himself in Altona, and his *halachic* decisions were requested by rabbis the world over. For his autobiography see *Megillat Sefer* (New York, 1954).

pletely reliable, and calling upon the Frankfurt Rabbinical Courts to desist from causing controversy in Israel. Rabbis David b. Loeb of Dessau, Joel b. Jekuthiel,¹² and Isaac Halevi Horowitz¹³ also validated the divorce in their replies.

On Nissan 2, 1767, Rabbi Aryeh Loeb b. Asher of Metz responded to the Cleves *get* dilemma. Rabbi Aryeh Loeb was considered one of the keenest Torah scholars of this period, and he was well known as the author of the classic *Shaagat Aryeh*. In his response to the Frankfurt Courts, he too validated the *get* and demanded a clarification from the Frankfurt Rabbinate as to why they would not rely upon the lenient rulings of leading rabbis. Rabbi Aryeh Loeb declared that if three additional German Rabbis would agree with him, he would permit the woman to remarry. However, in order to minimize the possibility of new witnesses testifying in support of the Frankfurt position, Rabbi Aryeh Loeb requested that Leah wait three months from the date of his responsum. If during this period no new evidence would be revealed, then the divorce would be completely valid and Leah would be completely free to remarry. At the conclusion of his responsum, he paraphrased Isaiah, XLII:24, in declaring:

As long as I live, I will not give the daughter of Jacob
[Leah *bas* Jacob Gunzhausen] for a spoil and the pride
of Israel [Rabbi Israel Lipschutz] to the robbers.

In the meantime, the Frankfurt Courts continued to void the *get*, and sent announcements to nearby communities affirming their position. The first of these pronouncements was dated Adar Sheni

12. Formerly the rabbi of Austerlitz, and at the time a Rabbinical judge in Berlin.

13. Rabbi Horowitz was the newly appointed successor to Rabbi Ebyeshutz as *Av-Beth-Din* of the tri-community of Altona, Hamburg, and Wandsbeck. Scion of a distinguished rabbinical family, Rabbi Horowitz had previously achieved renown as the Rabbi of Brod. Although he did not publish any of his writings, many of his responsa and novellae are published in the writings of his contemporaries. Rabbi Horowitz sent his responsum validating the divorce to the Frankfurt Courts and he requested that they justify their obstinacy in continuing to void the *get*. For his biography see Ezekiel Duccas, *Eivab La Moshav* (History of the Rabbis of Altona, Hamburg, and Wandsbeck: Cracow, 1902), pp. 53-59.

19, 1767. On the 25th of this month, Rabbi Jacob Emden expressed his indignation at the issuance of these pronouncements to a former student now residing in Frankfurt. Rabbi Emden implored his student to influence the Frankfurt Courts to retract their minority opinion and to end the vehement dispute. When Rabbi Emden realized that the Frankfurt Courts would not accept his proposal, he issued an official statement on Iyar 1, 1767, declaring the *get* valid and permitting Leah to remarry. Afterwards, Rabbi Saul Lowenstamm reiterated his validation of the *get*, and he too declared that Leah was free to remarry.

During this period, the well known Rabbi Ezekiel Landau of Prague intervened in the controversy. Rabbi Landau previously achieved widespread fame as a respondent, and for his tactful attitude which helped to end the Eybeshutz amulet affair. In 1755, he accepted the position of Rabbi of Prague, and he remained in this rabbinate until his death in 1793. Manifold were the responsa and novellae published by Rabbi Landau, although at the time of the Cleves controversy, he had not yet published any volumes.¹⁴ Even though he felt that the *get* was valid, he first appealed to Rabbi Lipschutz to attempt to reach an agreement with the Frankfurt Rabbinical Courts.^{14*} However, when Rabbi Landau realized that Frankfurt's *Av-Beth-Din* and Courts would not alter their ruling, he authored a responsum validating the *get*. He rebuked the Frankfurt authorities for claiming sole jurisdiction in the case, and pleaded with them to reverse their decision in accordance with the majority opinion. Rabbi Landau agreed that they undoubtedly originally voided the *get* because of religious convictions, but now only anger kept them from retracting their opinion. He declared that the woman was free to remarry, but out of respect for the *Av-Beth-Din* and Rabbinical Courts of Frankfurt, this permission to remarry would only become effective one year after the dispute's genesis. During this additional time, the Frankfurt Rabbis would have the

