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central dynamo and the action of turning the switch is therefore merely *groma* which according to the severest view is *shvus*; and thirdly the argument that is sometimes given that though kindling of the filament is not fire, filament is heated and therefore such action would fall into the category of *bishul*, which is an *issur d'oraissu*, is refuted by the Talmudic observation in another connection that an activity is *bishul* only when it is performed in the customary manner, *ein derech bishul b'kach*.

We propose the acceptance of the view that electric lights are not Torah-ically prohibited. This form of activity belongs to the sphere of rabbinic legislation, or the realm of *shvus*.

There is a difference of opinion among the Codifiers as to whether a prohibition of *shvus* can be set aside for the sake of a mitzvah. The performance of the rite of *mitah* on the Sabbath includes this permission. From this core, Maimonides generalizes that all forms of *shvus dishvus* may be allowed, for the sake of a mitzvah. The Itur declares that, for the sake of a mitzvah, the prohibition of ordering a Gentile to do even a Torah-itic *m'alachah*—i. e. *shvus*, is set aside. Following this opinion, the practice was permitted in many places, to tell a Gentile to stoke the furnace on the Sabbath, on the ground that "everybody is sick in relation to the exposure to cold" (Rabbi Jacob of Orleans quoted by Bais Yosef in Tur, Orach Chayim 276). A late authority declares that this permission is now generally taken advantage of, even when the weather is mild, in reliance on the authorities, who permit *shvus*, if no pain or suffering are involved (Mogen Avraham, ibid. שו"ת אברהם מו"ק וכוונות דקדוה וכוונות דקדוה). Most authorities would not consent to this lenient interpretation. Signing a bill of sale in non-Hebraic script in order to conclude the purchase of a home in the land of Israel is permitted. Thus work that is distinctly prohibited by the rabbis, with some authorities attaching to it the penalty of stoning, is permitted on the Sabbath for the sake of a mitzvah (Tur Orach Chayim—Hagaha 306). Later authorities dispute this interpretation, claiming that it is permitted only to tell a Gentile

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to execute a bill of sale (Orach Ha-Shulhan-Orach Chayim 306, 22). Elijah Gaon of Vilna, permits all forms of *shvus* when discomfort is caused (*mativ kol shvus*, Orach Chayim 276, 15).

It is obvious from the above that there exists no unanimity of opinion concerning the reasons that justify the lifting of a *Shvus* prohibition. The purposes of alleviating discomfort and assisting in the performance of a mitzvah are certainly present in the questions we are discussing. In addition, our decision depends on the utilization of the liberty to choose between authorities and to apply general principles—liberty which is properly within the province and authority of *Takkanoth Ha-Tzibur*. We think of Halachah as an instrument of the people, for the enrichment of the spiritual life of our people and not as an end of itself. Furthermore, in modern life the use of electricity is essential to the normal comforts of living. Great stress was laid in our tradition on the duty of having one's home brightly illuminated in honor of the Sabbath. Therefore in the spirit of a living and developing Halachah responsive to the changing needs of our people, we declared it to be permitted to use electric lights on the Sabbath for the purpose of enhancing the enjoyment of the Sabbath, or reducing personal discomfort or of helping in the performance of a mitzvah.

The Problem of Riding.

The use of an automobile involves the following activities; the kindling of lights, the indirect combustion of gasoline to produce power, and locomotion from one domain to another. We have already dealt with the kindling of lights in the previous section. The combustion of gasoline to produce power is a type of work that obviously could not have been prohibited, before its invention. All acts of burning are prohibited only when performed for specifically described purposes such as: cooking, heating, lighting or the need of its ashes. Burning for the sake of power was not included in this list. Of course, some heat is produced in the act of combustion, but this

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REFERENCES AND SOURCES

Electricity

1. The use of *electricity* for the purpose of *boiling* or *cooking* on the Sabbath, all authorities prohibit it:

- (1) שו"ת בית יצחק, יו"ד, סימן ק"ב.
- (2) שו"ת, אהייעור, ח"ג, סימן ס'.
- (3) הרב כענקין בתקנות לוח הויובל: דיני עלקטרי בשבת.