14. For Rabbi Landau's biography see Solomon Wind, *Rabbi Ezekiel Landau* (Jerusalem, 1960) and Shimon Chones, *Toldot HaPoskim* (New York, 1945), pp. 144-156. See n. on p. 148 for details of his role in the Cleves divorce dispute.

14*. Nissan 4, 1767.

opportunity to clarify their views, and the other respondents could reevaluate their decisions if necessary. The divorce would therefore not take effect until Tishrei, 1767, as the controversy began in Tishrei of the previous year. Rabbi Landau ended his responsum with a solemn declaration that he was not acting for personal gain. He stated:

My intentions are only to accomplish good and achieve peace. I am not receiving any payment for my responsum, and I paid for the postage which amounted to close to six golden coins...I only hope that my words will bring peace among the sages of our period. This will be my reward as this is my desire, and I do not wish to continue to dwell in the cleft of dissension.

Nevertheless, Rabbi Abraham Abush and the Rabbinical Courts did not heed Rabbi Landau's responsum, and they continued to publicize their invalidation of the divorce. One year after the dispute began, on the Fast Day of Gedaliah, Tishrei 4, 1767, Rabbi Landau publicly announced that the divorce was valid in a sermon he preached in Prague. After discussing the negative effects of the trait of jealousy, he declared:

In a similar fashion I decry the recent events that occurred to Leah *bas* Jacob Gunzhausen of Bonn, who was divorced from her husband in Cleves in the *Beth-Din* of its well-known *Av-Beth-Din*, in accordance with the laws of Moses and Israel. The sages of Frankfurt invalidated the *get*, but the majority of Jewish scholars permitted her to remarry. I too publicly proclaim that this woman may marry whom-ever she wishes, except for *Cohanim* and relatives. Nevertheless, the Frankfurt sages continue to void the *get*. There is no doubt that at first they didn't want to maliciously spread rumors about a valid *get*, but they honestly felt that the *get* was void. They were mistaken in their *halachic* decision. On occasion, even the great sages of past generations erred in their decisions. However, because of pride and jealousy, the Frankfurt sages adamantly maintain their position. I mourn because of this as I know that these men

are true sages, and nevertheless they have stumbled in this matter.

I am obligated to proclaim that all the pronouncements of Frankfurt in this matter are worthless, and no person is to heed their words. Even though their honor is great, however when desecration of God's name is involved, I must concern myself with the honor of God and Torah. I must also safeguard the rights of Jewish daughters. I therefore publicly declare this woman permitted to remarry. There is no need for me to pronounce a ban upon anyone who challenges the validity of this *get*, because the ban of Rabenu Tam will automatically excommunicate this individual. No matter who he is, even if he is as great as the mighty cedar trees, he will not escape punishment for transgressing Rabenu Tam's *cherem*.¹⁵

Rabbi Landau then wrote to Aaron Simeon requesting that he publicize the sermon and send copies of the validation of the *get* to neighboring Jewish communities.¹⁶ During the month of Kislev, 1767, Rabbi Landau once again wrote to Frankfurt imploring its rabbis to alter their opinion. However, his appeals were of no avail, and on Adar 3, 1768, Rabbi Landau's letter was publicly burned in Frankfurt. The Frankfurt Courts continued to void the *get* and unceasingly publicized their decision among the communities of Israel.