2. *Electricity* for the purpose of *light*, the authorities disagree:

- (1) שו"ת, בית יצחק, יו"ד, סימן ק"כ — חייב משום מכבה.
- (2) שו"ת, בית יצחק, יו"ד, סימן ל"א — מסופק קצת ככובי אם הוא חייב.
- (3) שו"ת אבן יקרה, מהר"ג, סימן קס"ח — מכביר או מכבה אור עלקטרי בשבת, או מכבה כו"ט, חייבים עליו מראורייתא.
- (4) בשו"ת מורשים, ח"ב, סימן רמ"ז — חוכך בזה אם בהבערה וכיבוי של העלקטריציטעט יש בו מלאכה ראורייתא, כיון שלא הייתה כמותו במשכן — וכשי"כ החכם סופר, או"ח, סימן ע"ג, לענין מכסה הגשמים כיון שלא היה אוהל כזה במשכן אין בו מלאכה של מורה.
- (5) בשו"ת מחנה אברהם, סוף סימן נ"א, השיב שם על דברי המהרש"ם, דכיון דמקרי אש אי"כ כל האשות בכלל.
- (6) בשו"ת מחנה אברהם שם, סימן מ"ב, מצדד לומר שהוא דרובו, דסיבוב הכפתור אין כח ראשון להכרת החשמל, דממלא נתחברו החוטין, והוא רק גרמא שהוא שבת לענין זה דמתור לעשות ע"י גבר.
- (7) בשו"ת מהר"ש (ח"ה) סימן צ"ה) להרב מראדיישל, כתב ג"כ דהוא גרמא, וסמך עצמו על דברי המחזה אברהם הנ"ל, והעלה לפי זה שמתור להעמיד שעון אוטומטי בשבת על ידי גוי, משום דהוי רק שבות רשבות ונמקום חפסד.

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- (8) בלבוש מדרבי להרב ממאד (ח"א, או"ח, סימן ט"ז-מ"ח). כתב ג"כ דהוא רק דרבנן.
- (9) בשו"ת מהרש"ג, ח"ב, סימן קל"ז — אצלן הוא כספיקא דאורייתא.
- (10) בשו"ת אהייעור, ח"ג, סימן ס', כתב בהבערה וכיבוי העלקטרי הוי איסור תורה, ואין זה גרמא, אלא כח ראשון, וגם לא כל הגרמות שוות, וכבר נתפשת הוראה זו ככל ישראל לאיסור.
- (11) מלכי בקדש להרב הירשענאן, עמ' 38-19, מצדד לומר שאור החשמל אינו אסור מראורייתא, ואפשר שאין בו איסור כלל.

Traveling

1. ועוד רצא רשבים לחתיר ליכנס בקרון בשבת, ונכרי מוליכו חוץ לחתום, וחתום בו משום שמתפגעו בו ליטשים או שמתפגעו ויורד ואין לו אלא ארבע אמות (חוספיה), עירובין מ"ג א' סב"ד הלכה).
 2. כתב רבינו שמואל זצ"ל... וכאשר חתרו להפליג בספנה, כך מותר להפליג ולהעלות בקרון והעכו"ם מושך בקרון, ובלבד שלא תמשך בהמה בקרון. דאינא משום אין רוכבין ע"ז בהמה, ובלבד שלא יצא חוץ לקרון, אבל אינא למיחש שמתפגעו בו ליטשים, אין אשתמיש נחתו מן הקרון, משו"ח אסור (אור זרוע, הל' עירובין, סימן קמ"ז).
 3. פסק מעין זה הוציאו רבני וינוצה לחתיר רכובת קרון בשבת להרופא אליה מנתמלשו שהיה רופא הדוכס של דוכסיה טוסקנה באשליה, ואח"כ רופא מלך צרפת, יען היה חרד מאד בשמירת שבת (הצופה לחכמת ישראל, חר"צ, עמ' 7-196).
 4. חוט המשולש או דברי נרנן, ע"י איש ר"ד הנקרא פלא בן ואב, ארעסא 1874, עמ' 59-68.
- תשובה שבת מתיר לנסוע על מסלה הברזל בשבת, ורק בדרב מצוה.
5. שו"ת משפשי עוויאל, או"ח, סימן ט': בד"ן נסיעה בקרונות קיטוריות או חשמליות בשבת, ושמתנהגות ע"י לא יהודים. אין כל טעם לאסור רכובתן משום שמתמשך בהמה, ולא משום שמתחזק ומורה, ולא משום אמורה לגוי, הלכך נראה שמתור לרכוב בהם בשבת וי"ט כד"ל לכח שמתור

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הילוך של מצוה לביית הכניסה וביית המדרש וכדומה. אולם מטעם אחר יש לצרף לאסור הניסיעה בקרונה אלה... וכן כתב הדמב"ם נאמר בחוה"מ חשבות אפילו מדברים שאני מלאכה חייב לשבות מותן....

מסקנת דרייט: אסור לנסוע בקרונות חשמליות או מכונית קישוריות שהן של יהודים אפילו אם הנהנים הם לא יהודים... במקום שכל התושבים הם לא יהודים מותר ליהודי לנסוע בקרונות של לא יהודים ושמותרות על ידם בחוץ העיר בתנאי שלא יצטרפו לשלם דמי כרטיס נסיעה בשבת וי"ט, ואף זאת אינו אלא לשם הילוך של מצוה כגון ללכת לביית הכנסת וכדומה, אבל לא לשם טיול, ומכל שכן לשם צורך מסוה"י.

6. מלכי בקדש לדרב הירשענעוואדן: (עמ' 19-38)

מותר לנסוע ב"מאבוי" בשבת, ורק אם אינו נושא שום הפצים עמו.

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SECTION A

A MODERN APPROACH TO A LIVING HALACHAH

RABBI ROBERT GORDIS

I

The indecision and the lack of clarity in the attitude of our movement toward the problems of the observance of Jewish law are not accidental. They flow from our failure thus far to articulate adequately our conception of the Halachah. To be sure, important aspects of the approach of Conservative Judaism to the Halachah have been illumined by the papers and discussions of many of our most distinguished scholars and thinkers during the years gone by, but much more needs to be done.

In setting forth this brief statement of our viewpoint on the Halachah as a preface to the discussion of the Sabbath law, we are aware of the fact that it may not prove acceptable, in whole or in part, to all the members of the Rabbinical Assembly. Yet it is our belief that the majority of the Rabbinical Assembly will find in it a presentation, however inadequate, of their own basic philosophy. We are convinced that it represents the fundamental approach implicit in Conservative Judaism as it has unfolded during the past half century, and that only along some such lines as these is there any hope for a vital Jewish religious life in our time.

We are conscious, too, that this standpoint is shared in most essentials by scholars and thinkers who are not associated with our movement. The responsa of such varied figures as the late Rabbi Hirschensohn, author of *Makki Bakodesh*, and the late Professor Jacob Z. Lauterbach of the Hebrew Union College, whose papers are to be found in various publications,

SECTION C

THE USE OF ELECTRICITY ON THE SABBATH

RABBI ARTHUR H. NEULANDER

The great changes that have been effected by technological and scientific inventions and discoveries in our times, force thoughtful Jews to re-examine the Sabbath halachah, and re-interpret it to the needs of our day.

Electricity has become part of the warp and woof of our life. Our industrial system, our means of transportation and communication, the very conveniences of our home life depend upon electrification. In this paper, we limit ourselves to the legal adjustment required in dealing with the conveniences of home life. Lighting up our homes, telephoning, ringing our door-bells, using the elevator in our apartment houses, listening to the radio, watching television, refrigeration, washing and ironing, using electric razors, controlling our heating systems with thermostats, all involve the use of electricity. Many of these functions we normally direct consciously. Some are quite automatic, but all of these uses of electricity involve the application of Sabbath laws.

The earliest reaction to the problem of the use of electricity on the Sabbath was that of the *mahmirim*. This is a normal reaction. When studying history we frequently become aware of the fact that many forward steps in human civilization meet with resistance. New thoughts, new methods of procedure, new discoveries and inventions generally meet early disapproval by the conservative minded, particularly in connection with religion which is traditionally conservative in bent; but later these innovations are frequently accepted as the norm.