During this period, on Elul 10, 1767, Rabbi Joseph Steinhardt wrote another responsum validating the divorce. He stated that no conclusions could be deduced from Isaac's London statement that he was irrational at the time of the divorce, as he may now regret the divorce and would wish to void it. Rabbi Steinhardt suggested that perhaps Isaac might be induced to give Leah a second divorce, and thereby resolve the controversy. If this could not be accomplished,

15. For the *cherem* of Rabenu Tam forbidding challenges to the validity of a *get* after the divorce was administered see *Sefer HaYashar shel Rabenu Tam* (Vienna, 1910), No. 271.

For Rabbi Landau's sermon see *Sefer Droshei HaTslach* (Warsaw, 1886), 43b, and Lipshutz, *Or Yisrael*, 23a.

16. The 7th of Tishrei.

then Leah should be permitted to remarry on the basis of the original *get* after one year had elapsed from the start of the dispute in accordance with Rabbi Landau's ruling.

On Tishrei 29, 1767, Rabbi Joshua Herschel Lvov, Chief Rabbi of Ausbach responded.¹⁷ Rabbi Lvov felt that even if Isaac did suffer from moods of melancholy, it still did not affect his mental and perceptive abilities, and therefore the *get* was valid.

On Tebeth 10, 1768, ten scholars of the Greater Brod, Poland vicinity validated the divorce on the condition that Rabbis Landau of Prague and Lowenstamm of Amsterdam concur with them. The famous Polish Rabbi, Solomon ben Moses Chelm,¹⁸ and Rabbi Aryeh Loeb of Hanover, son of Rabbi Jacob Joshua Falk, the former *Av-Beth-Din* of Frankfurt, also issued responsa validating the divorce.

Despite the numerous lenient responsa and the pronouncements permitting Leah to remarry the Frankfurt Courts remained adamant. The responsa sent by the Polish Rabbis were publicly burned in Frankfurt, and new announcements were publicized by the Frankfurt Courts justifying their claim that Isaac was insane at the time of the divorce. The controversy was now discussed throughout the Jewish world, and with the continued accusations and denunciations, the prestige of the Rabbinate was greatly depreciated.

FRANKFURT AND RABBI ABRAHAM ABUSH

Before detailing the surprise resolution of the controversy, let us note both Rabbi Abraham Abush's ability to nullify the responsa of so many famous scholars and the devotion shown to him by the Rabbinical Courts and community of Frankfurt. The Frankfurt community was so incensed by Rabbi Landau's responsa that they issued the following communal ordinance:

Since Rabbi Landau insulted our *Av-Beth-Din* and our two Rabbinical Courts...we decree that the Rabbi from

17. Rabbi Lvov was then seventy-five years old and in his Ausbach position for close to forty-five years. Previously, he served as a Rabbinical Judge in Metz.

18. Author of the *Merkebet HaMishna* on Maimonides' Yad.

Prague, his children, grand-children, sons-in-law, and grandsons-in-law shall be given no official appointment in our community. They should not even be appointed superintendents of the "wells for irrigating fields". If a member of this family should visit Frankfurt, he should not be permitted to preach nor should he be accorded any honors. All documents signed by the Rabbi of Prague alone, without any additional rabbinical signatures, shall be completely disregarded by our community.¹⁹

Rabbi A. Abush's community was so devoted to him because of his deep piety and humility. He distributed a third of his income to charity, and constantly visited the sick and engaged in charitable acts. The famed Chassidic leader, "the Seer of Lublin," Rabbi Jacob Yitzchak, later declared:

In the generation of Rabbi Abraham Abush, there were many great souls. The "Baal Shem Tov" and his colleagues lived at that time. However, Rabbi Abush's soul was the greatest in this era.²⁰

Rabbi Abraham Abush's pupil, Rabbi Chaim Auerbach, described his teacher in the following manner to his son:

Know my son, when I recall the saintliness, piety, and humility of my master and teacher, I am overcome with awe. It is frightening to realize that an individual can achieve such a great degree of saintliness and piety.

After the resignation of its previous *Av-Beth-Din*, the *Pene Ye-hoshua*, in 1756, the community of Frankfurt could not find an adequate successor until Rabbi Abraham Abush was proposed as a candidate. In 1759, he was elected to the position and the Frankfurt community soon developed a deep attachment and endearment for Rabbi Abush. The community prided itself in its *Av-Beth-Din* and his admirable characteristics.

Knowing the type of individual Rabbi Abush was, we can understand his position on the Cleves divorce. When he received the

19. Horowitz, *Frankfurter Rabbinen*, III pp. 99-101.

20. Levenstein, *Tiferet Abraham*, p. 139. The next quote is also from here.

description of Isaac's behavior from Rabbi Tevele Hess, he felt that there certainly was reason to doubt Isaac's sanity. He therefore immediately invalidated the divorce so there would be no possibility for Leah to remarry until a thorough investigation could be made concerning the divorce. The two Rabbinical Courts and Frankfurt's Jewish Community devotedly supported their beloved and revered Rabbi. It did not matter to them that so many other scholars dissented with their Rabbi's decision, and they issued numerous statements validating his position and condemning his antagonists. "Even if all the rabbis in the world disagree," they still insisted that Leah heed the decision of Rabbi Abush.

Rabbi Abush was held in such high esteem that even Rabbi Lipschutz and Aaron Simeon completely absolved him from any blame in the controversy. Rabbi Lipschutz stated:

I wish to make it known that whenever I bewail the agony I have experienced because of the Frankfurt Rabbinical Courts, I am not blaming their late *Av-Beth-Din*, who was a saint and sage. Even though the Rabbinical Courts utilized his name in their responsa, I have been told that they coerced him into joining with them. I completely forgive him.²¹

Aaron Simeon declared:

The Judges of the Frankfurt Rabbinical Courts misled their *Av-Beth-Din*. They convinced him that he was fighting a holy war, and because of his exemplary piety, humility, and naiveté he believed them... I forgave him when he was alive and certainly forgive him now after his death.²²

After Rabbi Abraham Abush's death on Tishrei 11, 1768, the Frankfurt Jewish Community was deeply grieved. It attributed his death to the anxiety he suffered because of the controversy. The community expressed its love and devotion for Rabbi Abush by having its scribe inscribe a lengthy, moving memorial prayer for him in the communal archives. The prayer mentioned that "the

21. *Or Yisrael*, 2b.

22. *Or HaYashev*, 91a.

halacha was like him in all instances," and Horowitz felt that this referred to the Cleves *get* dispute.²³

In a final tribute to its deceased *Av-Beth-Din*, the Frankfurt Community resolved that no scholar who authored a responsum validating the divorce would be eligible to serve as his successor. Finally, in 1772, Rabbi Pinkhos HaLevi Ish Horowitz, the author of the *HaFlaab* on *Ketubot* and *HaMiknah* on *Kiddushin*, was chosen to succeed Rabbi Abush since he never issued any responsum validating the *get*.

It is related that Rabbi Horowitz had actually authored a responsum validating the divorce to answer an inquiry from Rabbi Lipschutz. However, when he completed his responsum and attempted to blot the ink with sand, he inadvertently picked up the ink container and spilled it over the paper, ruining his responsum. He was desirous of rewriting the document, but a colleague who was present at the time advised him not to trouble himself as Rabbi Lipschutz already had the support of many rabbinical scholars.²⁴

THE RESOLUTION OF THE CONTROVERSY

In the course of the dispute Leah had agreed to follow the decisions of Rabbi Abraham Abush and the Frankfurt Courts despite the many authorities who validated her divorce. She accepted the jurisdiction of Rabbi A. Abush in accordance with the Adar 3, 1768 announcement of the Frankfurt Rabbinical Courts which ended by stating:

Many blessings will occur to Leah, if she will fulfill the decision of our courts...Even if all the rabbis in the world will permit her to remarry, she should still not do so until the *Av-Beth-Din* of Frankfurt permits the remarriage.²⁵

23. *Frankfurter Rabbinen*, III, p. 90.