Thus, the change from the ancient Semitic script to the so-called *K'tav Ashuri* was one that took centuries. Ezra and

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the prophets of his generation are reputed to have brought the new script with them from Babylonia and ordained its use for the Biblical books in the 5th Century B.C.E. But the old script continued to be used. The coins of the realm in Maccabean times and in the days of Bar Kochba were embossed in the old script. Even in the second century of the Common Era the Mishna (Yad. IV-5) still contains regulations concerning Biblical books written in the old script. The Samaritans never gave up the use of the old script; but, among us, the progressive forces ultimately prevailed and the *K'tav Ashuri* is the one used today in our Holy Scrolls. Many other illustrations of this process are to be found in human culture.

In the very field of the Sabbath we can actually trace such early opposition against a new invention being broken down by the pressure of social usage. Oil lamps were in Mishnaic times approved for *Ner Shabbat*. Later candles were invented. The use of candles for the mitzvah of *Haddukat Haner* was at first questioned, then opposed and finally after many generations given grudging approval. Wax candles thus became acceptable. Today candles for the Sabbath lights are the norm. For Hanukkah there is still a sentimental preference for oil lamps though wax candles are permitted. (Documentation for this development can be found in Rabbi Sanders A. Tofield's "A Study of Sabbath Halakkah on the Use of Light and Transportation.")

The use of electricity is something relatively new in human experience. The question of permitting its use for light on the Sabbath has been debated for the last two or three generations but has not been satisfactorily resolved. No individual opinion has won the approval of Klal Yisrael. The extensive literature on the subject which continues receiving the attention of the scholars of our time testifies to the fact that we are dealing with one of the living issues of the Halachah. Accordingly we may address ourselves to it from our own point of view, and make decisions for the large group of Jews who look to us for spiritual guidance.

We do not pretend in this paper to make an exhaustive pre-

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the heating mechanism. Are we expected because of the application of the principle of פיקוק שבת to sit in the cold and confine ourselves to our homes on the Sabbath like Karaites? We may even go further. It is a scientific fact that every bodily movement sets in motion electro-magnetic waves. Some electrical home apparatus is thus inevitably affected by these waves that we ourselves radiate. Are we compelled to resuscitate the literal meaning of the Biblical verse תחזיקו ביום השבת centuries ago? Fortunately, loyalty to the Halachah as a living and growing influence does not require such a procedure. The principle of פיקוק שבת is Amoraic and quite unknown in the Mishnah which followed a more liberal attitude on פיקוק שבת.

We must follow the same line of reasoning in the use of electric refrigeration. In opening the door of a refrigerator to take out food, we necessarily raise the temperature within the refrigerator. Although indirectly we automatically hasten the turning on of the cooling apparatus, we must, in order to make life bearable, overlook Abbaye and Rava's principle of פיקוק שבת and follow the older Mishnaic concept of פיקוק שבת. Furthermore, we must utilize the principle of פיקוק שבת and also פיקוק שבת and also פיקוק שבת when using such mechanisms as the telephone; for we are not interested in flashing a signal on the switchboard; we are concerned with talking to a friend.

In truth, scientists tell us that we cannot help setting electromagnetic waves in motion at all times. Our very bodies are giving off this force and every time we move a muscle these waves are increased. The insight and general responsiveness to life which characterized our sages of old leads us to assume that had they had our scientific knowledge they would not have applied the principle of פיקוק שבת where automatic use of electricity on the Sabbath is involved.

It is, therefore, clear that electricity is not to be regarded as a form of fire either by Halachic definition or from the evidence of science. Its widespread automatic use in modern life

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underscores the inescapable necessity of reckoning with these facts פיקוק שבת in contemporary civilization.

It is noteworthy that recent authorities, who not having utilized the testimony of science, do not sharply distinguish between electricity and fire, nevertheless are led to various liberalizing decisions in detail.

In a Teshuvah by Rabbi Simcha Levy issued through the Rabbinical Council of America the use of electricity on the Sabbath, and Yom Tov for a microphone is permitted in the Synagogue if the electricity has been turned on Erev Shabbos. In the same Teshuvah the statement is made that the use of electricity on the Sabbath for an elevator does not come under the category of fire, even though sparks are produced in the motor. This opinion is given in the name of Rabbi Elijah Henkin. We understand that our own Dr. Hyamson, of blessed memory, also permitted the use of an apartment house elevator on the Sabbath. Reference is also made to Rabbi Idelson who states that turning on electric lights is not פיקוק שבת. All this seems to indicate a tendency to be lenient about the use of electricity on the Sabbath when not used for work prohibited on the Sabbath.

A word is in order on the possible objection that using electricity on the Sabbath means producing something new, פיקוק שבת which is forbidden. Here the scientific facts clearly disprove the contention. Turning on an electric switch means using something which already exists, not creating anything new. The electricity has been produced through turbines or dynamos at the power stations and is stored in great condensers. It simply flows to us through cables and wires and is tapped by us in much the same way as water brought to us through mains and pipes from the great reservoirs is tapped by us by turning on a faucet.

In conclusion, Halachic consideration coupled with scientific evidence leads us to permit the use of electricity on the Sabbath. It is self evident that this permission applies only to such uses as do not involve work prohibited on the Sabbath. Thus we may permit turning on electric lights, telephoning,

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refrigeration, using a radio and television. But we cannot countenance the use of electricity for work prohibited on the Sabbath, such as cooking and baking, shaving with an electric razor, using the washing machine or an electric iron. The prohibition is here derived not from the use of electricity but from the nature of the work itself.

It must be clearly understood that whatever use of electric apparatus we permit on the Sabbath, we allow only on condition that use is in consonance with the spirit of the Sabbath. Thus the telephone may be used for conversation to strengthen family ties, to foster friendship and neighborliness, to convey a message of cheer to the sick or for a similar *Debar Mizvah*. But the telephone should not be used for shopping purposes, for making a business appointment, much less a business transaction. The first group is in keeping with the holiness of the Sabbath. The second group violates the *Memiahah Shelemah* of the Sabbath.

Similarly, in the use of radio or television common sense should dictate that only such programs may be indulged in, which are not vulgar and banal and do not desecrate the sanctity of the ideal Sabbath. Only programs of high esthetic taste, of high ethical content, instructive and of social value are in keeping with our concept of a *Shabbat Kodesh* and only such programs should be listened to and seen on the Sabbath day.

We humbly believe that this decision is in conformity with the spirit of the Halachah and not in opposition to its letter. This decision taking into cognizance the needs of our day, we hope, will promote the goal of Jewish law which has always been to enhance life and add to man's joy in the riches of the world so that he may gratefully acknowledge the goodness of God's providence.

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Discussion

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Discussion

RABBI DAVID ARONSON

Chairman: We spent an intensive afternoon listening to the Reports of the Committee on Jewish Law and Standards. We'll have discussion on these reports tomorrow morning. At this time I'll call on our President, Rabbi Aronson, to summarize the reports and to give us his comments.

Rabbi Aronson: All four reports presented this afternoon were scholarly, informative, stimulating and challenging. But they were more than that. They were indicative of the philosophy of a higher synthesis, a unity in diversity, a unity emerging from scholarship shared, respect for tradition, and a common understanding of human nature and the problems of the contemporary world.

Here we were all set to listen to reports allegedly worlds apart. There were rumors galore. One report — so the gossip ran — would ruthlessly reject all restrictions on riding on the Sabbath; the other report would argue for the observance of the letter of the law in a manner worthy of the Agudat Yisroel. We heard the reports and we know now that those rumors were baseless. And inevitably so. We are not dealing with either drifters or obscurantists. We sometimes underestimate the quality of our men.

Let us look at the reports. The major part of the report presented by Rabbi Morris Adler, Theodore Friedman and Jacob Agus and others sharing their views — which represented the lenient and allegedly radical position — consisted of an exposition of the vital place the Sabbath occupied in Jewish life, and of an appeal for a campaign to revitalize the Sabbath. Certainly Rabbi Gordis and Bokser and those who signed their report, which represented the "rightist" position, would readily subscribe both to the exposition on the importance of the Sabbath and the need for its revitalization presented in the "leftist" report.

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