24. Levenstein, *Tiferet Abraham*, p. 141.

25. This decree is cited by Levenstein, *Tiferet Abraham*, p. 139.

During this period Isaac Newburg returned to Germany. Some time later, the dispute ended in a manner that was as unexpected as it was anticlimactic. The young couple remarried.

In accordance with Rabbi A. Abush's opinion, no blessings were recited during the marriage ceremony, as the couple was still technically wed since their original marriage. Following this opinion, instead of the customary statement, Isaac said to Leah, "You are *still* betrothed to me in accordance with the Laws of Moses and Israel."²⁶



26. *Ibid.*, p. 139.

● Nosan Roth

Historical research and discovery usually point to the need for more research; often more questions are raised than are answered. Such is the case of two intriguing figures of the 12-13th century. Nosan Roth here discusses our present knowledge of the two Obadiah's, and indicates several areas where much research is still needed.

THE TWO OBADIAHS:
A STORY OF TWO CONVERTS
IN THE ERA OF MAIMONIDES

Among the most famous and most often quoted of the Responsa of the Rambam are the letters which we have found addressed to "Rav Obadiah the proselyte."¹ In the standard edition of the Responsa (the Freimann *Kobetz*), the editor introduces us to this Obadiah in these words:

Rav Obadiah the proselyte turned to the Rambam from Eretz Yisroel with three *Shealot*, and our Master (the Rambam) explained to him the topics of his requests with a special affection (חיבה יתירה), with an abundance of commentary unusual in his Responsa.

The editor adds the information that in one of the manuscripts of the above responsa it is indicated that this Rav Obadiah was in Jerusalem.² Furthermore, in the most famous of the three responsa, No. 369 (שם"ט), one manuscript copy has an introductory note asserting that Rav Obadiah was of Moslem origin before his conversion: תשובה שעשה הרב לישמעאל אהר שנתגייר.

1. תשובות הרמב"ם (פרימון ירושלים, תרצ"ד).

2. Ibid., Introduction, p. XLVI.

3. Footnote, from the Mss. *Vatican Neofiti* No. 11.

Other than this very sketchy and unsatisfactory information, it has not been possible to gather any more facts whatever concerning this Rav Obadiah. The great respect and praise of his learning with which the Rambam addresses him, especially in the last of the three responsa, noted above, lead one to deduce that he must have been a scholar of some repute. It is all the more extraordinary, therefore, that Jewish history has been silent concerning him. Especially is this so when it is considered that these responsa of the Rambam to Rav Obadiah the proselyte were already well known in his own time. The last one is mentioned by the Radbaz in his own Responsa, (ח"ז, ט"י צ"ב).

Turning to the second proselyte Obadiah, we are at no such loss for information. We have in existence the final page of a Sabbath prayer book written by him, and extensive fragments of a letter, supposedly written by him.

Knowledge of Obadiah first came to light with the publication in 1900 by Wertheimer (גנזי ירושלים) of the now famous letter of introduction written for him by Rabbi Boruch bar Yitzchak, chief rabbi of Aleppo, Syria. The publication of this letter opened the gates of much scholarly research and argumentation. The famous Anglo-Jewish collector, E.N. Adler, acquired fragments of a letter concerning the travels and activities of Obadiah the proselyte, which he and subsequent authors have presumed was written by Obadiah himself. These fragments, three in all, are part of the Adler collection in Cambridge University. In 1919, Adler published an article concerning the manuscript, in which little really important information was given.⁴ In the same year, the more scholarly Poznanski wrote an article on the manuscripts in which he set forth the opinion, apparently shared by Wertheimer, that this Obadiah was none other than the same Rav Obadiah to whom the Rambam addressed his responsa.⁵ His main argument, however, — the improbability of finding two proselytes with the name Obadiah — is an obviously weak one. Adler had, indeed, already given a credible explanation of the name by pointing out that the name Obadiah derived most probably from the prophet Obadiah who was himself a proselyte (see

4. Adler, E. N. "Obadia Le Proselyte," in *Revue des Etudes Juives* (REJ) Vol. 69: pp. 129-134.

5. Poznanski, S. "Obadia Le Proselyte," in *REJ* 70:p. 71.

Sanhedrin 39b, and Jellineck: בית המדרש, II:49). The first king of the Khazars, a proselyte, was named Obadiah, and the name continued as a popular one in their royal family.

The eminent historian Jacob Mann took some interest in Obadiah, and in 1930 he, too, published an article, in which he notes that in the colophon of the Sabbath prayer book which Obadiah had written with his own hand, he gives the date of his conversion as Elul, 1102 ("1413 according to the Seleucid era and 4862 from the creation of the world").⁶ Mann is thus of the opinion that Obadiah, who was of Norman origin according to both the colophon and the letter, came to Syria with the First Crusade in 1096, and perhaps participated in the siege of Jerusalem in 1099 before his conversion in Aleppo. Mann has further done us the invaluable service of publishing, in his article, some twenty-five additional lines of the letter of Rabbi Boruch which Wertheimer had inexplicably left out. These additional lines tell us that Obadiah came from a prominent Norman family and that his father was an important official of the court, and that Obadiah had been thoroughly trained in Bible and Christian theology, and the realization of the mistakes of these teachings had brought him to his conversion.

The second fragment of the manuscript of the letter concerning the life of Obadiah (the Adler fragment referred to above) is perhaps the most interesting. In it, the story is told that Obadiah, travelling now to the Jewish communities throughout Syria and Israel with Rabbi Boruch's letter of introduction, met with a *Cohen* by the name of Solomon in the city of Baniyas (Dan). This Solomon told Obadiah that in two and one-half months, the Jews would be gathered from all the lands and brought to Jerusalem.

And Obadiah the proselyte said to Solomon: How do you know this? And Solomon said: because I am the person whom Israel is expecting (i.e., the Messiah). And Obadiah the proselyte answered and said: I have heard that you are from the descendants of Aaron the Priest, and today is

6. The prayerbook is now in the Hebrew Union College library. It is identified by Mann as "No. 8 of certain Geniza fragments acquired from Cairo in 1924 by Dr. Mann." A photograph of the colophon appears in Grayzel: *A History of the Jews*, p. 360.

nineteen years from the day when I came into the covenant of Israel and I have not heard that Israel is expecting the salvation at the hands of a member of the tribe of Levy, but rather at the hands of Elijah the prophet and the King Messiah from the seed of David, the King of Israel.⁷

Afterwards, Obadiah told this Solomon that he was a convert, and Solomon "was very happy with him", but tried to dissuade him from continuing to Egypt since the Jews would all return to Jerusalem in "two and one-half months" anyway. Obadiah seems to have expressed some skepticism, and each went their way. Mann identifies this Solomon, whose full name is given in another fragment as שלמה בן דוגי from כוריץ (which Mann tentatively identifies as the land of the Khazars) as a Karaite. When a later fragment refers to the movement which accepted Solomon as Elijah and his son Menachem as the Messiah, Mann claims that this Menachem was none other than the famous David Alroy, the "false messiah" of the time of the Second Crusade, who was popularized by Disraeli's novel.

Dr. Joshua Praver of the Hebrew University, in his study of the history of the crusaders in Israel,⁸ states (unfortunately without quoting his source) that "no less than fourteen works were written (by Obadiah) in defense of the truthfulness of the Jewish religion, and he gave these to the heads of the Church. He was imprisoned, but released through the aid of the prison guard who had been influenced by a dream." In 1963, S.D. Goitein of the Hebrew University reviewed the entire subject in an article in the *Jewish Quarterly Review*.⁹ He criticizes Mann's work as "by no means final". He refutes Mann's assertion that Obadiah was converted in Aleppo, since Rabbi Boruch's letter "repeatedly refers to Obadiah's conversion before some Jewish

7. Mann, Jacob. "Obadya, Proselyte Normand Converti au Judaisme, Et Sa Meguilla," *REJ* 89:p. 246.

8. Praver, Joshua, חולדות ממלכה הצלבנים בארץ ישראל. Vol. I, pp. 423-425, Jerusalem, Bialik Institute, 1963.

9. Goitein, S. D. "Obadyah, a Norman Proselyte," in the *Jewish Quarterly Review* IV:pp. 74-84 (New Series).

See also: Assaf, S. מקורות ומחקרים בחולדות ישראל (*Texts and Studies in Jewish History*), Jerusalem, 1946, p. 149.

Adler, E. N. *Catalogue of Hebrew Manuscripts*. Cambridge, 1921. Manuscript No 4208 (p. 156b) and Facsimile No. 1.

court (בית דינו של ישראל), and to *some* Jewish scholars who had guided him." Rather, Goitein argues from evidence of the various manuscripts, his conversion took place in Europe and he probably did not come as a crusader in 1096, as Mann maintains. He also corrects, on the basis of more careful textual analysis, the assumption that Obadiah had been made a collector to funds (גבאי צדקה) in Damascus. Rather, the letter states that a collector was appointed for *him*, i.e., to raise money for his maintenance (in accordance with prevailing custom for the support of converts in the Middle Ages).

Goitein has brought to our attention the Taylor-Schechter manuscript (12.732) first published by Assaf (*Texts and Studies in Jewish History*, p. 149), which he concludes is probably not a part of the famous Megillah of the Adler series, but was nevertheless written by Obadiah. This has been the source of the information that Obadiah's former name was John or Johanes, and may have been the source of the interesting statement by Praver. Finally, on the basis of the use of ultra-violet light and with the consultation of Professor Solomon L. Shoss of Dropsie College, "a specialist in the deciphering of Geniza fragments", Goitein corrects Mann's assumption that the false messiah Solomon was from the land of the Khazars. The text actually reads "in the mountains of Ashur (Assyria) in the country of Hakkeriya," a province occupied by the Kurdish tribe Hakkari. On the same basis, as well as with other support, he challenges Mann's "bold assertion" that Solomon's son Menachem was David Alroy.

We have seen the confusion thus resulting in attempting to date and identify Obadiah the Norman proselyte. Adler, in his own catalogue of manuscripts, erroneously and inexplicably assigned a tentative date of "early VIII century" to one of the fragments. Adler, of course, was guilty of many errors besides dating in the cataloguing of his collection, and thus inaccurately identified another manuscript (p. 143) as belonging to Obadiah. A facsimile reproduction of part of the fragment of the Obadiah Megillah appears in the Adler catalogue (Facsimile No. 1). It is extremely interesting to note that this manuscript is clearly and definitely written in Ashkenazic letters (כתב מרוכה אשכנזי). Goitein also called attention to certain peculiarities of Ashkenazic spelling and usage. If, indeed, the

Megillah was written by Obadiah himself, as Mann and others maintained, this fact would argue strongly for Goitein's hypothesis that Obadiah was converted in Europe before coming to Syria; for had he been converted in Aleppo as Mann assumed, he surely would have learned Hebrew in the Sephardic style peculiar to documents of that area.

Nothing apparently is known of the final days and death of Obadiah, except that he reached Egypt where he spent some time in Fostat and Cairo, where copies of his Megillah came eventually into the Geniza. Goitein is of the opinion that the purpose of the Megillah was as a gift to his various patrons and that its intent was to "seek to demonstrate the character of the true Messiah". If so, the highly significant aspects of such a document certainly argue for a much more thorough scholarly investigation than has so far been undertaken. We shall have to wait for that time when a full examination and publication of the various fragments is undertaken before writing the final chapter on this interesting and colorful figure. And what of that second Obadiah with whom the Rambam corresponded some years later? If we discount Mann's hypothesis that Obadiah the Norman came with the First Crusade, can we indeed be so sure that the two Obadiahs were not really one? Only time can tell.

